ASYLUM SEEKERS FROM TURKEY II

by

David McDowall

(a revised, updated edition of the report of a mission to Turkey, October 2000)

November 2002
Acknowledgement for first edition
We are particularly grateful to the Avenue Trust for the major donation that made this mission possible, and to those law firms which also supported the mission financially. We should also like to record our debt to those who helped us prepare, or who gave us useful material: Marion Ellingworth of Amnesty International, Sherman Carroll of the Medical Foundation for the Care of Victims of Torture, Veronica Forwood of Reporters Sans Frontieres, Pro Asyl, Izmir War Resister's Association (ISKD), Guido van Leemput of the Study Centre on Turkey and Tina Devadasan of the Kurdish Human Rights Project, Konrad Hirschler and Murvet Ozkan. Others helped but preferred to remain anonymous. We are also grateful to numerous individuals and the staff of organisations who provided advice, information, contacts and other assistance in Turkey, and arranged for us to meet those who had experienced serious violations. These informants are named on page 4. Most of all, we would record our gratitude to those who screwed up their courage to retell their stories of State persecution and whose statements form a vital part of this report. This report was written for, and not by, Asylum Aid, which had no control over the contents.

The Mission consisted of

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The September 2002 edition is revised and updated by David McDowall who is entirely responsible for what it now states. This report owes a particular debt to the following sources: Amnesty International, Human Rights Watch, the Human Rights Foundation of Turkey (TIHV), the Turkish Human Rights Association (IHD), two press cutting services provided by the Washington Kurdish Institute and the International Association for Human Rights of the Kurds (IMK) and also Birnberg Peirce & Partners.
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**Abbreviations used**

- **DEP**: Democracy party
- **DGM**: State Security Courts
- **DSP**: Democratic Left Party
- **Goç-Der**: The Migrants’ Social and Solidarity Association
- **HADEP**: People’s Democracy Party
- **HEP**: People’s Labour Party
- **IHD**: Turkish Human Rights Association
- **ISKD**: Izmir War Resisters’ Association
- **JITEM**: Gendarmerie Intelligence Department
- **MiT**: National Security Organisation
- **MGK**: National Security Council
- **MHP**: Nationalist Action Party
- **MKM**: Mesopotamian Cultural Centre
- **OHAL**: State of Emergency Region
- **PKK**: Kurdistan Workers’ Party
- **TCA**: Turkey Country Assessment (CIPU, April 2002)
- **TIHV**: Human Rights Foundation of Turkey
- **UNHCR**: UN High Commission for Refugees
Informants in Turkey, October 2000

Istanbul: Staff of Göç-Der; TIHV, IHD, HADEP; Mesopotamia Cultural Centre; Ugur Yorulmaz, (military service resister); Nadire Mater (journalist).

Ankara: Mr Kazim Bayraktar, lawyer; staff at IHD and TIHV headquarters; Political Section, UK Mission; IHD congress delegates from Izmir, Kayseri, Adiyaman, Malatya, Elazig and Iskenderun.

Adana: Staff of IHD and HADEP.

Gaziantep: Staff of IHD; HADEP; 2000'e Yeni gundem.

Pazarcık: Staff of HADEP.

Use of this report

This report was researched and written to assist in the determination of asylum cases, both at the time of initial application and at the appeal stage. It is hoped that the Home Office will study it carefully its entirety. Special Adjudicators and the Tribunal are already often confronted with formidable bundles of evidence. In their case, it is hoped that they will be directed with precision to those specific sections which are relevant to the case in hand.
Report Summary

The overriding purpose of this report is to convey what it is really like on the streets or in police detention for those suspected of asserting Kurdish ethnic identity

1. The general human rights situation in Turkey: The pattern of human rights violations has changed with the end of the PKK war. Violations in the countryside have declined but this certainly does not mean an end to violations there, nor has there been any change in the brutal ethos of the security forces. A culture of detention and torture remains endemic. Most of those detained seem to be tortured or mistreated, yet only about 7 per cent are ever charged or gaolied. Sexual abuse and rape are probably severely under-reported because of the shame involved. There is an upward trend in persecution of those exercising the right to freedom of expression. There is no sign that modest progress on constitutional change has had any affect at all on police behaviour. The evidence strongly indicates that torture viewed as necessary by senior echelons of the state.

2. Kurds in Turkish Society: The possibility of advancement for Kurds in Turkish society notwithstanding and regardless of official claims of non-discrimination, human rights workers without exception confirmed that
   (i) advancement as a Kurd socially and in public life depends upon the conscious abandonment of Kurdish identity and culture.
   (ii) all other things being equal, a Kurd is much more likely to be detained and ill-treated than a Turk;
   (iii) moving from the State of Emergency Region in no way affords displaced Kurds any assurance of safety from mistreatment by the security forces;
   (iv) being 'small fry' or even not politically active in no way indicates a displaced Kurd can safely assume he/she will not be detained and mistreated by the security forces. Those displaced who decide to remain unregistered do so because they have fears well-grounded in experience.
   (v) being a relative of any person wanted even on the most trivial grounds places one at risk of mistreatment.
   (vi) displaced Kurds are unlikely to be able to access benefits on an equal footing because they face severe educational, social and economic disadvantages.

3. Legal procedures, unfair trials and prisons. The Anti-terror law (No. 3713) of 12 April 1991 remains the principle legal instrument for the conviction of those who assert political freedoms of expression and assembly. The failure to separate the powers of the executive and judiciary remains a serious flaw to the whole judicial system. Those charged with political offences are unlikely to receive a fair trial because
   (i) the law is framed and used to persecute political activists
   (ii) the decision where to try defendants (i.e. in State Security Courts (DGMs) or criminal courts) is a political one.
   (iii) access to someone able to 'pull strings' can affect the outcome of a trial.
   (iv) lawyer access to defendants in custody is greatly diminished by degrading, abusive and brutal treatment of visiting lawyers, and by denial of confidentiality for discussions between lawyer and defendant.
(v) Convictions are often made in DGMs on the sole basis of uncorroborated confessions obtained under interrogation, i.e. conditions with a potential for torture. Prisons are reportedly environments of excessive violence and torture committed not only by prison staff but also by the security forces called in to deal with acts of collective disobedience.

4. **HADEP** Although HADEP is a legal party, those belonging to or supporting it are considered ‘separatists’ by the security forces and treated accordingly. The evidence suggests that ordinary members or supporters are at definite risk of detention and torture. TIHV figures shows that in 2001 94 per cent of those detained as members of a political party were in fact members of HADEP, strongly indicating that HADEP is virtually the sole legal party to be the target of police harassment.

5. **Alevis:** Anti-Alevi prejudice may be slowly dissipating in Turkish society at large, but it is inevitably patchy. Anti-Alevi prejudice remains mostly deeply entrenched within the security forces, partly because of the close police connection with the MHP. State fostering of Alevi institutions is not an indication of liberalisation or of tolerance but of the calculated use of one religious community as a counterweight to other political forces. All other things being equal, human rights workers confirm that Alevi Kurds are at greater risk of torture than Sunni Kurds or Sunni or Alevi Turks, and that this vulnerability centres mainly on their perceived political orientation. The main assumption is that Alevis are dissident leftist, but religious prejudice still plays a part.

5. **Kahraman Maras province:** Many asylum seekers come from Maras where there have been long standing tensions between Sunnis and Alevis. Since 1984 the village people of Pazarcik and Elbistan districts were drawn into the State/PKK conflict. Many came under pressure to act as village guards for the State, or to support the guerrillas. Some tried to be neutral and were penalised by the warring parties. There have been serious human rights violations on a sufficient scale that it cannot be argued that the rule of law is upheld.

6. **Military service:** Military service exposes conscripts to an environment of brutal and degrading treatment. Perceived leftists and Kurds are at greater risk of mistreatment than others. In the 1990s there was a significant chance of being posted to the south east. The current situation is unclear. Suspicious deaths have taken place among conscripts in recent years, with a disproportionately large number of Kurdish victims. The gendarmerie (jandarma) has an unsavoury track record for serious human rights abuses, whether in the OHAL or outside it. Approximately half all conscripts are required to serve in the gendarmerie. Compulsion to join the village guards is widespread with no indication yet of this force being disbanded. Military service exposes conscripts to a risk of being required to co-operate in acts contrary to basic rules of human conduct.

7. **Cultural freedom:** There can be little doubt that Kurds are able to assert their identity and culture significantly more than they could a decade ago. But the repeal of Law 2932 and the adoption of Newroz as a Turkish national holiday is less the result of
'liberalisation' by the State than acquiescence in a shift in the terrain on which the Kurdish question is contested. It is the inability of the State to contain Kurdish expression that has led to these concessions, which are still contested on the ground by members of the security forces and the judiciary. Cultural repression continues in violent, bizarre or ludicrous ways. Even with constitutional liberalisation, there is a long way to go before the security forces respect freedom of expression, assembly and association in cultural matters. They remain obsessed with the need to control and to punish those that do not submit to their authoritarian control.

8. Returned asylum seekers: TIHV and IHD are probably the most authoritative sources on the risks run by asylum seekers. They have first hand evidence, UNHCR probably does not. Being Kurdish rather than Turkish definitely places a returned asylum seeker at greater risk of mistreatment. Even with valid travel documents individual cases cited indicate risk. Without travel documents a returnee will be thoroughly checked, first at the airport and if there is an apparent need for further investigation, at the notorious political/anti-terror police headquarters on Vatan Caddesi, Istanbul. Torture is possible in either location. It is not actual anti-State activities either in Turkey or in Europe which place a returned asylum seeker at risk. It is a wider danger, for example the suspicion that a returnee holds anti-State views or may have committed anti-State activities, or the activities of a returnee's relatives or his place of birth which may place a returnee in jeopardy of torture. The known number of cases of mistreatment set against the known number of returned asylum seekers cannot be a valid basis for calculating the danger of mistreatment on return since it does not compare like with like. The number of returnees are known from returning government records. There are no records of the incidence of mistreatment, only random cases uncovered by chance. Evidence of mistreatment, including cases of returnees from Germany and the UK, are cited. The two most knowledgeable and experienced human rights organisations in this matter both categorically advise against returning refused asylum seekers under any circumstances. No evidence has been produced by the Home Office to indicate any kind of follow-up or enquiry when mistreatment of a returnee has been established.
Introduction

Use of this report
This report was researched and written to assist in the determination of asylum cases, both at the time of initial application and at the appeal stage. It is hoped that the Home Office will study it carefully and in its entirety. Special Adjudicators and the Tribunal are already often confronted with formidable bundles of evidence. In their case, it is hoped that they will be directed with precision to those specific sections which are relevant to the case in hand.

What is the essential question that must be asked?
This report may strike some as unduly long. However, it is hoped that by presenting a comprehensive list of contents it will be possible to find useful commentary or evidence concerning most of the major issues surrounding the dangers from which asylum seekers from Turkey claim they are fleeing. The importance of the appendices lies in the examples they provide of what the main body of the report asserts.

It is very easy to be distracted by political events, for example the capture of Abdullah Ocalan or more recently by constitutional changes in Turkey’s body of law. Such changes should be treated with great caution and should not be taken to imply that the human rights situation has actually improved unless there is clear evidence of this on the ground. One should hold one essential fact about Turkey in mind: torture has been recognised, by rulers and people alike, to be an essential tool of maintaining order for at least 500 years. As the veteran commentator on Turkey, Nicole Pope, said of constitutional changes in August 2002: ‘No one expects the mentality in Turkey to change overnight.’

Consequently there is only one essential question that must be asked: what is it truly like on the street, in the police cell, or in the gendarmerie post? For that is the overriding issue facing any individual genuinely seeking asylum. To him or her, whatever constitutional lawyers or politicians may pronounce in Ankara is only relevant if their words and deeds demonstrably lessen the chances of mistreatment. It is for this reason that this report contains a large amount of evidential material, either given to our original mission in October 2000, or which has been received and evaluated by Amnesty International or some other body. That evidential material is likely to be more important in picturing why an asylum applicant may have a well-founded fear of persecution than the abstractions regarding torture in some official report. Above all, they remind one that each case concerns an applicant’s future physical and psychological safety.

The purpose of the first report was to assess the dangers which asylum seekers from Turkey flee and was primarily the result of a fact-finding mission to Turkey, 4-17 October 2000, meeting human rights organisations, lawyers, political activists, journalists, displaced Kurds and victims of State abuses. We did not visit the State of Emergency Region (OHAL) quite simply because the widespread and severe nature of human rights violations by the State within this area is not seriously in contention. Our

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1 Middle East International, No. 681, 16 August 2002.
concern was to establish the state of affairs in those parts of Turkey, from Istanbul eastwards where the rule of civil law supposedly obtains. We therefore travelled to Istanbul, Ankara, Adana, Gaziantep and Pazarcik. By attending the Turkish Human Rights Association (IHD) Annual Congress in Ankara, 14-15 October, it was also possible to meet IHD delegates from Izmir, Kayseri, Adiyaman, Malatya, Elazig, and Iskenderun, all places falling outside OHAL. Of these only Elazig ever formed part of OHAL. Our informants were the staff and members of human and social rights organisations, lawyers, journalists, health professionals, and representatives of the People's Democracy Party (HADEP). In addition, and much more significantly, we received oral statements from a wide variety of individuals who wished to tell of their own experiences, or those of close relatives, at the hands of the law enforcement and security agencies of Turkey. These statements (Appendix 1) comprise easily the most important part of the first edition of this report because they illustrate in a way we could not possibly achieve by our own reporting, the true nature and extent of human rights violations in Turkey.

Much of the evidence and other material in this revised report, however, has been published either in the Turkish or English language press over the past two or three years, or by human rights monitoring groups. It is included to demonstrate adequately the current situation in Turkey as it may affect those who decide to seek asylum in Britain or are at risk of being returned to Turkey.

The timing of the first report was largely determined by major developments for Turkey during 1999: the capture and trial of the PKK leader, Abdullah Ocalan, the unilateral ceasefire implemented by the PKK in August that year and, just as importantly, the acceptance in principle of Turkey's candidature for membership of the European Union in December 1999. With the PKK's military challenge extinguished and mindful of the long-articulated requirement of the European Union that Turkey must radically improve its human rights record, it seemed timely by October 2000 to attempt to assess the current human rights situation and the extent of the dangers from which asylum seekers claimed to flee. Finally, the incorporation of the European Convention on Human Rights (ECHR) into British domestic law on 2 October 2000 meant that in addition to the requirements of the 1951 Refugee Convention and the 1984 United Nations Convention Against Torture, the United Kingdom must take into account any violations of articles of the ECHR in the asylum process.

As luck would have it, some readers of the first edition of this report missed the significance of its timing. If the PKK had declared a ceasefire and had effectively been defeated in the field, it was a significant moment (twelve months after that ceasefire) to test whether this had led to any significant improvement in the human rights situation.

Objectivity
In at least one Tribunal Determination since that first report was drafted one country witness, myself in fact, has been trenchantly described as lacking ‘objectivity.’ Others may have been similarly criticised. It is a sufficiently important accusation to merit comment. It has sometimes been implicit in the phrasing of court determinations that the
Home Office *Turkey Country Assessment* (hereinafter *TCA*) is considered, if not necessarily perfectly informed, at least ‘objective’. I do not accept the truth of that observation any more than I would claim objectivity for any country witness, including myself. No one can honestly claim their own objectivity, for try as one might it is not possible for a human to be objective. The issue of reaching a judgement in human affairs remains a highly subjective task. A lack of objectivity is determined not only by the way facts or events are interpreted or by which facts are selected but also by which sources are taken to be the ‘most reliable’ or ‘best informed’ for the arguments put forward. It requires only a moment’s reflection to recognise that there can be no utterly ‘correct’ or ‘objective’ version of reality. In evaluating facts or events and in reliance on certain sources while giving less weight to others, everyone brings to bear their own life experience (and the set of values these experiences have inevitably fostered). Furthermore, those who look at the competing evidence produced weigh where *they* think the balance of truth most probably lies. That, too, of course is a highly subjective process.

All this is obvious. Yet having seen repeated references to objectivity or lack of it in a number of determinations, this observation evidently needs to be spelt out. I therefore fully accept responsibility for my choice of sources in this report, what weight I put on them and the evidence they contain. Readers will simply have to judge for themselves whether this report approximates better or worse to their idea of where they think the truth probably lies than other sources concerning the situation in Turkey to which they doubtless should also refer.

**About oral and written testimonies**

Until one is face to face with a torture victim recalling his or her ordeal, one may not realise the anguish and stress implicit in recounting what has taken place. It is in fact a form of re-living that nightmare. This will be immediately obvious to anyone who seriously tries to imagine themselves in the victim’s shoes. In the first edition we paid tribute to the courage and dignity of those who spoke to us. Many declined to speak, some through fear of retribution from agents of the State, others because revisiting their ordeal was too painful. One or two could speak of events until they faced recounting the moment of torture but then could not cope with telling us what had actually then transpired. It was too painful and too shameful. In its own way this, too, was a powerful testimony to the lasting psychological damage which torture inflicts. Judging by the more general information we received from human rights workers, such evidence as we recorded is an infinitesimally small proportion of the real extent of the human rights crisis in Turkey.

**Report layout**

Over the past couple of years, particular issues have become a routine matter of dispute between the legal representatives of asylum seekers and the Home Office. This report therefore seeks to provide evidence of what appears to be the reality in Turkey in the hope that this will help resolve such disputes and facilitate sound decision-making regarding asylum applicants.
Because Home Office refusal letters tend to articulate standard lines of argument, these have been used where appropriate as a point of departure for inquiry regarding specific issues. Other issues, not specifically argued in Home Office letters of refusal but nevertheless relevant to the human rights situation and indicative of the dangers asylum seekers flee, are also discussed.

An introductory background note on the Kurdish question in Turkey has been attached as Appendix 7 for those who may be unfamiliar with the longstanding nature of the conflict between the Turkish State and the Kurdish community of Turkey but who wish to be informed about it.
The general human rights situation 2002

The end of the PKK war in September 2000 and the expressed desire of Turkey to be considered a suitable candidate for membership of the European Union both gave hope for progressive and measurable improvements in the human rights situation. Judging by crude statistical evidence and by the verdict of Turkey’s leading human rights exponents, these hopes have not yet been fulfilled.

The pattern of violations certainly changed. There was a decline in violations in the countryside, albeit serious violations still occur there and serious risks remain. It is much harder to argue that the change is the consequence of a change of ethos within the security forces. There are compelling indications that the security forces still do not hesitate either to detain or to torture be it the countryside, in Diyarbakir in the east or Istanbul in the west.

Detention

It is frequently argued, for example in Home Office refusal letters, that an applicant’s claim to be a torture victim cannot be credible since the victim was released from detention without charge and therefore he or she can be of no further interest to the authorities. This line of argument ignores both what happens in detention and also the way detention is used, very often on a repeated basis to harass or intimidate. Relevant questions include: how many people are detained? Of these, how many are charged or imprisoned? What happens in detention?

We heard sufficient accounts of arbitrary detention to be persuaded that such people remain at significant risk anywhere in Turkey. No one knows how many persons are arbitrarily detained in Turkey because a large proportion of detentions at police stations appear to go unrecorded in a formal sense, while many detentions do not take place in police stations at all but in other locations away from public gaze. Furthermore, we were informed that gendarmes and police frequently did not know custody time limits, a point made by the UN Special Rapporteur.²

Anyone who has been detained in a gendarmerie or police station will be unable to prove it with any form of documentation. It is only once a defendant has been formally charged that he will be able to get access to documents relating to his case. He must therefore have appeared before either the public prosecutor or the court before he can produce any documentary evidence that he has been detained. Unless, therefore, an asylum seeker claims to have been charged, there should be no expectation that he can substantiate claims of detention with any form of documentary evidence.

