

TURKEY

TORTURE AND MISTREATMENT IN PRE-TRIAL DETENTION BY ANTI-TERROR POLICE

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SUMMARY

This report documents a pattern of torture—according to internationally recognized definitions of the term—and mistreatment of security detainees by the Anti-Terror Branch (*Terör İle Mücadele Şubesi*) of the Security Directorate of Turkey's Ministry of the Interior. While criminal suspects also face the prospect of torture and maltreatment at the hands of the regular police, Turkey's anti-terror police have become infamous both within the country and outside of Turkey for the widespread use of such practices against detainees accused of political crimes, both violent and non-violent. The Anti-Terror Branch deals with offenses that fall under the 1991 Anti-Terror Law and/or under the jurisdiction of state security courts; the term "security detainee" is used for individuals held for any period of time in the preceding two circumstances. International bodies have condemned this force, as well as the practice of torture in Turkey. The Council of Europe's Committee for the Prevention of Torture (CPT) did so in a December 1992 "Public Statement." Four years later, in another "Public Statement," the CPT stated that the maltreatment of seven suspects at the Anti-Terror Branch of the Istanbul Police headquarters, "must rank among the most flagrant examples of torture encountered by CPT delegations in Turkey." In November 1993, the United Nations Committee Against Torture even went so far as to warn that "certain departments" within the Interior Ministry were becoming a "State within a State."

Security detainees held for alleged crimes under the jurisdiction of state security courts suffer a wide-range of abuses and *de jure* are exempted from many of the most important due process protections introduced by a 1992 amendment to Turkey's Code of Criminal Procedure (*CMUK*), Law No. 3842. That law reduced periods of detention and guaranteed and improved access to a lawyer for criminal suspects, but did not bring much improvement for security detainees. In a December 18, 1996, decision, the European Court of Human Rights ruled that Turkey had not only violated the provision of the European Convention of Human Rights prohibiting torture, but had also violated Article 5(3), the right to "be brought promptly before a judge." That case dealt with a Turkish citizen held in detention for fourteen days and tortured by anti-terror police.

Until early March 1996, under Law No. 3842 police forces could hold security detainees involved in "collective crimes," i.e. those committed by three or more persons, in detention without access to a lawyer or arraignment before a magistrate for a maximum period of fifteen days; under the state of emergency law, which is presently in force in nine provinces in southeastern Turkey where a conflict rages between government forces and the outlawed Workers' Party of Kurdistan (PKK), that detention period could be doubled. On March 6, 1997, the parliament of Turkey passed a law reducing such detention periods to seven days, which in the state of emergency zone can be extended to ten days with a prosecutor's request and a judge's permission. Under the law, such detainees can meet with a lawyer after four days of detention.

While in detention, numerous methods of torture are used to gain a confession, information, or often simply to punish those who oppose the state. The most frequently employed methods—which often are used in combination—include the following: hanging by the arms in a variety of positions; electric shock; *falaka*, or the beating of the soles of the feet; spraying with high-pressure water; beatings; death threats or threat of sexual abuse; squeezing of testicles or breasts; isolation; stripping the suspect naked. Detainees are also often blindfolded, sometimes isolated, not fed properly or given the opportunity to wash or use the toilet, and kept in cramped quarters. Such actions violate numerous domestic laws and international treaties to which Turkey is party: Article 17 of the Turkish Constitution forbidding torture; Article 135/a of Code of Criminal Procedure (*CMUK*), which applies to all detainees, forbidding the use of torture techniques and invalidating testimony or confessions gathered under such conditions; the European Convention for the Protection of Human Rights; and the U.N. Convention against Torture. Under Article 90 of the Turkish Constitution, treaties signed by Turkey have the force of domestic law.

Torture by the anti-terror unit is neither spontaneous nor rogue. This unit has methodically incorporated torture and abuse into its daily operations, utilizing special equipment, including special straps to bind detainees, high pressure hoses, racks for suspending suspects by their arms, and instruments to apply electric shock. As international and local scrutiny of torture in Turkey has increased, the anti-terror unit's methods have become more sophisticated. Torture methods are constantly updated and improved to inflict pain but to avoid marks or bruises that can be

documented by human rights groups within Turkey or state forensic doctors filling out mandatory detention medical reports. Sometimes, police pressure doctors to fill out false reports. Often security detainees are tortured intensively during the first few days of their incarceration and then allowed to recover for a longer period of time and even given rudimentary food and medical care so that evidence of abuse fades before the victim is brought before a magistrate or prosecutor.

The Human Rights Foundation of Turkey-HRFT (*Türkiye İnsan Hakları Vakfı*), a professional, non-governmental human rights monitoring organization that also operates treatment centers for victims of torture in Turkey's four largest cities, has documented 124 deaths from torture and ill-treatment in prison or in pre-trial police custody from January 1, 1991 - September 12, 1995. Most of the deceased were security detainees. In addition, during the same period some 98 persons have disappeared while believed to be in police custody or under mysterious circumstances; some of their bodies were later discovered bearing signs of torture. The HRFT reports that between September 12, 1980 and September 12, 1995, a total of 445 individuals—including the 124 cited above—died under torture while in police detention or in prison.

Since the 1980 coup, security forces in Turkey have increasingly attracted personnel from supporters of far right, extreme nationalist, or fundamentalist political parties and groups. Police with such views are extremely hostile to left-wing ideologies and/or Kurdish nationalist ideas, the very beliefs with which most security detainees who report suffering torture are associated. Human Rights Watch found a widespread perception that the police are politically-biased in the discharge of their official duties and may be more inclined to abusive behavior towards such detainees.

The depth of such improper links between ultra-rightist militants and security forces were exposed in November 1996 when the head of the Istanbul police academy was accidentally killed while traveling in a gun-laden car along with an ultra-rightist militant implicated in seven political killings and wanted by Interpol and a woman alleged to have links to organized crime. A parliamentarian who is also a Kurdish tribal leader and commander of a pro-state village guard militia was injured in the accident. There have been earlier indications of this connection, however. A report released in the fall of 1995 by the then junior coalition partner Republican People's Party (CHP) indicated that nearly 48 percent of Turkey's provincial security directors had either extreme nationalist or fundamentalist backgrounds. In September 1996, a leading Istanbul daily reported that the General Staff Headquarters had issued a directive ordering security forces not to wear or make signs or symbols connected with ultra-nationalist groups. In the summer of 1994, Şevket Kazan, the present Justice Minister from the Welfare Party (*Refah Partisi*), charged that "special team members" were recruited from a far right nationalist party, MHP.

The Turkish coalition government that was in power from 1991-95—True Path Party (*Doğru Yol Partisi-DYP*)/Social Democratic Populist Party (*Sosyal Demokrat Halkçı Parti-SHP*)/Republican People's Party (*Cumhuriyet Halk Partisi-CHP*)—took some steps, albeit imperfect, to address the problem. That government denounced the practice at the highest level (though never admitted its widespread nature), prosecuted a small number of officers for torture, changed Turkey's code of criminal procedure to give criminal suspects more legal protection, and appointed a State Minister for Human Rights who openly and vocally condemned human rights abuses. Notwithstanding these initiatives, however, the Anti-Terror Branch of the Interior Ministry's Security Directorate—as well as other police units—continues to torture and maltreat large numbers of security detainees who pass through their hands.

There are several reasons why government efforts failed. While legal proceedings are sometimes instituted against police for alleged abuse and torture, the overall number of such actions is small relative to the problem, and proceedings are problematic. The HRFT reports that the government has acknowledged that seventy out of the 445 individuals who the HRFT believes died as a result of torture or police abuse between September 12, 1980-September 12, 1995 in fact died of torture. Of the above cases prosecuted, twenty-six ended in a successful conviction, while in six the court ruled that the death did occur as a result of torture but released the officers for lack of evidence. Thirty cases are still in progress. According to the U.S. State Department's 1996 *Country Report*,

Prosecutions of police or security officers increased somewhat. However, the climate of impunity reflected in the relatively small number of convictions probably remains the single largest obstacle to reducing these troubling human rights abuses.

In its December 1996 "Public Statement on Turkey," the CPT called on the Turkish government to review sentences passed against police charged with torture or maltreatment to determine whether the punishments were proportional to the crime in view of amending the law to increase punishments for future cases. Under a law stemming from the Ottoman period, police and other civil servants cannot be brought to trial for malfeasance unless a Provincial Administrative Council chaired by the state-appointed provincial governor gives its approval. Such approval has been rarely given in the State of Emergency region where many abuses occur.

When trials are launched, they drag on. Police are rarely arrested when they face criminal charges, and under the 1991 Anti-Terror Law, anti-terror police *cannot* be remanded into custody if charged and their legal fees are paid by the state. In April 1996, murder charges were brought against eleven police for the January 1996 murder in custody of journalist Metin Göktepe; since that time the court has held only two hearings, and none of the police have been remanded into custody. When sentences are handed out, they are usually lenient. In one case in 1996, two policemen convicted of beating and maltreating a twelve-year-old child had their sentence commuted to a fine of TL750,000, about eight U.S. dollars at the time.

Turkish elected officials and nongovernmental groups (NGOs), expert international bodies such as the Council of Europe's Committee for the Prevention of Torture and the United Nations Committee Against Torture, and international NGOs like Human Rights Watch/Helsinki and Amnesty International have repeatedly called upon the government of Turkey to take specific actions to end torture, such as limiting periods of incommunicado detention, providing immediate, independent medical examination of detained persons, and prosecuting in larger numbers police suspected of torture. Some actions have been carried out, many have not. But torture continues. Either the government is unable to stop the practice because it does not fully control its security apparatus, or it does not wish to do so because it views the "tough" methods of the security forces as an important asset in the fight against the PKK and various radical armed opposition groups. A 1995 report issued by the Republican People's Party (CHP), then junior partner in the ruling coalition, bitterly complained that the government did not have full control over security forces, a charged echoed in 1996 by the former State Minister for Human Rights Adnan Ekmen, who complained that he was unable to investigate abuses because of interference by security forces. Public prosecutors, who *de jure* have wide-ranging oversight powers over police during a criminal investigation, do not seem to make full use of them, especially in cases involving security detainees.

In October 1996, the current Welfare/DYP coalition government of Prime Minister Necmettin Erbakan announced a plan to reduce detention periods for security detainees and in November 1996 submitted such a bill to parliament. This bill, which reduced maximum detention periods for security detainees involved in "collective crimes" from fifteen days to seven, and from thirty days to ten in the state of emergency zone, was passed into law in March 1996. The law does not give an automatic, immediate right to meet with a lawyer for these detainees; that is granted only after four days of detention.

On November 29, 1996, the Ministry of Interior announced that its officials would conduct surprise inspections of police stations to determine if the treatment of detainees corresponded with established procedures. A week later, at a press conference in London, Foreign Minister Tansu Çiller announced that, "Our government has decided to take a series of measures in order to totally eliminate in practice the crime of torture, which as a matter of fact is forbidden by our laws.... We courageously take up the Committee's [CPT] findings and if they prove true, we identify the responsible and punish them." It is still too early, however, to determine what the outcome will be of any of these efforts or whether they will lead to the elimination or reduction of torture and abuse by police. Finally, on March 10, 1997, Foreign Minister Tansu Çiller announced that, "Our governors and police directors will not permit a single act in prisons and police stations against our laws and our international commitments" and stated that Turkey would take steps to end torture and other human rights abuses. As part of that program, the Foreign Minister announced—among other

things—that a committee at the level of under secretary would be created to monitor the implementation of human rights improvement efforts.

RECOMMENDATIONS

To the Government of Turkey:

- Disband the anti-terror forces. Officers who have been implicated in human rights abuses should be dismissed from the police and tried for crimes;
- Guarantee an immediate right of security detainees to meet in private with legal counsel throughout the period of their detention and trial. The recent law lowering detention periods only allows security detainees held in so-called “collective crimes,” i.e. offenses committed by three or more people, to meet with legal counsel after ninety-six hours;
- Abolish *in toto* Article 31, which denies security detainees many of the due process protections provided in the Code of Criminal Procedure (CMUK), from Law No. 3842;
- In line with the recommendation contained in the United Nations “Report of the Committee against Torture,” of February 1994, create a “national machinery to combat torture.” Such a “machinery” would be part of the Justice Ministry and command independent prosecutors with access to all police facilities and detention centers in the country. Its head would have ministerial rank;
- Grant access to all police/pre-trial detention centers and prison facilities to the U.N. Special Rapporteur on Torture;
- Implement all recommendations in Council of Europe’s Committee for the Prevention of Torture [CPT] “Public Statement on Turkey” of December 6, 1996, including reviewing past sentences of officers convicted under Articles 243 of the penal code (obtaining confessions by torture or inhuman treatment) and 245 (ill-treatment by law officers) to determine if both articles need to be amended to strengthen sentences in future cases and instituting necessary measures to enable forensic doctors performing mandatory pre/post examinations of detainees to work uninfluenced by outside pressure;
- Present a bill to the Turkish parliament amending State of Emergency Decree No. 285 so that public prosecutors—not the provincial administrative council chaired by the Emergency Rule Governor, who is also *ex officio* in charge of police forces—has the sole authority to initiate prosecution of security forces alleged to have violated the law. Such approval has been infrequent in the past;
- Present a bill to the Turkish parliament abolishing the Temporary Law on the Procedure for Investigation of Civil Servants [*Memurin Muhakematı Hakkında Kanunu Muvakkat*], so that public prosecutors have the direct responsibility and authority to investigate and prosecute malfeasance by civil servants, including by security force members;
- Present a bill to the Turkish parliament abolishing Article 8 of the Anti-Terror Law and any other laws or decrees that punish peaceful free expression;
- Allow access to international humanitarian organizations; cease all state actions directed against the legal activities of all human rights groups in Turkey, including the Human Rights Foundation of Turkey, the Human Rights Association of Turkey, and Mazlum-Der, which are protected under international treaties to which Turkey is a signatory;
- As promised by Foreign Minister Çiller, make public the most recent CPT report on Turkey when it becomes available and continue to make public such reports in the future; require that the Under secretary level committee to be established to monitor implementation of human rights improvements release its findings publicly;

To the Council of Europe:

- Under Article 57 of the European Convention of Human Rights, call on Turkey to show how domestic laws “ensure the effective implementation of any of the provisions of this Convention;”
- The Parliamentary Assembly should issue a statement condemning the practice of torture and link the Turkish government's ongoing failure to realize completely and fully CPT recommendations to possible punitive measures such as the exclusion of Turkish parliamentarians from the Assembly;

To the European Union:

- Raise the issues of torture and police impunity during official meetings with the Turkish government;
- Provide funding for the training of forensic pathologists both in the government and in NGO organizations in Turkey;
- The European Commission, the European Council of Ministers and the European Parliament must use political dialogue with Turkey, provided for in the EU-Turkey Customs Union and the Barcelona Process, to condemn the widespread practice of torture throughout Turkey and urge for the implementation of practical and legislative changes as outlined by the CPT;
- The European Commission, the European Council of Ministers and the European Parliament must clearly state that only a sincere effort by Turkey—in practical as well as in legal terms—to combat the practice of torture would provide tangible proof of Ankara's willingness to take steps towards closer ties with the EU;

To the U.S. Government:

- End all military sales and security aid to Turkey until such time as Turkey no longer engages in a pattern of gross human rights violations, as required by section 502B of the Foreign Assistance Act or give concrete reasons why such a measure should not be implemented;
- Raise the issues of torture and police impunity in meetings with the Turkish government;
- Call on the Turkish government to provide a detailed list of police prosecuted for abuse;

To the Organization on Security and Cooperation in Europe (OSCE):

- In line with the 1990 Copenhagen Document, the OSCE Permanent Council and the Chairman-in-Office should reaffirm that the prevention of torture is a priority matter of the OSCE and publicly condemn the widespread practice of torture in Turkey;
- The OSCE Permanent Council and the Chairman-in-Office should urge Turkey to implement the recommendations outlined by the CPT and ask the Turkish government to keep the OSCE informed about its efforts in this regard;
- The OSCE should institute a public reporting procedure according to which member states provide information on their compliance with these OSCE principles;

To the United Nations Human Rights Commission:

- Urge the government of Turkey to adopt all the recommendations made to it in this report;

To the United Nations Special Rapporteur on Torture:

- Conduct a fact-finding mission to Turkey and issue a public report on the mission's findings;

BACKGROUND

Many security detainees are ethnic Kurds who come from or are connected with the conflict in southeastern Turkey. Since 1984 the region has been the scene of armed conflict between government security forces and the PKK (Workers' Party of Kurdistan), "Partia Karkaren Kurdistan", a militant armed Kurdish group whose explicit claims range from complete independence to regional autonomy within Turkey. The conflict has been characterized by severe human rights abuses by both security forces and the PKK; by 1996 an estimated 21,000 security forces, civilians, and PKK members had been killed. In July 1987 ten provinces in the region were placed under emergency rule because of an increase in fighting. This strict decree gave security forces special powers, including the right to hold security detainees in incommunicado detention for up to thirty days and to restrict the press. On November 29, 1996, the Parliament of Turkey approved a four-month extension of the state of emergency—the twenty-ninth time—in the following provinces: Van; Bitlis; Muş; Tunceli; Diyarbakir; Siirt; Bingöl; Batman; Hakkari; Şırnak. Mardin, which had hitherto been under the state of emergency decree, was dropped from the list.

In 1991, an Anti-Terror Law was passed, which among other things resulted in the repression of non-violent expression—especially concerning debate on the Kurdish issue—and the imprisonment of writers and intellectuals. By 1992, the conflict in the southeast entered a new spiral. Torture and deaths in detention increased, as did disappearances under mysterious circumstances. A wave of so-called "actor unknown murders" struck Kurdish nationalist intellectuals and journalists and also suspected PKK members, with the number of such deaths rising to almost 1,200 between 1991 and 1994. A Turkish parliamentary commission investigation into these killings, leaked to the press in 1995, concluded that "illegal formations' within the state bear some responsibility for mystery killings; they must be 'cleansed'...and brought to justice."