The first consideration is that very large numbers of people are detained but never charged or gaol. Here are statistics which record those that have come to the notice of various human rights organisations, probably a fraction of the total number of detained:

In its report for 1998, the Turkish human rights organisation Mazlum-Der reported that out of 35,914 people whom it knew who had been taken into detention the number of people actually arrested was only 1,279, approximately 3.5 per cent of those detained.

For the same period, the Istanbul branch of another human rights organisation, IHD, reported it was aware of 23,312 people detained in Istanbul, of whom 560 had been formally arrested, approximately 2.4 per cent of those detained.

TIHV reported that it was aware of 48,095 persons detained by the police during the first eleven months of 1999. Of these, 2,056 were arrested, some 4.3 per cent of those detained.

These statistics indicate that over 95 per cent of those detained by the police were released without charge.

IHD’s current annual balance sheet has a slightly different criterion, but this again demonstrates the fact that ten times as many people are detained as are ever gaoled:

<table>
<thead>
<tr>
<th>Year</th>
<th>Detained</th>
<th>Gaoled</th>
</tr>
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<tbody>
<tr>
<td>1996</td>
<td>20,434</td>
<td>2,071</td>
</tr>
<tr>
<td>1997</td>
<td>27,308</td>
<td>1,273</td>
</tr>
<tr>
<td>1998</td>
<td>42,991</td>
<td>3,659</td>
</tr>
<tr>
<td>1999</td>
<td>50,318</td>
<td>2,105</td>
</tr>
<tr>
<td>2000</td>
<td>35,007</td>
<td>1,937</td>
</tr>
<tr>
<td>2001</td>
<td>35,389</td>
<td>2,634 (NB figures for Jan-Sept only)</td>
</tr>
</tbody>
</table>

The disparity is almost certainly much greater. The number of those gaoled is easily ascertained because it is a matter of public record. Yet only an unquantifiable proportion of the total of those detained is ever known to human rights organisations.

The second critical issue is what is likely to happen during detention. In its letters of refusal the Home Office sometimes argues that Turkey has every right to question those it suspects of involvement with, or support of, the PKK and other illegal organisations. It is a self-evidently reasonable statement until, that is, one discovers what 'questioning' means. The detention of so many persons without ever formally arresting them would remain a matter for concern in a parliamentary democracy even if one could be confident that such detainees were at no risk of physical mistreatment. That, however, is not the case. It is very well known indeed that there is a high risk of mistreatment in police custody anywhere in Turkey, not merely in the OHAL. Furthermore, this mistreatment, while predominantly used against political detainees is by no means confined to this category. Criminal suspects are also often mistreated.\(^3\)

This is what is reported in the United States Department of State Human Rights Report on Turkey for 1999:

'According to the Lawyers Committee for Human Rights, the secretive nature of arrests and detentions often leaves the detainee's lawyer and family members with no information about the detention, and police often refuse to disclose the place of detention or even the fact that the detainee is being held. The October 1998

regulations on detention and arrest procedures exempt the authorities from the obligation to inform relatives in the case of state security detentions. In addition legal limits on detention periods at times are circumvented by subjecting a detainee to successive charges or falsifying detention records. The police maintain 24-hour detention monitoring bureaux that are required to record detentions on computers, but AI [Amnesty International] reports an increase in unregistered detentions since 1997.\(^4\)

The United Nations Special Rapporteur on Torture reported following his visit to Turkey in November 1998:

>'The sources [of information] indicated that most cases of torture or ill-treatment occurred in the custody period before remand or release. Torture is allegedly still widely practised on those suspected of crimes falling under the jurisdiction of the State Security Courts (in particular terrorist offences), and among common criminals, on those charged with theft....'

>'The phenomenon of abducting and torturing or ill-treating people without bringing them into custody has allegedly increased in the past few years, especially in Istanbul and Ankara, as a method of circumventing the new regulations on custody periods.'\(^5\)

The fear of detention is not simply the product of rumoured mistreatment. The apparent ubiquity of mistreatment while in police custody has long been a standard refrain from human rights organisations actually working in Turkey. This is how the US State Department Turkey report put it in 2000:

>'Human rights attorneys and physicians who treat victims of torture say that most persons detained for or suspected of political crimes usually suffer some torture at the hands of police and gendarmerie during periods of incommunicado detention before they are brought before a court..... The HRF [TIHV] estimates...that only 5 to 20 per cent report torture because they fear retaliation or believe that complaints are futile.'\(^6\)

Mr Kazim Bayraktar, an Ankara lawyer of 20 years' experience in private practice, informed us that out of his current caseload, approximately 80 per cent of his clients had suffered torture. He also indicated how torture is popularly defined in Turkey:

>'If you say someone has been beaten, it is not considered to be torture. For us lawyers, however, it is exactly the same. It is torture.... If an [politically] 'active' person is detained, the Anti-terror branch will do everything to him [i.e. he will be severely tortured].'\(^7\)


\(^7\) Kazim Bayraktar, Ankara, 8 October 2000.
He also stated that many of his clients currently in detention have suffered torture, the physical signs of which he had himself witnessed.

**Torture**

There is a consensus among the leading international and Turkish human rights organisations about the ubiquity of torture methods.

‘No one who finds themselves in police custody in Turkey is safe from torture. Amnesty International has received well-documented allegations of torture and ill-treatment from the very old, the very young, women, members of minority groups, lawyers, doctors, even members of parliament. People have been tortured or ill-treated in connection with common criminal offences, for failing to show their identity cards, or after minor traffic infringements.’

Since this was written Amnesty remains convinced that torture remains endemic. In the words of its Annual Report for 1998: ‘torture continued to be widespread and systematic in police stations and gendarmeries... ’

In October 2001 Amnesty stated:

‘Unfortunately police stations are still places of horror for many Turkish people. Relatives and friends frequently contact human rights organisations because they believe their loved ones have been arrested and are at risk of torture and ill-treatment, death or “disappearance”... In Turkey torture mainly occurs in the first days of police or gendarmerie custody when detainees are held without any contact with the outside world. Detainees are routinely blindfolded during interrogations and some are held blindfolded throughout police detention. Other methods of torture and ill-treatment regularly reported include heavy beating, being stripped naked, sexual abuse, death and rape threats, other psychological torture, and deprivation of sleep, food, drink and use of the toilet. Some detainees are also exposed to electric shocks, hanging by the arms, spraying with cold pressurised water and _falaka_ (beating of the soles of the feet).’

The US Department of State report on Turkey for 2001 states:

‘Human rights monitors and medical experts say that security officials often use methods that do not leave physical traces, such as beating detainees with weighted bags instead of clubs or fists, or applying electric shocks to a metal chair where the detainee sits, rather than directly to the body. Commonly employed methods of torture reported by the HRF’s [TIHV] treatment centers include: Systematic beatings; stripping and blindfolding; exposure to extreme cold or high-pressure cold water hoses; electric shocks; beatings on the soles of the feet (falaka) and genitalia; hanging by the arms; food and sleep deprivation; heavy weights hung on the body; water dripped onto the head; burns; hanging sandbags on the neck; near suffocations by placing bags over the head; vaginal and anal rape with truncheons and, in some instances, gun barrels; squeezing and twisting of testicles; and other forms of sexual abuse. In some cases, multiple torture methods

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(e.g. hanging and electric shocks) are employed at the same time. Other methods used are forced prolonged standing, isolation, loud music, witnessing or hearing incidents of torture, being driven to the countryside for a mock execution, and threats to detainees or their family members.  

In its *Annual Report 2000* Amnesty International stated ‘After the arrest of Abdullah Ocalan, the number of reports of torture increased compared to the previous two years.’ The TIHV Human Rights Annual report for 2001, was presented at a press conference in February 2002 in Ankara by its president Yavuz Önen. Önen stated that 2001 had been the most repressive year yet, despite the debate on EU entry which involved calls for democracy from various groups and classes of society as well as for progress at a political level. He claimed that political, social and cultural rights of citizens and groups had been severely violated through measures taken to protect national unity, national security and the secular and democratic republic. Opposition parties in Turkey, he said, were subject to persistent and severe repression. The pro-Kurdish party, HADEP, had been subjected to easily the most repression such as arrests and detention. Such repression, aimed to silence critics of the regime, has also been directed at civilian and democratic organisations such as associations, foundations, professional associations and trade unions. During 2001 many events were either banned or prevented through massive police intervention. Although the number of murders by unknown persons had marginally reduced in 2001, there were still many such murders as well as disappearances, unlawful executions, deaths in custody, forced resettlements and village clearances. Children had again been the victims of arbitrary repression by the security forces. The incidence of torture has not declined despite legislative changes, training programmes and official notices. A total of 1,229 people approached the TIHV for treatment in 2001. Those officials responsible for torture continue to receive protection from the judiciary.  

The picture does not appear to have improved during 2002. Amnesty International reports:  

‘During visits carried out in 2002, to 13 provinces in different regions of Turkey, Amnesty International delegates found that all the factors that contribute to the persistence of systematic torture and impunity for perpetrators, and which we documented in October 2001, are unfortunately still in place…. [In its October 2001 report] Amnesty International concluded that torture was still widespread and practised systematically in the sense that it was a pervasive technique of law enforcement agencies for the purpose of investigation, securing confessions and intimidation – regardless of approval or disapproval at the higher levels of the public service or by the government’s political leadership.…

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12 Issued by the Documentation Centre of the Turkish Human Rights Foundation (TIHV).  
13 Amongst the targets for police and state prosecutors in 2001 were the trade union KESK, the medical association Türk Tabipler Birligi, the Lawyers Association in Istanbul, the trade union Yargi-Sen, the Turkish Human Rights Association IHD and the Turkish Human Rights Foundation TIHV. Turkish legislation had been amended to enable action to be taken against these groups.  
14 As reported by *Yedinci Gündem*, 15 February 2002.
‘In 2002, Amnesty International has observed an increasing use throughout the country of more sophisticated torture methods that do not leave visible marks. However, people who are believed to have little access to legal and medical aid continue to be exposed to torture methods such as electric shocks, hanging by the arms and *falaka* (beating of the soles of the feet). Detainees are routinely blindfolded during interrogation. Other methods of torture and ill-treatment regularly reported include severe beating, spraying with cold pressurised water, being stripped naked, sexual abuse, death and rape threats, other psychological torture, and restriction of sleep, food, drink and use of the toilet. Women and girls taken into custody are reportedly regularly sexually abused and threatened with rape.’¹⁵

In weighing the serious nature of torture we record the kinds of torture reported to TIHV in its survey of clients in 1998. Of its 706 applicants in 1998 sufficient data for the survey was provided by 673 victims. Torture methods were reported as follow:

<table>
<thead>
<tr>
<th>Method</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insults/threats</td>
<td>97.3 %</td>
</tr>
<tr>
<td>Threaten with physical abuse</td>
<td>89.9 %</td>
</tr>
<tr>
<td>Beating</td>
<td>87.8 %</td>
</tr>
<tr>
<td>Death threat</td>
<td>78.3 %</td>
</tr>
<tr>
<td>Blindfolding</td>
<td>75 %</td>
</tr>
<tr>
<td>Restricting food/water</td>
<td>57.5 %</td>
</tr>
<tr>
<td>Forcing to remain on cold floor</td>
<td>56.9 %</td>
</tr>
<tr>
<td>Threats against relatives</td>
<td>56.9 %</td>
</tr>
<tr>
<td>Restriction defecation/urination</td>
<td>54.2 %</td>
</tr>
<tr>
<td>Sexually harassed</td>
<td>49.7 %</td>
</tr>
<tr>
<td>Electrical torture</td>
<td>45.2 %</td>
</tr>
<tr>
<td>Solitary confinement</td>
<td>44.8 %</td>
</tr>
<tr>
<td>Forcing to witness/hear torture</td>
<td>44.4 %</td>
</tr>
<tr>
<td>Stripping victim naked</td>
<td>40.6 %</td>
</tr>
<tr>
<td>Sleep deprivation</td>
<td>38.1 %</td>
</tr>
<tr>
<td>Pressurised/cold water</td>
<td>36.4 %</td>
</tr>
<tr>
<td>Pulling out hair/moustache</td>
<td>34.5 %</td>
</tr>
<tr>
<td>Exposure to loud music</td>
<td>32.8 %</td>
</tr>
<tr>
<td>Suspension of some form</td>
<td>26.2 %</td>
</tr>
<tr>
<td>Squeezing testicles</td>
<td>26.2 %</td>
</tr>
<tr>
<td>Forced extreme physical activity</td>
<td>24.7 %</td>
</tr>
<tr>
<td>Suggesting person acts as informer</td>
<td>23.9 %</td>
</tr>
<tr>
<td>Mock execution</td>
<td>16.9 %</td>
</tr>
<tr>
<td>Falanga [sic]</td>
<td>16.3 %</td>
</tr>
<tr>
<td>Forcing to obey meaningless orders</td>
<td>16.3 %</td>
</tr>
<tr>
<td>Suffocation</td>
<td>11.0 %</td>
</tr>
<tr>
<td>Torturing in presence of relatives</td>
<td>9.4 %</td>
</tr>
<tr>
<td>Burning</td>
<td>4.3 %</td>
</tr>
<tr>
<td>Rape</td>
<td>2.8 %</td>
</tr>
</tbody>
</table>

Other  22.0%

The torture victims also indicated that they were tortured by more than one method, and half of them stated that they were tortured by all of these methods; 488 of the victims have problems with their muscular and skeletal systems, and 207 of them with their urea-genital systems. Some 276 had sleeping disorders, 262 experienced mental distress and 223 had problems concentrating. Other problems experienced by the torture victims were reduced sleep, fatigue, nervousness, bursts of anger, memory problems, acute insomnia, alienation and depression.\textsuperscript{16}

The Medical Foundation for the Care of Victims of Torture recorded the incidence of various forms of torture among 78 clients from Turkey:

<table>
<thead>
<tr>
<th>Physical</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Beating, kicking, punching</td>
<td>90%</td>
</tr>
<tr>
<td>Whipping, beating with implement</td>
<td>79%</td>
</tr>
<tr>
<td>Falaka (bastinado)</td>
<td>58%</td>
</tr>
<tr>
<td>Electrical torture</td>
<td>53%</td>
</tr>
<tr>
<td>Suspension, other hanging</td>
<td>38%</td>
</tr>
<tr>
<td>Cold water, hosing</td>
<td>37%</td>
</tr>
<tr>
<td>Sexual assault, rape</td>
<td>23%</td>
</tr>
<tr>
<td>Heat, burning, acids etc</td>
<td>22%</td>
</tr>
<tr>
<td>Enforced standing</td>
<td>9%</td>
</tr>
<tr>
<td>Immersion</td>
<td>9%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Psychological</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Blindfolding</td>
<td>63%</td>
</tr>
<tr>
<td>Deprivation of or foul food</td>
<td>47%</td>
</tr>
<tr>
<td>Threats of violence/death threat</td>
<td>40%</td>
</tr>
<tr>
<td>Isolation, solitary confinement</td>
<td>32%</td>
</tr>
<tr>
<td>Deprivation fluids/or foul water</td>
<td>29%</td>
</tr>
<tr>
<td>Sight/sound others being tortured</td>
<td>22%</td>
</tr>
<tr>
<td>Denial of toilet</td>
<td>21%</td>
</tr>
<tr>
<td>Threats of violence/death to others</td>
<td>15%</td>
</tr>
<tr>
<td>Sleep deprivation</td>
<td>6%</td>
</tr>
<tr>
<td>Loud noises/music</td>
<td>3%</td>
</tr>
</tbody>
</table>

This is what IHD has said on torture in Istanbul, a major destination for displaced Kurds: "Noting that people are being tormented in a great number of places, from Belgrad Forests to gendarmerie and police stations, the report stresses that 99 people reported that they had been tormented at the Security Directorate in Vatan Avenue [Caddesi]. The report lists the frequently used torture methods as

\textsuperscript{16} Human Rights Foundation of Turkey, \textit{Treatment and Rehabilitation Centers Report}, Ankara, December 1999, pp. 24-42. See also \textit{Turkish Daily News} August 10, 1999, pp. 31-32.

\textsuperscript{17} Medical Foundation for the Care of Victims of Torture, \textit{Staying Alive by Accident: Asylum seekers from Turkey in the UK} (February 1999) p.45.
follows: "Palestinian hanging, electric shocks, subjection to bastinado [falaka], beatings, squeezing the testicles, subjection to pressured water, rape by use of truncheons, sexual assault by hand and rape, forcible eating of human excrement, forcible viewing of pornographic movies, attempts to cut off the penis with a shaving blade, and death threat."

It should be noted that fear, or experience, of Vatan Caddesi security headquarters was frequently expressed to us by those we interviewed in Istanbul.

In the first three months of 2002, TIHV identified 80 incidents of torture. It views these as a fraction of the total. In a footnote it states

‘These figures have been collected from some HRA [IHD] branches and from the press. It should not be forgotten that this figure do not (sic) reflect the real picture of the torture as individuals who have been taken under custody from ordinary crimes and received torture do not generally know how to defend their rights and as it is difficult to get information from places other than big cities.’

Furthermore, local human rights organisations reported the tightening of State control in the mainly Kurdish south-east, a fact reflected in the apparent increase in Amnesty International Urgent Action notices for torture victims in that region.

The Turkish Human Rights Association (IHD) expressed similar dismay at the complete lack of progress. In August 2001 it made a statement about the situation, and this was reported by Reuters:

‘There has been a sharp increase in allegations of torture and curbs on freedom of expression in Turkey, the country's Human Rights Association (IHD) said on Thursday. IHD head Husnu Ondul said 435 people had complained of torture in detention in the first half of this year, compared to 263 for the same period last year and 334 for the same period in 1999.

“It is clear that no improvement has been made in getting rid of torture since 1999,” Ondul told a news conference to present the association's half-yearly report on human rights in Turkey.... According to IHD figures, prosecutors charged 1,519 people in the first half of this year for views expressed in speeches or writing, and sought jail terms totalling 3,125 years for them. The human rights group did not say how many people had been charged in previous years, but said the total jail terms sought in the first half of 1999 amounted to 372 years, and 813 years in the first half of last year.’

The tally of torture incidents which have come to its attention shows no decline in the practice. On the contrary, if anything it reveals either that there is an increase, or that more people are reporting it:

18 Hoisting by the arms, which have already been tied behind the victim’s back, leading to severe strain to arm sockets and their probable dislocation.
Like TIHV, IHD reports the incidents of which it is aware. It cannot know the totality. In 2000 it reported 1,023 clients applied to its clinics. In 2001 the figure was 1,200. It is not possible to draw much conclusion from these two figures, since the figures do not reflect the number of tortures occurring in a single year, and may only reflect a growing courage on the part of the torture victims. Perhaps it is more noteworthy to consider the view of human rights advocates who vary in their assessment that this is only the tip of the iceberg, which in their view may be anything between five and twenty times greater than the number of TIHV clients indicate.

Sexual abuse and rape
The stripping of men and women is a common technique to degrade. Many are fondled, sometimes on their genital organ, or suffer sexual threats or innuendo. Turkish law, we were informed, does not specifically proscribe sexual abuse. Rape is defined as penetration by the male organ, not by an inanimate object. For statements involving rape or extreme sexual abuse see Appendix 1, Statement Nos. 3, 5 and 23. We believe others who testified could not admit that sexual torture had also happened because of the shame they felt.

In October 2001 Amnesty International report cites figures from a Legal Aid project for female victims of rape based in Istanbul in the period from mid-1997 to November 2000: 132 women sought help from a Legal Aid project. Ninety-seven of these women were Kurdish. The alleged perpetrators were police, gendarmerie, soldiers and village guards.

For their involvement in a conference in June 2000 nineteen organisers and speakers were charged with various offences, in particular under Article 159 of the Penal Code for ‘insulting the security forces.’ Former detainees (or family members of detainees) who spoke at a conference in late 2000 about their sexual abuse under detention at various times during the last seven years were indicted in March 2001 under Article 159 of the

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22 Statistics taken from IHD website.
23 A virgin must bring evidence of rape within 7-10 days, and a non-virgin within 48 hours in order to get a medical report. Even if a victim is able to get such a report, it must be confirmed by a state authority.
Penal Code for ‘insulting the security forces.’ In May 2001 new charges were brought against five of these women under Article 312 of the Penal Code on the grounds that they ‘incited racial and religious enmity’ by using the expression ‘Kurdish women’ in their speeches.\textsuperscript{25}

In September 2002, Amnesty International reported continued and widespread sexual abuse and rape while in custody, examples are included in Appendix 2.\textsuperscript{26}

**Freedom of expression and assembly**

IHD statistics indicate that there has been no decrease in the number of violations against freedom of thought and association. There has been a significant increase in the requested imprisonment terms and a slight increase in the number of years of imprisonment requested for crimes of thought or association.

<table>
<thead>
<tr>
<th>Year</th>
<th>Imprisonment Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>174 years (rounded)</td>
</tr>
<tr>
<td>1997</td>
<td>259 years</td>
</tr>
<tr>
<td>1998</td>
<td>2,278 years</td>
</tr>
<tr>
<td>1999</td>
<td>525 years</td>
</tr>
<tr>
<td>2000</td>
<td>1,737 years</td>
</tr>
<tr>
<td>2001</td>
<td>3,758 years (NB Jan-Sept only)</td>
</tr>
</tbody>
</table>

These statistics show an unmistakable upwards trend, probably reflecting a determination to stifle public debate following the decline and end of the PKK guerrilla war. As the TIHV Chairman, Yavuz Onen, declared in October 2000, 'Things are not only as bad as ever; in some departments they are getting worse.' The attempt to stifle debate or indeed any assistance to victims of torture was evident in 2001 in raids on both TIHV and IHD premises, the confiscation of files and the harassment or charges brought against certain personnel in both organisations. These actions are a clear indication of the continuing determination of the security forces to silence those who criticise or query the way the Republic is governed, unless they belong ‘inside’ the accepted Turkish establishment.\textsuperscript{27}

In January 2002, for example, Amnesty International reports that Yuksel Azak, a distributor for \textit{Yedinci Gundem}, a member of IHD and of HADEP, was detained in Bingol. He was held for three days during which time he says he was given electric shocks to his toes and genitalia and was hooded with a plastic bag. He also was reportedly put on a hanger. When he appeared before the prosecutor he complained about his treatment. Because the doctor only looked for visible wounds and gave him no medical report, his complaint was dismissed.

Turkey remains essentially an authoritarian state, not a democracy. Every four years or so it may go through the motions of an election, but whatever government comes to power is subject to the overall governance of the National Security Council (MGK). This was


\textsuperscript{26} Amnesty International, \textit{Turkey: Systematic Torture Continues in 2002}.

\textsuperscript{27} Amnesty International, \textit{Turkey: Systematic Torture}.
tellingly demonstrated when the Islamic Refah Party attracted the largest number of votes in July 1996. It formed a coalition government with the True Path Party, but it was not long before the MGK required the government to take measures to restrict Islamic expression. When the government dragged its feet, the MGK ensured that the government was unable to continue.\textsuperscript{28} At the time of preparation of this second edition, May 2002, the indications are that the MGK fears an election because opinion polls indicate that Refah’s successor, the Justice & Development Party, would almost certainly win. Its leader, Recep Erdogan currently faces corruption charges: By launching a legal offensive against Erdogan, it seems intended to undermine the party’s electoral chances.\textsuperscript{29} Whether one looks at the main arena of politics, or issues such as freedom of expression or assembly, it is apparent that the will of the people is subordinated to the State ethic of control.

**Changes in the Constitution**

It is not intended to examine in any detail the constitutional and legal changes that have taken place in Turkey over the past year or so. Major changes took place notably in October 2001 and March 2002, but as stated in the opening introductory section, the only real issue that counts for those claiming asylum is whether they are at risk of persecution, regardless of how enlightened or otherwise the law may actually be.

Although human rights organisations say the reforms are some improvement, they also emphasise that they do not go nearly far enough to transform Turkey into a parliamentary democracy with the rights and freedoms commonly accepted throughout the EU. Article 90 of the Constitution, for example, remains un-amended, which ensures that national laws continue to have precedence over international treaty and convention undertakings. Furthermore, what new liberties have been introduced can still apparently be curtailed when they threaten ‘national security, public order and safety, the fundamental principles of the Republic and the indivisible unity of State and Nation’, \textsuperscript{30} which leaves those seeking political, cultural or ethnic rights for people who are not ethnic Turks more or less where they were before. Indeed ‘the [reformist] head of the Court of Appeal, Judge Sami Selcuk said the amendments were “a waste of time” and expressed the hope that Turkey would get an entirely new constitution.\textsuperscript{31}

One of the most significant aspects of the reforms is the way in which the Kurdish issue has proved a particular sticking point. In Nicole Pope’s words:

‘The constitutional changes were voted in by parliament in record time to ensure a favourable mention in the EU annual progress report which came out last October. The European Commission duly welcomed the reforms which, in theory, brought greater freedom of expression and implicitly lifted a ban on Kurdish broadcasting and publication.

‘But on the implementation front the government has shown less enthusiasm. In fact, the partners in the ruling coalition have delayed

\textsuperscript{28} The veteran Turkey specialists, Nicole and Hugh Pope described the growth of MGK pressure in *Middle East International*, Nos. 530, 545, 547, 549, 552 and 553 in the period July 1996-June 1997.

\textsuperscript{29} *Middle East International*, No. 675, 17 May 2002.

\textsuperscript{30} *Middle East International*, No.660 , 12 October 2001

\textsuperscript{31} Ibid.
bringing existing laws in line with the updated Constitution for months, mainly because they were aware that the debate would inevitable create tension within the government.

‘The far-right Nationalist Action Party (MHP) [see p.62 on this party] the second largest coalition partner, remains convinced that giving the population greater freedom would result in the disintegration of the state. As a result the revised text of Article 312 – an infamous piece of legislation often used to jail dissident intellectuals who have “incited the population to hatred by showing social, class, race or religious differences” [i.e. to silence leftists, Kurds or Islamic revivalists] in their speeches or articles – and Article 159, which deals with insults to the state and its institutions, falls far short of what the EU, and the Turkish public, expected.

In fact, many believe the revised drafts, penned in the usual vague style, could broaden rather than narrow the field of application of these laws.’

To this she later added:

‘Turkey has yet to define the limits of freedom of expression. Ecevit’s “mini-democracy package” passed through parliament with opposition support despite objections from coalition member the Nationalist Action Party (MHP), but the reworded articles none the less fell far short of EU expectations. ....The Radio and Television Higher Council closed down a local television station in Diyarbakir for one year for airing songs in Kurdish, despite last autumn’s constitutional amendment, implicitly lifting the ban on Kurdish broadcasting.’

Following the second raft of reforms, passed through parliament on 26 March, Pope reported

‘... they fell short of meeting EU expectations....An amendment to the press law lifts a ban on publishing in a “forbidden language”, thus implicitly opening the way to publications in Kurdish which have, at times, been tolerated. A new law makes it more difficult to close down political parties [the State has closed down over 17 parties since 1980]...

In an attempt to put an end to torture, which is endemic in Turkey, a new rule was introduced that will require torturers to pay compensation to their victims themselves if the European Court of Human Rights awards damages.

‘But while human rights groups welcome these changes, they say implementation is often not consistent with their spirit. The wording often leaves the definition of a crime very vague, allowing judges to interpret the law according to their own views.’

One can sense the strength of opposition to these reforms at the highest levels of the security forces. In early March 2002, on the eve of the second raft of reforms, the General

32 Nicole Pope, in Middle East International, No 668, 8 February 2002.
33 Nicole Pope, in Middle East International, No 669, 22 February 2002.
34 Nicole Pope, in Middle East International, No 672, 5 April 2002.
Secretary of the National Security Council (MGK) called on the government in Ankara to abandon its plans for EU membership. Until then the Turkish military had officially supported Ankara’s EU ambitions. A four star general, Tuncer Kilinc, called for a radical change to Turkish foreign policy. He said that the EU would never accept Turkey. Alongside their relations to the USA, Turkey should now therefore look for closer cooperation with Russia and Iran. Kilinc emphasised he was only speaking for himself. The general represents the conservative tendency within Turkey which opposes many reform plans from the government’s majority. In short, the legal reforms now being carried out face enormous internal opposition from conservatives who are undoubtedly very strongly represented in the security forces.

It remains to be seen how the November 2002 election result will affect constitutional change.

**Turkish Parliamentary Commission on Human Rights**

One of the more remarkable features of the work of both TIHV and IHD is how inadequate has been the attention given to their findings in official fora, particularly by governments of the European Union. It is therefore all the more important that their findings over several years were confirmed from an unimpeachable source, the Turkish Parliament's own human rights commission. This is how *Agence France Presse* reported it in May 2000:

"The Turkish parliament's human rights commission has published six [in fact an eventual total of 10] reports that describe in grim detail what commission members call widespread torture in detention centres across the country. Appearing for the first time in book format, the reports, obtained by AFP on Friday, were penned by the commission in 1998 and 2000 following visits to police stations and prisons, and include interviews with officials and detainees who said they were mistreated in police custody. Ankara, whose candidacy for European Union membership was accepted last December, must now implement extensive democratisation reforms before it can start accession talks with the bloc.

It is the first time the commission has issued such a comprehensive work since its establishment in 1991, an expert working with the commission told AFP on Friday. "The reports investigate the conditions in prisons and police stations, what sort of problems detainees face and to what extent the current legislation is being followed," he added.

"The books, which have been distributed to MPs but will not be sold in book stores, draw a shocking picture in which detainees describe how they were beaten, sprayed with high-pressure water and given electric shocks in often hidden cells in various police stations.

"In an interview in February, a 16-year-old detainee, charged with car theft, explained how he was woken up by police officers in the middle of the

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night, made to crouch in a barrel full of water for two hours before being beaten
with a truncheon.

‘In the same interview, another detainee, aged 17, described his
mistreatment by a senior police officer in an Istanbul station who is famed for
spraying victims with water and then beating them with a length of rubber hose.

‘A majority of the interviewees said they never filed complaints over their
mistreatment because their torturers told them not to and because such claims
were generally ignored by relevant authorities. In subsequent visits to the stations,
commission members found sound-proof torture chambers that matched
descriptions given by victims, who were often blindfolded before torture sessions
would begin.

‘The books also feature photographs taken during commission visits to
detention centres depicting suspected instruments of torture, such as a long piece
of wood which is believed to have been used in suspending victims in mid-air in an
Istanbul police station.

‘Another photograph shows open-ended electricity cables in the
interrogation room of the security department in the eastern province of Erzurum.
In a 1998 visit to a prison in the south-eastern city of Sanliurfa, commission
members met a detainee who said he had just emerged from a torture session in
which police forced him to confess stealing a tractor and selling it. The 31-year-
old detainee, with visible marks and bruises on his body, explains how he was
suspended from the ceiling from his feet and allowed to drop on his head.

‘One of the worst cases involves a man convicted of membership in a
terrorist organization whose five-year-old son was forced to witness his torture in
1994.

‘A comparison between reports from 1998 and 2000 shows little
improvement in the physical conditions in police stations, but nonetheless
underlines the continuing use of torture. Turkey often comes under fire from its
Western allies and international rights groups for its bleak human rights record,
especially allegations of systematic torture by security forces.’36

It is noteworthy that the Chairman of the Turkish Parliamentary Human Rights
Commission, Dr Sema Piskinsut, herself a medical doctor as well as an MP with the
Democratic Left Party, was removed from her post as Chairman in late October, 2000.
European observers generally recognise that it was as a result of her courage that the
reports did not flinch from the truth. During her impromptu inspections of nearly 600
prisons, Dr Piskinsut interviewed nearly 9,000 prisoners, examining some of them
herself. Facing down the policemen who guard its entrance, Dr Piskinsut brought into
parliament torture implements she had collected from police stations, such as the
“Palestine hanger”, from which prisoners are hung by their arms. They remained on
display in her office.37 Chairmanship of the Commission has passed to a nominee of the
National Action Party (MHP). MHP, an extreme right wing party, has been popularly

36 Agence-France Presse, 26 May 2000.
37 "Darker clouds, a few gleams yet" (Turkey's Rights Situation) The Economist, Nov 2nd 2000.
associated with illegal activities and human rights violations by the security forces as well as with the so-called Turkish mafia (see p. 62).  

**Pressure to become an informant**

Quite often a Home Office refusal letter concludes that someone was at too low a level either as a sympathiser or as an ordinary member of an organisation credibly to claim that they had been tortured and threatened to become an informer. Their case is therefore dismissed. Quite a number of such claims have cropped up lately. In fact Amnesty International has also received confirmation of such occurrences from citizens of Turkey who have not left Turkey and who do not apparently intend to seek asylum elsewhere. In addition TIHV, as listed above (under ‘torture’) found that 23.9% of its torture victim clients in 1998 reported they had come under pressure to become informers.

Here is an Amnesty example:

‘Student Erdal Bulut [20 years old] is being followed and threatened, apparently by plainclothes police. He has been tortured by police before, and Amnesty International believes he is in grave danger. He has gone into hiding, in fear of his life. When police reportedly detained and tortured Erdal Bulut in November 2000, they pressured him to inform on political organisations at Bogazici University, Istanbul, where he is a student. Since then he has received threats and has been followed and harassed by police in an apparent effort to get him to act as an informer. … In a written testimony to the IHD, Erdal Bulut stated that in November 2000, three plainclothes police boarded the minibus he was riding in the Mecideyekoy district of Istanbul. They blindfolded him and started to beat him. They then threatened to kill him. The police forced the minibus to drive around for some time. Because he was blindfolded, he did not know where he was when the police took him out of the bus. They kept him for two days in a room like “the inside of a septic tank”, handcuffed and blindfolded at all times. Erdal Bulut states that electric shocks were applied to his hands and feet, and he was severely beaten when he was taken out for interrogation. His interrogators wanted him to inform on political groups at his university. They apparently told him “… from now on you will tell us all that happens at your school.”’

Another Amnesty case involves a Mr Emrullah Karagoz, aged 23, who was detained in Diyarbakir on 27 March 2001. ‘It is reported that during his interrogation, he was

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38 European Union diplomats have raised concerns over the removal of Dr Pişkinşut from her post as chair of the parliamentary Human Rights Commission. EU diplomats consider her reports and efforts to better Turkey's human rights record constituted one of the rare positive developments in Turkey in the post-Helsinki period, see 'Pişkinşut's removal another blow to Turkey's image' by Selcuk Gultasli, *Turkish Daily News*, October 28, 2000. It is noteworthy that in connection with the transfer of the commission chairmanship to MHP deputy Huseyin Akgul, the MHP vice-chairman, Ismail Kose, reportedly informed *Yeni Binyil* (New Millennium) that 'there are no human rights problems in Turkey and that in future the Turkish government should concern themselves less with breaches of human rights' and 'there are human rights violations in Chechnya and other parts of the world which the committee should be concerned with.' International Association for Human Rights of the Kurds (IMK) *Weekly Information Service*, Nos. 84-85, 21 October-3 November 2000.

blindfolded, beaten, sworn at and threatened with death. He was made to sign a statement without having read it. He was also told that “If you do not work with us, you will not be able to live here, you won’t be able to finish university. “ He was held in a small cell with three other detainees, with only a concrete ledge for one person to sleep on. He was not given any food for three days and had loud music played into the cell. He was regularly taken out of his cell and had his head pushed next to the loudspeakers.’ He was released in early July 2001.40

Relatives at risk of torture

There has been a steady trickle of evidence over the years that relatives of ‘wanted’ persons are also at risk of torture and serious mistreatment. Some of the statements we received are indicative of the ease with which relatives or friends can be mistreated. Indeed, the threat to rape or torture a parent in front of family members is clearly also a severe form of psychological torture for the spouse, parents or children who must witness the abuse. Eren Keskin, chair of IHD Istanbul not only gave us categorical confirmation that relatives of wanted persons were liable to torture, but that the ‘wanted’ might relate to what we would view as a trivial misdemeanour:

'Relatives are at risk even when a wanted person has merely participated in banned meeting.'

Oral Statement No 8 (p. 103, Appendix 1) provides a clear example of the way a whole family can be brutalised on the most superficial grounds. In fact it is difficult to escape the conclusion that on many occasions the victims are little more than fodder for the sadism of police and Special Teams, etc., which their principals are well aware of but seem to have done little or nothing to prevent.

The Climate of Impunity

There are many cases where investigations have not led to the prosecution of those responsible for criminal acts. In some cases these reach into the higher echelons of government. In November 1996 a major car crash at Susurluk revealed for the first time the close links between right wing mafia gangs, the security forces and the political world. Four years after this incident, despite a comprehensive parliamentary enquiry none of the main characters has been convicted. Mehmet Agar, former interior minister, and Sedat Bucak (sole survivor of the actual car accident), a Kurdish landlord and deputy for the True Path Party, regained their parliamentary immunity of which they had been stripped and have been cleared of any wrongdoing, despite well-known incriminating facts surrounding the case.41 It is widely believed that the enquiry threatened to incriminate people at the very heart of the Turkish Establishment. For many observers, quite apart from racketeering, Susurluk was a litmus test for probity in matters involving extra-judicial killings and other politically motivated crimes, a test which the State failed.

41 See, for example, Nicole Pope in Middle East International, No 637, 10 November 2000.
Under Turkish law, ill treatment, torture and unregistered detention are all outlawed as criminal offences.\textsuperscript{42} Clearly, where a complaint is made, prosecutors should investigate and institute proceedings where the evidence indicates that the complaint is justified. Investigation should take place even if no complaint is made, if there are reasonable grounds for believing torture or ill-treatment has taken place,\textsuperscript{43} and implicitly such investigation should conclude with the prosecution of those responsible where such violations have occurred. Amnesty International states: ‘The Turkish government and judiciary have failed to fulfil the moral and legal responsibilities imposed by these standards. The reasons for the climate of impunity for torturers lie both within bad laws and bad practices.’\textsuperscript{44}

**Bad law and Bad Practice.**

Under Law 4483 of 2 December 1999 it is not possible to open an investigation against a civil servant who commits a crime unless the related superior grants permission. This continues discretionary powers vested previously in the provincial governor (since the Ottoman era) regarding any offence other than intentional killing. Between the beginning of 1999 and mid-2000 the governor of Diyarbakir did not give consent for a prosecution for torture to be initiated in any of 30 cases of complaint known to have been submitted to him.\textsuperscript{45}

Amnesty cites several examples of decisions by the prosecutor not to proceed with an enquiry. Here is one brief example:

‘According to reports three armed plainclothes officers, who introduced themselves as police from the Anti-Terror branch, came to the house of a 51-year old woman, K.Ö, in Adana at about midnight on 19 November 1999. They asked about the whereabouts of her daughter, whom they alleged had joined the PKK. After an attempt to strangle her, K.Ö. was reportedly blindfolded and raped with a truncheon. She was later found unconscious and bleeding. On 7 December she lodged an official complaint against the police officers and in February 2000 spoke publicly about what had occurred. Police officers have raided her house several times since then, beaten her and threatened her with death. The Adana State Prosecutor has issued a decision not to prosecute anyone over her complaint. Her lawyers appealed on 12 June 2000 against that decision. On 24 June a group of men wearing snow masks allegedly came to K.Ö.s house and tried to force her to sign a statement

\textsuperscript{42} Article 17 of the constitution provides that ‘no one shall be subjected to torture or ill-treatment incompatible with human dignity.’ Turkey is also a party to the UN Convention against Torture, the Convention on the Rights of the Child, Convention on the Elimination of all forms of Discrimination against Women, the European Convention on Human Rights and the European Convention for the Prevention of Torture. Article 243 of the Turkish Penal Code renders any civil servant or public employee liable to up to eight years’ imprisonment for torture, cruel or inhuman or degrading treatment. Article 181 of the TPC renders a civil servant liable to up to three years’ imprisonment for abusively depriving someone of their liberty. Article 452 of the TPC allows for 15 years’ imprisonment for unintentional killing by wounding or battery, and Article 450/3 provides for capital punishment for intentional killing.