The PKK assassinated those suspected of cooperating with the state, such as teachers, civil servants, and former PKK members. The government intensified a counterinsurgency campaign against the PKK, forcibly evacuating and burning rural villages. The majority of the more than 2,500 villages and hamlets depopulated in the region since 1984 are believed to be the result of this campaign. The PKK in turn launched attacks against both security forces and villages that had joined the government civil-defense "village guard" program, killing village guards and their families alike. In July 1996, the PKK started a campaign of suicide bombings using women disguised as pregnant or in pious clothing, a serious violation of international humanitarian law. An October 1994 Human Rights Watch/Helsinki report stated that,

Both Turkish security forces and PKK fighters are guilty of human rights abuses. Security forces operating in the southeast often make little distinction between civilians and the PKK members, and the PKK has continued its practice of brutally punishing any cooperation with state authorities.... In an effort to deprive the PKK of its logistic base of support, security forces forcibly evict villagers from their villages and sometimes destroy their homes. Torture and arbitrary detention often accompany such evictions. Security forces especially target those villagers who refuse to enter the village guard system or those who give food and shelter to the PKK fighters or are suspected of doing so.¹

¹ Human Rights Watch/Helsinki, "Forced Displacement of Ethnic Kurds from Southeastern Turkey," October 1994, p. 3. See also, Helsinki Watch, "Free Expression in Turkey: Killings, Convictions, Confiscations," *A Human Rights Watch Short Report*, vol. 5, no. 17, August 1993; Helsinki Watch, *The Kurds of Turkey: Killings, Disappearances and Torture* (New York: Human Rights Watch, 1993); Helsinki Watch, *Broken Promises: Torture and Killings Continue in Turkey*, (New York: Human Rights Watch, 1992).

The U.S. State Department's annual *Country Reports on Human Rights Practices for 1996* stated that, "Serious human rights problems continued....The situation in the southeast was of particular concern."²

SCOPE AND NATURE OF THE PROBLEM

Torture and ill-treatment are systematic and widespread in the interrogation procedures of the Anti-Terror Branches under the control of the Ministry of the Interior.³ The term "torture", as used in this report, is defined according to Article 1 of the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which Turkey ratified on August 2, 1988:

...the term torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining information or a confession, punishing him for an act he or a third person has committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.⁴

"Systematic" is defined according to the November 1993 United Nations Committee against Torture report on Turkey: "The Committee considers that torture is practiced systematically when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question."⁵

² Department of State, *Country Reports on Human Rights Practices for 1996* (Washington, D.C.: U.S. Government Printing Office, 1997).

³Although this report focuses on torture committed by the anti-terror police unit, torture and maltreatment are also common with suspects in non-political criminal cases. See Human Rights Watch/Helsinki, *Broken Promises: Torture and Killings Continue in Turkey* (New York: Human Rights Watch, December 1992), pp. 16-47. The reports cited in this section by the United Nations Committee against Torture, the Committee for the Prevention of Torture of the Council of Europe, and the Human Rights Foundation of Turkey Treatment and Rehabilitation Center also document and assert systematic and/or widespread torture against criminal suspects. Criminal suspects often suffer beatings that leave marks in the belief that they are less likely to open legal proceedings against police.

⁴United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in *Twenty-Five Human Rights Documents* (New York:Center for the Study of Human Rights, Columbia University, 1994), p.71.

⁵United Nations, *Report of the Committee against Torture* (New York: United Nations, 1994), A/48/44/Add.1, p. 7. The report was initially released in November 1993. It was republished as a General Assembly document in 1994.

Similar conclusions are shared by international organizations, domestic and international non-governmental organizations, and at least one official Turkish government body. On December 6, 1996, the Council of Europe's Committee for the Prevention of Torture (CPT) issued a "Public Statement on Turkey" based on several monitoring visits that stated that, "The CPT's findings in the course of a visit to Turkey in October 1994 demonstrated that torture and other forms of ill-treatment were still important characteristics of police custody in that country....in the course of visits in 1996, CPT delegations again found clear evidence of the practice of torture and other forms of severe ill-treatment..."⁶ Four years earlier, in a then highly unusual move given that its findings are usually confidential, the CPT issued an earlier "Public Statement on Turkey," which found that, "as regards more specifically the Anti-Terror Departments of the Ankara and Diyarbakir Police, the only conclusion that could be reached in the light of all the information gathered was that torture and other forms of severe ill-treatment continued unabated in those services....In light of all information at its disposal, the CPT can only conclude that the practice of torture and other forms of severe ill-treatment of persons in police custody remain widespread in Turkey."⁷ In a report released in November 1993, the United Nations Committee against Torture stated that, "...the copious testimony gathered is so consistent in its description of torture techniques and the places and circumstances in which torture is perpetrated that the existence of systematic torture in Turkey cannot be denied."⁸

The HRFT's *Treatment and Rehabilitation Centers Report: 1994* stated that, "In Turkey, torture is used as a systematic interrogation method on almost all suspects."⁹ It made a similar statement in its most recent study released in November 1996 and based on its work for 1995.¹⁰ Doctor Şükran Akın of the Istanbul branch of the HRFT Treatment and Rehabilitation Center told Human Rights Watch/Helsinki that,

The applications to us have increased. We had 145 in 1994, and 160 for the first nine months of 1995. Most all of the torture happens in detention, by the anti-terror police, and some happens in the regular police station. In my opinion, the majority of all political prisoners [security detainees] are tortured. For example, one person comes here for treatment out of a group of ten detained. That one person will indicate that the other nine were also tortured.¹¹

⁶European Committee For the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, "Public Statement on Turkey," (Strasbourg, France), December 6, 1996, p. 1.

⁷European Committee For the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, "Public Statement on Turkey," (Strasbourg, France), December 15, 1992, p.3-6.

⁸*Report of the Committee against Torture*, p. 7.

⁹Human Rights Foundation of Turkey, "Treatment and Rehabilitation Centers Report: 1994," (Ankara, Turkey: November 1995), p. 21. The HRFT has operated treatment and rehabilitation centers in Istanbul since 1990, in Izmir and Ankara since 1991, and in Adana since 1995.

¹⁰*Türkiye İnsan Hakları Vakfı Tedavi ve Rehabilitasyon Merkezleri Raporu 1995*, Ankara, Turkey, November 1996, p.27.

¹¹Human Rights Watch/Helsinki interview with Dr. Şükran Akın, Istanbul, Turkey, October 6, 1995.

According to the HRFT Treatment and Rehabilitation Centers, 378 people who applied to them for treatment in 1994 suffered torture while in police or security force detention. Of them 206 had been detained at least twice before, and of that number 92 percent had been tortured during previous detentions. In 1994, a total of 446 individuals applied to the HRFT Treatment Centers for treatment.

In 1995, the HRFT reported that of 545 individuals who had applied to them for treatment after torture in security force detention or in prison, 316 had been detained at least once before. Of those 316, 301 (95.1 percent) had reported being tortured before. In 1995, 713 individuals applied to the HRFT for treatment.

See "Treatment and Rehabilitation Centers Report: 1994", p.31; *Türkiye İnsan Hakları Vakfı Tedavi ve Rehabilitasyon Merkezleri Raporu 1995*, p. 27.

A survey of doctors in Turkey (including forensic doctors who conduct the mandatory pre- and post-medical examinations of detainees) conducted by the Boston-based Physicians for Human Rights (PHR) also points toward widespread torture.¹² In January 1995, PHR conducted a survey of sixty-eight physicians who attended a conference titled "Human Rights and Physician Responsibility," held in Istanbul. Of sixty doctors responding to the survey, almost half were forensic medical specialists, representing twenty-three percent of such specialists in Turkey. Almost all the doctors thought torture was a problem in Turkey, and fully sixty percent of those responding to the question thought that *everyone* who was detained was tortured. The doctors who held the latter opinion had performed literally thousands of examinations for official medical reports over the prior year, including medical reports on security detainees and criminal prisoners.

Even an official human rights committee attached to the Prime Minister's office and chaired by the State Minister Responsible for Human Rights, the Human Rights Supreme Consultative Committee (*İnsan Hakları Yüksek Danışma Kurulu*), wrote a report stating that torture in Turkey was "widespread and systematic."¹³ The group prepared the study in response to a December 7, 1994, request from then Prime Minister Tansu Çiller for a report on interrogation methods police could use that did not employ torture. On January 9, 1995, then State Minister Responsible for Human Rights Azimet Köylüoğlu submitted the report titled, "Personal Security and Protection against Torture and Other Cruel, Inhuman, and Degrading Treatment." It then sat in Prime Minister Çiller's office until Köylüoğlu announced its existence and findings at a press conference in early May 1995.

Unfortunately, the report was suppressed because of its critical tone, causing three members of the committee to resign.

TECHNIQUES OF ABUSE

A variety of torture methods are used in Turkey, though five main techniques seem to predominate among the anti-terror police: electric shock; hanging by the arms in a variety of positions; spraying with high-pressure water; sexual harassment such as squeezing breasts or testicles; and beating with fists, night sticks, or sandbags. Often, these techniques are used in concert.¹⁴ Blindfolding, poor food, stripping the suspect naked, extremely cold or hot conditions, lack of medical care, and cramped, decrepit cell conditions are also common. In March 1995, then State Minister for Human Rights Azimet Köylüoğlu revealed that there were eighteen different torture methods used in

¹²The following information comes from Dr. Vince Iacopino et. al., "Physician Complicity in Misrepresentation and Omission of Evidence of Torture in Post-Detention Medical Examinations in Turkey," *Journal of the American Medical Association*, August 7, 1996, Volume 276, No. 5, p. 397. See also Physicians for Human Rights' excellent, in-depth report, *Torture in Turkey & Its Unwilling Accomplices: A Report on The Scope of State Persecution and the Coercion of Physicians*, (Boston: Physicians for Human Rights, August 1996).

The thirty-one physicians who believed that nearly all detainees were tortured estimated that they had collectively conducted between 7,125-12,600 medical examinations to issue official medical reports in 1994. Up to 40 percent of these examinations could have been security detainees or criminal suspects.

¹³Unless otherwise attributed, the following section comes from Türkiye İnsan Hakları Vakfı, *İşkence Dosyası: Gözaltında ya da Cezaevinde Ölenler, 12 Eylül 1980-12 Eylül 1995* (Ankara: Türkiye İnsan Hakları Vakfı), March 1996, p. 24, and "Devletin İşkence Raporu," *Mazlum-Der: Evrensel İnsan Hakları* (İstanbul), May/June 1995, pp. 6-11.

¹⁴See also, Dr. Bülent Tarakçıoğlu, *İşkence Olayı* (İstanbul: Belge Uluslararası Yayıncılık), 1990, pp. 67-70.

For an excellent account of the psychological aftermath of torture, see, Murat Paker, et. al., "Psychological Effects of Torture: An Empirical Study Of Tortured and Non-Tortured Non-Political Prisoners" in *Torture and its consequences: Current Treatment Approaches* (London, England: Cambridge University Press), 1992, pp. 72-82 and Metin Başoğlu et. al., "Psychological Effects of Torture: A Comparison of Tortured and Nontortured Political Activists in Turkey," *American Journal of Psychiatry* 151:1, January 1994.

Turkey.¹⁵ Virtually all detainees who report being tortured are beaten, and the majority who are systematically tortured are blindfolded, often for long periods of time.

Such abuse seems to be carried out in specialized areas, where, according to one policeman who himself was later arrested and tortured, only the anti-terror police have access. He reported that,

¹⁵"İşte İşkence Çeşitlerimiz", *Milliyet*, Istanbul, March 23, 1995, p. 1. Some of the methods Köylüoğlu listed were the following: "Palestinian" hanging; "crucifixion;" magnetic telephone; cold water; salt water; night stick; abuse of sexual organs; being stripped naked in front of family members and acquaintances; electric shock; hitting with a sand bag; dripping water; sleep deprivation; standing on one leg; forcing someone to clean the toilet; putting someone in cold water up to the chest; blindfolding.
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I was taken to the eighth floor of the security directorate, where I was tortured. It's like a torture center, where the anti-terror branch members can go but not regular police. They can't go above the sixth floor. It was first time I had been there, but all police knew about the eighth floor.¹⁶

According to Doctor Önder Özkılıcı of the HRFT treatment center in Izmir, the most severe torture takes place during the first five days of detention, after which a recovery period of up to ten days—in which there is rudimentary treatment mixed with some psychological pressure—is allowed.¹⁷ Doctor Özkılıcı added that the most intense torture occurs during the first two or three days of detention, mostly to break the detainee's personality and also to get information if the police operation in which the suspect was detained is still continuing. In its December 1992 public statement, the European Committee for the Prevention of Torture commented that,

“In reality, the long periods of incommunicado custody allow time for physical marks caused by torture and ill-treatment to heal and fade; countless prisoners have described to CPT delegations the treatment techniques applied by police officers. It should also be noted that certain methods of torture commonly used do not leave physical markers, or will not if carried out expertly.”¹⁸

In its December 1996 “Public Statement on Turkey,” the CPT stated that, “At present such persons [held for alleged crimes under the jurisdiction of State Security Courts] are routinely denied all contact with the outside world whilst in police custody—a propitious state of affairs for the infliction of ill-treatment...”¹⁹ Because torturers do not operate with complete impunity—cases are brought against them at times and an active human rights community and often outspoken press document and report on torture—abusive methods are consistently improved in an effort to leave as few marks as possible.²⁰

¹⁶Human Rights Watch/Helsinki interview, Turkey, October 1995. A more detailed account of this is given in the section, “Interview with Detainees.”

¹⁷Human Rights Watch/Helsinki interview with Doctor Önder Özkılıcı, HRFT Treatment Center, Izmir, October 16, 1995. The doctor told us that *falaka*, the beating of the feet with a night stick or other hard instrument, had generally not been inflicted on security detainees in Izmir over the past year or two because of the use of a process, bone scintigraphy, that is able to document *falaka* months after it is applied. Bone scintigraphy falls under the category of nuclear medicine. An element that has an affinity for cells in the bone that produce bone matter is injected. When there is damage to the bone, such as that caused by *falaka*, this activity increases. Bone scintigraphy identifies this .

See also “Bone scintigraphy as clue to previous torture,” *The Lancet* (London), Vol. 332: April 6, 1991, pp. 846-847.

¹⁸European Committee for the Prevention of Torture “Public Statement on Turkey,” December 15, 1992, p.9.

¹⁹European Committee for the Prevention of Torture “Public Statement on Turkey,” December 5, 1996, p. 4.

²⁰This only applies to security detainees, who are more willing to document their torture and open cases against police. Criminal prisoners usually do not take such actions. Dr. Akin at the HRFT treatment center in Istanbul told us that, “The torturers in political cases use a certain method so as not to leave marks; in a regular police station, with common criminals, they just beat and don't care about leaving marks.”

Human Rights Watch/Helsinki interview, Istanbul, October 6, 1995.

Electric shock was reportedly first introduced in Turkey after the March 1971 military intervention and became widespread after the September 1980 military seizure of power.²¹ Usually used in conjunction with hanging or suspending by the arms, electric current is applied from a magnetic field telephone to various sensitive parts of the body, including sexual organs and the tongue, to the fingers, and to the small toe. Electricity is also applied to parts of the body distant from each other so as to cause as many spasms in different muscle groups as possible at the same time: the current uses the muscles as a conductor, thus causing pain, the inability to breath, heart spasms, and sometimes the involuntary loss of bodily functions. According to the HRFT treatment center in Izmir, torturers are using more sophisticated methods in applying electric shock, such as wetting with salt water in order to distribute the current more evenly or using expensive gels such as those utilized during an EKG to prevent burning at the point of contact in order not to leave marks that could be documented.²² In its December 1996 "Public Statement on Turkey, the CPT stated that, "...As had been the case in October 1994 and during earlier CPT visits, the delegation once again found material evidence of resort to ill-treatment, in particular, an instrument adapted in a way which would facilitate the infliction of electric shock and equipment which could be used to suspend a person by the arms."²³

Hanging or suspending by the arms is another widely employed method of torture and is usually used together with high pressure water, electric shock, beating, or sexual harassment such as squeezing the testicles or breast or placing a nightstick against or in the vagina or anus. Victims are hanged with the arms straight out or with the arms behind the back (the so-called reverse or "Palestinian" hanging). Hanging causes extreme pain in the muscles and joints and disrupts the flow of blood to the brain, thus causing unconsciousness.²⁴ According to Doctor Şükran Akin, "During hanging, the whole weight is on the arms, the muscles stop functioning. When they hang you from behind, your arms or shoulders can become dislocated. But they have a new technique where they bandage the arms with foam to leave fewer marks."²⁵ One doctor from the HRFT treatment center in Izmir told us that, "The incidents of hanging have either gone down or have been practiced more discreetly since the foundation has been able to discover Brachial Plexus, the damage in the nerve center in the shoulder and arm pit that comes from hanging. When they wrap your arms properly, there is less chance of leaving marks."²⁶

In its December 1996 "Public Statement on Turkey," the CPT also found evidence of the use of suspending or hanging detainees, noting that,

²¹Tarakçioğlu, p. 68.

²²Human Rights Watch interview, Izmir, October 16, 1995. A doctor in Istanbul who treats torture patients said that those who suffer *falaka* are often told to walk on salt so as to reduce the swelling and marks. Walking on salt also causes pain as the skin on foot is broken from the beating.

²³European Committee for the Prevention of Torture "Public Statement on Turkey," December 6, 1996, p. 2. The observation was made during a September 1996 CPT visit.

²⁴Tarakçioğlu, p.70.

²⁵Human Rights Watch/Helsinki interview, Istanbul, October 6, 1995.

²⁶Human Rights Watch/Helsinki interview, Izmir, October 17, 1995. An EMG is used to measure electrical activity in nerves and muscles, which changes as a result of damaged caused by hanging.

The case of seven persons (four women and three men) medically examined at Sakarya Prison, where they had recently arrived after a period of custody in the Anti-Terror Department at Istanbul Police Headquarters, must rank among the most flagrant examples of torture encountered by CPT delegates in Turkey. To focus on their prolonged suspension by the arms, motor function and/or sensation in the upper limbs of all seven persons was found to be impaired—for most of them severely—and several of them bore ecchymoses or tumefactions in the axillary region which were also clearly indicative of a recent suspension by the arms. Two of the persons examined had lost the use of both arms; these sequelae could prove irreversible.²⁷

Two additional methods are employed extensively. High-pressure water is often used, especially during and after hanging or electric shock, to reawaken circulation, to help spread the electric current, and to send the detainee back to his cell wet. The detainee is usually stripped naked before water is applied, which helps to “shame” and disorient the individual and also leads to heat loss from the body.²⁸ Sexual harassment—both physical and verbal—is also widely employed to both men and women and ranges from comments to anal and vaginal rape with truncheons. One doctor who treats torture victims told Human Rights Watch/Helsinki that, “Even before the torture starts they touch your balls, put a nightstick by your buttocks. You are not a man. With women, they touch their breasts, hit hips, threaten rape, and verbally harass.”²⁹

The Human Rights Foundation of Turkey’s Treatment and Rehabilitation Center issued the following statistics based on the 545 individuals who applied to them for treatment in 1995 after reporting torture in police detention or in prison:³⁰

Days in Detention (last detention period)

1-3 days: 43.9%
4-7 days: 12.2%
8-15 days: 26.6%
16-30 days: 12.8%
More than 31 days: 4.4%

Percentage of Torture Victims Suffering Various Methods of Torture

Beating: 91.7%
Blindfolding: 56.7%

²⁷European Committee for the Prevention of Torture “Public Statement on Turkey,” December 1996, p. 1.