\textsuperscript{43} UN Declaration against Torture, Article 9.

\textsuperscript{44} Amnesty International, *Turkey: Torture and Impunity*, p. 23

\textsuperscript{45} Evidence of S. Tanrikulu, TIHV Representative, Diyarbakir, given on 21 October 2000.
alleging that the person/s responsible for the rape were from the PKK. When K.Ö. refused, they beat her and pressed their guns against her neck. The last threatening raid in her home known to AI was on 10 June 2001, this time reportedly to make her withdraw her application to the European Court of Human Rights.\textsuperscript{46}

Amnesty claims that any prosecutor ‘presented with an allegation of torture in police custody is in a position to gather promptly a considerable body of evidence to support or refute the charge. Yet prosecutors are still very reluctant to respond to complaints and evidence of ill-treatment and torture. One of the close reasons is the close working relationship between prosecutors and the police.’\textsuperscript{47} It is at this point that one must ask whether, in fact, torture is not merely not investigated, but knowingly condoned by a broad swathe of senior officials. Arguably it is.

At a seminar in Izmir, the Turkish minister of state responsible for human rights, Nejat Arseven, revealed that in the years 2000 and 2001 a total of 1,472 police officers had been charged with mistreatment and 159 of torture. Of these, 36 had been sentenced to prison and 50 had been dismissed from duty.\textsuperscript{48} That means only 2.2 per cent of cases received a custodial sentence, and altogether 5.2 per cent (which presumably includes those imprisoned, so in reality means just another 3 per cent) were dismissed from duty. These statistics do not show significant change from official statistics for the preceding period, 1995-1999. Investigations of 577 security personnel accused of torture during this earlier period resulted in only 10 convictions, 1.7 per cent. In the same period 2,851 investigations into cases of ill-treatment ended with 84 convictions, 2.9 per cent.\textsuperscript{49}

On 28 January 2002, ‘R.D.’ was detained in Izmir on suspicion of theft. He was not yet 18 years old. He was reportedly beaten severely, given electric shocks to his penis and toes, beaten on his head, strangled, squeezed by the testicles and penis, deprived of food, drink and use of toilet. On his release he tried to obtain an alternative medical report of the injuries he had sustained while in custody. On 1 February the same police team detained him. During this second detention he states he was beaten and punched in the stomach and his hair pulled in order to make him withdraw his formal complaint. The office of the prosecutor decided not to open a case against the alleged perpetrators. The Izmir Bar has appealed against this decision.

On 5 March 2002, Aydin’s Criminal Court convicted, for the third time, 6 police officers to 5½ years imprisonment for torturing to death Baki Erdogan who was allegedly responsible for the DHKP-C in the Aegean region. Erdogan was arrested on 11 August and died ten days later, on 21 August 1993. The police officers had been convicted of the crime on 21 April 1998 and 25 June 1999. The Court of Appeal had reversed the original

\textsuperscript{47} Amnesty International, \textit{Turkey: Torture and Impunity}, p. 27.
\textsuperscript{48} Evrensel, 27 December 2001.
\textsuperscript{49} This information was provided by the Interior Minister in response to a written question by a parliamentary deputy, 12 January 2000.
conviction. The State Prosecutor had called for a not guilty verdict but the court upheld its original decision. The case will now again be put before the Court of Appeal.\footnote{Hürriyet, 6 March 2002.}

**Is torture sanctioned by the authorities?**
The findings of the Turkish Parliamentary Human Rights Commission 1998-2000 led to the following article in Ankara’s English language press:

> ‘Although President Suleyman Demirel and Prime Minister Bulent Ecevit say that torture is not a state policy and is not applied systematically, the recent report of the Parliamentary Human Rights Commission proves the reverse... The commission has prepared a report from their recent investigations in Turkish prisons, and it clearly proves that torture is still widely practised in many of them.... Perhaps the report's most significant finding was that trials of police officers for torture had been going on for two years and have yet to reach any conclusion.... Follow-up investigations of these claims continue on 16 police officers, while seven other officers have received official reprimands yet continue to work at their posts.

> ‘Commission Chairman and Democratic Left Party (DSP) Deputy Sema Piskinsut stated that those who were truly guilty of committing torture were not the low-and mid-level officials but rather those in the highest ranks, that is to say the governors and prosecutors. She also commented that the many governors and prosecutors do not conscientiously pursue their official duties and responsibilities and that therefore legal action should be taken against them.’\footnote{Turkish Probe May 14, 2000.}

The use of torture in obtaining a confession is openly accepted in court. Quoting an excerpt from Case No. 86 in the recently published report by the Turkish Parliamentary Human Rights Commission, the mainstream Turkish daily, *Milliyet*, printed the transcript of an exchange in court between a judge and the accused:

> 'The accused: "I have been taken to the court in Batman. We did not consent to the accusations."

> Judge: "You confessed."

> Accused: "The confessions were taken under torture."

> Judge: "Was it not possible for you to stand the torture another two days?"\footnote{Milliyet, 14 October 2000.}

Mr Bayraktar, an Ankara-based lawyer of twenty years’ standing made this observation in October 2000:

> 'I have not yet seen a statement obtained under torture discarded in a State Security Court. Such statements are always used for trial. Sometimes the file will contain a doctor's report confirming that the defendant has been tortured and yet the statement is still used as evidence.'\footnote{Mr Kazim Bayraktar, Ankara, 8 October 2000, quoted in *ASFT*, p. 30.}

The story of Dr Piskinsut’s career as chairman of the Turkish Parliamentary Human Rights Commission and her removal from the post is given on p. 26.
Quite apart from the findings of the Turkish Parliamentary Human Rights Commission there are compelling indications that senior echelons of government do indeed sanction torture:

- Interior Minister Sadettin Tantan indicated that in order for torture at the police stations to come to an end, first the citizens must change their mentality. He said: "The wronged people [victimised by criminals] put pressure on the police to have the wrong corrected. While the bar associations help the people who commit crimes, the injured party is left alone as if he is the criminal. No one should expect eradication of torture as long as the laws and social custom remain unchanged." Some officials have expressed fear of what might happen if the Turkish police are forced to abandon their traditional methods. "People are happy with the performance of the police," the deputy interior minister, Sami Sonmez, asserted at a parliamentary hearing last year. "The police are capable of extracting confessions from the culprits. What's the use of creating a lot of fuss as long as public opinion endorses what the police do?"

- At a public hearing [probably the same as referred to above] on the torture of detainees in police custody, Sami Sonmez also said that if the penalties for torture were reduced by law, the police would be "unable to act". The hearing was held in connection with the draft amendment to the law on torture that is now before the Justice Commission of the Turkish parliament. The amendment calls for prison terms up to eight years for convicted torturers. Present at the hearing and resistant to the proposed changes were the Deputy Secretary of the Interior Ministry, Sami Sönmez, the Deputy Director General of the Police and also a representative of the General Command of the Gendarmerie.

- Amnesty International has the following serious criticism to make:

  ‘AI has still not seen signs of serious and effective measures to combat torture and impunity. In March 2000, AI submitted detailed recommendations which have been known to the authorities for years. Almost none of them have been implemented. In November 2000, the European Union (EU) identified the strengthening of legal provisions and the undertaking of all necessary measures to reinforce the fight against torture practices as a short-term priority for Turkey. Although some legal changes were initiated, no actual measures were taken in the first half of 2001 to reinforce the fight against torture. A major legal change required for an effective fight against torture, namely the abolition of incommunicado detention, is not among the short term measures promised by Turkey in its National Program for the Adoption of the Acquis [The acquis communautaire or Community patrimony is the body of common rights and obligations which bind all Member States together within the European Union], but might be implied in the mid-term measures which are formulated in very general terms.

  ‘Further doubt is cast on the Turkish authorities’ declared disapproval of torture by the reported existence of sound-proofed interrogation rooms specially prepared and equipped for torture. In June 2001 a woman, whose

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blindfold slipped for a while, reported that the walls of her interrogation room at Diyarbakir Police Headquarters were covered with brown sponge. The Parliamentary Human Rights Commission found similar rooms. They published a total of 10 reports on their investigations into torture and ill-treatment. The reports, which contain pictures of detention places, interrogation rooms and torture equipment, as well as transcripts of interviews, represent an extraordinary step forward in official circles in documenting and acknowledging torture….

‘Another blatant example of how the authorities intervene against those who work against torture, instead of bringing the suspected perpetrators to justice, is the recent raid on the Diyarbakir office of the Human Rights Foundation of Turkey (TIHV) – one of five treatment and rehabilitation centres in different parts of the country….. Among the apparent reasons for this unacceptable assault on human rights activities are the reports prepared by TIHV which document the extent of torture in the country. These include indications of training for torture: TIHV has established that people independently report the same torture techniques being used at the different places in which they were detained. Detainees normally do not die from electro-shocks because the torturers obviously know how to apply shocks without killing.’

**Why is there no doctor’s certificate confirming mistreatment?**

It is extremely difficult to investigate or confirm torture without professional medical confirmation of injuries and their probable cause. Police are required to present detainees to doctors shortly after their release from police or gendarmerie custody. Amnesty International states:

‘Police and gendarmerie have developed strategies to avoid the risk of detainees securing a full medical report. Especially in cases when they do not expect the detainee to be remanded to prison, they seem to prefer methods of torture or ill-treatment which leave no visible marks, such as hosing with pressurised cold water, squeezing men’s testicles and women’s breasts, making the detainee stand or sit in uncomfortable positions for hours, food, drink and sleep deprivation and the widespread use of psychological forms of torture, especially threats of death and – in the case of women – rape…..When detainees are taken for official medical examination, they are reportedly often told by police officers that if they declare their injuries they will be brought back to the police station for further “interrogation”. According to many reports received by AI, medical examinations often take place in the presence of security officers who are either in the same room or within hearing distance in order to intimidate both the detainees and the doctors….When in spite of intimidation attempts, the detainee obtains a medical report confirming torture wounds, some security officers reportedly destroy these medical reports or go to a second doctor who does not register torture wounds….the frequently reported intimidation of doctors by the security forces leads to a degree of complicity on the part of doctors.’

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It is also true that torture victims are very apprehensive of seeking an examination by a doctor they do not know. If they have been tortured for political reasons, they need to know a doctor who they can be confident is someone who does not share the political outlook of the police.

Amnesty International has reported the rape of Hamdiye Aslan in custody in Mardin in March 2002. She was stripped naked and reportedly anally raped with a truncheon. The local Medical Chamber has opened a case against two doctors who wrote reports stating that she had not experienced torture. Another doctor who stated that her injuries were consistent with ill-treatment was transferred to Diyarbakir. In another case, Yuksel Bulut was detained in Gaziantep in April 2002. She was reportedly blindfolded, beaten, stripped naked, insulted, threatened with death, sprayed with cold pressurised water, sexually assaulted and filmed while naked. When she was taken to the state hospital she insisted that the police officers leave the room during her meeting with the doctor. Yet the doctor apparently did not write a report even after she told him what had happened.\footnote{Amnesty International, \textit{Turkey: Systematic Torture Continues}.}
Law, Legal Procedures, Unfair Trials and Prisons

The principle legal instrument used against Kurds is the Anti-terror law (No 3713) of 12 April 1991. Its ambit is so wide as to include in it virtually any group not subscribing to the Ataturk principles and legacy. Articles 1 and 8 provide ample indication of its illiberal intention:

‘Terrorism is any kind of action conducted by one or several persons belonging to an organisation with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by any one method of pressure, force and violence, terrorisation, intimidation, oppression or threat.’ Art. 1.

‘Written or oral propaganda and assemblies, meetings and demonstrations aiming at damaging the indivisible unity of the State of the Turkish Republic with its territory and nation are forbidden, regardless of the method, intention and ideas behind it.’ Art. 8.

As Human Rights Watch stated at the time of its enactment: ‘Law 3713 is so broad in its definition of terrorism that, for example, any two people who press for changes in the economic or social system of the country could be prosecuted. And there is no requirement that violent acts be committed in order to trigger the act.’

In practice it has been widely used thwart freedom of expression and assembly, to silence civil protest and to silence journalists whose analysis or reporting in the press raises unwelcome questions and issues. It has also been used to convict persons who succumb to making a confession under torture (see below).

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Despite legal reforms being carried out, those charged with overtly political crimes in the State Security Courts (DGMs) do not receive fair trials. On the contrary, they are subjected to trial procedures that fall far short of international standards for fairness. Political activists are charged in both Civil Courts with public order offences and DGMs under the Anti Terror law. They are at risk of receiving unfair trials in both kinds of court. We were informed that on 6 September 2000 the Chair of the Judiciary had made a speech in which he said that cases are often dealt with in an unlawful manner. In Mr Bayraktar's view, the fact that this statement elicited no public expression of outrage was indicative of how serious the situation had become.

In June 1999 civilian judges replaced military judges in the DGMs. This change was made in response to recommendations made by the European Commission (see footnote 35), but its timing was determined by the government's desire for international legal recognition of the trial of Abdullah Ocalan that month.

Mr Bayraktar argues that the change is largely cosmetic and does not demonstrate any real attempt to address the lack of fair procedures in DGMs. Having accepted that trials by military judges fall short of international standards, there has been no suggestion of reviewing previous verdicts. His view remains that judges are not impartial. An obvious structural problem to the impartiality of the legal process is the failure to separate the

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60 The European Commission has recommended a number of reforms of the Judicial system as part of the progression towards membership of the European Union. In a report from the European Commission on Turkey’s progress towards Accession dated 13th October 1999 it was recommended that:

“The main legislative change in the judicial system concerns the reform of the State Security Courts (SSC’s), which deal with the overtly political crimes. In 1998, the European Court of Human Rights stated that the presence of a military judge in the SCC panel violated the European Convention of Human Rights. More recently, in July 1999, the European Court delivered judgement in 13 cases lodged by individuals in 1994-1995. In nine of these cases, the Court concluded that the applicants had been denied the right to have their cases heard by an “independent and impartial tribunal” because they had been tried by a SSC.

Constitutional and legal amendments removing the military judge in the SSC’s were adopted by the TGNA [Turkish Grand National Assembly/Parliament] and entered into force on 22nd June 1999. As a direct effect of the reform, the military judge of the Ankara SSC in charge of the trial against Ocalan was replaced by a civilian judge on 23rd June 1999.

Such a reform should clearly improve the functioning of the SSC, even if there are still some doubts about their full rights offered to the defendants in these courts. According to Justice Ministry sources, more than 7000 cases are awaiting trial by SSC’s. A number of proposals made by the current government and the previous ones and currently in Parliament could have a positive effect on the functioning of the judicial system. These include:

A draft of the Penal Code which in particular lifts the death penalty; a draft law entitled “law on the prosecution of civil servants and other public officers” which facilitates the prosecution of public officers;

A draft law amending the Code of Criminal Procedure regarding new arrangements on witness protection, payment of compensation to witnesses, physical examination and genetic analyses.

Finally it has to be noted that the government announced its intention to develop existing training programmes for judges and prosecutors. These initiatives aiming at raising awareness and improving training in the human rights field are of great importance.”
powers of the executive and the judiciary. The chairman of judges is the Minister of Justice, and judges are appointed by the Government. In Mr Bayraktar's view, appointments are therefore overtly political and not open to scrutiny.

The president of Istanbul's Lawyers' Association, Yucel Sayman, as well as a number of other jurists, have criticised changes to the law on prison administration because of a massive infringement on the right to defence regarding Article 6. Paragraph 2 of Article 6 stipulates that the prison administration is to be informed of the lawyer's case when he enters a prison or a place of custody. "Nobody can demand to hand over confidential defence documents to the prison authorities", said Sayman. "Lawyers have a duty of confidentiality. This law will impose restrictions on the citizens' right to a defence". According to the lawyers such restrictions would lead to the lifting of prisoners' freedom to seek legal representation.  

Unfair practices in trials  Mr Kazim Bayraktar drew attention to a variety of unfair practices:

(i) Domestic law is framed and used to persecute political activists, as was confirmed to us by a number of lawyers who appear regularly in DGMs in Turkey. We were told that persons attending demonstrations, bill-posting or leafletting are liable to be convicted of membership of an illegal organisation. One may, for example, carry the placard of a legal magazine, but then be subject to a night raid at home, arrest and being charged with membership of an illegal organisation. The basis of the prosecution will be a police report confirming that the publication is the legal arm of an illegal organisation. A confession is likely to be obtained through torture. Someone so tried and convicted is liable to a custodial sentence of 15 years. For a shocking current examples, see Statements No 8 (in which writing a non-political graffito was the inciting reason for detention, torture and a forced confession to membership of an illegal organisation) on p.65 and No 27 (reading a legal publication) on page 77. The Manisa case, involving sixteen high school students, is another case in point. These students and their teacher were taken into custody on 25 December 1995, having allegedly written graffiti and rather less credibly having thrown petrol bombs, and were charged with membership or having links with DHKP-C, an illegal violent political organisation. They were subjected to torture, and convicted. An appeal court dismissed the decision, but it took four years of evasion before the torturers were finally convicted.  

(ii) The decision of which type of court a defendant will be tried in is a pragmatic decision made by the State depending on the political climate at the particular time. If, for example, someone participates in an unauthorised political meeting, he will be sent to a civil court, not the DGM. If, however, he chanted slogans deemed to challenge 'the indivisible unity of the State', the case would go to the DGM. Mr Bayraktar cited the 1993 Sivas incident (Alevi/Sunni conflict, see p.00) as an example of the State’s use of
both DGMs and Civil Courts selectively to prosecute political offenders. Those people who were involved in this incident were tried in three different courts:

(a) those who were physically present at the meeting [presumably attending the conference] in Sivas were tried in the Civil Courts that are empowered by law to sentence those convicted of offences between one year to five years.

(b) those who destroyed property [presumably the mob outside the hotel] were tried by another Civil Court empowered by law to sentence between five years to life.

(c) those who had been at the meeting [presumably those attending the conference] shouting slogans 'against the interests of the State' were tried in the DGM.

In fact the Appeal Court dismissed the decision and sent everyone to the DGM. The choice of court, in Mr Bayraktar's view, had depended on the political climate. The government of the day protected those (Sunnis/Rightists) protesting against the Alevi meeting. With a change of government the Appeal Court sent everyone to the DGM. Another case, we were told, involved the Islamic Fazilet (Virtue) Party politician, Fetullah Gulen. The Public Prosecutor in Ankara declared him a 'wanted man'. There was a strong public reaction. Prime Minister Ecevit made a public statement in which he apologised and described it as a mistake. The case was transferred to Istanbul where the Public Prosecutor dismissed the case. It is apparently well known that legal circles that the DGM in Ankara is very close to the National Security Council (MKG), which is strongly anti-Islamic, whereas the DGM Istanbul is closer to the Government, which is currently more pragmatic about political Islam.

(iii) If 'you know someone', i.e. have access to someone who can pull strings, the outcome of a trial can be very different from not knowing someone with influence.

(iv) Lawyer access to detainees. As stated under 'Arbitrary detention' (p. 17), until someone is formally arrested, there is no guarantee that lawyers will know about, let alone have access to, a detainee and the security forces are often unaware of legal custody time limits. Those detained without charge at a police or gendarmerie station are likely to have great difficulty in obtaining access to a lawyer. Lawyers are allowed immediate access to those individuals once charged with common crimes. However, the law does not provide for immediate access in the case of those charged with offences falling within the jurisdiction of the State Security Courts. Under Turkey's criminal procedure code incommunicado detention is permitted for up to four days in state security cases, with obvious dangers regarding torture and extraction of a signed confession. Furthermore, lawyers can face deliberate impediments and harassment from prison guards in representing those charged with 'overtly political crimes'. Mr Bayraktar described some of the difficulties: strip-searches of lawyers, close examination by prison officials of bags containing confidential documents regarding the client's defence, verbal abuse, assaults (see Statement No 24 on p. 76 for corroborative evidence), and listening to confidential discussions between lawyer and client regarding preparation of the defence. State Security Court judges are wholly unsympathetic to lawyers' complaints. Civil courts judges are less unsympathetic, but the same risk exists of harassment by prison guards when visiting those charged with criminal offences. Mr Bayraktar gave an example of obstructed access from his own experience. He is representing a client charged under the Anti-terror law. Originally his client was denied access to a lawyer by the prison

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64 Anyone who has been subjected to a strip-search will immediately recognise the humiliating nature of such searches, and that they undermine self-respect.
authorities. This denial of access continued for over one year. He made applications before State Security judges regarding the abuse of process taking place, because his client was unable to prepare his defence. The judge openly expressed the view that 'it is not my problem.' As a result of being denied access to a lawyer for over a year, his client was convicted and given the death penalty. He appealed to Strasbourg and a re-trial was ordered. Mr Bayraktar states that 18 months later Mr Mercan is in the same position, namely that he continues to be denied a proper opportunity to prepare his defence with his lawyers. Ankara lawyers, he said, currently refuse to visit prisons on account of the ill-treatment and assaults they receive from prison authorities.

(v) Finally, Mr Bayraktar drew attention to the deterioration in standards of evidence in trials. When he began practising law in 1980, a court would not allow convictions based upon uncorroborated confessions obtained in detention. Today convictions obtained solely on the basis of confessions obtained in detention, i.e. under conditions with a potential for torture, are commonplace. Corroboration of this point appears in the Turkish Parliamentary Human Rights Commission reports. Mr Bayraktar made the observation:

'I have not yet seen a statement obtained under torture discarded in a State Security Court. Such statements are always used for trial. Sometimes the file will contain a doctor's report confirming that the defendant has been tortured and yet the statement is still used as evidence.'

As noted, the verdict in the Manisa torture trial in November 2000 provides a very rare example of a court refusing confessions obtained under torture, but the case was still not concluded by September 2002.

Prisons The foregoing treatment of visiting lawyers gives a hint of prison administration and the absence of a law-observant regime. There have been a succession of serious incidents at prisons in the last couple of years. The most notable feature has been the ferocity with which disturbances have been suppressed or the authorities have re-asserted control.

Eight died Ulucanlar prison, Ankara, on 26 September 1999 during a JITEM (gendarme special forces) assault and two died subsequently reportedly under torture in the bath section of the prison. The official version includes allegations that inmates began shooting each other and that the security forces were disarming militant prisoners when the latter began shooting. However, no guards or other security forces appear to have been either killed or wounded, which implies either that the prisoners were outstandingly incompetent in the use of the firearms they supposedly possessed, or that the only firearms used were actually those of the assaulting government forces. Lawyers were not allowed access to the autopsies (which is usual in Turkey) but when the bodies were taken to mortuaries it was possible to photograph the bodies and these photographs revealed that the prisoners appeared to have been tortured. There were one hundred prisoners who were badly attacked and some were so badly injured that they are now disabled. Mr Bayraktar and colleague lawyers have produced a publication including statements from prisoners and photographs about the incident. The Turkish authorities

66 Mr Kazim Bayraktar, Ankara, 8 October 2000.
did not consider there to be any need for an enquiry into the incident. They charged some of the prisoners who had been killed with torturing other prisoners. At the first hearing they did not produce any prisoners at the hearing and gave the reason that there were not enough security officials to guard the defendants. There has been a dispute between the Courts about where the case should be heard. It is now being heard by the Civil Court and the first hearing was on 24th October 2000 (newspapers reported that prisoners were attacked by security forces during the hearing). The guards were found not guilty of causing the attacks. This case is being appealed to Strasbourg.

'In early July [2000] prisoners involved in a mutiny at Burdur prison were reportedly severely beaten, tortured and sexually assaulted when the authorities retook the ward they had occupied. Six of the prisoners involved in the mutiny were transferred to Bergama prison. Amnesty International has photographs of these prisoners, which show them bruised and battered, corroborating reports that excessive force was used in ending the mutiny.' 67

'According to other reports the prisoners were attacked with iron bars, truncheons, roof tiles and stones. Unconscious prisoners were allegedly dragged out of the prison with iron hooks. It was also alleged that security forces trampled over prisoners who had fallen, sexually abused unconscious female prisoners, and kicked them in the abdomen until they bled. Two days following the suppression of the mutiny, 41 prisoners were transferred to other prisons. A further 18 remained initially at Burdur. According to reports, they were placed in cells without beds and cells that were filthy with sewage.' 68

There have also been serious incidents at Bergama prison in July 2000. After the discovery of an escape tunnel 75 prisoners barricaded themselves in. Their wards were stormed with bulldozers and tear gas. No prisoners were injured while the authorities re-took control but when

'the 75 were transferred to Buca prison, they were reportedly thrown on top of [one] another into prison vans, which waited for two hours in the heat of the day in front of Buca prison. Several prisoners passed out. When they were eventually brought in, the prisoners were beaten by guards and gendarmes, who picked out certain prisoners for further beatings, when they had been brought to the second floor. One prisoner, Mesut Avci, is said to have had his jaw broken, and is having to be fed with a baby's feeding bottle.' 69

The Parliamentary Human Rights Commission has recently submitted a new report concerning excessive force and torture in police stations and prisons. Prisoners who were interviewed complained of mistreatment and torture with electric prods and cold water. The perpetrators also threatened to harass and intimidate the prisoners' relatives. 70

A major struggle is currently taking place regarding the introduction of isolation [F-type] cells replacing the ward system. The authorities want prisoners to be isolated in order to pre-empt collective acts of defiance by political prisoners who are detained together on wards. The ward system provides the context in which prisoners live together and support each other, and organise activities: education, political discussion, theatre groups, income generating activities (making and selling artefacts), teaching of literacy, and providing solidarity. Such activities make it harder for the authorities to target individuals. Because prisoners are thus able to defy the State it is feared that the State wishes to break prisoners physically and mentally. The State has been trying to introduce isolation cells for the past year. The introduction of isolation cells would, in Mr Bayraktar's view, lead to a dramatic increase in torture in prison. Some of his colleagues who have visited a prison where isolation cells have been built, state that the cells are built in such a way that guards can attack a prisoner without other prisoners being able to hear his voice. There have been a number of high profile hunger strikes to protest the introduction of isolation cells, and a number of deaths arising from these protests. Hunger strikes began in many prisons in October 2000. By 9 May 2002 fifty prisoners had starved to death. On 19 December 2000 security forces stormed twenty of the prisons involved. Thirty prisoners were reported to have been killed.

There have been protest demonstrations outside the prison system also. The harassment and torture of 'Mustafa' in statement No. 8 (p. 103) indicates the ferocity of police in Istanbul against such lawful protesters. In Ankara 19 demonstrators and two police were injured when police used batons against demonstrators commemorating the first anniversary of the Ulucanlar incident.

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71 A fear shared by Amnesty International, see its statement 'Turkey: Concerns about risk of isolation in Turkish prisons', AI Index EUR 44/065/2000, 28 November 2000.

72 Human Rights Watch and Amnesty International spoke with doctors and lawyers involved who 'consistently indicate that the prisoners were beaten and some tortured before, during and after the transfers to the new prisons. It is alleged that prisoners were stripped and subjected to rape with a truncheon on arrival at Kandira F-type prison near Izmit, but the claims could not be corroborate because lawyers’ requests for forensic examinations to be carried out received no response.' AI EUR 44/001/2001, 6 January 2001.

Kurds in Turkish society

Kurdish Ethnicity
A standard argument used by the Home Office in its letters of refusal runs as follows: '....the Secretary of State understands that there are no legal barriers to Kurds participating in political and economic affairs and all Turkish citizens over the age of 18 years are entitled to vote regardless of ethnic origin. He also understands that a Kurdish ethnic background is not a bar to advancement in Turkish society as many Kurds hold positions as MPs, senior officials and professionals. He is also aware that Kurds who have been long term residents in urban centres in western Turkey have largely assimilated into political, social and economic life there. The Secretary of State is therefore not satisfied, having considered all of the available information, that there is any evidence to demonstrate that being of Kurdish origin is in itself sufficient to demonstrate a well-founded fear of persecution in Turkey.'

This statement is, strictly speaking, true yet at the same time it is misleading about the political, economic and social rights and opportunities which exist for Kurds. In consequence, it misrepresents the essential truth of the situation.

In fact, the ideology and laws of the State and the conflict with the political left and with Kurdish nationalism all lead to widespread prejudice against Kurds, particularly Alevi Kurds, among the police and certain elements of the Sunni Turkish population. These anti-Kurdish prejudices have been immeasurably strengthened by hatred generated during the 15-year PKK war. As two Turkish academics noted in 2000: ‘Being a Kurd today bears a stigma of being a separatist, a collaborator of the ‘enemy’, frequently mentioned in the media as the murderer of babies.’ Consequently the practical realities for Kurds either in general society or in the hands of the security services contradict the impression given by the Secretary of State that there is no or little discrimination against Kurds. They are at real risk of running into visceral hostility.

The briefest response to the Home Office position comes from a Turkish lawyer of twenty years' experience, Mr Kazim Bayraktar:

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There are Kurds who support the present government. They get no pressure. But if you are a Kurd critical of the government the pressure still exists. There are Kurds who have not expressed an opinion but who are potentially in danger. But it is difficult to prove it.\textsuperscript{75}

Denial of Kurdish identity is a central feature of ‘Kemalism’, the ideological legacy of Kemal Ataturk, founder of the Turkish Republic. The children of Kurdish parentage are indoctrinated with Kemalism at school. Such children of parents conscious and proud of their Kurdish ethnic identity or simply displaced from their village habitat by the security forces, must grapple with glaring and confusing contradictions, often leading to serious discrimination at school.\textsuperscript{76} Bearing in mind the ruthless way in which Ataturk crushed Kurdish identity, one may guess how politically aware Kurds react to this indoctrination, and how their children react once they, too, begin to acquire political awareness.

Anyone asserting their Kurdish identity or ethnic rights makes him or herself liable to discrimination, harassment, torture and ultimately even extra-judicial killing. This is true not only of political activists, for example Murat Bozlak, ex-chairman of HADEP who survived an assassination attempt in 1995, but also of human rights activists, for example Akin Birdal, the Turkish chairman of IHD who likewise survived an assassination attempt in May 1998. It is also potentially true for anyone who refuses to conform to the Kemalist ideology as some of the oral statements we received tellingly testify.

If one transposes what is required of Kurds in Turkey to a United Kingdom context it is as if the whole UK were described as 'England' in defiance of the ethnic realities, and all its people compulsorily described as 'English'. It might be possible to say 'I have an Irish/Scottish/Welsh ethnic origin' (putting it safely in the past). Anyone asserting that they were actually Irish, Scottish or Welsh would be committing an offence against the Constitution rendering themselves liable to harassment, detention, torture and a long prison sentence. That is a true equivalent to the dilemma faced by Kurds. The very suggestion of a debate to discuss the desirability or otherwise of devolution along the lines implemented in the UK could constitute a criminal act against the Penal Code and could be prosecuted, for example, under Turkey’s Anti-terror law (No 3713 of 1991, see p. 35).

\textsuperscript{75} Kazim Bayraktar, Ankara, 8 October 2000. Mr Bayraktar had been commended to us by the Medical Foundation for the Care of Victims of Torture.

\textsuperscript{76} Children are taught to respect above all the ideal of the 'indivisible unity' of the Turkish nation.


\begin{quote}
 'The overall objective of the Turkish national education system is to train all members of the Turkish nation:

 1. as citizens who believe in Ataturk's reform and principles and Ataturk's concept of nationalism as expressed in the Constitution; who endorse, protect and develop the national, moral, humanitarian, spiritual and cultural values of the Turkish nation, who care for and tirelessly promote their families, country and nation.'
\end{quote}

The text at the front of every school text book in Turkey, manifests the essential ethos:

'I am Turkish. I am upright. I am industrious. My aim is to protect little ones and to respect adults, to respect my Motherland and my Nation, to love my Nation with all my heart. I will advance the State and move it forward. You are the great Ataturk. We will continue to walk in the way you have shown us. I promise I will do this. I will sacrifice myself for the existence of Turkey. How happy is he who calls himself a Turk.'
Political exclusion
Ethnic disbarment extends into political life in an explicit fashion. The Home Office assertion that 'all Turkish citizens over the age of 18 are entitled to vote regardless of their ethnic origin' is misleading without substantial qualification since it encourages the inference that all Turkish citizens over the age of 18 enjoy electoral democracy. That is not the case or, at any rate, Turkish law and practice fall so far short of the accepted norms of a parliamentary democracy as to render this inference misleading. For example, the electoral laws specifically proscribe the pursuit of cultural, linguistic or ethnic pluralism or minority rights of any kind. The Law of Political Parties (Law No 2820) states that political parties may not

- 'claim that there are any national minorities based on differences of national or religious cultures or on differences of sect or race or language on the territory of the Republic of Turkey'
- 'pursue the objective of disrupting the national integrity by creating minorities on the territory of the Republic of Turkey, by means of protecting, developing or promoting any language or culture other than the Turkish language or carrying out any activities to that effect.' (Art. 81)

Furthermore,

- 'Political parties shall not pursue the aims of regionalism or racism within the country which is an indivisible unity, or carry out activities thereof.' (Art. 82)

In addition, a party must attract 10 per cent of the country-wide vote before qualifying for a single seat in parliament. This also effectively excludes minority voices. Such articles render any attempt to express a Kurdish dimension to life or a Kurdish political or ethnic identity in the Republic of Turkey liable to criminal prosecution. In short, they deny freedom of expression.

The People's Democracy Party (HADEP), widely viewed in Turkish society as the political wing of the PKK, has run the gauntlet of closure ever since its notorious 1996 Congress when unauthorised persons removed the Turkish flag and raised a Kurdish one. It led to moves for the Constitutional Court to close HADEP. So far, at least 15 political parties have been shut down by the Constitutional Court since the restoration of civilian rule in 1983. The case against HADEP remains open, possibly only out of fear for the international repercussions of closing it. (On HADEP see p. 53).

Discrimination against Kurds qua Kurds
There were 30,000 or so Kurds living in Istanbul a century ago, so the presence of a sizeable community in Istanbul is nothing new. The Kurdish community there now numbers in the order of 3 million - thus making Istanbul the largest Kurdish urban environment anywhere in the world. A large proportion, probably a majority, are principally economic migrants. However, during the 1990s the reason for migration changed. The majority were unwillingly displaced people. Between 2½ and 3 million have probably been driven from their homes in forcible evacuations. So far most of these recent migrants are probably still in the south-east, principally in Diyarbakir. But many will eventually drift to Istanbul. A proportion of these have abandoned their homes not because they have been directly expelled in a single act but because the security forces
have rendered continued existence in villages unsustainable, by direct harassment such as the wilful destruction of crops and livestock, by the repeated trashing of household contents, or by making it extremely difficult or dangerous to get agricultural produce to market. In short, the government's frequently vindictive counter-insurgency operations have combined with the economically straitened circumstances of the south-east combine to render rural life in the south-east extremely difficult to sustain.

A Kurd who is able to pass for a Turk may well not experience any discrimination and if he chooses to make no issue of his Kurdish ethnic identity can, indeed, rise to the highest levels of the state. For example, Admiral Fehmi Koruturk, who became President after the 1971 coup, was a Kurd. Kamran Inan, to quote another example, held cabinet rank and competed against Demirel for the Presidency in 1993. He came from distinguished Kurdish religious family. But like Koruturk he chose to live a life loyal to the ideology and ethos of the Turkish Republic.

Displaced Kurds do not come from this educated elite. Most betray their Kurdish identity by their speech, and this is confirmed by the place of birth given in their ID. It is from their ranks that many asylum seekers come. There are two standard arguments made in Home Office letters of refusal which are relevant. The first implies a Home Office belief that persons who choose to live outside OHAL, for example to move to a city in central or western Turkey, may safely do so:

'The Secretary of State is not satisfied that if you returned to Turkey now you would have to reside in the troubled south east.'

The second statement, unfortunately cast in highly delphic wording, seemingly implies that, while it is understandable that the rule of law does not prevail inside OHAL (and that therefore there is no available domestic legal recourse), the Home Office believes that there are no obvious grounds for a person to have a well founded fear of persecution outside OHAL:

'However, he [the Secretary of State] notes that you do not come from one of these [State of Emergency] provinces and there is no reason to think that the situation in those provinces brings you within the terms of the Convention.'

This view disregards realities on the ground. Those who do not fall foul of the authorities still live in a climate of fear and apprehension wherever they are, unless they renounce their identity. They practice self-censorship so as not to draw attention to themselves. A Norwegian academic has made a special study of Kurds living in Izmir and Istanbul:

'At the [Istanbul] metro station the same precautions were taken as everywhere else. Normally my friend would speak Turkish here, but since I was present [Dr Sauar spoke Kurdish but was still learning Turkish] they had to use Kurdish. My friend was seriously bothered by this, and soon we left for the far end of the station before continuing our talk. Another time, with totally different people the same thing happened again. Then, inside the metro, we found a place where we could easily talk without more than two people hearing us. Since we were just talking about 'everyday life', we sat quite relaxed and talked freely. A man sitting next to us, however, suddenly got very interested. He excused himself for interfering (in English), but he was a Kurd himself, he said, and was so happy to hear a foreigner talk Kurdish. We talked a little bit in English. Explaining that my
other friend didn't know much English, I asked him to use Kurdish as well.
"Sorry, I can't do it here. I am too afraid. Too many people get killed."77

The foregoing indicates that it remains a strong political act to speak Kurdish (even in a private conversation in a public place.) Dr Sauar's study gives numerous illustrations of the almost constant Kurdish state of denial and emphasises the psychological stress of constant suppression of their experiences. 'They learn to hide things,' he writes, 'to hide experiences, they learn to see the police and the army as 'natural' enemies, and they learn to lie for the authorities.'78 It is misleading, therefore, simply to argue that Kurds may live freely in Istanbul. At best, their lives are circumscribed by caution and denial.

If they are suspected of any form of association with separatists, then they will remain liable to harassment and torture, as will their families and their associates. Those who did speak with us confirmed that they live in permanent fear of the police, and of informers within the community. We received startling confirmation of the close watch kept on shanty areas when we visited Yakarpinar, some 20 km east of Adana. We had been walking for about 5 minutes through the main track of the shanty area when we were suddenly surrounded by armed gendarmes and removed to the nearby gendarmerie station. It was, we were told, for the protection of the inhabitants. We had not had the chance to meet any resident in Yakarpinar except very briefly a middle-aged man who refused to talk with us. He had, he explained to our HADEP minders, been beaten up by the gendarmerie commander only the week before, not on his own account but because his son was a political prisoner.

There is also strong evidence of the reasons for this fear in several of oral statements we took in October 2000. Three of the more shocking cases (Nos 8, 23, 26) indicate that Kurds may well be either 'educated middle class' or belong to longstanding economic migrant families rather than recently displaced villagers. We cannot therefore accept the contention that any assumption may be made concerning the potential safety of those moving out of the south-east. Furthermore, there was great consistency in the causes of fear, whether we spoke with displaced Kurds in Istanbul, Adana or Gaziantep, and these kinds of fear were also confirmed by IHD delegates from the other cities we were unable to visit.