²⁸Tarakçıoğlu, p.70.

²⁹Human Rights Watch/Helsinki interview, Istanbul, October 1995. Human Rights Watch/Helsinki has no information pertaining to the incidence of vaginal and anal rapes of women and men in detention, though such incidents, if and when they occur, are believed to be under reported due to social stigma. The Women’s Rights Project of Human Rights Watch documented one rape in detention in a 1994 report, “State Control of Women’s Virginity in Turkey,” *A Human Rights Watch Short Report*, vol. 6, no. 7, June 1994, p. 14. The case was later brought to the European Commission of Human Rights, which declared it admissible. See Aydın Şükran v. Turkey (Application No. 23178/94).

³⁰*Türkiye İnsan Hakları Vakfı Tedavi ve Rehabilitasyon Merkezleri Raporu 1995*, pp 21-34. In 1995, a total of 713 individuals applied to the centers for treatment. 100 had been tortured without officially being arrested and sixty-eight were not included in the study because of a shortage of data for them, thus leaving a figure of 545.

Of the 545, 382 were men and 163 were women. 94.1 percent were security detainees. 317 were tortured in security directorates (anti-terror police), fifty-one under custody of the gendarmerie, eighty-one in prisons, sixty-one in regular police stations, and thirty in other places.

Threats: 52.5%
Insults: 48.8%
Electric Shock: 38.7%
Sexual Harassment: 38.7%
Hanging/Suspension by the arms: 33.4%
High-Pressure Water: 31.4%
Restriction of Food and Water: 23.9%
Cell Isolation: 22.6%
Preventing Urination/Defecation: 20.9%
Falaka: 19.8%
Being held in a cold place: 17.2%
Pulling Hair: 13.4 %
Mock Execution 4.6%

Number of Torture Techniques each Victim Suffered

One torture method: 4.4%
Two torture methods: 12.2%
Three torture methods: 13.7%
Four torture methods: 10.2%
Five or more torture methods: 63.6%

Places of Detention

Security Directorate (Anti-Terror): 58.1%
Prison: 14.8%
Police Station: 12.1%
Gendarmerie: 9.3%
Other: 5.5%

INTERVIEWS WITH DETAINEES

Human Rights Watch/Helsinki interviewed twenty-five individuals who reported suffering torture, of which nineteen were men and six were women.³¹ Twenty-two were ethnic Kurds, and three were Turks. All were security detainees; none were held on non-political criminal charges. Thirteen reported suffering torture in 1995, ten in 1994, and two in 1993. Five of these interviews are presented below in full, while twenty are summarized in the Appendix to this report. Forty percent had been detained for 1-3 days, 16 percent between 4-7 days, 36 percent between 8-15 days, 8 percent between 15-30 days, and none more than 31 days. Ninety-two percent were detained by anti-terror police, 4 percent by regular police, and 4 percent by the gendarmerie.

Cem, age twenty-four, is a Turkish Alevi and lives in the Gazi section of Istanbul, scene of violent rioting in March 1995 that resulted in seventeen demonstrators being killed as a result of police fire.³² In September 1995, he was detained by police at a funeral for a leftist militant killed in a shoot-out with police. He testified that after the group he was detained with was released by order of a judge, the police detained him immediately again and brought him to the Aksaray Anti-Terror Branch police station. There he was held for eight days, during two of which he was systematically tortured. Cem reports that,

³¹The interviews, which lasted from thirty to ninety minutes, were conducted in various cities in Turkey during June 1995 and October and November 1995. Twenty-three, including all of those cited in full, were conducted with the detainees themselves. Two were conducted with their lawyers. All names of interviewees are pseudonyms.

³²Alevi are a syncretic, liberal Shia Islam sect in Turkey. There are no accurate figures as to the number of Alevi in Turkey, though some numbers go as high as 1/3 of the population. Both ethnic Turks and ethnic Kurds are Alevi.

As soon as I got to the police station, I was blindfolded. For three or four hours, the police tried to get me to accept guilt for various crimes: bombings, being a MLKP militant, killing police.³³ I refused their accusations. They then brought me to another room, stripped me naked, and hung me, four times with my arms straight out by my sides, and once with my arms behind me. Each time lasted about five-ten minutes. After they put you down, they spray you with high-pressure water and also pull and massage your arms to bring the circulation back. Your arms go dead, the pain is horrible. I still have problems with my right arm. They wrap your arms in foam, I guess not to leave marks. All the hanging and water lasted about six hours, interspersed with the same questions they asked me before the torture started.

Cem was brought back to his cell, and left there overnight and all of the next day, when, he recounted, he was brought back to the interrogation room at about seven p.m.

That night they came and took me. They hung me only once, but they gave me electric shock. They made me lie down face up on the floor, tied me, hit me with water, and attached a wire to my penis and gave me electric shock. This lasted about two hours, on and off. Sometimes one of them would put his foot on my throat to muffle my screams. They would also squeeze my testicles.

After that, Cem was questioned for the next six days and threatened, but suffered no physical torture. He stated that, "I had treatment for the last six days of my detention. The police would rub cream into my arms during the interrogation, joking that, 'You make propaganda against us. But even when we torture you we treat you well.'" On the eighth or ninth day, Cem was taken to a prosecutor, who sent him to the magistrate after reading his file. He was charged, under Article 168 of the Turkish Criminal Code, with membership in an illegal organization.

Orhan, age twenty-eight, is an ethnic Kurd and engineer who was arrested in Erzincan in October 1994 while attending a funeral for a militant who was killed in a clash with security forces. While on the way out of the city, he and several others were detained at a checkpoint and taken away by anti-terror police to their headquarters in Erzincan. During his period of detention he reports being severely tortured. According to Orhan,

I was tortured for five straight days and nights with breaks in between, and for the whole period I was naked. The police accused me of being a member of TİKKO.³⁴ I was hung seven times, including from behind. While they were doing this they would give me electric shocks to my penis and toes. My head would snap back. They pulled my hair, hit me with something like a sand bag in the kidneys, and squeezed my penis. I was also hit with high-pressure water, especially when they were giving me electricity. They threatened to rape me with a night stick, but didn't, though one stuck his finger in my anus.

Orhan also suffered threats to his family and of summary execution. He reports that,

They asked me to sign a statement, but I was blindfolded. I refused. One officer told me that "We will bring your mother here and fuck her and do the same to your sister if you don't sign." On the third day I was taken to a field, again blindfolded. They began to play with their guns, loading them, cocking them. One said, "Clashes happen here everyday. We can kill you and say it happened in a clash."

Orhan was charged, under Article 168, with membership in an illegal organization and taken for a week to Erzincan prison and then to Erzurum E-Type Prison. He was acquitted of this charge in March 1995 and released from prison. During this entire period he was permitted to consult with his legal counsel only three times.

³³ MLKP, "Marksist-Leninist Komünist Partisi", stands for the Marxist-Leninist Communist Party, a radical Maoist organization.

³⁴ TİKKO, The Workers/Peasant Liberation Army. [Türkiye İşçi Köylü Kurtuluş Ordusu] is an armed Maoist group.
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Haso, age thirty-one, is an ethnic Kurd who migrated from Muş province in southeastern Turkey to Adana where he owns a shop. He has lived in Adana for almost twenty years. He was imprisoned from 1981-1984 for connection with Dev-Yol, an illegal militant leftist group; after his release, he was detained briefly three times, but not tortured. In July 1995, he was detained by anti-terror police in Adana and tortured severely. According to Haso,

The police came to my shop and took me away to give a statement. Once we got to the station, however, I was blindfolded and accused of being a member of TİKB (Türkiye İhtilalci Komünistler Birliği).³⁵ They took me to a room and said, "Just talk, don't make us waste time." They asked me to strip naked, and then hit me with high pressure water. They wrapped my arms in something soft, like a towel, asked me to step on a chair, attached my arms to something, and then kicked out the chair. I was hanging there five-ten minutes. During this time they hit me with more cold water and put electric shocks to my penis and big toe. They would take me down when I began to pass out, wait some time, then hang me again or give me electricity. They also squeezed my testicles; one wanted to put something up my anus, but another stopped him.

Such torture reportedly went on over a period of three days. The interrogators would alternate this maltreatment with a medical check of Haso, including rubbing cream on his affected limbs. They even played "bad cop-good cop": one officer would offer him tea and cigarettes, commenting that the police "did not take pleasure in this," while another would growl, "If you don't accept this statement, we will bring your wife and torture her in front of you."

After the third day, Haso reported that he was not tortured again, though interrogation periods continued. His wife brought him a package on his fourth day of detention. On the fifteenth day of his detention, he was brought before a prosecutor and a judge. He told the prosecutor of his torture, though he did not react, according to Haso. The judge ordered him to be arrested and remanded into custody, under Article 168 of the Turkish Penal Code, charged with membership in an illegal organization. He first consulted with his lawyer on the twentieth day of his detention. In September 1995, he was released from custody, though his trial continues. He refused to accept the statement police prepared for him, which was taken under torture.

Şule, a thirty-one-year-old Kurdish woman, works as a nurse in Izmir where she has lived for twenty years. Over a period of several days in October 1994, anti-terror police detained her, her husband, and several other individuals alleging that they were members of an illegal organization *Rizgari*. She reports that both she and her husband were tortured and arrested. She was released in December. According to Şule,

Shortly after my arrest, I was brought into a room. My husband was also brought in. He had been tortured: he was shaking and there was fear in his eyes. One of the policemen in the room said, "Have a chat with your husband. Learn what happened to him. We don't want this to happen to you." After that, he was taken out, I was asked to undress, then they blindfolded me, strapped me down, and put a ring on my left little toe. They gave me electricity through this and then with another wire that they touched to my breasts, genitals, and other parts of my body. They were hitting me with water as they did this. This lasted about five minutes or so. They were asking me questions during this time. They unstrapped me, put me on a cement floor, and told me to put my clothes back on. I wasn't able to do that or to walk, so they brought me wet back to a cell and left me alone.

After this, Şule was slapped and punched during her interrogation period, which lasted ten days, but was not subjected to other forms of abuse or torture. On her third day of detention she was able to see her lawyer. On her tenth day of detention, she was taken to a prosecutor and a judge. She was arrested and remanded into custody under Article 169, aiding illegal groups. She told the prosecutor that she had been tortured, but he reportedly had no reaction.

³⁵TİKB, the Turkish Revolutionary Communist Union, is an armed Maoist group.

Kemal, a former policeman who spent over five years on the force starting in the late 1980s and was arrested in the early 1990s on allegations that he was aiding an outlawed violent leftist group. He reported being tortured over a period of nine days. He is a Kurd. According to Kemal,

I was arrested in the fall of 1993...The arresting officers kicked me and punched me terribly. I thought they would kill me. I was blindfolded and taken away, eventually ending up in an interrogation room. They beat me again with their fists, then stopped and told me to 'think things over.' They took me to another room, the "electricity room." They stripped me, strapped me down to a table with belts, poured water over me, pulled trousers across my neck and then attached a wire to my right small toe and started to give me electricity. I shook when they gave me the electricity, then they would hit me with another wire all over my body. This happened for what seemed like twenty minutes at a time, over a period of nine days. After the electricity there would be hanging. I was also put in front of a fan, wet. During the whole time I was blindfolded. On the ninth day I was shown at a press conference, when I also was given access to a lawyer.

Later he was brought to a cell, where he spent the next six days, after which was brought before a prosecutor and charged, under Article 169 of the Turkish Penal Code, with giving aid and comfort to an illegal organization. He told Human Rights Watch/Helsinki that,

I was peeing blood. My kidneys hurt. Two days before I was brought to the prosecutor, a doctor examined me. He really didn't do much at all and didn't listen to my complaints. The prosecutor was the same. I told him that I had been tortured and that I had signed my statement under torture—hadn't even read it. He didn't react. The police had told me that if I rejected the statement in front of the prosecutor, I would be tortured again.

Kemal spent fourteen months in prison and then was released. His trial under Article 169 continues. He was fired from the police force under Law #2559, the "Police Responsibility and Authority Law."

TURKISH GOVERNMENT INITIATIVES TO STOP TORTURE

Under the DYP/SHP Coalition Government, 1991-1995

Between 1991 and 1995, the coalition government consisting of the True Path Party (*Doğru Yol Partisi-DYP*) and its junior partner, the Social Democratic Populist Party (*Sosyal Demokrat Halkçı Parti-SHP*), attempted in fits and starts to address human rights issues, including torture and maltreatment of detainees.³⁶ The coalition was generally split between the DYP, which usually favored a hard-line approach, and the SHP, which tried to pay more attention to issues of democratization and human rights.

Shortly after taking office, on November 25, 1991, then Prime Minister Suleyman Demirel (who became president of the republic after the death of former President Turgut Özal in April 1993), announced to the Turkish parliament that, "Torture is a crime against humanity; it is our duty to put an end to it."³⁷ In June 1992, the Turkish government issued a pamphlet entitled, "Human Rights in Turkey: A Record of Improvement," that stated that,

³⁶This coalition government was in power from November 1991 to September 1995, when it collapsed. A caretaker government then took the country to parliamentary elections in December 1995, but a new government, an awkward coalition between Mesut Yılmaz's ANAP (Motherland Party) and Çiller's DYP was not formed until March 1996; it quickly collapsed in June 1996. That same month the present Refah/DYP coalition government was formed. In early 1995, SHP merged with the Republican People's Party (*Cumhuriyet Halk Partisi--CHP*) and took its name.

³⁷Human Rights Watch/Helsinki, *Broken Promises: Torture and Killings Continue in Turkey*, p. 16.

Human rights organizations, national and foreign, have for long insisted that the most serious violation of human rights, torture, was widespread and used systematically in police stations....Whilst not reaching levels claimed, this degrading and inadmissible practice has not been totally eliminated.³⁸

Prime Minister Demirel also appointed a State Minister Responsible for Human Rights, Mehmet Karaman. On November 22, 1991, he, along with then Justice Minister Seyfi Oktay and the former president of the Human Rights Association of Turkey, Nevzat Helvacı, visited Eskişehir Prison after receiving allegations of mistreatment of prisoners. Oktay ordered the prison closed.³⁹

In both 1991 and 1992, the General Security Directorate of the Interior Ministry sent circulars to all security forces concerning proper methods of conducting interrogations titled, respectively, "Regulations on Interrogation and Taking of Statements" and "Code of Practice for Remand into Custody."⁴⁰ In November 1992, the parliament approved Law No. 3842 amending the Code of Criminal Procedure, (*CMUK*). Though it did not reduce periods of detention for security detainees and exempted them from many due process protections, one of its most important articles that was applicable to all detainees was the prohibition of interrogation methods that constitute torture and the inadmissibility as evidence of testimony taken under such conditions (*CMUK 135/a*). On February 13, 1995, then Prime Minister Tansu Çiller sent a circular to the Ministry of the Interior basically reiterating what had already been passed into law as *CMUK 135/a*, including an order to police to remove "torture instruments" from police stations if any existed. In a letter to Barbara Paul Robinson, head of the New York City Bar Association, Ambassador to the United States Nuzhet Kandemir stated that,

The Prime Minister, through an ordinance addressed to the Ministry of the Interior dated February 13, 1995, commanded that the following measures be taken in order to abolish any practice of ill-treatment during the pre-detention period (interrogatory) in conformity with international implementation:

- a). police observe all legal practices and permissible periods of detention;
- b). no detainee be mistreated, no matter what the crime and European and American methods will be used to obtain information from the detainee;
- c). a medical examination be carried out as required by a Health Ministry circular dated December 27, 1993;
- d). detainees' meeting with their attorneys be carried out in accordance with the law;
- e). police stations be inspected for torture instruments and that such instruments (if any are found) be removed;
- f). all detainees be registered;
- g). detainees' cells be sufficiently large and sanitary;
- h). legal action be taken immediately against any policeman or other law enforcement officer who engages in maltreatment of detainees;

³⁸Ibid.

³⁹Department of State, *Country Reports on Human Rights Practices for 1991*, (Washington, D.C.: U.S. Government Printing Office, 1992), p. 1249.

⁴⁰*Broken Promises: Torture and Killings Continue in Turkey*, pp. 71-75.

i). to insure full implementation of the directive, that police stations under the control of the governor and head of the security directorate be inspected continually and that the results of such inspections be sent to the Ministry of the Interior.⁴¹

According to Kandemir, the Ministry of the Interior sent a letter dated February 16, 1995, to all governors and police and gendarmerie commands to carry out the prime minister's directive. In addition, Ambassador Kandemir stated that the Ministry of Health issued two circulars dated February 9, 1993, and January 25, 1995, that called on doctors performing pre/post detention medical reports to do so in a more detailed manner.

The Turkish government has also instituted human rights training courses. According to the Turkish Embassy in Washington, D.C., human rights courses have been included in the curriculum as a separate course at police schools and academies.⁴² A new course book reflecting the changes to the Code of Criminal Procedure (CMUK) brought about by Law No. 3842, *Human Rights: Suspect Rights and Police Authority, Instruction Book for Police Academies*, has been introduced for use in the above mentioned courses.⁴³ In addition, human rights courses conducted by the Foreign Ministry are given to local administrators and police officials and a training course in human rights was instituted for armed forces personnel.⁴⁴

Finally, on July 24, 1995, the Turkish Parliament passed fifteen amendments to Turkey's 1982 constitution. This action increased some freedoms, such as allowing students and academics to join political parties and permitting trade unions to work with political parties. Also, the preamble was changed to delete favorable references to the September 12, 1980 military coup. But these amendments dealt with broader democratization, not issues of police abuse and chronic human rights violations such as torture.

Why DYP/SHP Efforts Failed to End Torture

⁴¹Letter of Turkish Ambassador Nuzhet Kandemir to Barbara Paul Robinson, President, New York City Bar Association, September 1, 1995.

⁴²Ibid.

⁴³Prof. Dr. Feridun Yenisey, *İnsan Hakları (Sanıĝm Hakları ve Polis Yetkileri) Polis Okulları Ders Kitabı* (Ankara: T.C. İçişleri Bakanlığı), 1994.

⁴⁴Letter of Turkish Ambassador Nuzhet Kandemir to Barbara Paul Robinson.