A nice distinction between human rights observance inside and outside OHAL was drawn by a member of the Elazig delegation to the IHD Congress in Ankara, 2000: 'Human rights violations in Tunceli [in the OHAL] and Elazig are just the same. There is no difference except that if the governor forbids any cultural activities in the OHAL, you cannot go to the Administrative Court to appeal against the decision.'79

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77 Erik Sauar, *Turkey's Struggle with Democracy and the Kurds*, University of Science and Technology, Trondheim, 1996, p. 111.
79 Member of IHD delegation, Elazig, Ankara 14 October 2000.
Kurds are at risk of arbitrary detention simply as Kurds because many members of the security forces view Kurds as suspect per se. In other words, there is an inclination by the security forces to detain recognisably Kurdish people, because they may be sympathetic to the Kurdish national movement. Kurds in shanty areas and low-income areas are probably at greatest risk. They know that they are collectively under observation and individually must be careful not to attract attention or to be seen in a potentially compromising situation. As Eren Keskin, secretary-general of IHD Istanbul, informed us: 'the shanties are always under police surveillance, or outside the cities, under gendarmerie and JITEM (Gendarmerie Intelligence) surveillance.' Gaziosmanpasa quarter in Istanbul has a relatively high proportion of Kurds and Alevis (see p.16). In October 2000 it was still the case that:

'There is still a curfew from 11 pm till dawn with road-blocks [introduced following the 'events' of March 1995]. Following the events a police station was sited to overlook the main street and the cemevi (Alevi meeting house). Furthermore, the cultural centres of the neighbourhood were progressively closed from 1995. There is no reason to close them. Gazi is very cosmopolitan. The police do not like it.'

Being observed talking with foreigners, such as ourselves, was viewed as dangerous, even for those people who had done nothing wrong and were merely displaced persons. In Adana in October 2000 we were warned not to enter any shanty area after dark. The danger, we were told, was not from the residents but from the police. Many of those invited to speak with us declined. They were too frightened.

In March 1996 I visited Kurdish low income and shanty areas of Istanbul, notably Kuçuk Çekmecе. In this particular shanty area there were heaps of rubble between other dwellings, shanties demolished as punishment for those families in which a relative is suspected of joining the PKK. The demolition of dwellings constitutes collective punishment, carried out without judicial process and against not merely a suspect but also an entire family. In this respect it cannot be argued that the State only targets individuals. It clearly acts against groups of people too, regardless of age or sex. There were highly visible police patrols. Shanty dwellers were extremely frightened of speaking with a foreigner. Bolder ones stated that the shanty was full of informers and that people were frightened of police detention.

The prejudice implicit in the statement ‘Being a Kurd today bears a stigma of being a separatist, a collaborator of the “enemy”’ can easily lead to persecution. So widespread is the phenomenon of mistreatment that we would go so far as to state our belief that virtually every displaced Kurd and most Kurds and Alevis, even if not displaced, know someone who has been tortured. This gives an idea of the fears displaced people have that they will be detained, and it is no wonder that so many are therefore reluctant to register their place of abode, or to register a false one. It is not only understandable but possibly the only sensible course, even at the cost of sacrificing one's children's education (see below).

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80 Resident of Gaziosmanpasa, 6 October 2000.
Displaced persons particularly fear being suspected of some kind of connection with the PKK or some other illegal group. According to Human Rights Watch, the main reason why most seem to have been displaced has been their refusal to join the government's village guard militia, and this refusal is taken as indicative of support for the PKK. Displaced villagers therefore know they are at risk of detention for security reasons. Security detainees held for alleged or imagined crimes, or indeed held for suspected disloyal thoughts, are liable to interrogation by the Anti-terror Branch. The Anti-terror branch is notorious for the practice of torture and, as Human Rights Watch states:

'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; sprayings with high-pressure water; beatings; death threats or threat of sexual abuse; squeezing of the 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.....'

The particular fears that Kurds have is borne out by torture statistics. In 1998 TIHV received 706 applicants from which it was possible to make a survey and evaluations on 673 people. These attended TIHV treatment centres in Ankara, Istanbul, Izmir, Adana and Diyarbakir. The most critical fact relevant to our concerns over asylum is the large number of people tortured in Istanbul and the fact that people from the south-east, i.e. Kurds, featured disproportionately even though no longer living in the OHAL. The Istanbul office dealt with more applicants, 260, than any other office, 39 per cent of the total TIHV case load. As in previous years, the highest number of victims were born in the south-east, 278, followed by people from the eastern region where there is also a high proportion of Kurds, 156. In other words, 64.5 per cent of all torture victims were either Kurds or 'came from the East' and were probably assumed to be Kurds, even though Kurds comprise barely 25 per cent of Turkey’s population. These figures confirm the view that Kurds are at significantly higher risk of torture and mistreatment than other citizens of Turkey not only in the south-east, but also in the areas to which they have migrated.

The October 2001 Amnesty International report, citing figures from a Legal Aid project for victims of rape in the period from mid 1997-November 2000, stated that 132 women sought help from a Legal Aid project. Ninety-seven of these women were Kurdish, almost exactly 75 per cent. The alleged perpetrators were police, gendarmerie, soldiers and village guards, and in over 100 of these cases the rape took place for political reasons.

83 Out of the 673 cases studied, 196 of the victims were women and 477 were men. Victims were between the ages of three to 90, and 63 were under the age of 18.
or stemming from the conflict. That, then, is the broader picture. Once again, the staggering disproportion between the ratio of Kurds to Turks in Turkish society and the likelihood of being tortured/raped is palpable. It is difficult to see on what grounds one could credibly dismiss the assertion that Kurds are at much greater risk of torture than are Turks. The examples of serious torture both in the oral statements taken in October 2000 and in the Amnesty International statements provide striking evidence of what can easily happen anywhere in Turkey.

Registration of residence All Turkish citizens are required by law to register with the neighbourhood muhtar or headman immediately on arrival in a new neighbourhood. We were struck by the number of informants in Istanbul, Adana and Gaziantep who told us either that they were unregistered, or that they had registered in one location but actually lived incognito elsewhere (see Statement Nos. 2, 3, 4, 5, 6, and 18 etc). In other words they sought to be invisible.

It is an offence not to carry one's ID card, rendering one liable to three days’ detention. If it is lost, another one must be obtained immediately from the ID office. A chit from the muhtar is necessary for this. According to a muhtar (see paragraph below), the ID office has a list of 'wanted' persons, supplied by the police. If a name comes up as 'wanted' the police are informed. Notification is also passed to the police or gendarmes at the place of birth. It is not only the officially 'wanted' category that is liable to detention. Many others are detained on suspicion. Not being on the 'wanted' list in no way implies one is safe.

Gaziosmanpasa is a well-known area of Istanbul with an Alevi and Kurdish concentration. We met Nevzet Altun, the muhtar (Statement No. 7 on p. 64). He informed us that the registered population is approximately 80,000, but he reckoned the real population was in the order of 100,000, with 20 per cent of the population unregistered. He reckoned that the Alevi proportion of the population is between 40 and 50 per cent, while the Kurdish population is between 30-40 per cent. Presumably there is a large overlap between the two categories. Bearing in mind that it is those who fear the police who choose to remain unregistered and that these are most likely to be those displaced by the exigencies of war and have already seen plenty of police excesses, the unregistered population is like to be overwhelmingly Kurdish, with a minority of leftists, probably Alevi Turks also. One may conjecture therefore that the proportion of Kurds who are unregistered is well in excess of the muhtar's 20 per cent overall estimate, and may even exceed 40 per cent. It is not the role of the muhtar to submit registration rolls to the police. Rather, the police scrutinise these rolls whether the muhtar desires it or not. We received anecdotal confirmation of this in the offices of Goç-Der (The Migrants’ Social and Solidarity Association). One staff member said of her arrival in Istanbul as a displaced person 'When I came to Istanbul I registered with the muhtar and gave my address. Then the police came and told me to sign every month at the police station.' Another said, 'I am here [Istanbul] eight years.

I am still not registered with the *muhtar*. I cannot register as they will get my address and torture me. My family are military service evaders in Germany.\textsuperscript{85}

People do not take the decision to remain unregistered lightly. Failure to register is not simply a means of remaining 'off the record', excluded from the population census, nor merely a matter simply of remaining excluded from the electoral roll. Remaining unregistered means having no access to health or education services. That price may not seem high for a bachelor in rude health. We repeatedly met families where children were not in school because the parents felt unable to take the risk of registration. If there was a health problem they had to find the money to go to a private clinic. The loss of education for one's children is a very high price indeed to pay, and it is not logical to think that displaced people would take this course of action unless they had real grounds for fear.

**Social and Economic exclusion** Displaced Kurds also believe they face economic and social discrimination. They are identifiable by their speech and by their demeanour. We repeatedly heard that displaced families were turned down by Turkish landlords or employers, and were dependent on Kurds for lodging or employment. We met approximately 20 displaced villagers. Most of these displaced villagers expressed either extreme difficulty in finding work, or in several cases they reported discrimination whereby employers/landlords preferred to employ or rent to Turks rather than Kurds. The upshot was that several reported that they were street vendors (of whom there is already a serious glut) or that they sifted through rubbish to find something recyclable. Or that they finally were only able to rent a dwelling (all too frequently simply a shanty) through someone also 'from the East'. We saw examples of wood and plastic shanty dwellings. Research reportedly carried out by IHD Istanbul in 1994 or 1995 indicated that barely 5 per cent of those displaced by war acquire an income above or on a level with subsistence. We greatly doubt that the situation for the displaced has improved since then.

In August 1999 Turkey was devastated by a major earthquake, the epicentre of which was not far from Izmir. This is what a Turkish (not Kurdish) UN staff worker reported shortly afterwards:

'There was great discrimination in the earthquake area. The poor and Kurdish people were put in the worst parts of the earthquake camp in the most muddy areas. Consequently many chose to camp in the earthquake ruins. UNICEF was helping in the worst areas, where the people were the very poor or they were Kurds, until 27\textsuperscript{th} August. On that day the local government banned UNICEF from going there [the areas where the very poor and the Kurds were]. They were only allowed to provide relief services with a police escort. So certain staff went there secretly. There were many elderly and children who did not speak Turkish, only Kurdish. The police would behave in a very hostile manner to them.'\textsuperscript{86}

It goes without saying that those forcibly displaced from the countryside are among the worst-off economically in Turkey. They are often reduced to penury, particularly since

\textsuperscript{85} Evidence taken at Goç-Der, Istanbul, 4 October 2000.

\textsuperscript{86} Oral information from (Turkish national) UN staff worker to McDowall, London 11 November 1999.
they lack the skills for urban life. An IHD delegate from Iskenderun informed us that many displaced persons had been driven out of the city by a prohibition on unlicensed street vendors some four or five years ago. They simply could not survive, so they moved to Adana, Mersin and similar places. The 20,000 or so displaced persons still in Iskenderun remain closely watched by the security forces. ‘They cannot say they are Kurdish, they do not dare say who they are, or that their villages are burnt.’

Turkey is reportedly among the top five countries with the greatest disparity in income distribution. Displaced Kurds, one must take it, are among the more needy for state assistance. It is possible to register for certain benefits, for example free medical care, if one is unemployed. In order to avail oneself of these benefits one must be in possession of a 'Green Card'. This, naturally, is only obtainable if one is registered with the muhtar. The last port of call while collecting the requisite official approval is the police station. It is therefore unsurprising that a substantial number of displaced Kurds consider the Green Card inaccessible because they fear that instead of acquiring a Green Card they will instead be candidates for police mistreatment. We repeatedly met families needing one but unwilling to pay this price.

Those in greatest need of State assistance are often those for whom least provision is made. Gaziosmanpasa has no hospital of its own. Because of the lack of State health services private clinics operate in the area. In the words of one health professional:

‘Public health is very poor so there is a huge incidence of infection as a result of overcrowding. Three years ago there was no TB. Today it is quite common. The police tried to close us (a clinic) in 1995. We resisted the pressure and they left us alone.’

**Displacement of Villagers**

According to TIHV, village dwellers wanting to return to their homes have been subjected to arbitrary violence from the gendarmerie and village marshals. The marshals continue to occupy estates. The three main villages built by the government have been handed over to village marshals and gendarmerie. TIHV believes there are still around 4 million people without a roof over their head who are living in inhumane conditions. The Ministry of the Interior states that between June 2000 and October 2001 30,244 people had returned either to their village or to a model resettlement village. If one assumes that the number of displaced is 3 million (a widely accepted figure among human rights groups), it would take at least a century to resettle all the displaced, making no allowance whatsoever for the high Kurdish birth rate. In short, claims that resettlement is currently taking place may be technically true but on such a small scale as to be entirely misleading. Furthermore, return can be fraught with danger because during the evacuees absence others, usually village guard militiamen, have taken over the land.

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88 *Milliyet* 21 October 2000 p.10. Surprisingly, it noted that the very poorest cases were in central, not SE Anatolia.
89 Country Assessment, paragraphs 6.33-6.34.
88 *Yedinci Gündem*, 15 February 2002.
89 *Zaman*, 18 December 2001.
October 2002, for example, three members of a family with official permission to return to their farmland in Diyarbakir, were shot by militiamen. Several similar incidents have been reported during 2002.  

There were particularly harsh winter conditions in the south-east in 2001/2002. This was revealed by the German International Society for People at Risk (Gesellschaft für bedrohte Völker International (GfbV)) following talks with Kurdish refugee organisations and Turkish-Kurdistan city administrations. The president of GfbV International, Tilman Zülch warned that, "For most of the 1.5 million Kurdish refugees who are living in poverty on the outskirts of the Kurdish towns and cities of Diyarbakir, Batman, Gaziantep, Siirt, Hakkari, Van and Mardin, life-saving medicines against cold and lung infections are too expensive". The elderly, the sick and children were now particularly at risk. It was forecast that the number of deaths would rise dramatically over the coming weeks. Zülch said that as a rule at least 5 people lived together either in 1 room, a tent or in a corrugated hut. Because of a shortage of heating material, one heater has to be shared between 2 or 3 families. Only one third of the refugees have a separate kitchen and three quarters use communal toilets outside their accommodation. Only a minority have direct access to drinking water. Two thirds of the refugees are unemployed. Occasional work on building sites, farms or street markets is no longer available because of the weather. The halving of the standard of living in Turkey has particularly hit the refugees. The distribution of bread and other foodstuffs by town administrations has been prevented by provincial governments and only occasionally reaches those in need. This desperate situation has driven some, particularly women, to suicide. The GfbV called on the European Union and EU member states to set up a programme for the return of the refugees and also to put pressure on Turkey to enable the refugees to return to their villages. According to estimates from the GfbV two thirds of a total of 2.5 million refugees would then return to their homes. A total of 40,378 families had submitted applications by the end of December 2001 to return home.  

HADEP

Mention has already been made of the standard argument in Home Office refusal letters that the applicant for asylum was at too low a level to have been of interest to the authorities. Amnesty International offers a general response to this argument:

‘In Turkey nearly anybody can become a victim of torture. Human rights organisations receive more information about torture of people suspected of pro-Kurdish, Islamist or leftist activities or protests against F-type prisons, because these groups have a greater knowledge of their rights and ways to seek justice.’

Evidence of the torture of people who are either not politically active or who are not members of any organisation or who are only low level may be found among the oral statements at the end of this report.

HADEP (The People’s Democracy Party) is a legal political party but it is viewed by the State and its officers as the political wing of the PKK. The two organisations have no known organic connection yet those who support HADEP are considered to support the PKK. Many in fact have been highly sympathetic with the PKK in a personal capacity. The PKK, despite signalling from 1993 onwards that it had abandoned separatist ambitions, is still considered as separatist by the Turkish State. Consequently, those who support HADEP are considered separatists, even though its party policy and programme has never suggested anything of the sort. It has never suggested separation from the Republic. Advocating separatism violates the constitution of Turkey and is therefore a criminal offence. Because the security forces view HADEP as separatist, it follows that those who support it are viewed as politically criminal. In a state where the security forces routinely torture those they detain, HADEP sympathisers are inevitably at risk of being tortured.

Because it tends only to be the more notable HADEP officers who are reported upon when they are killed or tortured, it is easy to conclude that it is only they, the senior HADEP people, who get tortured. The evidence contradicts such a conclusion. Amnesty International states:

‘Leading representatives of large legal political organisations are less likely to be tortured in custody, but some of them have been victims of this human rights violation. For example, the mayors of three south-eastern cities who belong to the HADEP party were reportedly tortured in February 2000 and an Islamic-oriented

mayor of a municipality closer to Istanbul and his staff were allegedly tortured in April 2001.\(^{94}\)

It is implicit in this statement that Amnesty considers the prevalent trend is that less important people are the usual victims of torture.

Because it is not an offence to belong to HADEP, the majority of HADEP detainees are probably not recorded as detained but are nevertheless tortured. Large numbers of detainees are not recorded as such any way, either because of lax procedures in police stations or because the police deliberately wish to detain and torture ‘off the record’. This is already widely recognised in UN, governmental and NGO reports on the human rights situation in Turkey. The vast majority of detainees are not charged. Those who are charged are likely to be charged with support of a separatist organisation, namely the PKK. It seems to be common practice for such people to have been tortured sufficiently severely that they have signed a confession to membership of the PKK in order to avoid further mistreatment. This seems to be the implicit conclusion of Dr Sema Piskinsut, chairman of the Parliamentary Human Rights Commission, 1998-2000. I have met the next of kin in four cases of young victims who were tortured or raped in order to obtain a signed confession.\(^{95}\) There is what I would describe as background confirmation: that ordinary Kurds, if obviously Kurds, are at much greater risk of detention and torture than Turks, strongly indicated by known torture statistics cited above (p. 18). By supporting HADEP one declares oneself to be Kurdish, or supportive of recognition of Kurdish identity and rights. At the most basic level, therefore, HADEP supporters are consequently more at risk of torture than those who do not claim to be Kurds.

Statistics specifically relating to HADEP and other political parties, however, put beyond doubt the fact that HADEP is uniquely targeted by the security forces, despite its formal legality. According to TIHV, out of 3,468 known members of political parties detained in 2001, 3,245 (i.e. 94 per cent) were members of HADEP. The next highest number of detainees from a political party was 113 (EMEP) and the total number of members of other parties was detained was 110. This statistic indicates how focussed the security forces are on the Kurdish party. To suppose that members of the security forces differentiate between suspected sympathisers and actual members (i.e. asking before detention and torture whether a victim is a card-carrying member of HADEP) defies common sense. The police may well try to identify actual members, but once they suspect someone of being a supporter, they are likely to go after him too.

Security forces arrested 59 members of the pro-Kurdish People's Democracy Party (HADEP) in January 2002 for backing a campaign to introduce Kurdish-language courses in universities and schools. They initially rounded up more than 200 members of HADEP's youth branches in several cities and later formally arrested 59 of them. The detainees faced charges of promoting the education campaign under orders from the outlawed Kurdistan Workers' Party (PKK). The language campaign started in November 2001 in Istanbul, where university students submitted petitions asking for courses in Kurdish, and quickly spread to universities and schools across the country. The severe


\(^{95}\) See oral statements Nos. 8, 23 and 26.
oppression against HADEP continues. Turkish police recently arrested nearly 90 HADEP members in several cities throughout the country. In the city of Siirt 4 police officers and 4 demonstrators were injured in skirmishes between police and HADEP members. A total of 70 people were arrested there alone. Further arrests took place in the cities of Diyarbakir and Van, also located in Kurdish regions, as well as in the northwestern Turkish city of Bursa.