These efforts, however, were largely unsuccessful for several reasons, the three most important being concern about the increased threat posed by the PKK, the belief that a “tough” approach was needed, and a concomitant disinclination to prosecute police using such methods. The steps that the government did take to address human rights issues either were crafted in such a way as to not directly affect torture and abuse by security forces, such as exempting cases before state security courts from many of the due process protections offered by Law No. 3842 amending the Code of Criminal Procedure (*CMUK*), or had little force behind them—in spite of their importance on paper—because security forces knew that they could break the rules with only minimal fear of prosecution.⁴⁵ In November 1993, the U.N. Committee against Torture commented that, “There is an obvious discrepancy between, on the one hand, the measures taken and the intentions expressed by the authorities with regard to action to combat torture, and on the other, the practice followed in the premises of the Ministry of the Interior.”⁴⁶ In its December 1996 “Public Statement on Turkey, the CPT commented that,

Some progress has been made. The Turkish authorities have issued a multitude of instructions and circulars; further, training programs and human rights education strategies have been devised. However, the translation of words into deeds is proving to be a highly protracted process...if given full effect in practice, those instructions would represent a turning point in respect for human rights in Turkey. Regrettably, it is clear from the information gathered by the Committee in the course of subsequent visits to Turkey that those instructions are not being fully complied with; in fact, little more than lip service is being paid to them.”⁴⁷

As has been cited earlier, the U.S. State Department’s 1996 *Country Report* stated that the lack of prosecution of police for serious offenses such as torture and summary execution had created a “climate of impunity.”

A vicious circle has thus arisen. Abusive police are generally not prosecuted, and if they are, trials last long periods, police are usually not remanded into custody, and sentences, when meted out, are light. In turn this gives the impression to security forces that their “tough methods” are tolerated and a blind eye will be turned to all but their worst manifestations. As a result, security forces become increasingly autonomous, making it even harder to bring them under control and punish their abusive behavior.

The Human Rights Foundation of Turkey (HRFT) has determined that between September 12, 1980, and September 12, 1995, 445 individuals died in prison or in detention as a result of torture or police abuse.⁴⁸ The majority of those were security detainees. Between 1991 and September 12, 1995, 124 individuals died in police custody or in prison: 1991, twenty-one; 1992, eighteen; 1993, thirty-six; 1994, thirty-five; 1995 until September 12, fourteen.

⁴⁵See section, “The Turkish Code of Criminal Procedure (*CMUK*).

⁴⁶*Report of the Committee against Torture*, p. 9.

⁴⁷European Committee for the Prevention of Torture, “Public Statement on Turkey”, December 6, 1996, pp 1-2.

⁴⁸*File of Torture: Death in Detention Places or Prisons*, (Ankara: Human Rights Foundation of Turkey), March 1996, p. 50-51. The HRFT states that 419 died as a direct result of torture or abuse and twenty-six later succumbed to wounds or illness from torture or because of a lack of medical treatment, making a total of 445.

But the number of police charged with torture or maltreatment of suspects is relatively small, even in cases where a death is involved. According to the Human Rights Foundation of Turkey (HRFT), courts, prosecution offices, or other authorized bodies accepted torture as the official cause of death in only seventy of the 419 cases where, according to the HRFT, a detainee or prisoner died while under torture.⁴⁹ Where cases were opened regarding these deaths, only twenty-six ended in convictions; another thirty cases are still underway. In an additional six cases, courts accepted the fact that the individual died of torture, but acquitted security officers for lack of evidence.

According to Turkish government figures for 1995, 210 cases were opened for torture or police abuse under Articles 243 and 245 of the criminal code out of 547 complaints, of which there were fifteen convictions and twenty-eight acquittals.⁵⁰ In 1994, the Turkish government reported that 419 cases were opened for police abuse and torture, ending in thirty-nine acquittals and fifteen convictions.⁵¹ These figures are for all suspects and prisoners, not just security detainees.⁵²

When sentences or fines are meted out, they are usually relatively lenient. In one case in 1996, two police officers convicted under Article 243 for beating and maltreating a twelve-year-old child were given a fine of TL750,000, about eight US dollars at the time.⁵³ In its 1996 "Public Statement on Turkey," the CPT commented that, "Similarly, when cases are brought to court, it is of crucial importance that suitable penalties are imposed in the event of ill-treatment being proven. In this connection, the CPT believes that the Turkish authorities would be well-advised closely to analyze judgments in recent years involving convictions under Article 243 (obtaining confessions by torture or inhuman treatment) and 245 (ill-treatment inflicted by law enforcement officials) of the Criminal Code to ascertain whether the courts' decisions in the cases concerned correspond to the seriousness of the offenses involved."⁵⁴

⁴⁹Ibid. These figures were valid as of publication of the report in March 1996.

⁵⁰*Country Reports on Human Rights Practices for 1995*, p. 1065.

⁵¹Letter of Turkish Ambassador Nuzhet Kandemir to Barbara Paul Robinson. The U.S. State Department reported, however, that most of the complaints regarding torture in 1994 came from Istanbul and Ankara and relatively few from southeastern Turkey. See *Country Reports on Human Rights Practices for 1994*, p. 997.

⁵²The U.S. Department of State *Country Reports on Human Rights Practices for 1996* reported that in the first 10 months of 1996, 1,024 individuals were in custody under provisions of the Anti-Terror Law and another 1,934 were suspects in cases under provisions of the law but had not yet been remanded into custody. These figures were provided by Turkish authorities. According to the Turkish government, in 1995, 5,893 individuals were under arrest under the provisions of the Anti-Terror Law and another 2,861 had already been convicted; in 1994, 1,277 individuals were tried under the Anti-Terror Law and another 8,682 were serving sentences. See also *Country Reports on Human Rights Practices for 1995*, p. 1067, and Department of State, *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, 1995), p. 999.

In February 1997, the Istanbul daily *Cumhuriyet* reported that 54,273 individuals in 14,374 cases had been tried at the Diyarbakir State Security Court between 1994-1996, inclusive. In that same three year period, 11,216 individuals were tried under Article 169, "aid and comfort" to the PKK, and 4886 under Article 168, "membership in an illegal organization", i.e. the PKK. Of the 54,273 on trial, 2192 individuals were convicted, and 4896 people were acquitted. Of all of Turkey's state security courts, Diyarbakir has the most cases on its docket. See, Enver Seviş, "Güneydoğulu DGM'lik," *Cumhuriyet Hafta*, February 7, 1997.

In its report, the United Nations Committee Against Torture reported—based on Turkish government figures—that between 1 November 1992 and 1 December 1992, 8,613 individuals had been detained, of which 1,991 were held in pre-trial detention and 6,622 were released. This figure represents all detainees, however, not just those detained by the anti-terror police. See *Report of the Committee against Torture*, p. 9.

⁵³Originally, the men had been sentenced to two months and fifteen days in jail and were relieved of duty for three months; later, the jail term was converted into a fine. Initially, the prosecution had demanded a sentence of five years. See Human Rights Foundation of Turkey Documentation Center, October 31, 1996.

⁵⁴European Committee for the Prevention of Torture, "Public Statement on Turkey," December 6, 1996, p. 2.

Trials often drag on, even when there is large public outcry and press attention to bring wrong doers to justice. The case of Metin Göktepe, a journalist for the now defunct Istanbul daily *Evrensel* who died in police custody in Istanbul in January 1996, indicates the difficulty of prosecuting police even when there appears to be an abundance of evidence indicating malfeasance. Initially the prosecutor in the case stated that Göktepe had been released and died in a nearby park, while then Istanbul Security Director Orhan Taşanlar denied that the journalist had even been detained by police.⁵⁵ In fact, Göktepe was detained at noon on January 8, 1996 in Istanbul while covering a funeral of prisoners reportedly beaten to death during prison unrest. Other reporters witnessed his detention and other detainees reported speaking to him. Police detained roughly 1,000 individuals and held them a sport center turned into a temporary holding facility. Göktepe's body was discovered roughly eight hours later at a snack bar near the sports facility. An autopsy indicated that Göktepe died of internal bleeding to the brain and body due to blows.

In April 1996, after the Council of State (*Danıştay*) had approved the Provincial Administrative Council's prosecution decision, forty-eight policemen were charged in connection with the murder of Göktepe or for beatings that allegedly took place during the operation in which Göktepe was detained: eleven for the actual murder and the others for maltreatment or misuse of authority.⁵⁶ However, none of them were remanded into custody, and the court hearing the case has been in session only twice. The trial was scheduled to begin on July 18, 1996, but for security reasons the case was transferred to a court in Aydın, a province on the Aegean south of Izmir. When the court in Aydın held its first session on October 18, 1996, none of the defendants appeared because of a prior arrangement.⁵⁷ After the first hearing, the Aydın prosecutor asked that the case be moved for security reasons to Afyon, about two hundred kilometers east of Aydın: apparently the court building was surrounded by schools, and the prosecutor feared "provocations". That request was approved, and a second hearing was set for November 29, 1996; unfortunately, that hearing was canceled because the case files were "delayed in the mail." A second hearing was held in Afyon on February 6, 1997, and again none of the accused police officers participated. The next hearing is scheduled for April 11, 1997. In January 1997, it was reported that the eleven police officers charged with the murder of Göktepe were reinstated and appointed to the Istanbul Police Personnel Directorate after having been temporarily suspended.⁵⁸ Later, Interior Minister Meral Akşener reportedly reversed this decision.

⁵⁵Hülya Topcu, "Katiler hâlâ aramızda," *Cumhuriyet Hafta*, January 10, 1997. Unless otherwise cited, background information concerning the Göktepe case comes from this article.

⁵⁶"48 Polis yargılanacak," *Cumhuriyet Hafta*, April 19, 1996.

Investigators from the Interior Ministry carried out the preliminary investigation. In February 1996, the Turkish Parliament launched a commission to investigate the killing; in May 1996, the commission ceased its activity because the case had been sent to the court.

The Council of State (*Danıştay*) is the highest administrative court and usually functions in an appellate capacity. It also serves as a court of conflict to solve problems of venue, competence, and conjunction.

⁵⁷Suna Erdem, "Turk Police in Rare Trial For Journalist Killing," October 17, 1996. According to an agreement, statements for the prosecution and defense are to be taken out of court.

⁵⁸"Göktepe'yi öldüren polisler göreve döndü," *Cumhuriyet Hafta*, January 17, 1997.

Another obstacle to the prosecution of police, especially in the nine provinces presently under a state of emergency decree, is the Temporary Law on the Procedure for Investigation of Civil Servants [*Memurin Muhakematı Hakkında Kanunu Muvakkat*], which stems from 1913, during the Ottoman period. Under this law, the administrative superior of a civil servant alleged to have committed malfeasance while carrying out his duty must conduct an investigation and give its approval before the case can be referred to a prosecutor or the administrative courts for further legal actions.⁵⁹ Usually, the case is referred to the Provincial Administration Council (*İl İdare Kurulu*), which is chaired by the state-appointed governor of the province. Under Article 13 of the law, “Unless the order for prosecution is given for crimes committed according to Article 1, the state prosecutors themselves cannot conduct an investigation.” Decree No. 285, which was passed on July 14, 1987 to institute the state of emergency still in effect in nine provinces in southeastern Turkey, also recognizes the jurisdiction of the 1913 law: “The Security forces under his command [Emergency Rule Governor] shall be subject to the Law on the Procedure for Investigation of Civil Servants [*Memurin Muhakematı Hakkında Kanunu Muvakkat*] for acts performed in the course of their duties.”

While Provincial Administrative Councils outside of the emergency rule region sometimes give their approval for further prosecution, they add another barrier to quick prosecution of abusive police. In the emergency rule area, presently nine provinces in southeast Turkey, approval by the Emergency Rule Governor is rarely given, thus preventing any prosecution.

Without punishment, abusive police eventually rise to leadership and training positions, creating a reinforcing pattern of approval for such behavior. Nurhan Varlı, a former police officer who wrote a book on police life titled, *Recollections of a Suspect Policeman (Sakıncalı Polisin Hatıraları)* stated in a recent interview that,

Those who became a police commander before 1970 and were accused of several things today have risen to the rank of security director (their names became involved in such activities as murder, torture, hiding terrorists, but somehow they managed to save themselves without any punishment). These are the people who are giving the tests to those who enter the police profession. These high-ranking individuals who sit on the exam boards, of course, help those kids who share their ideological convictions pass the exams. Those poor kids who pass the exams and become policemen have to be in the service of this ideology. These days it is impossible to find smart, reasonable policemen who are committed to Atatürk and his reforms.⁶⁰

A retired security director, Muzaffer Özbayrak, echoed these comments,

When the good staff members left a gap was formed....The training of the police is totally inadequate. How is training conducted in the police academies and who gives it? These people’s attitude towards social issues is clear. In the proceedings of the courts of September 12 and in the State Security Courts you come across the names of these people leading the police. But these people, in spite of the fact that their names have been involved in certain events, have risen to high-ranking posts....It might be a deterrent if the proper legal proceedings were started against police involved in violent actions, but just the opposite happens: they have constantly been rewarded.⁶¹

⁵⁹ “Temporary Law on the Procedure for Investigation of Civil Servants” [*Memurin Muhakematı Hakkında Kanunu Muvakkat*] in Osman Selim Kocahanoğlu, *Gereççeli Devlet Memurları Kanunu*, Temel Yayınları, İstanbul, 1995.

⁶⁰Şule Cizmeci, “Suç Poliste Değil, amir ve siyasetçilerde,” *Milliyet*, İstanbul, July 1995.

⁶¹*Ibid.* The reference to September 12 is to the military coup of September 12, 1980.

In its research, the Human Rights Foundation of Turkey has uncovered several examples of police officers who actually advanced in their careers after allegations of torture or misconduct. In 1993, Naci Parmaksız was appointed the governor of Adana province; while serving as the security director of Adana province, he prevented the investigation of a torture case alleged to have taken place in October 1987 in spite of a direct order given by then Minister of the Interior Abdulkadir Aksu. The torture victim applied to the European Human Rights Commission, and Turkey eventually acceded to a friendly settlement. Another case is that of Mehmethan Tokuş. In March 1995, he was removed from his post as security director in the Gazi quarter of Istanbul, after police shot and killed seventeen demonstrators. In November 1982, Tokuş was sentenced to two months, fifteen days in prison for torturing two individuals in August 1975. In 1989, he was acquitted of torturing to death a woman detained on theft charges because of lack of evidence. He was also prosecuted for shooting and wounding a student in the back and killing an individual by hitting him with a police car. Tokuş was reduced in rank for the last two actions.⁶²

The Göktepe case also highlights this pattern. Despite allegations of wrong-doing by then Istanbul Security Director Orhan Taşanlar—including recommendations by Interior Ministry investigators that a disciplinary investigation be opened against him—in April 1996 he was transferred and promoted to the post of governor of Bursa province. That same month, the respected Istanbul daily *Cumhuriyet* reported that then Interior Minister Teoman Ünüsan rejected calls by Interior Ministry investigators to open an investigation into Taşanlar.⁶³

The name of Orhan Taşanlar also figured prominently in the torture allegations of one of the individuals Human Rights Watch/Helsinki interviewed for this report. The policeman, “Kemal,” reported that he was detained and tortured while Orhan Taşanlar served as security director of the province. In fact, Taşanlar, along with other top officers of his command, cursed Kemal just before he was taken away to be tortured. According to Kemal, “All the top provincial security directorate officers were there, including Taşanlar. They were cursing me, I cursed them back. I was taken out blindfolded, directly to the torture room.”⁶⁴

The lack of prosecution for police abuse and the resulting sense of impunity has created an environment where police officials not only feel justified in actions that violate the law, but believe that they are fully supported by the public. The increasing violence of the conflict in southeastern Turkey between government security forces and the PKK—in which both sides committed serious abuses—colored all government efforts to end human rights abuses and institute reform in the criminal justice system. Turgut Kazan, president of the Istanbul Bar Association, told Human Rights Watch/Helsinki that,

⁶²*File of Torture*, page 23.

⁶³Ayşe Sayın, “Göktepe cinayetinde polise ‘sus emri,’” *Cumhuriyet Hafta*, April 26, 1996. In Turkey, governors of provinces are appointed, not elected.

There were also other allegations of malfeasance against Taşanlar. In testimony before the parliamentary commission investigating the Göktepe murder, Metin Kuşat, one of the policemen on duty during the incident who was later questioned by police, alleged that a lawyer acting as a middleman for Taşanlar suggested that he “take the fall” for the death. He reportedly told the commission that, “After I signed my statement a lawyer who works for the security directorate, İlhami Yeleğçi came to me. He said that he had just come from Taşanlar and that a number of people would definitely pay the price, but that if two or three people were to take responsibility they could flee abroad and in this way save the others.” Kuşat recanted an earlier incriminating statement: “I have no connection or information about this case. The statements were completely contrived. When I was called to the “Law and Order” section to give a statement and asked for a lawyer I was really cursed by Chief Commissioner Turan. In the interrogation room I was hit by Chief Commissioner Turan and a police officer Zübeyir.” Other police officers who gave statements to the parliamentary commission stated that they had given earlier statements to police investigators under duress, often without reading what they signed.

See also “Polisten Taşanlar’a ciddi suçlama,” *Cumhuriyet Hafta*, August 16, 1996.

⁶⁴Human Rights Watch/Helsinki interview, Turkey, October 1995. Kemal’s account is given in greater detail in the section, “Interview with Detainees.”

You can't stop torture by just changing the Code of Criminal Procedure (CMUK). Under the circumstances, when you have a terror threat, people will support steps to end terror. I don't have public backing to stop this....The Justice Minister and State Minister for Human Rights have come out very strongly against torture, but the Minister of the Interior has used people's fear of the violence and the PKK to act the way it wants. People are afraid, angry, become prejudiced, all of these things boil down to the fact that if the government would take a strong position against torture or the police that practice such methods, these practices would lose support.⁶⁵

Ercan Karakaş, a former culture minister who resigned in mid-1995 to protest the lack of progress on a democratization initiative that included constitutional amendments, added that, "All other parties think this is only a problem of violence....It is a vicious circle. It is a security issue as long as only the security forces deal with it by force alone. It can't be solved this way. It is not only this problem. All dimensions must be worked on."⁶⁶ M. Sadık Avundukluoğlu, a *DYP* deputy who chaired a parliamentary commission on so-called "actor unknown" death squad style murders, told us that, "We know there are shortcomings. We are looking at these shortcomings, but we should deal with terror."⁶⁷ As the CPT noted in its December 1996 public statement, "...The CPT has made it clear that it abhors terrorism...[it] has also emphasized that the response to terrorism must never be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials."⁶⁸

Mehmet Ağar, then General Director of Security, told Human Rights Watch/Helsinki:

Talk to ordinary people in the streets. Some organized institutions don't reflect ordinary opinion in the streets. It is an intellectual disease—they're disconnected from the people. They are acting as spokesmen for illegal organizations. There is a debate going on in Turkey—people are supporting the police....People from abroad come and tell us their opinions. They should talk to people all over Turkey.⁶⁹

In July 1995, at a police academy graduation ceremony, Ağar told the graduates that, "while my police officers and soldiers become martyrs, they have no right to mention human rights."⁷⁰ Ağar later resigned his post and successfully ran for parliament in December 1995 on the *DYP* party ticket; he became Justice and then Interior Minister, but resigned in November 1996 in the wake of the *Susurluk* scandal.⁷¹

⁶⁵Human Rights Watch/Helsinki interview with Turgut Kazan, head of the Istanbul Bar Association, Istanbul, Turkey, October 18, 1995.

⁶⁶Human Rights Watch/Helsinki interview with Ercan Karakaş, then Minister of Culture, CHP, Ankara, Turkey, June 14, 1995. Later that summer fifteen constitutional amendments were passed.

⁶⁷ Human Rights Watch/Helsinki interview with M. Sadık Avundukluoğlu, *DYP* deputy, June 15, 1995.

⁶⁸European Committee for the Prevention of Torture, "Public Statement on Turkey," December 6, 1996, p. 5.

⁶⁹Human Rights Watch/Helsinki interview, June 14, 1995. The interview was conducted during his tenure as general director of security.

⁷⁰Testimony by Human Rights Watch/Helsinki before the Helsinki Commission, U.S. Congress, September 19, 1995.

⁷¹See following section on link between extreme right-wing groups and security forces.

In June 1995, Istanbul Security Director Necdet Menzir openly attacked then State Minister Responsible for Human Rights Algan Hacaloğlu (*CHP*) for his criticism of police misconduct.⁷² In April 1995, then Justice Minister Mehmet Moğultay (*CHP*) acknowledged that extrajudicial killings by the police do take place in Turkey; that same month Hacaloğlu criticized a house raid in which police appear to have executed three suspects, stating that, “this is an extrajudicial killing.”⁷³ In June 1995, at a funeral for a slain police officer, Menzir directed the following criticism at Hacaloğlu: “Today in this country there are those who go abroad and talk about extrajudicial killings, and they still can remain in their positions of power....In our country there are a few atheists who have hidden themselves behind the mask of secularism. There are people who want to lead our country astray. There are separatists in this country. In this country there are communists who use Atatürk.”⁷⁴ Although there were calls to remove Menzir, government spokesman Yıldırım Aktuna (*DYP*) said that he did not know if Necdet Menzir would stay in his position as Istanbul security director, but added that by law civil servants were not allowed to make political statements.⁷⁵

The “climate of impunity” makes it difficult for civilian authorities to control the security forces. This situation has been acknowledged by both the U.N. and the *CHP*, the junior partner in a coalition government in power from 1991-95. The U.N. Committee against Torture in its report on Turkey commented that, “In this connection, efforts should be made to prevent certain departments within the Ministry of the Interior in particular from becoming, as it were, a State within a State and appearing to escape control by senior authorities.”⁷⁶

At the end of September 1995, the junior coalition partner in the former Çiller government, the Republican People’s Party (*CHP*), issued a report on Turkey’s security forces that basically reached the same conclusion as the U.N. regarding the autonomy of security forces.⁷⁷ It called for cutting links between the General Staff and internal security matters, stopping the appointment of individuals with police backgrounds to provincial governorships and individuals with military backgrounds to ministries and other important public bodies. It stated that,

The soldiers have not completely left the issue of our internal security to the civilian authorities. This semi-militarized understanding of internal security is the most important hindrance to democratization and the development of civilian authority. Civil authorities and the parliament do not have complete control or oversight of the country’s internal security bodies or intelligence services....Especially in the period after [the military coup of] 1980, the following values, which increased and grew stronger, appeared in the internal security apparatus: militarist or para-military beliefs, a police-state concept, criticism of the concept of a state based on the rule of law, of democratization, of civilian authority,

⁷²In December 1995, Menzir also ran for parliament on the *DYP* list and won, though in mid-1996 he resigned from the party because of its coalition with the Islamist *Refah* party. In early 1997 he joined a newly-formed party with other former *DYP* deputies, the Democratic Turkey Party.

⁷³*Human Rights Watch World Report 1996* (New York: Human Rights Watch, December 1995), p. 239 and p. 242.

In general, Hacaloğlu was an outspoken critic of human rights abuses; when the *DYP/CHP* coalition split in September 1995, he criticized Prime Minister Çiller’s True Path Party (*DYP*): “I don’t think a right-wing policy can run this office. Main-stream rightist parties have made every effort to block human rights. Someone from *DYP* coming to this office would be a contradiction to its very nature.” See, Aslı Aydıntaşbaş, “Yorgun bakanın hüznü,” *Yeni Yüzyıl*. Istanbul, October 10, 1995.

⁷⁴“Menzir'den CHP'li bakanlara eleştirisi”, *Cumhuriyet*, Istanbul, June 11, 1995.

⁷⁵ “CHP won't give up the fight against police chief,” Turkish Daily News, Ankara, June 15, 1995.

⁷⁶*Report of the Committee against Torture*, p. 8.

⁷⁷“Devlet İçinde Devlet Var,” *Cumhuriyet Hafta*, Istanbul, September 29-October 5, 1995, p. 5.

The report also raised the issue of links between security forces and extreme right-wing groups. See the following section.

and of human rights...right and extreme rightist tendencies in politics...and a professional arrogance...within the state mechanism, a second state, directed through unwritten, special laws."⁷⁸

The report made the following recommendations:

- in as short a time as possible get the internal security apparatus under civilian control;
- appoint a politician as Interior Minister who has a strong personal authority, unquestionable adherence to democracy and civilian authority, and the understanding of a state based on the rule of law. Such an individual would be able to get the General Security Directorate and the Gendarmerie General Command under control;

⁷⁸Ibid.

- appoint as General Security Director a governor who believes in civilian authority, a state based on the rule of law, and democracy.⁷⁹

Adnan Ekmen (*CHP*), who served as State Minister for Human Rights in the CHP/DYP government, openly complained about his inability to conduct an investigation in southeastern Turkey, even about the fear of his staff in their interaction with military and security forces in the region:

Personnel from this ministry wishing to conduct investigations or gather material from time to time suffer insults from the authorities in the emergency rule region....[there] you can't ask a police director or a military authority, "What is this event?" We couldn't speak with the authorities concerning the events at Güçlükonak; we could only speak with citizens subjected to the event. I explained this situation to the then Interior Minister. In spite of the Interior Minister taking action, we still couldn't get real information. Not only were we not helped, we were stopped.⁸⁰

Ekmen even acknowledged that a group from his ministry had wanted to pay a courtesy call on the battalion commander in Yuksekova, Hakkari province, but were insulted: "Our group which had wanted to investigate the event was insulted. The ministry's personnel has become scared of investigating any incidents because all they got from the other side [security forces] was insults."⁸¹ Then head of the Parliamentary Human Rights Commission, Sabri Yavuz (*CHP*), told Human Rights Watch/Helsinki that, "The Prime Minister told the police to get rid of torture instruments—no reaction from the police. Our commission had made the proposal for a police control commission... We need and want more oversight."⁸²

The role of the public prosecutor vis-a-vis the police also indicates the increased strength and autonomy of the latter. While the law gives public prosecutors far-reaching authority to supervise police during an investigation, they seem to make little use of this power, especially in cases of security detainees. While this is not illegal, it removes an important oversight mechanism. Under article 154 of the Code of Criminal Procedure (*CMUK*), the prosecutor has the authority to conduct investigations on his own initiative or through the police. The article states that, "All police authorities and personnel must immediately inform the state prosecutor of measures taken regarding cases and detained persons under their control and must follow all the legal orders of the prosecutor." The prosecutor also has the right to demand from the police, "every type of information."

Lawyers familiar with cases before state security courts with whom Human Rights Watch/Helsinki spoke stated that prosecutors often rubber stamp police actions, such as regarding periods of detention, and allow them to take the lead in investigations. Ercan Kanar, a lawyer who takes many cases before state security courts, complained that,

⁷⁹Ibid.

⁸⁰"Ohal'deki yetkililerden bilgi alınamıyor," *Cumhuriyet Hafta*, Istanbul, April 1996, p. 5.

In January 1996, there was a shooting at Güçlükonak in Şırnak province in which eleven individuals were killed while riding in a mini-bus. Security forces blamed the PKK; local human rights groups and HADEP, the pro-Kurdish party, attributed the attack to security forces.

⁸¹Ibid.

⁸²Human Rights Watch/Helsinki interview, Istanbul, June 15, 1995.

The prosecutor is often passive. Police should only collect the information, the prosecutor should conduct the investigation. The police demand a certain number of days for a person to be held, and even though by law the prosecutor can object or alter their request, he rarely does. After the police bring the person to the prosecutor, he asks questions from the suspect mostly based on the police statement.⁸³

Another lawyer with whom we spoke told us that, "I was detained once at a demonstration with some other lawyers. Since only a prosecutor can take a statement from a lawyer, the police called the prosecutor, who told him to release us. But after the policeman objected and said there was an outstanding case against me, the prosecutor relented and I was held. After, when I talked with the prosecutor, he told me, 'Why do you get involved with these demonstrations. Police beat people up everywhere.'⁸⁴

Many security detainees Human Rights Watch/Helsinki interviewed also stated that prosecutors often ignored their claims of abuse during interrogation. One detainee who reported being badly tortured after having been detained in the emergency rule area told us that, "I told what had happened to the prosecutor. But he only said, 'You will listen to my questions.'⁸⁵ While prosecutors under the "Temporary Law on the Procedure for Investigation of Civil Servants" cannot directly bring cases against police, it is their duty to report cases of abuse to the administrative superior of the officers in question. As the CPT noted in its December 1996 "Public Statement on Turkey," "On countless occasions over the last seven years...the Committee has received allegations that detained persons did complain about treatment received at the hands of police when brought before a public prosecutor, but that the latter displayed no interest in the matter. The CPT has itself detected, amongst some of the public prosecutors whom it has met, a tendency to seek to defend the police rather than to view objectively the matter under consideration."⁸⁶

New Initiative by the Welfare/DYP Coalition Government, November 1996-March 1997

⁸³Human Rights Watch/Helsinki interview, October 6, 1995. Kanar also served as the head the of the Istanbul branch of the Human Rights Association of Turkey.

⁸⁴Human Rights Watch/Helsinki interview, October 1995.

⁸⁵Human Rights Watch/Helsinki interview, October 1995.

⁸⁶European Committee for the Prevention of Torture, "Public Statement on Turkey", December 6, 1996, p. 3.
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In October 1996, the present Welfare/DYP coalition government of Prime Minister Necmettin Erbakan, which came to power at the end of June 1996, announced a plan to reduce detention periods for security detainees. In November 1996 it submitted a bill to parliament dropping top detention periods from thirty days to ten.⁸⁷ On March 6, 1997, the parliament of Turkey passed this bill into law in a slightly altered form and amended the “Code of Criminal Procedure (CMUK)” and “Law on State Security Courts.”⁸⁸ As foreseen in the bill, the law resulted in the reduction of maximum detention periods for security detainees in the state of emergency region from thirty days to ten, and from fifteen days to seven elsewhere. It also reduced maximum detention periods for collective criminal offenses not under the jurisdiction of state security courts, i.e. non-political offenses committed by three or more people, from eight days to seven. Shortly thereafter, President Suleyman Demirel signed the law.

The government also announced other efforts to improve human rights and end torture. On November 29, 1996, the Ministry of Interior announced that its officials would conduct surprise inspections of police stations to determine if the treatment of detainees corresponded with established procedures.⁸⁹ On December 5, 1996, at a press conference in London, Foreign Minister Tansu Çiller announced that, “Our government has decided to take a series of measures in order to totally eliminate in practice the crime of torture, which as a matter of fact is forbidden by our laws.... We courageously take up the Committee’s [CPT] findings and if they prove true, we identify the responsible and punish them.”⁹⁰ Mrs. Çiller also announced that she would make public the CPT report of December 1996. Two months later, it was announced that the Justice and Interior Ministries were working on a “Judicial Police Project” whereby police officers would work directly under public prosecutors to provide more oversight.⁹¹ Finally, On March 10, 1997, Foreign Minister Tansu Çiller announced that, “Our governors and police directors will not permit a single act in prisons and police stations against our laws and our international commitments” and stated that Turkey would take steps to end torture and other human rights abuses. As part of that program, the Foreign Minister announced—among other things—that a committee at the level of under secretary would be created to monitor implementation of human rights improvement efforts. It is still too early to determine, however, what the outcome is of any of these actions.

ALLEGATIONS OF LINKS BETWEEN SECURITY FORCES AND EXTREME RIGHT-WING GROUPS

⁸⁷For more information about this, see the following section, “The Turkish Code of Criminal Procedure (CMUK).”

⁸⁸“Law concerning amending the Code of Criminal Procedure, the Law on the Creation of State Security Courts and their Judicial Procedures and Law No. 3842 of November 18, 1992, which amended the aforementioned laws,” hereafter “Law of March 1997 amending CMUK.” A copy of this law is contained in the Appendix. See also section, “Turkish Code of Criminal Procedure (CMUK).”

⁸⁹European Committee for the Prevention of Torture, “Public Statement on Turkey,” December 6, 1996, p. 2.

⁹⁰“Turkish Foreign Minister Holds Press Conference on Human Rights,” Turkish Embassy, Washington, D.C., December 6, 1996. From 1993 to 1995, Tansu Çiller was Prime Minister in the DYP/CHP coalition government.

⁹¹Saadet Oruç, “European Commission of Human Rights Focuses on Turkey,” *Turkish Probe*, Ankara, February 21, 1997, p. 8.

Over the past several years, serious allegations and credible evidence have been presented concerning improper links between security forces, especially those involved in actions against the PKK or armed radical leftist groups, and ultra-nationalist right wing groups, so-called “*ülküçü*,” or idealists, that were active in the 1970s in both legal and illegal activities.⁹² It appears that some security force members in Turkey who are sympathetic to or linked to right-wing nationalist groups do not pursue their duties dispassionately in a non-partisan manner, but are seemingly locked in struggle against a perceived mortal enemy, i.e. left-wing or Kurdish groups. This has led in many cases to a double standard, where harsher, often illegal methods are applied to Kurdish or left-wing detainees or groups.

Kemal, a former policeman who suffered torture and was expelled from the force for contact with an outlawed left-wing group, complained that,

What they tell you at the police school and what you do on the job are two different things. At the school they taught us about human rights, but at demonstrations—I was a riot policeman for three years with “Çevik Kuvvetleri”—they would tell us to beat the people if it was a leftist protest but to show restraint if they were rightists or Islamists. There were two standards: if you capture a religious person, one standard, but if you capture a leftist, you beat him. About eighty or ninety percent of the police in my unit were MHP or fundamentalist.⁹³

He also reported that the provincial security director, Orhan Taşanlar, cursed at him after his arrest: “You have no honor. We have a blood feud with your organization. They kill police.” Another torture victim who was detained in Erzincan told us that, “The policeman said, ‘We are an organization, too. If you are a revolutionary, we are *ülküçü*.’”⁹⁴ Recep Ordulu, who served as the assistant security director in Istanbul before the 1980 coup, concurred with his opinion:

A person falls to the ground, but they keep beating. The police have the authority to use force, but they shouldn’t exceed this....Actions by certain groups are seen as guilty, while others are met with

⁹²Ultra-nationalists, or *ülküçü*, are usually associated with the National Action Party (*Milli Hareket Partisi-MHP*), a right-wing, pan-Turkic, radical nationalist party that was represented in the Turkish Parliament until the December 1995 elections, when it received only 8 percent of the vote and did not pass the 10 percent barrier. Its leader is Alpaslan Türkeş, a retired army colonel who played a major role during Turkey’s 1960 coup.

From 1975-1977, the predecessor to MHP, also headed by Türkeş, was a junior partner in Suleyman Demirel’s coalition National Front Government where he served as Deputy Prime Minister. At the time there were numerous allegations that Türkeş placed his supporters in the security apparatus. The *Ülküçü* Gençlik Derneği, ÜGD, [“Idealist Youth Association”], which functioned as a youth branch for MHP, carried out some of the extreme right terror of the 1970s. Feroz Ahmad, a noted scholar of this period, commented in his 1993 work *The Making of Modern Turkey*, that, “Meanwhile, the Grey Wolves [*ülküçü*], with Türkeş as deputy premier, also saw themselves as part of the state and operated with greater confidence in creating a climate of terror designed to intimidate their opponents.” The *ülküçü* fought radical leftist groups who also used terror tactics in the political violence that plagued Turkey in the 1970s. Over 5,000 were killed in right/left terror in the years immediately preceding the September 12, 1980 military coup.

After the 1980 coup, Türkeş was arrested and his party closed down. MHP was recreated after a ban on pre-coup parties and politicians was lifted. The *ülküçü* groups are active today and often battle leftist or Kurdish groups, though at a much lower level than the fighting of the 1970s. Some prominent members of the *ülküçü* movement later entered mainstream politics in the 1980s and 1990s. Muhsin Yazıcıoğlu, chairman of the far-right “Great Unity Party” (*Büyük Birlik Partisi*), which has seven seats in parliament, was active in the ÜGD in the 1970s.

⁹³Human Rights Watch/Helsinki interview, October 1995. See also “Kemal” in section, “Interview with Detainees.”

⁹⁴Human Rights Watch/Helsinki interview, Istanbul, October 1995. See also “Orhan” in section, “Interview with Detainees.”

tolerance. You know the police have one attitude for those who protest outside the Israeli Embassy and another one for left-wing groups.⁹⁵

In July 1996, the liberal Istanbul daily *Cumhuriyet* compared the police reaction to demonstrations by the leftist civil servant union *KESK*, which was met with night sticks and attacked, and one by the right-wing union *KAMU-SEN*, which received a friendly greeting from police.⁹⁶

⁹⁵ Çizmeci, *Milliyet*, Istanbul, July 1995.

⁹⁶"Kamu-Sen Eylemi: Sağ Sendikaya Polisten Hoşgörü." *Cumhuriyet*. Istanbul, July 5, 1996.