See Appendix 3 on HADEP and Appendix 4 with regard to the treatment of HADEP people in K.Maraş province.

Alevi Kurds

Possibly between one fifth and one quarter of the population of Turkey are Alevi, both Turks and Kurds. Turkish Alevis are found predominantly in western, central and northern Anatolia. Kurds are probably about one third of the Alevi community in Turkey, and Alevi Kurds probably constitute about one third of the Kurdish community in Turkey. They live predominantly in the marginal areas between Turkish and Kurdish regions of Turkey. In addition, there are significant Kurdish Alevi communities in neighbourhoods of Istanbul (Gazi, for example) Izmir, Adana, Gaziantep and other cities of migration.

With regard to asylum applicants, almost all are, or claim to be, Kurdish Alevis. It is with this in mind that this section has been drafted.

The Home Office TCA takes the line that 'Both Turkish and Kurdish Alevis may be subjected to some bureaucratic discrimination'........'Many Alevis accuse the Turkish Directorate for Religious Affairs of being geared solely towards the Sunni faith. Nor does the Turkish education system allow any room for the Alevi interpretation of Islam. However, there is no evidence that Alevis are persecuted on account of their religious beliefs by the Turkish state. The state does not regard the Alevi faith as a separate religion..... Relations between Sunnis and Alevis are generally good....'

The TCA view requires considerable qualification. In a nutshell there is evidence of financial discrimination, compulsory teaching of Sunni Islam to children at school, widespread but declining religious prejudice against Alevis, but most importantly, a widespread assumption particularly among the security forces that the Alevi Kurds are dangerous leftists. All these issues are discussed below, but in addition attention is drawn to the following section on the National Action Party (MHP), which indicates the particular dangers Alevi Kurds face on account of a widespread mindset of the police.

Alevi History

96 In the provinces of Amasya, Corum, Nevşehir, Yozgat, Tokat, Sivas and Erzincan.
97 Notably in Bingol, Maras, Malatya, Adıyaman, Tunceli, Sivas and Erzincan provinces. Some, though, are found in areas further west where most Alevis are Turkish, for example in Tokat, and in Corum.
The term ‘Alevi’ is a broad brushstroke term indicating follower of ‘Ali’. The term was adopted by two virtually identical and inter-related traditions in Turkey: the Bektasis and the Alevi Kurds, once known as Kizilbas. The first of these are adherents of the Bektasi order, who venerate a twelfth century mystic, Haji Bektas Weli. The Bektasi order was enormously powerful within the Ottoman empire, not least because the members of the Ottoman crack troops, the janissaries, belonged to the Order. They had no connection with the Turkoman and Kurdish Alevi tribes of central and eastern Anatolia. Bektasi Islam was also followed by a very large number of Turks in the Anatolian countryside, but not by Kurds.

The second was composed of people once known as Kizilbas. They first came to notice as Turkoman tribal troops devoted to the fifteenth century Iranian Safavi religious leader, Shaikh Haidar Ibn Junaid. The Safavis rose in the Ardebil region on the south-western shores of the Caspian, before seizing control of the Persian empire. The Kizilbash tribes formed the crack troops in contest with the Ottomans for control of Anatolia in the late fifteenth and early sixteenth century. The struggle for Anatolia between Ottoman and Persian empires took on a strongly religious hue, between Sunni and Shi’i Islam. Although the Ottoman Sunnis triumphed, a large number of pastoralist tribes in central and eastern Anatolia remained adherents of 'Kizilbash' beliefs, cut off from Shi’i Persia. Originally the Kizilbash tribes seem to have been Turkoman rather than Kurdish. It is unclear whether Kurdish tribes embraced this form of Islam from neighbouring Turkoman tribes or whether Turkoman tribes acquired Kurdish cultural characteristics. The probable truth is that both factors came into play, particularly with political marriages between the progeny of neighbouring tribal chiefs.

Be all that as it may, clearly the Bektasis and Kizilbas (Alevi Kurds) have a common origin in the ferment of Muslim and other religious ideas current in eastern Iran in the early middle ages. With repeated disorders in eastern Anatolia, frequently inspired by dissident religious movements, there remained a strong feeling that those tribespeople who adhered to Kizilbash beliefs were not ‘proper’ Ottomans. This feeling increased dramatically in the second half of the nineteenth century when the Ottoman sultans deliberately fostered Sunni Islam as a bulwark against foreign influence. The main regional focus for this Islamic revival was central and eastern Anatolia. The Kizilbas, finding themselves openly reviled and their name increasingly used as a term of abuse, quietly dropped their historic name in favour of the more anodyne term: Alevi.

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99 Ali was nephew and son-law to the Prophet Muhammad. He was the fourth ‘Righteous’ caliph and unintentionally the founding figurehead of the Shi‘i Islam. Any Shi‘ite could, technically, describe himself as an Alevi.
100 Or ‘Red Heads’, a reference to their distinctive conical red felt caps, made with twelve folds supposedly to represent the twelve imams of Shi‘i tradition.
101 In Persia Kizilbash teaching was quietly dropped in favour of  ithna ‘ashari Shi‘ism
102 They were in a similar boat to English Catholics, who had to struggle for acceptance as truly English following the religious wars of the sixteenth century and who were only accepted as equals in law in the nineteenth century and arguably only totally free from social prejudice in the twentieth century.
The recent growth of ethnic awareness resulting from the PKK war has had an impact on the Alevi community: ‘The stressing of a merely ethnic/national identity, be it Turkish or Kurdish or Zaza, until recently did not play a role in Alevilik, as its members defined themselves by religious categories. In nation-oriented discussions of Kurdish or Turkish Alevi, common symbols tend to be divided along ethnic lines. Thus, the patron saint of Alevilik, Haci Bektas, appears at the same time as the patron saint of Turkish nationalism. On the other hand, those who insist upon their Kurdish identity as prior to Alevi identity take the sixteenth century poet and rebel Pir Sultan Abdal as their symbol.’

**Generalised discrimination and prejudice against Alevi.**

The majority of Alevi who were Turkish initially welcomed the establishment of a secular Republic in which Sunni Islam would be sidelined into a matter of private faith while its institutions remained state-controlled. It was hoped that Alevis would thus be wholeheartedly embraced as citizens in the fullest sense of the word. Officially that may have been so, but in practice it has not turned out like that, although broadly speaking Alevi Turks have not been persecuted within the Republic. Sunni prejudice against Alevi has undoubtedly persisted, even if it is now weakening. In February 1990 a group of Alevi and Social Democrat Sunni intellectuals signed an *Alevi Manifesto* which stated:

‘This manifesto aims to make the problems of the Alevilik, a branch of Muslimhood living in Turkey, known and to inform the public with the demands of Alevis. Alevi see other beliefs as “true, beautiful, sacred”[evidently a gesture towards Sunni Islam]. However, they expect a similar positive sense and approach towards their own faith and culture....’

The manifesto called for tolerance of Alevi faith and culture, equal representation and opportunities in education, in the media and in receiving their own religious services. It also called on Sunnis to get rid of their biases, while emphasising longstanding Alevi ‘acceptance of the principles and reforms of Ataturk’ (the sacred mantra of loyalty to the Turkish Republic). Alevi and their Social Democrat friends would have felt no need for such a manifesto had Alevi not felt discriminated against both officially and popularly. This sense of being cast as a pariah community is confirmed by a French academic: ‘Nowadays, in Turkey, Alevi has received the same perjorative meaning as Kizilbas.’

A central element in this status is the ‘Turkish-Sunni synthesis’, a kind of Sunni but nationaistic revival that took place during the 1980s. In the words of a British academic: ‘the increasing Sunnification of the Turkish nation has resulted in many

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104 However, Bektasis were disappointed that their brotherhood was suppressed in 1925, along with all the Sunni mystical orders like the Naqshbandiya, Qadiriya and Nurculuk.


Alevi people becoming uneasy.... there is a sad possibility that increasing sectarian sensitivity will lead to open disagreement, even violence between the two sects.\(^{107}\) Until the military coup of 1980 Alevi children were not obliged to imbibe Sunni religious instruction at school. Since then, as a result of the doctrine of 'Turkish-Islamic synthesis' compulsory classes in (Sunni) religious education take place in the Turkish education system. In the view of one Turkish academic, ‘the compulsory nature of religious instruction... in practice means religious indoctrination... in some places this [Alevi reaction to such indoctrination] has led to violent conflicts.’\(^{108}\) In the course of this compulsory education, Alevi schoolchildren report being picked upon and punished for failing to learn Sunni Qur'anic or liturgical material, or are mocked by their peers. Those in schools with a predominantly Sunni intake learn what it is to be reviled at a young age.\(^{109}\) In the view of another Turkish academic ‘These religious lessons are being employed as a deliberate attempt to mould the minds of the younger generation.’\(^{110}\) If one asks why this is so, the reason is probably because the Directorate of Religious Affairs assume that ‘Alevism is being used as a tool by atheists, materialists, Marxists, Christians or Jews.’\(^{111}\) Predictably many Alevis have reacted strongly against this indoctrination: ‘It is essential that the Alevi should arrange that these lessons should be taught by an Alevi teacher.’\(^{112}\)

In addition there has reportedly been pressure to construct mosques in Alevi villages. The money for this may come from the State, or from a major funder of mosque construction in Turkey, the Saudi-based al-rabita al-islamiyya (the Islamic League). Some villages have resisted, others have succumbed. This does not suggest a liberal or respectful environment either. Again, the Alevi view is: ‘No time should be lost in putting an end to the construction of mosques in Alevi villages.’\(^{113}\)

Finally there is the question of finance. The Ministry for Religion provides funds for Sunni mosques. As recently as 1999 Professor İzzettin Dogan, the President of the Cem Foundation (a leading Alevi cultural organisation) complained that the State provided 172 trillion lira budget to the Ministry of Religious Affairs which was used almost exclusively for Sunni Islam. While it provided funds for the construction of mosques, it had provided nothing for Alevi religious ceremonies or meeting places (cemevi, Alevi meeting houses, or even the Cem Foundation headquarters.\(^{114}\)

\(^{107}\) David Shankland, ‘Anthropology and ethnicity: the place of ethnography in the new Alevi movement’ in \textit{Alevi Identity}, p. 16.
\(^{109}\) One young Alevi Kurdish woman asylum seeker recalled in her application her (1995) schooldays: 'I was forced to repeat prayers in Arabic which I couldn't learn and I was beaten. This sort of thing happened on many occasions. I was beaten by a short stick on my hands and on the ends of my fingers and after being beaten I found it very hard to write. I would also be pulled on the ears and slapped.' This statement is typical of many references to the discrimination which asylum seekers claim to have experienced during their schooldays.
\(^{110}\) Fuat Bozkurt, ‘State-community relations in the restructuring of Alevism’, \textit{Alevi Identity}, p. 94.
\(^{111}\) Faruk Bilici, ‘The function of Alevi-Bektashi theology in modern Turkey,’ p. 60.
\(^{112}\) Fuat Bozkurt, ‘State-community relations in the restructuring of Alevism,’ p. 94.
\(^{113}\) Fuat Bozkurt, ‘State-community relations in the restructuring of Alevism,’ p. 96.
\(^{114}\) \textit{Turkish Daily News}, 13 January 1999.
Strict Sunnis see the Alevi religion as deviant and have ascribed to it all sorts of fictitious immoral practices. With the greatly increased drift of Alevis to towns and cities during the last 25 years or so, a growing number of ordinary Sunni citizens have got to know Alevis at a personal level and their prejudices have often dissipated. They have discovered that, religious tradition apart, Alevis are of course in most respects just like themselves. Turkey is currently hopefully in a period of transition in which anti-Alevi prejudice is in decline.

Yet there is still an ‘institutional and political (as well as social) Sunni bias against Alevis’ in urban areas, and this is expressed both by ordinary citizens and also by the police. This prejudice was tragically exposed in Sivas in the killing of 37 Alevis and leftists in a Sivas hotel in July 1993 and again the killing of 18 Alevis in the neighbourhood of Gaziosmanpaşa in March 1995. Both bore the hallmarks of collusion between the Turkist-Islamic right and the police. Amnesty International’s view in 1996 was that: 'Particularly at risk of ill-treatment are groups which are viewed with suspicion by members of the security forces, such as Alawites [Alevis], a religious minority.'

Unsavoury examples of gratuitous anti-Alevi brutality crop up from time to time in the press. Alevi children can be at risk of torture in police detention. Such incidents indicate that residual prejudice can still lead to serious mistreatment.

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116 Amnesty gave the following example: ‘An icy road and a minor accident resulted in a nightmare experience for Sultan and Garip Aygun in January 1995. The couple's car skidded and hit a lamp-post on a bridge in.....Istanbul. ...Later that day they were detained by police officers .... The couple were tortured and threatened.... Garip Aygun described the experience: "We were blindfolded and taken upstairs.... We were accused of having killed a man in the accident and we were asked to sign a statement to that effect. I told them I was innocent and would not sign such a statement. After that my wife and I were badly beaten. The whole time the officers were cursing and swearing saying that we were Alawites who they would wipe out. They threatened to rape my daughters. My wife was called a prostitute. The torture lasted from 4am to 9.30am." ’ Amnesty International, Turkey: No Security without Human Rights (London 1996) pp. 37-39.
117 For example, on the night of 28 December 1997 Ismet Yencilek, a 67 year-old Alevi religious leader was arrested by the police. Family members who witnessed the arrest claimed that the police beat him severely. He was found dead in hospital by his family the next day. The police say he died because of existing health problems. The dead man’s clothes bore bootprints, suggesting he was stamped upon. In the absence of any other explanation, the death of an elderly religious leader in this way implies police prejudice against Alevis. Turkish Daily News, 8 January 1999. It is believed that the incident took place in Izmir.
118 A third example, the mistreatment of Alevi minors was reported in September 1999: ‘Nine people who had travelled from Istanbul to Goucuk in Kocaeli province to help victims of the earthquake were detained by the police after being accused of distributing aid materials without permission. After their release they told journalists they had been tortured in police custody. At a press conference at the Istanbul branch of the Turkish Human Rights Association (IHD), Selcan Dag, Turkan Ozdek, Erdogan Ozdek (15) and Senol Ozdek (14) said they had been detained in Golcuk on 2 October. When the policemen heard that the detainees were Alevis from the Gaziosmanpasa quarter of Istanbul, they brought them to the police headquarters in Izmir. Ms. Senol Ozdek testified: "They pulled me by the hair and threw me into a cell. One of the policemen said they torture people there. He said, ‘You're in the earthquake region here. We can kill you and then put your corpse under a collapsed house.’ I was given electric shocks on my earlobes and the tips of my fingers. Then I was stripped naked and sprayed with ice-cold water. They put a plastic bag over my head so that I could scarcely breathe. This lasted for about ten hours.” Ms. Dag also reported that she and her friends were sexually molested and that the youths' testicles were...
Political prejudice.
There is a very much more important political dimension. A large proportion of the Alevi community, particularly Kurdish Alevi, became sympathetic to the political left in Turkey during the 1970s, a period during which left-right politics in Turkey became increasingly bitter and polarised, leading to the military coup of 1980. Kurdish Alevi supported a spectrum of political parties from those deemed left of centre but still very much mainstream Turkish parties, through to a few violent illegal organisations that parented groups like Dev Sol. Maras became a battleground in the 1970s because it is a mixed province with a Sunni Turkish majority which tended to sympathise with the political right. The scene was set for conflict. Among the rightist groups, the most notable were the ultra-Turkish nationalist Grey Wolves, or 'Idealists' (Ulkucular), associations which supported and were members of the National Action party (MHP). These Grey Wolves conceived a passionate loathing of the Alevi Kurds, because the latter were deemed not 'fully Turkish' as Alevi, not 'fully Turkish' as leftists and not Turkish at all as ethnic Kurds. Things came to a climax in December 1978 with a major massacre of Alevi in Maras, in which the official figure of 109 dead was almost certainly a substantial understatement. Other massacres of Alevi occurred around that time in Sivas and Corum. Alevi have remained nervous in Maras province ever since. The first wave of Alevi Kurd asylum seekers to arrive in Britain in May-June 1989 came as a result of success by right wing and Islamic revivalists in local elections in K.Maras in April that year. The strong support enjoyed by the MHP within the security forces, especially the police, creates further justifiable unease within the Alevi community. In 1993 another outrage occurred during an Alevi conference in Sivas. A Sunni mob surrounded the hotel and besieged it for several hours under the gaze of the mayor and police, before they torched the building. Thirty-seven people perished. The complicity of the police with the Sunni mob was unmistakable. The same might be said about the outrage that occurred in Gaziosmanpasa quarter of Istanbul in March 1995, in which following a rightist shooting of Alevi in a café, the police used excessive force to suppress a riot, including shooting dead 18 rioters. Autopsies revealed that 13 had been shot at point blank range, and three of them in the back. The intense violence used by the police betrayed their hatred of the Alevi.

Alevi Kurds frequently report an assault or trashing of merchandise etc. by people they often describe as ‘fascists’ or ‘Grey Wolves (see below), only to be warned off or beaten up by the police for the temerity of reporting the incident. As one of our informants stated: ‘Police hate Alevi because they are left wing. This is the crucial issue. There is very generalised hostility to leftist people.’ The expectation on the part of the security forces that Alevi Kurds were likely to be leftists, and therefore liable to mistreatment, was voiced by a number of our informants. We asked human rights

squeezed. Because the cell doors were left open, the detainees were able to see the others being tortured. On the same day, they were taken to the courthouse. Because the state prosecutor and the judge were not there, the detainees were released without being taken before the court.’ Radikal and Ozgur Bakis, reported the press conference in their editions for 7 October 1999.

119 It should be noted that a small number of Alevis support Turkish nationalist parties, even the MHP.

120 The extreme rightwing Turkish nationalist party, Buyuk Birlik Partisi [or Great Unity Party] (BBP), founded in 1993 on the ideals of the 'Turkish-Islamic' synthesis, has a major office in Maras town.
workers and lawyers of nine different locations in Turkey whether, all other things
being equal, an Alevi Kurd would be treated the same or differently from a Sunni
Kurd or a Sunni or Alevi Turk. Without exception each confirmed that an Alevi Kurd
could expect to be treated worse. Mr Bayraktar summarised the issue pithily by
quoting a bitter observation current among many lawyers: 'If you are a Kurd and an
Alevi, then you must also be a Communist, and this being so, you must prepare
yourself for severe torture.'

**State suspicion and co-optation** There are other strands to the political dimension.
Ever since the 1970s, and possibly earlier, the Turkish establishment has shared much
of the suspicion of the political right regarding the leftist sympathies of the Alevi
community. This remains an important feature of official thinking in both the National
Security Council (MGK), which effectively is 'the State' overseeing the governance of
the country, and also in the National Security Organisation (MiT). The Alevi
community is consequently carefully monitored, particularly the Kurdish part of it. For
example, in 1997 a Ministry of the Interior confidential memorandum entitled
'Measures to be taken against the PKK' clearly states 'Non-religious activities directing
our citizens of Alevi beliefs in the cemevis [Alevi meeting houses] should be kept
under control.' Given the realities of modern Turkey, the expectation that,
unrestrained, the Alevis will undertake activities inimical to the State is unmistakable.
In July 1998 MiT submitted a report to the National Security Council. This report
listed the Alevis as a potential threat to the state because the community harbours
'destabilising organisations.'