A 1995 report mentioned earlier and prepared by the then junior coalition partner CHP criticized the increasing influence of extreme right-wing and fundamentalist groups—ideologically hostile to Kurdish and left-wing organizations—among the security forces. The report presented the following conclusions: of the seventy-seven provincial security directors, forty-eight percent were either radical fundamentalists (*köktendinci*) or extreme nationalists (*ülkücü*); police academies and “special team” training centers only accept those with a “nationalist” reference because only “nationalists fight against terror;” only 18 percent of the directors could be considered “democrats;” the police have a mentality to consider all those not from their ranks as the enemy.⁹⁷ One scholar commented that, “Young right-wing hoodlums, who once carried out raids against “leftist” tea houses, now became policemen and schoolteachers or were recruited into the special forces fighting the Kurdish guerrillas.”⁹⁸

Other sources make the same charges. In August 1994, Şevket Kazan, the present Justice Minister from the Islamist Welfare (*Refah*) Party, charged that most members of the “special teams,” noted for their abusive behavior in southeastern Turkey, were members of MHP.⁹⁹ In the fall of 1996, it was reported that the General Staff Headquarters prepared a brochure for internal distribution to security forces in the southeast titled, “Public Relations and Winning the People in Internal Security”.¹⁰⁰ In a warning directed at “special team members,” the brochure called on security force members not to wear or make symbols of a “definite political nature that incites the populace;” implied was the “grey wolf” and three crescent symbol associated with MHP and *ülkücü* groups.¹⁰¹ During an investigation of the Sivas massacre of 1993, when fundamentalists burned down a hotel killing thirty-seven Alevi intellectuals, a Turkish parliamentary investigation committee discovered that Islamist bulletins faxed to local newspapers and believed to have provoked the public to violence were sent from the Sivas Security Directorate.¹⁰²

⁹⁷“Müthiş Raporu”, *Milliyet*, September 22, 1995, p.1-8.

⁹⁸Martin Van Bruinessen, “Kurds, Turks and the Alevi Revival in Turkey,” *MERIP*, Summer 1996, p. 8.

⁹⁹“Özel Tim MHP militanı,” *Cumhuriyet*, Istanbul, August 25, 1994.

¹⁰⁰“Genelkurmay’dan özel time uyarı,” *Milliyet*, Istanbul, September 25, 1996.

¹⁰¹*Ibid.*

¹⁰²Jan Paçal, “Police File. 1,” *Turkish Daily News*, Ankara, July 8, 1996.

On November 3, 1996, a motor vehicle accident near the town of Susurluk in western Turkey, which then Interior Minister Mehmet Ağar initially dismissed as “nothing special,” unleashed a scandal that shook the country to its foundation and further revealed the extent of the link between security forces and ultra nationalist right-wing groups. A truck collided with a car carrying Hüseyin Kocadağ, the director of the Istanbul Police Academy; Abdullah Çatlı, an extreme nationalist [*ülküçül*] militant wanted in at least seven politically-motivated murders in 1978 and on the Interpol red bulletin; Sedat Bucak, a Kurdish tribal leader, parliamentarian, and commander of a pro-state village guard force in southeastern Turkey; and a woman believed to have links with organized crime.¹⁰³ In the trunk of the car were pistols, sub-machine guns, silencers, and a number of identity cards, including an official “green passport” normally given to high officials and police identity cards.¹⁰⁴ At the beginning of December, the mainstream *Sabah* newspaper reported that inspectors from the Interior Ministry had confirmed that Çatlı, using an alias, had a permit to carry a weapon and had received a passport four times, including the official “green” passport.¹⁰⁵ The accident loosened a flood of claims—including a leaked report allegedly from the security service MIT—of links among security forces, extremist right-wing groups, and the mafia. This odd alliance was supposedly involved in actions against the PKK and the armed Armenian extremist group ASALA and in drug and arms smuggling.¹⁰⁶ The parliament organized an investigation committee, and in an interview with Turkish columnists on December 3, Prime Minister Necmettin Erbakan stated that, “You cannot have a gang within the state...Nobody can be allowed to do anything illegal, with no exceptions...Nothing, including fighting the PKK, can be an excuse for a crime. If such things happen, those gangs, whatever their make-up, will be disbanded.”¹⁰⁷ A week later, in a December 11 television interview, President of Turkey Suleyman Demirel stated that, “This is an important matter. It has to be brought to light. It has to go as far as it goes.”¹⁰⁸

A January 10, 1997, report prepared by the Prime Minister’s Inspection Committee did call for opening a legal investigation into 35 individuals, including Ağar, Bucak, and a number security officials, but Justice Minister Şevket

¹⁰³All were killed in the car but Bucak, who was injured. The truck driver also survived. Ağar resigned shortly after the incident.

¹⁰⁴Hakan Alslaneli and Zafer Yörük, “How Far has the Cancer Spread,” *Turkish Probe*, November 8, 1996, pp. 2-3.

This incident comes only as the latest in a series of unexplained events alleging links among security forces, right-wing groups, and organized crime. In September 1996, Tevfik Ağansoy, a former right-wing militant reputed to have ties to organized crime, was assassinated; with him were two policemen from Foreign Minister Tansu Çiller’s protection force. They were also killed, but their presence has not been explained. In the summer of 1996, the so-called “Söylemez” gang, made up largely of police and army officers, was uncovered and some of its members arrested. Allegedly Sedat Demir, former head of the Istanbul Security Branch, and the former deputy chief of the Istanbul police, Deniz Gökçetin, were involved with the group as well. In January 1997, three special team members were arrested for the July 1996 murder of Ömer Lütfü Topal, Turkey’s “Casino King,” who purportedly had links to organized crime.

See also, “Mafya, devleti kuşattı,” *Cumhuriyet Hafta*, September 6, 1996.

¹⁰⁵Saygı Öztürk, “İlk Susurluk raporu,” *Sabah*, Istanbul, December 4, 1996, p. 1.

¹⁰⁶See “How Far has the Cancer Spread,” *Turkish Probe*; “Kırlı ilişkiler sorgulanıyor,” *Cumhuriyet Hafta*, November 15, 1996; Halil Nebiler, “Yazıcıoğlu Çatlı ilişkisi,” *Cumhuriyet Hafta*, December 6, 1996; Raşit Gürdilet, “The Punch line: We want to stay in Power,” *Turkish Probe*, November 29, 1996, p. 2-3; İsmet Berkan, “Gladio’ya MGK Onayı,” *Radikal*, Istanbul, December 9, 1996; “Mit Raporu Doğrulandı,” *Cumhuriyet Hafta*, November 8, 1996.

ASALA, the Armenian Secret Army of the Liberation of Armenia, waged a terror campaign against Turkish diplomats and Turkish foreign representations, assassinating many and planting bombs.

¹⁰⁷Suna Erdem, “Turk PM Speaks Out Against ‘State-Gang’ Scandal,” Reuters, December 3, 1996. A week earlier Foreign Minister Çiller had defended Abdullah Çatlı, the right-wing extremist killed in the crash at Susurluk, stating that, “those who fire bullets or suffer their wounds in the name of this country...will always be respectfully remembered by us.”

¹⁰⁸Alistair Bell, “Turkish Politics Embroiled in Scandal,” Reuters, December 12, 1996.

Kazan (Refah) rejected any link to higher-ranking government officials. There are reported plans to lift the parliamentary immunity of Bucak and Ağar.

DOMESTIC LEGAL FRAMEWORK

Turkish Constitution

The Turkish Constitution prohibits torture and self-incrimination and holds state actors responsible for their actions, but at the same time allows for detention periods of up to fifteen days. Such lengthy periods of detention facilitate maltreatment and torture. Article 17 states that, "The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; he shall not be subject to scientific or medical experiments without his consent. No one shall be subjected to torture or ill-treatment; no one shall be subject to penalty or treatment incompatible with human dignity."¹⁰⁹ Article 38 states that, "No one shall be compelled to make a statement that would incriminate himself or his legal next of kin, or to present such incriminating evidence."¹¹⁰

¹⁰⁹The Constitution of the Republic of Turkey (Ankara: Prime Ministry, Directorate General of Press and Information), 1990, p. 8.

¹¹⁰The Constitution of the Republic of Turkey, p. 19.

Article 19, however, provides the constitutional basis for extended periods of detention allowed in the Code of Criminal Procedure (CMUK): "The person arrested or detained shall be brought before a judge within forty-eight hours and within fifteen days in the case of an offense committed collectively, excluding the time taken to send him to the court nearest to the place of seizure....*These periods may be extended during a state of emergency, under martial law, or in time of war.*"¹¹¹ Article 125 states that, "The administration shall be liable to compensate for damages resulting from its actions and acts."¹¹²

¹¹¹The Constitution of the Republic of Turkey, p. 10, italics added.

¹¹²The Constitution of the Republic of Turkey, p. 59. Two areas are not subject to judicial review: decisions of the Supreme Military Council and acts of the President executed in his own competence.

Turkish Code of Criminal Procedure (CMUK)

The Turkish Code of Criminal Procedure (*CMUK-Ceza Muhakemeleri Usulü*), Law No. 1412, is a translation of the German Code of Criminal Procedure of 1877, adopted into law with changes in 1929.¹¹³ Since that time, it has been amended many times, the most recent and important being in March 1997, as the “Law concerning amending the Code of Criminal Procedure (CMUK), the Law on the Creation of State Security Courts and their Judicial Procedures and Law No. 3842 of November 18, 1992, which amended the aforementioned laws” and in November 1992, as “Law No. 3842.”

On November 27, 1996, the present Refah/Doğru Yol government of Prime Minister Necmettin Erbakan presented a bill targeted at reducing periods of detention for detainees suspected of crimes under the jurisdiction of state security courts, i.e. security detainees.¹¹⁴ The bill was passed into law on March 6, 1997. While it drastically reduces periods of detention (see below) for security detainees and removes some offenses from the jurisdiction of state security courts, it is flawed because it does not provide such detainees with guaranteed, immediate access to counsel. It maintains two legal standards, giving different rights to criminal and security detainees. The most important aspects of the law include the following:

- Article 5 of the law abolishes Article 30 of Law No. 3842 of November 1992 amending the Code of Criminal Procedure (CMUK), which set detention periods of up to fifteen days for “collective” crimes committed under the jurisdiction of state security courts, i.e. security detainees, and allowed periods of detention to be doubled under a state of emergency.
- Article 3 provides for the following detention periods for security detainees: individual crimes, forty-eight hours; “collective” crimes, those committed by three or more individuals, four days upon the consent of a public prosecutor, a period which can be extended to seven at the request of a public prosecutor and upon the order of a judge; in areas under a state of emergency, the seven-day period can be extended to ten at the request of public prosecutor and upon the order of a judge.¹¹⁵
- Article 2 removes two articles of the Turkish Penal Code, 384 and 385, from the jurisdiction of state security courts.¹¹⁶

¹¹³Ansary, Tuğrul and Wallace, Don Jr., ed, *Introduction to Turkish Law*, Third Edition, Kluwer Law and Taxation Publishers: Deventer-Antwerp-London-Frankfurt-Boston-New York, 1987, p. 245.

¹¹⁴“Draft law to Amend the Code of Criminal Procedure, The Law on the Creation of State Security Courts and their Judicial Procedures, and Law No. 3842 of November 18, 1992, which amended the aforementioned laws.” A copy of the law as passed on March 6, 1997 is included in the Appendix.

¹¹⁵ Under Article 1 of the law, which amends Article 128 of CMUK, criminal suspects (i.e. non-security detainees) face the following detention periods before they must be arraigned before a magistrate: individual crimes, 24 hours; “collective” crimes [those committed by three or more people], four days, which can be extended to seven with the request of a prosecutor and approval of a judge. Under Law No. 3842 of November 1992, criminal detainees in “collective crimes” could have their detention period extended to eight days.

¹¹⁶The draft law also envisioned removing article 312 of the Turkish Penal Code, inciting hatred based on ethnicity, religion, or regionalism, from the jurisdiction of State Security Courts, but this was dropped. Article 312 is often used to punish peaceful free expression.

The law, however, does not give immediate, guaranteed access to counsel for security detainees, who have access to a lawyer only after the first extension of their detention period, i.e. on the fourth day for those charged with “collective” crimes.¹¹⁷ Thereafter, under the law, they enjoy unlimited access to counsel. The United States State Department 1995 *Country Report* for Turkey stated that, “This lack of access [to counsel] is a major factor in the widespread use of torture by police and security forces.”¹¹⁸ Once a suspect is arrested, he should have the right to confer with a lawyer at all times.

Law No. 3842 amending the Code of Criminal Procedure (CMUK), which was passed in November 1992, was a flawed attempt to improve defendant rights by a DYP/SHP coalition government elected in 1991. Then Prime Minister Suleyman Demirel promised “police stations with glass walls”.¹¹⁹ While the law reduced detention periods and introduced many legal safeguards for common criminals, it did not for security detainees. Until March 1997, detention periods for them remained as they were before: a maximum of fifteen days for “collective crimes” [i.e. committed by three or more people], which could be doubled in provinces under a state of emergency decree. Article 30 of the law, now abolished, stated that,

The accused who is apprehended or arrested in relation with offenses within the jurisdiction of State Security Courts is arraigned before the judge at the latest within 48 hours and for crimes committed jointly within 15 days, excluding the time period necessary for transferring the person to the nearest court.

For the person apprehended or arrested in regions in which a state of emergency has been declared the periods mentioned above are doubled.¹²⁰

¹¹⁷ Article 14 of Law No. 3842 (CMUK 136) allowed the right of a lawyer to be present during interrogation periods, but again only for criminal suspects, not for security detainees. This law is still in effect.

¹¹⁸ *Country Reports on Human Rights Practices for 1995*, P. 1066.

¹¹⁹ The main impetus for the amendments to the Code of Criminal Procedure (CMUK), which initially envisioned reduced detention periods and improved access to lawyers for all detainees came from the junior partner in the coalition, the Social Democratic People’s Party (SHP), which held the Justice Ministry at the time. The parliament accepted a draft on May 21, 1992, but then President Turgut Özal rejected it after objections from the Emergency Rule Governor, the National Security Council (MGK), and certain security officials. Both parties tried to work out an agreement whereby the amendments offered in Law No. 3842 would for two years not apply to offenses committed in the state of emergency region or for crimes that fall under the jurisdiction of state security courts. This, however, did not please hard liners within DYP. Eventually, President Özal signed the bill into law on November 18, 1992, after it had been made more restrictive in accord with the wishes of the National Security Council. To offset this, some offenses were omitted from the jurisdiction of the state security courts.

See also *Türkiye İnsan Hakları Raporu*, TİHV, Ankara, January 1993, pp. 102-107.

¹²⁰ On December 18, 1996, in the case of *Aksoy v. Turkey*, the European Court of Human Rights of the Council of Europe in Strasbourg, which adjudicates cases brought to it alleging violation of the European Human Rights Convention, ruled that Turkey had violated Article 5(3), which states that a suspect, “shall be brought promptly before a judge or other officer authorized by law to exercise judicial power.” In that case the applicant was held fourteen days, during which time he was severely tortured. See, “Kurdish Human Rights Project (KHRP), Press Release, December 18th, 1996; Gilbert Reilhac, “European Rights Court Says Turkey Tortured Kurd,” Reuters, December 18, 1996, and section, “The International Legal Framework.”

In the *Brogan* case of 1988, which dealt with an individual detained by British forces in Northern Ireland, the court ruled that “the scope for flexibility in interpreting and applying the notion of ‘promptness’ is very limited” and ruled that even four days and six hours in police custody was “outside the strict constraints as to time permitted by the first part of Article 5(3).”

For more on the *Brogan* case, see also “Torture in Turkey: The Legal System’s Response.” p. 36.

In addition, security detainees were exempted from many of the new legal safeguards introduced into the Code of Criminal Procedure (CMUK) by Law No. 3842, including access to a lawyer while in pre-trial detention. Previously security detainees *de jure*—if not *de facto*—had such a right. The “Law of March 1997 amending CMUK “grants access to a lawyer to security detainees charged in collective crimes after four days and those charged in individual crimes after two. Article 31 of Law No. 3842 states that, “The Articles 4,5,6,7,9,12,14,15,18,19,20 and 22 of this Law shall not apply for the offenses within the jurisdiction of State Security Courts. For these, the provisions of Code of Criminal Procedure No. 1412 are implemented with its provisions before the amendment.”¹²¹ The “Law of March 1997 amending CMUK “ lets most of these exemptions stand, removing only articles “7”, “9”, and “20.”

Since incidents of torture are most severe in security detainee cases investigated by the anti-terror police, Law No. 3842 was severely hobbled. Below is a summary of the amendments still applicable to ordinary criminal cases but not applicable under Article 31 to security detainees. Where important differences with the pre-amended version exists, they are stated in bold face type.

Article 4 (CMUK 104): Precisely defines and limits conditions for lawful arrest of a suspect.¹²²

Article 5 (CMUK 106): Allows defense lawyer to be present during arraignment.

Unamended CMUK 106: No lawyer present during arraignment.

Article 6 (CMUK 108): Sets period of detention before arraignment before a judge to twenty-four hours in individual crimes.

Unamended CMUK 108: Suspect must be arraigned within 48 hours.

Article 7 (CMUK 110): Sets maximum period of arrest in pre-trial detention while preliminary investigation is being conducted. Applicable to security detainees under the “Law of March 1997 amending CMUK.”

Article 9 (CMUK 128): Orders that persons detained for an individual crime be brought before a magistrate within twenty-four hours and those detained for a collective crime (one committed by three or more people) within four days, which can be extended to eight days with a judge’s order. Amended by “Law of March 1997 amending CMUK.”

Unamended CMUK 128: Three or more persons can be held up to fifteen days with the order of a prosecutor.

Article 12 (CMUK 135): The suspect is told that he has a right to a lawyer who can be present during interrogation and testimony, to call relatives to inform them of the arrest, and to remain silent.

Unamended CMUK 135: Detainee is informed of crime.

¹²¹“Law On Amending Some Provisions of the Code of Criminal Procedure and the Law on Establishment and Prosecution Procedure of the State Security Courts,” The Republic of Turkey, Ministry of Justice; “CMUK ve İlgili Mevzuat,” Seekin Yayinevi, Ankara, February 1995, p. 15.

The pre-amendment articles of CMUK applicable to security detainees are found in article 42 of the Law on State Security Courts of 1983 (*Devlet Güvenlik Mahkemelerinin Kuruluş ve Yargılama Usulleri Hakkında Kanun*).

¹²²“Law On Amending Some Provisions of the Code of Criminal Procedure, pp. 3-31.

Article 14 (CMUK 136): Allows the suspect to have one lawyer present during police interrogation and strengthens lawyer's right to represent his client free from police interference.

Unamended CMUK 136: One can have a lawyer, but not well defined as to when.

Article 15 (CMUK 138): Provides free lawyers from the Bar Association for suspects who cannot afford one.

Article 18 (CMUK 142): Suspects can use a common lawyer.

Article 19 (CMUK 143): Strengthens lawyer's right to examine information about and documents connected with the case.

Unamended CMUK 143: Lawyer could only see files after the indictment was given or if viewing them did not harm the case.

Article 20 (CMUK 144): Allows unrestricted and protected access between the detained and /or arrested suspect and his lawyer. Applicable in part to security detainees under the "Law of March 1997 amending CMUK."

Unamended CMUK 144: Only an arrested suspect can meet with his lawyer at any time.

Article 22 (CMUK 146): Regulates fees to be paid to court-appointed Bar Association lawyers.

Unfortunately, even for those to whom the above rights exist *de jure*, they are often not implemented *de jure*.

Article 13 of Law No. 3842, which became Article 135/a of the Code of Criminal Procedure (*CMUK*) and is still in force today, banned torture and other so-called "prohibited interrogation methods." Article 24, which was added to Article 254 of *CMUK*, reiterates Article 13's prohibition on using evidence gathered illegally: "Evidence gathered illegally by the investigation and prosecution authorities cannot constitute a basis for a verdict."¹²³ Article 13/*CMUK* 135/a states,

Prohibited Interrogation Methods

The statements of the accused and the testifying person must be based on their own free will. Maltreatment, torture, giving medicine by force, tiring, deceiving, using physical force or violence, physical or emotional disturbances that mislead his will like using some devices are prohibited. No benefit can be gained contrary to the law. Even if there is consent, testimonies obtained by using the above mentioned prohibited methods cannot be considered as evidence.¹²⁴

These are applicable to all crimes, making no distinction between criminal and security detainees, and, if applied consistently, would do much to reduce torture.

The January 15, 1997 guilty verdict in a trial in the Izmir State Security Court against ten individuals—many of them high school students—despite allegations that the statements they gave in police detention were taken under torture provides an unfortunate example of how the safeguards introduced in Law No. 3842 amending the Code of Criminal Procedure (*CMUK*) are not being implemented in practice. According to lawyers for the defendants, the prosecution's files contained no concrete evidence of guilt such as weapons or other incriminating evidence. The fact that fourteen police officers are presently on trial under Article 243 of the penal code, inflicting torture or inhumane punishment, for

¹²³Law On Amending Some Provisions of the Code of Criminal Procedure, p. 13.

¹²⁴Law On Amending Some Provisions of the Code of Criminal Procedure, pp. 9-10.

their involvement in the case, further weakens the legal basis of the verdict against the ten, which ranged from sentences of twelve-and-a-half to two-and-a-half years. Five persons were acquitted. All those convicted will appeal the case.

The case started on December 26, 1995, when anti-terror police units from the Manisa Security Directorate conducted a raid and arrested sixteen individuals, age fourteen to twenty-four, on suspicion of membership in an illegal organization, namely the radical armed group Dev-Sol (DHKP-C).¹²⁵ They were alleged to have scrawled graffiti and thrown petrol bombs. Those arrested were questioned for eleven days, during which time by all apparent indication they were tortured. Sabri Ergül, Izmir MP from CHP, went to the police station where the sixteen were held after hearing of the case. There he stumbled upon some of the tortured youth. In November 1996, he testified at the trial of the fourteen police officers indicted in that case that,

While sitting in the section allocated for lawyers, I heard screams....when I opened the door of a room where screams were coming from, I saw that two children had been stripped naked. One of them was on the floor. When I entered the second room, I saw that a girl had been stripped naked and was lying on the floor while two children, one of whom was a girl, had been kept standing naked.¹²⁶

After the announcement of the guilty verdict, MP Ergül lamented that,

This case is a typical example in Turkey where statements taken under torture are considered as evidence. But according to the Code of Criminal Procedure (*CMUK*), testimony taken under torture is not valid. But the state security court viewed torture incidents as propaganda of outlawed groups. Fine, but was the Manisa State Prosecutor's Office, which found credible allegations of torture and opened a case against the police, also influenced by propaganda of outlawed organizations? Were there any weapons or bombs found on these kids? According to the police claim, the kids wrote on walls. But this claim is based on statements taken under torture.

Turkish Penal Code (*Türk Ceza Kanunu*)

The Turkish Penal Code also prohibits and sets out punishments for the use of torture and mistreatment by police against detainees. Article 243 states that a state official who "...tortures an accused person or resorts to cruel, inhumane or degrading treatment in order to make him confess his offense, shall be punished by heavy imprisonment for up to five years and shall be disqualified from the civil service either temporarily or for life."¹²⁷ Article 245 states that, "Those persons authorized to use force and all police officers who, while performing their duty or executing their superiors' orders, threaten or treat badly or cause bodily injury to a person or who actually beat or wound a person in circumstances other than prescribed by laws and regulations, shall be punished by imprisonment from three months to three years and shall be temporarily disqualified from the civil service."¹²⁸

State Security Courts and the 1991 Anti-Terror Law (Law No. 3713)

¹²⁵Unless otherwise noted, the background information in this section comes from, "Liseli gençlere çete cezası," *Cumhuriyet Hafta*, Istanbul, January 24, 1997.

¹²⁶Human Rights Foundation of Turkey, Documentation Center, November 7, 1996.

¹²⁷*Türk Ceza Kanunu* (Ankara: Seçkin Yayınevi), 1995, p. 121-2.

¹²⁸*Türk Ceza Kanunu*, p. 122.

Article 143 of the constitution provides for state security courts (*Devlet Güvenlik Mahkemesi*), and states that, "Courts of the Security of the State shall be established to deal with offenses against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offenses directly involving the internal and external security of the state."¹²⁹ The majority of cases the state security courts handle fall under the 1991 Anti-Terror Law (see below).¹³⁰ Under the 1983 Law on the Organization and Procedure of State Security Courts (Law No. 2845), state security courts began to operate in May 1984, a year after the return to civilian rule after the 1980 military coup.¹³¹ State security courts had previously been established in 1973 after the March 12, 1971, military intervention, but in 1976 they were declared unconstitutional by the Constitutional Court.¹³² There are now eighteen security court panels in eight different cities; each panel consists of two prosecutors, two civilian judges, and one military judge.¹³³ Decisions by a state security court can be appealed to the High Court of Appeals (*Yargıtay*).

Aside from the handicaps for the defense caused by the fact that many of the most important amendments to Code of Criminal Procedure(*CMUK*), including guaranteed access to an attorney during the detention period, do not apply to cases in the state security courts (see section on *CMUK*), those arraigned before these courts face even more obstacles: because of the heavy caseload, trials can last years; hearings may be closed; testimony gathered during interrogation in the absence of counsel may be admitted.¹³⁴

¹²⁹The Constitution of the Republic of Turkey, p. 69. There are both general and special courts. State security courts are special courts. The main Turkish general criminal courts of original jurisdiction include justice of the peace courts (*Sulh Ceza Mahkemeleri*), courts of first instance (*Asliye Ceza Mahkemeleri*), and aggravated felony courts (*Ağır Ceza Mahkemeleri*). The first two courts deal with lesser crimes, have one judge, and as a rule are located in district capitals. Aggravated felony courts deal with more serious crimes like murder, consist of three judges, and are usually located in provincial capitals. The appellate court for these courts, as with the state security courts, is *Yargıtay*.

In addition to the state security courts, other specialized courts include the military courts, Constitutional Court, traffic courts, and juvenile courts.

Turkey, like many European countries, does not use the jury system in any of its courts. There is no bail system in Turkey. One can either be tried but not remanded into custody, or one can be tried and remanded into custody.

See, *Introduction to Turkish Law*, p. 220 and p. 247.

¹³⁰ Article 29 of Law No. 3842 amending *CMUK* also changed Article 9 of the 1983 Law on the Organization and Procedure of State Security Courts (Law No. 2845) establishing which crimes fell under the jurisdiction of state security courts. Under this law, they include the following offenses: Articles 125-139, 146-157, and in Articles 161, 168, 169, 171, 172, 174, 313, 314, 384, 385, in the second paragraph of 312, and 499 of the Turkish Penal Code; offenses committed jointly or by organizations under Articles 264 and 403 of the Turkish Penal Code; offenses committed under the Law on Firearms, Knives, and other Weapons; offenses that cause the declaration of a state of emergency under Article 120 of the Turkish Constitution in areas under a state of emergency. Some of these offenses are also considered "terror crimes" under the 1991 "Anti-Terror Law."

In the bill introduced on November 27, 1996, amending the Code of Criminal Procedure and several other laws, Articles 312 (second paragraph), 313, 314, 384, and 385 were to be removed from the jurisdiction of state security courts. Under the bill as passed into law on March 6, 1997 as "The Law of March 1997 amending *CMUK*", however, only articles 384 and 385 were removed from the jurisdiction of State Security Courts.

¹³¹ "Torture in Turkey: The Legal System's Response," p. 31.

¹³² *Ibid.* They were declared unconstitutional because no article of Turkey's liberal 1961 Constitution allowed for their existence.

¹³³ Until November 1996, state security courts existed in the following cities: Erzincan, Konya, Istanbul, Izmir, Kayseri, Diyarbakir, Ankara, and Malatya. In early November, a law was passed abolishing the courts in Kayseri, Konya, and Erzincan and replacing them with new ones in Erzurum, Van, and Adana. The purported goal was to bring security detainees closer to the courts where their cases are heard.

¹³⁴ Department of State, *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, 1996), p. 1067.

The 1991 Anti-Terror Law (Law No. 3713) came into effect on April 12, 1991, after publication in the *Official Gazette*. It replaced several articles of the Turkish Penal Code (141, 142, 163) that dealt with communism, Kurdish nationalism, and fundamentalism. Article 1 of the law defines terrorism as follows: "Terrorism is any kind of action conducted by one or several persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation...by any method of pressure, force, and violence, terrorization, intimidation, oppression, or threat." According to government statistics, in 1995, 5,893 individuals were under arrest under provisions of the Anti-Terror Law and 2,861 had been convicted.¹³⁵ In the first ten months of 1996, the Turkish government reported that 1,024 persons were in custody under the Anti-terror law and another 1,934 were suspects in such cases but had not yet been arrested.¹³⁶

Numerous articles of Turkish Penal Code deal with matters that are considered terrorist crimes under the Anti-Terror Law.¹³⁷ In addition, Article 8 of the Anti-Terror Law outlaws so-called "separatist propaganda," which has resulted in the punishment of non-violent expression that is protected under international standards of free speech. Until October 1995, Article 8 prohibited such activity without regard to intent: "Regardless of method, intent, or thought, written and oral propaganda along with gatherings, demonstrations, and marches that have the goal of damaging the indivisible unity of the State of the Turkish Republic, its land or people are prohibited."¹³⁸ By mid-1995, approximately 2,000 cases awaited trial in state security courts under Article 8.

On October 27, 1995, the Turkish parliament amended Article 8 so that the state would have to show intent on the part of the individual to destroy the unity of the Turkish state. All sentences were reviewed, and 143 individuals charged under Article 8 were released from prison. In addition, prison sentences under Article 8 were reduced to one to three years from two to five years. Also, Article 13 of the Anti-Terror Law, which forbids the commutation of sentences into fines and the granting of suspended sentences, was changed to allow these practices. Unfortunately, some of the cases prosecuted under the former definition of Article 8 were reopened under the newly-amended Article 8, which is still used, along with other provisions, to punish non-violent speech.¹³⁹

¹³⁵Ibid.

¹³⁶Department of State, *Country Reports on Human Rights Practices for 1996* (Washington, D.C.: U.S. Government Printing Office, 1997).

See page 21, footnote 52 for alternative figures for the number of individuals on trial for cases under the jurisdiction of State Security Courts. Most of these deal with crimes falling under the Anti-Terror Law.

¹³⁷They include Articles 125 (treason), 131 (sabotage), 146 (attacks on the constitutional order or parliament), 147 (interfering with the Council of Ministers), 148 (military service in a foreign army), 149 (insurrection), 156 (assassination of the president), 168 (membership in an illegal armed group), 171 (conspiracy), and 172 (provoking people to commit crimes in Articles 125, 131, 146, 147, 149, 156). The following articles include acts that are considered "terrorist crimes" if they are committed in accord with Article 1 of the Anti-Terror Law: 145 (desecrating Turkish flag), 150 (possession or production of weapons for criminal conspiracy), 151 (wilful knowledge of Article 150), 152 (occupying military or government property), 153 (defiance against military law), 154 (attempt to publish material about crimes above), 155 (alienating people from military service), 169 (aiding an illegal armed group), paragraph two of Article 499, and sections (b), (c), and (e) of the Law on State Security Courts (No. 2854).

¹³⁸*CMUK ve ilgili Mevzuat*, (Ankara: Seçkin Yayınevi), 1995, p. 170.

¹³⁹In August 1996, the mainstream Istanbul daily *Cumhuriyet* reported that approximately 150 individuals were in prison for "free expression." It reported that while in all of 1995, 172 years of sentences were passed for free expression cases, in the first six months of 1996 the total reached 140. See Hülya Topcu, "Düşünce (şimdilik) 140 yıla mahkûm", *Cumhuriyet Hafta*, Istanbul, August 23, 1996, p. 4.

In November 1996, that paper reported that 103 journalists, most from radical leftists or Kurdish nationalist publications, were in jail or prison. See "Gazeteciye Yargı Sansürü," *Cumhuriyet Hafta*, November 29, 1996, p. 1.

The Anti-Terror Law also provides legal protection to police. Under Article 15, members of the anti-terror police cannot be remanded into custody if charged with a crime and enjoy the services of up to three defense attorneys paid for by the state.¹⁴⁰

INTERNATIONAL LEGAL FRAMEWORK

Turkey is a party to several treaties that seek to protect individuals from torture and to prevent its practice. These agreements include the following: U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; European Convention for the Protection of Human Rights and Fundamental Freedoms; the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; and, Common Article 3 of the 1949 Geneva Conventions. Under Article 90 of the Turkish Constitution, "International Agreements duly put into effect carry the force of law. No appeal to the Constitution can be made with regard to these agreements on the ground that they are unconstitutional."¹⁴¹ In practice, however, these international protections seem to have little effect: the U.N. Committee against Torture and the Committee for the Prevention of Torture [CPT] of the Council of Europe as recently as December 1996 have declared that torture is widespread and/or systematic and an important facet of police interrogation methods. That same month, the European Court of Human Rights found Turkey guilty of violating the torture provision of the European Convention for the Protection of Human Rights, upholding an earlier decision by the European Commission of Human Rights.

On August 2, 1988, Turkey ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 2 of the treaty calls on, "Each State Party...[to] take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."¹⁴² Under that same article, the Convention states that, "No exceptional circumstances whatsoever...may be invoked for a justification of torture."¹⁴³

In June 1992, the United Nations Committee against Torture, under Article 20 of the Convention, sent a fact-finding mission to Turkey. As cited earlier, the committee concluded in a report issued in November 1993 that, "Although the government of Turkey has taken initiatives to combat torture, the current situation is still one in which torture is systematically practised in various premises under the authority of the Ministry of the Interior."¹⁴⁴ The committee made the following recommendations to the Turkish government: set up a "national machinery to combat torture;" prohibit the use of blindfolds during interrogation; ease access of lawyers to places of detention; end procedural bans on access to lawyers for detainees charged with offenses that fall under the jurisdiction of state security courts.¹⁴⁵

¹⁴⁰*CMUK ve İlgili Mevzuat*, p. 172-3.

¹⁴¹The Constitution of the Republic of Turkey, p. 39.

¹⁴²United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, p. 71.

¹⁴³*Ibid.*

¹⁴⁴*Report of the Committee against Torture*, p. 9.

¹⁴⁵*Ibid.*

In 1954, Turkey signed the 1953 European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 3 of the convention forbids torture: "No one shall be subjected to torture or to inhumane or degrading treatment or punishment." Article 5 forbids unlawful detention, and Article 6 guarantees the right to a fair trial. In November 1987, Turkey ratified Article 25 of the convention: the right of individual petition to the European Commission of Human Rights of the Council of Europe. Under the right of individual petition, an individual who believes that one of his rights guaranteed under the convention has been violated and who has exhausted all domestic legal remedies may apply to the commission.¹⁴⁶

In two recent cases, the commission has ruled that Turkey has violated, among other parts of the convention, Article 3 banning torture.¹⁴⁷ In the case of *Aksoy v. Turkey*, the commission ruled that,

The applicant alleged that he had been tortured by the police while in their custody between 24 November and December 10, 1992. This torture consisted of "Palestinian hanging," beatings, electric shocks to the genitals and verbal abuse.... One of the policemen who interrogated the applicant during his detention, Mustafa Yazgan, was heard as a witness by the Commission's delegates.... In his submission, any ill-treatment was inconceivable: it just did not happen that he or his colleagues would treat arrested persons badly (paras. 108 and 111 above).... The Commission finds the statements of Mustafa Yazgan and Riza Cingi unconvincing. The impression gained from these statements *was rather that these two public officers were not prepared to consider the possibility of ill-treatment occurring at the hands of the police*.... The Commission concludes, by 15 votes to 1, that there has been a violation of Article 3 of the Convention.¹⁴⁸

On December 18, 1996, the European Court of Human Rights confirmed the findings of the commission in the *Aksoy* case regarding the allegations of torture and awarded the full amount of compensation sought and legal expenses.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is open for signature to members of the Council of Europe. Turkey signed the convention in November 1988, and it entered into force in February 1989. The main purpose of the convention is to set up a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which, according to Article 1 of the convention, "shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment."

¹⁴⁶The European Commission of Human Rights acts as a "gate keeper" for the European Court of Human Rights. Since 1991, at least 778 cases have been filed against the Republic of Turkey. In April 1996 Human Rights Watch/Helsinki issued a report on Turkish applicants to the commission who had been intimidated and harassed by security officials to withdraw their complaints. See Human Rights Watch/Helsinki, "Turkey: Violations of the Right of Individual Petition to the European Commission of Human Rights," *A Human Rights Watch Short Report*, Vol. 8, no. 4 (D), April 1996.

¹⁴⁷See *Akduvar and Others*, Report of the Commission (10/95) and *Aksoy*, Report of the Commission, (10/95).

¹⁴⁸*Aksoy*, Report of the Commission, (10/95), paras. 137,156,159,169. Italics added.

The CPT conducted visits to Turkey in September 1990, September/October 1991, November/December 1992, October 1994, May 1996, August 1996, and September 1996.¹⁴⁹ In December 1992, and four years later, in December 1996, the CPT issued public statements concerning torture in Turkey in line with Article 10 of the convention, which calls for such action if the CPT believes its recommendations are not being implemented. As stated earlier, in its 1992 "Public Statement on Turkey," the CPT found that the "the practice of torture and other forms of severe ill-treatment of persons in police custody remain widespread..." Four years later, while noting some positive government attempts to stop torture, it stated that, "...in the course of visits in 1996, CPT delegations again found clear evidence of the practice of torture and other forms of severe ill-treatment..."¹⁵⁰ In its December 1992 statement, CPT recommendations include the following: medical statements from mandatory pre/post detention medical examinations should state allegations, clinical description thereof and doctor's conclusions; conditions of police service must be improved; Law No. 3842 amending the Code of Criminal Procedure (CMUK) should apply to all detainees; maximum periods of detention must be reduced.¹⁵¹ In its 1996 statement, the CPT called for access to an "independent lawyer" at the onset of custody, the right of detainees to notify immediately next of kin, reduction of detention periods, and that doctors providing detainees with medical examinations to determine ill-treatment be allowed to "work free from any interference."

The CPT concluded both of its public statements much in the same way. In 1992, it noted that, "Finally, it should be re-emphasized that the phenomenon of torture and other forms of ill-treatment by the police will not be eradicated by legislative fiat alone...Indeed, it can be legitimately advanced that attacking the root of the problem of torture and ill-treatment involves not so much changing laws as transforming mentalities. This process is required not simply amongst police officers but throughout the criminal justice system."¹⁵² In 1996, the CPT asserted that, "To attempt to characterise this problem [torture and ill-treatment] as one of isolated acts of the kind which can occur in any country—as some are wont to do—is to fly in the face of the facts...The problem may well have been exacerbated by terrorism, but its roots go far deeper."¹⁵³

Finally, Article 3, common to the four Geneva Conventions of 1949, sets basic legal rules for the conduct of hostilities in an internal armed conflict, among them the prohibition on "cruel treatment and torture." Turkey is a signatory of the four Geneva Conventions of 1949. Given the nature and extent of military activities in southeastern Turkey, Common Article 3 clearly applies, though the Turkish government has not acknowledged its application and has consistently refused to allow the International Committee of the Red Cross [ICRC] the right to set up operations in Turkey, including the right to visit security detainees.¹⁵⁴

STATE HARASSMENT OF THE HUMAN RIGHTS FOUNDATION OF TURKEY TREATMENT AND REHABILITATION CENTERS

¹⁴⁹The August 1996 visit came as the result of an invitation from the government of Turkey following a prison hunger strike that left eleven inmates dead.

¹⁵⁰European Committee For the Prevention of Torture, "Public Statement on Turkey," December 6, 1996, p. 1.

¹⁵¹European Committee For the Prevention of Torture: "Public Statement on Turkey," December 15, 1992, pp. 7-9.

¹⁵²European Committee For the Prevention of Torture: "Public Statement on Turkey," December 15, 1992, p. 9.

¹⁵³European Committee For the Prevention of Torture: "Public Statement on Turkey," December 6, 1996, p. 5.

¹⁵⁴Common Article 3 is applicable to both insurgents and government forces in an internal conflict. Its application, however, provides no status to insurgents that they do not otherwise enjoy, and the government enjoys the full right within the scope of due process to bring insurgents to trial for illegal actions such as murder, the destruction of property, and kidnapping.

For a further explanation of this, see Human Rights Watch/Helsinki, "Forced Displacement of Ethnic Kurds from Southeastern Turkey," pp. 10-11.

Since its formation in 1989, the Human Rights Foundation of Turkey-HRFT (*Türkiye İnsan Hakları Vakfı*), through its Documentation and Treatment and Rehabilitation centers, has provided unbiased and factual information on abuses committed both by the government of Turkey and armed opposition groups such as the PKK.¹⁵⁵ The foundation's Treatment and Rehabilitation centers located in Istanbul, Ankara, Izmir, and Adana, provide medical and mental health services to victims of torture. These centers have operated openly and legally. Many leading physicians and psychiatrists donate their services. In the past, government officials and ministers in Turkey even met with HRFT officers and attended some events it sponsored. Until 1996, no charges had been brought directly against the HRFT regarding its treatment and rehabilitation centers.¹⁵⁶ The fact that its reports are widely used by various organizations ranging from Human Rights Watch to the United States Government is proof of the quality of the work and the intellectual integrity and honesty of the Foundation. On the basis of such activity, the Foundation has received funding from such bodies as the Swedish Red Cross, the United Nations, and the European Commission, which help fund the Foundation's latest report, *Human Rights Foundation of Turkey: Treatment and Rehabilitation Centers' Report, 1995* [*Türkiye İnsan Hakları Vakfı: Tedavi ve Rehabilitasyon Merkezleri Raporu 1995*], published in November 1996.

Unfortunately, the recent harassment against the treatment center stems from the very fact that the Foundation's publications are widely used by foreign embassies and organizations in their human rights reporting. In a March 7, 1996 statement, the Foreign Ministry cast aspersions on the work of the Foundation, stating that, "...the Treatment and Rehabilitation Centers' Report released by the Human Rights Foundation contains misleading information referring to those centers which do not actually exist." The statement served as a critique of the 1995 U.S. State Department Country report, which used information from the Foundation. Consequently, investigations were carried out by the Ministry of Health and the Ankara Public Prosecutor's office against the Foundation. On January 27, 1996, in letter No. AKGY-64-1037, the Ministry of Foreign Affairs stated that, "In an investigation rendered by our Ministry of Health, it has been determined that there are no "Treatment Rehabilitation Centers" rendering service attached to the Human Rights Foundation....If this is the case there may appear a development that may require the initiation of judicial and administrative procedures."

Consequently, the Foundation's Treatment and Rehabilitation centers have suffered the following legal interferences:

- In September 1996, the Istanbul Public Prosecutor charged Dr. Şükran Akın of Istanbul's Treatment and Rehabilitation Center with "operating an unlicensed health center" under article 526 of the penal code. The first hearing in Istanbul was held on November 8. All charges were dropped.
- In a similar case, on March 21, 1996, the Adana Public Prosecutor's Office opened a case (Indictment #1996:1242) against Mustafa Çinkılıç, the representative of the Foundation's Adana office and Tufan Köse, a doctor associated with the Foundation under articles 526 and 530 of the Turkish Penal Code, "operating an unlicensed health center" and "negligence in denouncing a crime." The charges were apparently filed because the Adana Foundation representatives did not inform authorities that individuals came to them for treatment because of torture or police abuse, i.e., they did not report these offenses to official bodies. The most recent hearing was held on May 2, 1997, when Mr. Çinkılıç was found innocent while Mr. Köse was found guilty and fined.

¹⁵⁵The other major human rights organization in Turkey is the Human Rights Association (İnsan Hakları Derneği), founded in 1986. It runs offices in most of Turkey's provinces and publishes excellent reports on human rights violations, though does not run treatment centers for victims of torture. Because of its vocal, activist work, it has suffered serious state repression in the past several years, including confiscation of its publications, charges against its members, closing of its offices, and, in southeastern Turkey, assassination of several of its leaders by death-squads believed linked to the state.

The Human Rights Association founded the Human Rights Foundation.

¹⁵⁶Two cases were brought against the HRFT for publications its issued in 1994 and 1995. Both ended in acquittal.

Human Rights Watch/Helsinki

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Barbara Guglielmo, finance and administration director; Robert Kimzey, publications director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Susan Osnos, communications director; Jemera Rone, counsel; Wilder Tayler, general counsel; and Joanna Weschler, United Nations representative. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Helsinki division was established in 1978 to monitor and promote domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. It is affiliated with the International Helsinki Federation for Human Rights, which is based in Vienna, Austria. Holly Cartner is the executive director; Rachel Denber is the Moscow office director; Erika Dailey, Christopher Panico, and Diane Paul are research associates; Alexander Petrov is Assistant Moscow office director; John MacLeod is the Tashkent office director; Marie Struthers is the Dushanbe office director; Maxine Marcus is research assistant; and Malcolm Hawkes, Emily Shaw, and Juliet Wilson are associates. Jonathan Fanton is the chair of the advisory committee and Alice Henkin is vice chair.

Web Site Address: <http://www.hrw.org>

Gopher Address: <gopher://gopher.humanrights.org:5000/11/int/hrw>

Listserv address: To subscribe to the list, send an e-mail message to majordomo@igc.apc.org with "subscribe hrw-news" in the body of the message (leave the subject line blank).

APPENDIX

Summary of Interviews with Detainees

1. Male, Age 35, ethnic Kurd

Place of Detention/Date of Detention: Izmir; September 1994

Detaining Unit: anti-terror police

Days in Detention before Arrest/or Release: fifteen, arrested

Contact with Lawyer: thirteenth day

Charges: Article 169 (aiding and abetting an illegal organization)

Days under Torture/Methods of torture suffered: eleven; beatings, electric shock, high-pressure water, blindfold, noise, sleep deprivation, held naked

Signed statement under torture.

2. Male, Age 29, farmer, ethnic Kurd

Place of Detention/Date of Detention: Village of Silvan District, Diyarbakir Province; April 1995

Detaining Unit: gendarmerie

Days in Detention before Arrest and Appearance before Prosecutor/ or Release: eighteen, arrested

Contact with Lawyer: after arrest.

Charges: Article 169 (aiding and abetting an illegal organization)

Days under Torture/Methods of Torture: four; electric shock, water, stripped naked, beating, squeezing testicles

Signed statement under torture.

3. Male, age 26, ethnic Kurd

Place of Detention/Date of Detention: Izmir; November 1994

Detaining Unit: anti-terror police

Days in Detention Before Arrest and Appearance before Prosecutor/Release: four

Contact with lawyer: seventh day

Charges: Article 169 (aiding and abetting an illegal organization)

Days under Torture/Methods of Torture: three; death threats, beatings, squeezing testicles, suffocation (bag over head, face pressed into foam), hanging, high-pressure water, electric shock

stripped naked

Signed statement under torture.

4. Male, age 48, farmer, forced migrant from Southeast, ethnic Kurd

Place of Detention/Date of Detention: Tunceli; March 1994

Detaining Unit: Initially gendarmerie, immediately transferred to anti-terror police

Days in Detention Before Arrest and Appearance before Prosecutor/Release: three

Contact with Lawyer: none

Charges: None, released on third day

Days under Torture/Methods of Torture: three days; blindfold, beating, stripped naked, hanging, pressurized water

5. Male, age 36, hotel worker, forced migrant from Southeast, ethnic Kurd

Place of Detention/Date of Detention: Istanbul; June 1995

Detaining Unit: regular police

Days in Detention before Arrest/Release: 14 hours

Contact with Lawyer: none

Charges: none, released.

Days under Torture/Methods of Torture: on/off during detention period; beating, blindfold, falaka

6. Male, age 35, lawyer, ethnic Kurd

Place of Detention/Date of Detention: Istanbul; July 1995. Interrogation in Bitlis

Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: twelve
Contact with Lawyer: yes
Charges: none
Days under Torture/Methods of Torture: three; stripped naked, blindfold, electric shock, beaten

7. Male, age 31, newspaper distributor/tobacco farmer, ethnic Kurd
Place of Detention/Date of Detention: Silvan, Diyarbakir; September 1993
Detaining Unit: gendarmerie, transferred to anti-terror police
Days in Detention before Arrest/Release: sixteen, arrested
Contact with Lawyer: after being brought before judge.
Charges: Article 168, member of an illegal organization
Days under Torture/Methods of Torture: thirteen; beating, blindfold, high-pressure water, squeezing testicles, hanging, electricity, anal rape with truncheon, placement in tire
Statement taken under torture.

8. Male, age 28, journalist, ethnic Kurd
Place of Detention/Date of Detention: Adana; September 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: one
Contact with Lawyer: no
Charges: none filed, released
Days under Torture/Methods of Torture: one; beating, high-pressure water, blindfold, hanging

9. Male, age 24, musician, Turkish
Place of Detention/Date of Detention: Istanbul; September 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: one
Contact with Lawyer: no
Charges: none filed, released
Days under Torture/Methods of Torture: one; beating, electric shock, squeezing testicles, stripped naked, blindfold

10. Male, age 21, factory worker, Turkish
Place of Detention/Date of Detention: Istanbul; September 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: one, released
Contact with Lawyer: yes
Charges: putting up posters without a permit
Days under Torture/Methods of Torture: one; beating, kicking, pulling hair, blindfolding

11. Male, age 22, factory worker, ethnic Kurd
Place of Detention/Date of Detention: Istanbul; September 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: one, released
Contact with Lawyer: yes
Charges: Putting up posters without a permit.
Days under Torture/Methods of Torture: one; high-pressure water, beating with fists and nightstick, death threat and rape threat, hanging

12. Male, mid-30s, ngo cultural representative, ethnic Kurd
Place of Detention/Date of Detention: Adana; November 1994

Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: seven, arrested
Contact with Lawyer: eighth day
Charges: Article 169, aid to an illegal group
Days under Torture/Methods of Torture: two; high-pressure water, hanging, electric shock, beating, threats, blindfolding
Signed Statement under torture

13. Female, age 13, student, ethnic Kurd
Place of Detention/Date of Detention: Adana; October 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: four hours
Contact with Lawyer: no
Charges: none
Days under Torture/Methods of Torture: Pulling hair, hitting with hands, death threat

14. Female, age 28, housewife, ethnic Kurd
Place of Detention/Date of Detention: Adana; June 1995
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: three hours
Contact with Lawyer: no
Charges: none
Days under Torture/Methods of Torture: beating, pulling hair, death threat

15. Female, age 43, teacher/labor union activist, ethnic Kurd
Place of Detention/Date of Detention: Diyarbakir; March 1994
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: ten, arrested
Contact with Lawyer: no
Charges: Article 168, membership in an illegal organization
Days under Torture/Methods of Torture: nine; beating, hanging, threats, blindfold, electric shock

16. Male, age 52, shopkeeper, ethnic Kurd
Place of Detention/Date of Detention: Kızıltepe, Mardin Province; November 1994
Detaining Unit: anti-terror police
Days in Detention before Arrest/Release: four, released
Contact with Lawyer: no
Charges: none
Days under Torture/Methods of Torture: three; beating, hanging, electric shock

17. Female, age early-20s, student/human rights worker, ethnic Kurd
Place of Detention/Date of Detention: Adana; Summer 1994
Detaining Unit: anti-terror police
Days in Detention before appearance before prosecutor and Arrest/Release: two, released
Contact with Lawyer: no
Charges: none
Days under Torture/Methods of Torture: one; electric shock, beating, hanging, high-pressure water, threats

18. Female, age 33, factory worker, ethnic Kurd
Place of Detention/Date of Detention: Tunceli; March 1995
Detaining Unit: anti-terror police

Days in Detention before appearance before prosecutor and Arrest/ or Release: eleven, arrested
Contact with Lawyer: yes
Charges: Article 168, membership in an illegal organization, arrested. Acquitted of charges in late 1995
Days under Torture/Methods of Torture: five; electric shock, threats, beating, hanging, high-pressure water
Signed statement under torture

19. Male, mid-20s, human rights worker, ethnic Kurd
Place of Detention/Date of Detention: Diyarbakir; February 1995
Detaining Unit: anti-terror police
Days in Detention before appearance before prosecutor and Arrest/ or Release: five, arrested
Contact with Lawyer: after arrest
Charges: Article 168, membership in an illegal organization
Days under Torture/Methods of Torture: two; hanging, electric shock, high-pressure water, squeezing genitals, threats
Statement signed under torture

20. Male, age 34, political party activist, Kurdish
Place of Detention/Date of Detention: Istanbul; December 1994
Detaining Unit: anti-terror police
Days in Detention before appearance before prosecutor and Arrest/Release: fourteen, arrested
Contact with Lawyer: After arrest
Charges: Article 168, membership in an illegal organization
Days under Torture/Methods of Torture: six; electric shock, hanging, high-pressure water, death threats, mock execution, beating
Signed statement under torture

UNOFFICIAL TRANSLATION, Law of March 1997 Amending the Code of Criminal Procedure (CMUK)

"Law concerning amending the Code of Criminal Procedure, the Law on the Creation of State Security Courts and their Judicial Procedures and Law No. 3842 of November 18, 1992, which amended the aforementioned laws." [Passed by the Parliament of Turkey on March 6, 1997]

Article 1: The first sentence of the first paragraph and the second sentence of the second paragraph of Article 128 of Code of Criminal Procedure, Law No. 1412 of April 4, 1929 will be amended in the manner below.

"If the detained suspect is not released, within twenty four hours he will be brought before a magistrate and questioned (excluding time necessary in reaching the magistrate nearest the point of detention)."

"If the investigation is not completed within this period of time, it can be extended to seven days by request of a state prosecutor and the decision of a magistrate."

Article 2: The phrase, "in the 384th and 385th articles" will be removed from the text of sub-paragraph (a) of the first paragraph of Article 9 of the Law on the Creation of State Security Courts and their Judicial Procedures, Law No. 2845 of June 18, 1983.

Article 3: Article 31 of Law No. 3842 of November 18, 1992 and annulled Article 16 of Law No. 2854, together with its heading, shall be amended in the manner below:

"Detention, Arrest, and Conferring with Legal Counsel Article 16:"

"An individual detained or arrested for crimes under the jurisdiction of State Security Courts shall be brought before a magistrate no later than within forty-eight hours and questioned (excluding time necessary in reaching the magistrate nearest the point of detention or arrest).

In crimes committed collectively by three or more persons, or where there are difficulties in gathering evidence, or where there are numerous suspects, or for similar reasons, the state prosecutor can give a written order to extend this period to four days. If the investigation is not completed within this time, the detention period can be extended to seven days by the request of a state prosecutor and the order of a judge.

With respect to persons detained or arrested in areas where a State of Emergency has been declared according to Article 120 of the Constitution, the seven day period indicated in the second paragraph [of Article 3 of this law] may be extended to ten days by request of a state prosecutor and decision of a judge.

An arrested suspect can meet with his lawyer at all times. The same right applies to an individual in detention after a judge has given his decision to extend the period of detention.

Until a public trial has been opened, a judge may withhold from the suspect information which he [the judge] feels inappropriate for the suspect to know. Where the reason for the arrest so requires, a judge in person, or his deputy, or a judge appointed as a proxy may be present when the defendant confers with legal counsel."

Article 4: Articles numbered "7," "9," and "20" shall be removed from the text of Article 31 of the Law No. 3842 of November 18, 1992, concerning amending several articles of the Code of Criminal Procedure and the Law on the Creation of State Security Courts and their Judicial Procedures.

Article 5: Article 30 of Law No. 3842 shall be abolished.

Article 6: This law goes into effect upon the date of its publication. [in the *Official Gazette*]

Article 7: The Council of Ministers will carry out the provisions of this law.