Alongside this continuing suspicion of the Alevi community as a potential hotbed of
leftist dissidence, has been a growing and somewhat contradictory desire to co-opt the
community on behalf of the State. Ever since the triumph of the Islamic party Refah in
the 1996 election and the short-lived administration of its leader Necmettin Erbakan,
the MGK has been anxious to head off any Islamic challenge to the Republic's secular
credentials. The Alevi community has been seen as one instrument in this effort to
stem the Islamic tide. Since Professor Dogan's complaints in 1998 the State has
provided considerable funding for cemevi and encouraged an Alevi community
leadership. Sceptics say that those Alevis 'co-opted' in this way by the State, for
example Izzetin Dogan, are almost all Turkish and viewed as 'loyal', and that the few
co-opted Kurdish Alevis are landlords whose interests already coincide with those of
the State. Alongside the desire to counter the Islamic tendency in society, the other
motive for promoting Alevism has been as a counterweight among Kurds to the
attractions of Kurdish nationalism or of one of the Turkish (legal or illegal) leftist
movements. During the 1980s and early 1990s a growing number of Alevis,
previously sympathetic to a number of Turkish leftist groups, switched allegiance to
the PKK because of its presence in provinces like Maras, Tunceli and Sivas and
because it was demonstrably proving to be the most formidable challenge to the
Turkish State. Fostering the Alevi community *per se* is therefore a calculated move to

121 Interior Ministry Document BO5OHID0000073/472 of 3 January 1997, measures to be taken against
PKK, II.15.
122 *Turkish Probe*, 23 August 1998.
emphasis the primacy of Alevi over Kurdish identity.\footnote{It carries the danger that instead of heading off political Islam, the Turkish State may simply have fostered political Alevism, and thus increased the potential for tension between Sunnis and Alevis.} It is particularly relevant to State efforts to maintain stability in Maras province.

**The Nationalist Action Party (MHP)**

In the 1999 general election, the extreme right Nationalist Action Party (MHP) attracted the second largest number of votes, and joined the coalition government. Many MHP adherents strongly believe in Turkish ethnicity *per se* (not simply the Kemalist ideology that someone acquires Turkish identity by socialisation and education) and with it, the notion that to be a Turk one must also be Sunni. Those not Sunni are not ‘fully’ Turk, as in eighteenth century England those who were not Church of England were viewed as to some degree not fully English.

This is why Alevis and Kurds view the strength of MHP views in the security forces with apprehension.\footnote{Yet it would be a mistake to assume that MHP gets no support from Kurds at all. Some Kurdish tribes decided to back either the village guards or the PKK depending not on the ideological question of Kurdish nationalism/loyalty to the State but rather as a function of local politics and alliances. The decision to support the political left or right can depend not upon the merits of political ideology but on more simple issues of local community identity or on patronage. An IHD delegate from Elazig illustrated in 2000 how local tensions get writ large on the national stage: ‘Ninety per cent of Elazig is Kurdish. Yet because of the clan system [which leads to conservative deferential attitudes] they are more or less pro-State and claim to be Turkish. Because 10 per cent of the population is Alevi and 90 per cent is Sunni, and because of Sunni-Alevi tensions, the Sunnis support the State. Many Sunni Kurds belong to the MHP.’ Information given at IHD Congress, Ankara, 14 October 2000.} As Alevi Kurds, they know they are viewed as less than properly Turkish, even if they have little ambition to assert their Kurdishness. A network of MHP adherents permeates government, the bureaucracy, security forces and the judiciary. It is widely acknowledged that the majority of members of the police force supported the MHP, a characteristic probably true also of the gendarmerie.

Those who supported MHP often have a visceral loathing of leftists, particularly Alevi Kurds, who are often viewed as counterfeit Turks. During the 1970s an extremely violent youth wing of the MHP emerged, the ‘Grey Wolves’ or the ‘Idealists’ (*ulkuculu*). Like the MHP, the Grey Wolves enjoyed intimate relations with the police (see below). A substantial number of police officers supported the MHP generally or were active in its youth wing while off-duty. The Grey Wolves embraced the ideology of Nihal Atsiz (1905-75). As the vanguard of the ‘Turkists’, they claimed (in his words) that ‘communists are people who are racially degenerated, villains, whose origin are not known, and who are not Turkish.’ Atsiz referred to communists as ‘quasi-Turks’, a euphemism also for Alevi Kurds since they largely do indeed support leftist parties. Following the death of Atsiz his will was made public. In it he stated ‘All the evil Turkey has suffered has come from the pseudo-Turks who do not have Turkish blood. Consider...
them worse than foreigners... if they happen to occupy high posts, do not hesitate to
sacrifice yourself to kill them.'

One authoritative account of the proximity between the security forces and the Turkist
right wing states:

‘The leftists themselves had no doubt who was helping the rightwing ulkuculu
(idealist) street fighters. In many a clash, the ‘idealists’ would melt away to be
replaced by the police, or vice versa. This was not an inviolable rule; some police
took the leftists’ side. But with a hint of distaste, the later President Kenan Evren
[the army general who staged the 1980 coup] admitted that the security forces
protected the rightists, believing that they were performing a patriotic duty. The
vehicle used was the National Action Party, the Milliyetçi Hareket Partisi or
MHP, of Alparslan Turkeş who, unlike any of the leftist factions, also managed to
spend a total of nearly two years and eight months in the 1970s as deputy prime
minister in the governments of Suleyman Demirel.’

A series of bloody clashes took place in the late 1970s, culminating in a major massacre
of Alevi Kurds by Grey Wolves in Maraş, in December 1978.

Professor Martin van Bruinessen is Europe’s leading expert on Kurdish affairs. This is
what he has to say of the excesses between leftist and rightist groups:

‘The military did not treat the extreme right with anything like the severity that
they reserved for leftists and Kurds. The fascist leader, Alparslan Turkesh, was
briefly jailed but never tried for complicity in murder, but his movement was co-
opted into the state apparatus. Young rightwing 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.’

The intimate connection of MHP with the police continues. In December 2000 a police
protest demonstration over low pay took place:

‘Thousands of policemen…. Took to the streets of Turkey in the second week of
December. Ignoring calls for restraint from their superiors and the interior
minister’s warning that they were acting illegally, the demonstrators – many of
them showing their colours as supporters of the right wing extremist group, the
Grey Wolves’ – expressed their anger in several Turkish cities.’

MHP was noted neither for moderate politics nor for physical gentleness. Six weeks
later a deputy in the Assembly died of a heart attack following a physical assault by

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127 The Popes described the Maraş massacre thus: ‘All was ripe for an outbreak of sectarian violence
triggered by an initial killing of leftist Alevis blamed on the Grey Wolves; for two days and nights, the
town was plunged into an orgy of violence and terror. At least 107 people died and more than 1,000 were
wounded. Babies were ripped from the bellies of pregnant mothers and dead men strung up from electricity
128 Martin van Bruinessen, ‘Kurds, Turks and the Alevi Revival in Turkey’, in *Middle East Report*, July-
two members of the MHP in the debating chamber. It is the pervasive strength of MHP attitudes in the police and other security institutions which leaves Kurds, particularly Alevi Kurds, extremely apprehensive.

MHP was banished from the scene in the November 2002 election. The attitudes it represented are unlikely to have disappeared. The issue, therefore, is whether these attitudes continue to find expression in the conduct of the security forces.

**Kahraman Maras province**

The majority of asylum seekers coming from Turkey to the United Kingdom seem to come from K. Maras province and of these most seem to come from either Elbistan or Pazarcik. It had been the mission's intention to visit both of these provincial districts. It proved practical to visit only Pazarcik. Before describing this, it would be useful to rehearse the information acquired concerning both. Maras never constituted part of the State of Emergency Region (OHAL), and applicants from this province have, in Home Office refusal letters, attracted the same blanket argument, namely 'there is no reason to think that the situation in those (OHAL) provinces brings you within the terms of the Convention.' Maras province is one of those provinces with a Turkish Sunni majority but with a substantial Kurdish Alevi minority, the latter having probably increased proportionately during the second half of the twentieth century through migration from Tunceli. It has been a battleground over the past generation, between Right and Left, between Turk and Kurd and between Sunni and Alevi. The Rightist/Sunni/Turkish element has always been a majority in Maras. Current tension is partly inspired by the events of the 1970s and the rise of the MHP. It is also a result of the PKK war in which a number of Alevi Kurds assisted the PKK. Many Sunni Turks, especially those who support MHP, would like to see the Alevi Kurds depart from the region to make it more fully ‘Turkish’. Many Kurdish Alevis feel they are under real pressure to move out.

**Elbistan** is the principal northern district of Maras province. It is mountainous, particularly so east and south east of Elbistan town, to Nurhak, and the Nurhak mountain range. Elbistan is divided between Sunni Turks and Alevi Kurds. In addition, however, the MHP is strongly represented in the area and naturally enjoys government support, since it is a constituent member of the coalition. Alevi villagers have reportedly been under great pressure to leave. In June 1996 following the HADEP congress in Ankara, a car containing four Elbistan delegates was stopped near Pinarbasi, and all four were shot. One survived. The perpetrators were believed to be special teams in plain clothes. **Pazarcik** is the southern district of Maras province. East of Pazarcik town it becomes mountainous. Both districts have been the scene of considerable conflict during the 1990s principally between the security forces and the PKK, and of serious human rights violations against Kurdish politicians, notably those belonging to HADEP, lawyers, journalists and other activists concerned with civil or human rights. In addition villages and villagers have been caught in the crossfire, and have been subjected to great pressure by the protagonists to support one side or the other.

other. In practice this has meant pressure to provide food and shelter to PKK guerrillas or alternatively to join the village guards. Neither side has been forgiving to those that wished to avoid the conflict. In mixed Sunni-Alevi, or Turkish-Kurdish villages this has led to tension, with some Kurdish Alevi villagers refusing recruitment into the village guards and consequently coming under acute pressure to leave the village. Tilkiler is probably the most notorious village in Pazarcik. Its population more strongly supported HADEP than any other village in the district. According to HADEP officials in Pazarcik town, in the 1999 election the gendarmerie commander and the kaymakam (district governor) told the village muhtar no less than five times that villagers should not vote for HADEP or the Islamic party Fazilet. After the election supporters and candidates of HADEP in Tilkiler and nearby Saliusagi village were detained and beaten up. All HADEP supporters, we were told, could consider themselves potentially under observation by the security forces.

Reporting of events in Maras province has been haphazard. Information has come from human rights organisations, notably TIHV, or from the leftist press. Mainstream papers have virtually never reported on Maras. However some of the available information gives the flavour of incidents, clashes between PKK and security forces, excess committed by both sides, village evacuations, reprisals against civilians by both sides. Incidents have occurred right the way through the 1990s. A diary of some incidents in the 1990s is in Appendix 4 (p. 126). They clearly indicate that, regardless of being many miles from the OHAL, these two areas were subject through the 1990s to conflict in which excesses were committed by the security forces, the PKK and also by persons unknown. Maras town, predominantly Sunni Turkish now that most Alevi Kurds have moved away, is quiet. Afsin and Goksun are also reportedly relatively quiet, though some incidents occur in these northwestern areas of the province.

Pazarcik or Elbistan have become notorious as places where some Alevi Kurds have assisted the PKK. Consequently if either place features on an ID it may well raise suspicion, and can lead to detention with predictable consequences. If they move away from these districts they almost certainly find their choices are limited to Kurdish population areas in towns and cities of migration. They therefore remain easily recognisable as Kurds, and unless the officer examining the ID is woefully ignorant, also as Alevis and from a 'hot-spot'. (Tunceli, of course, is an even 'hotter' spot.) Inevitably they are at greater risk of detention and mistreatment than other city dwellers who do not bear these 'tell-tale' signs.

There has been a very large emigration from the area, and local people inevitably have mixed feelings about this. Furthermore there is clearly a lot of political tension between the relatively small number that support HADEP and other Alevi Kurds who choose not to. There is partly a class element to this. The landlord class is perceived as strongly pro-government. Beyond this, we formed the impression from remarks made in Pazarcik and also in Istanbul that other conflicts and tensions existed not only between Sunni Turks and Alevi Kurds but also within the Alevi Kurdish community,

131 Notably Özgur Ülke, Özgur Gundem, Yeni Gundem, Radikal, Evrensel, etc.
tensions which have been masked by the State-PKK conflict. Although supposedly ‘normal’, i.e. a place through which tourists presumably could tour, we were stopped at a road block in Pazarcik, our passports taken away for inspection, the details possibly recorded, and our taxi driver interrogated. It was clear the situation was in no way ‘normal’ in the sense that word is commonly understood.

**Military Service** ¹³²

**Service conditions**

All men in Turkey¹³³ are obliged to do their military service from 1 January onwards in the year of their twentieth birthday, unless permission is obtained for a delay. The normal period of military service is 18 months. Workers abroad, if they can show they are working legitimately and for at least three years, may pay around DM10,000 and do one month’s service.

Of an estimated 525,000 conscripts in military service at any one time,¹³⁴ it is generally estimated that 40 per cent, or 200,000 yearly did part or all their service in the south east during the 1990s.¹³⁵ Conscript service may be in the regular army or in the gendarmerie or in commando special teams [özel tim] who are trained in the tactics of contra-guerrilla warfare in a mountainous terrain.¹³⁶ Conscripts may never see action or they may never see a guerrilla but they may have been engaged in the brutal and forcible evacuation of villages. A small number of conscripts are 'winnowed out' if they are identified during basic training as 'inconvenient', 'dangerous' or 'political' [i.e. critical of State policy], and these are apparently not sent to the south-east and complete their military service in a non-combat unit, though this is unlikely to be any less uncongenial. But many 'political' conscripts are probably not identified as such during basic training.

Service can be a terrible psychological as well as physical ordeal, quite apart from the dangers of active service. This is what one conscript reported:

‘You are shocked when as soon as you arrive you face the curses and the contempt. Then, you feel like you’re beginning to sink. The senior privates do that to you. They roll you helpless to the edge. All the things that are done are meant

¹³² We are particularly grateful to Emma Sinclair-Webb for allowing us to draw extensively upon “Our Bulent is now a commando”: Military Service and Manhood in Turkey’ in Mai Ghoussoub and Emma Sinclair-Webb (eds.), *Imagined Masculinities: Male Identity and Culture in the Modern Middle East*, (Saqi Books, London 2000) pp. 65-92, and also to the Izmir War Resisters’ Association.

¹³³ Article 72 of the Turkish Constitution requires military service of all able-bodied males.


¹³⁵ It is estimated some 1,500,000 soldiers served in the war zone in 14 years of war, Ibid., p. 59.

¹³⁶ The special teams require some qualification. The term is used to describe a variety of groups. The common factor is that they are used to deal with internal security, originally against the PKK, but more recently deployed in urban areas, for example in Istanbul. The term is used to refer to special police/gendarmerie units that appear to act with impunity. Outstanding conscripts can be assigned to the commandos, among whom the crack units seem to be called özel tim and özel haraket.
to empty your personality and produce a new identity... In the new recruits’ unit
we were made to feel complete alienation and mistrust.... There were 20 to 30
more men beginning their military service late for reasons like mine. From the
first day onwards all of us were continually accosted and degraded by the officers
and privates with terms like ‘those who are against the state’, ‘traitors to the
nation’. 137

Although formally outlawed, physical mistreatment is routinely committed by both
officers and NCOs. This fact alone implies that conscripts in the Turkish armed forces are
subjected to brutal, inhuman and degrading treatment. In his account of the Turkish army,
Mehmet Ali Birand, one of Turkey’s leading veteran journalists, quotes a retired senior
sergeant:

‘Nobody likes beatings but there is no other way to establish discipline. You know
our people, as soon as you act a little softly, they walk all over you…’ 138

According to our informants, beatings are forbidden but commonplace. Village people
are likely to be most vulnerable. They seem least able to ‘read’ situations, behave
appropriately and avoid being noticed. They are often less able to foresee how to avoid
trouble.

It is a climate which acclaims the virtues of nationalist and right-wing values. Emma
Sinclair-Webb describes going off to serve:

‘The night before a young man departs for his service is often spent with friends,
and resembles nothing so much as a stag night before marriage, with a nationalist
flavour to it... Large groups of young men hanging out of the windows of cars
which race dangerously through the centre of town decorated with huge Turkish
flags and hooting their horns, shout ‘En büyük asker bizim asker’ (meaning both
‘our army is the greatest’ and ‘our soldier is the best soldier’, since asker means
both army and soldier)... This nationalistic frenzy is often the preferred send-off
of those who have ultra-nationalist political leanings: making the wolf’s head sign
[the sign of the Grey Wolves and MHP] often goes with this and its meaning is
not lost on spectators (I once saw a group of defiant Kurdish children playing
football in the street answer these threatening gestures with their own fearless
victory signs and a reckless attempt to aim their ball straight at the passing car)....
Some messages signal strong local support for ultra-nationalist politics - whether
of the MHP (Milliyetçi Hareket Partisi, Nationalist Action Party) or the other
right-wing parties more generally - and a certain lumpen flexing of the muscles
before other sections of the population who share the neighbourhood and are
liable to be regarded as disloyal fifth-columnists. Falling into this category, in
particular, would be Kurds...’ 139

137 ‘Military Service in spite of me’, originally published in Turkish by the Study of Turkey Centre,
Amsterdam, but translated by Emma Sinclair Webb and appearing in English in Ghoussoub and Emma
Sinclair-Webb (eds.), Imagined Masculinities, pp. 92-102. After his service and while receiving psychiatric
treatment, this ex-conscript later died in a traffic accident, thought the suspicion remains that he committed
suicide.
1991) p. 120.
For any politically aware Kurd, therefore, military service even without going to the
south-east, is likely to be a profoundly alienating experience.

No specific research seems to have been carried out regarding the treatment of Kurds
during military service. The relevant points, perhaps, to be made are that service takes
place in an extremely brutal environment; that it is an environment in which extreme
right and nationalist wing values flourish, while democratic and left of centre values are
on the defensive. As with any army, conscripts are very much at the mercy of the
individuals who train them, both NCOs and officers. A Kurd, therefore, who serves under
an officer or NCO who supports MHP will almost certainly have a much harder time than
under a more democratically-minded person. It should also be borne in mind that since
Kurdish nationalism, in the guise of the PKK, has posed the greatest threat to modern
Turkey since its establishment in 1923, a very substantial collective prejudice has built up
against Kurds generally within the army. As one military service protester, Ugur
Yorulmaz, informed the mission: 'Kurds are at the bottom of the heap. They are very
vulnerable to the abuse of power. The army is a microcosm of society, but it favours
bullies. Who a conscript gets [as officer or NCO] is the luck of the draw.'

In November 2000 Izmir War Resisters International (ISKD) stated:
'It is not common that a Sunnite or Alabouite [Alevi] Kurd is target of harassment
or torture just because of his ethnical and/or religious origin. But if the person
outlines [i.e. highlights or makes an issue of] his ethnical and/or religious identity
he runs risk of getting oppressed. Of course it is beyond question that recruits may
face oppression because of a commander's brutal and/or fascist inclination.
Leftists and Kurds in the army are generally seen as suspicious elements and
therefore often strictly observed..... To be leftist, radical Islamist or Kurd in
Turkey increases the risk of mistreatment and torture.'

A solicitor at Birnberg Peirce states:
'I have taken full statements from 12 of our politically active Turkish clients
specifically about their experiences of doing military service, and also dealt with
many other Turkish clients who reported in brief their experiences during military
service as part of the background to their asylum claims.

'Some of them may not have been sent to the south-east because their political
background was known, although it appears to be rare for conscripts to know why
they have been posted to a particular location. However, others were sent to the
south-east, seemingly in spite of their background of political activities. Once in
their units they were, without exception, subjected to mistreatment and abuse, and
I speculate that for those sent to the south east ill treatment might be even more
brutal that for those stationed elsewhere, because hatred of Kurds is probably
greater in military units in the south-east. Some were given menial duties to
perform (e.g. just cleaning toilets and cooking), but others reported being forced
to take part in serious human rights abuses against local civilians, and in military
action against insurgents which breached the basic rules of human conduct. Many

\footnote{Ugur Yorulmaz, Istanbul 6 October 2000.}
stated that they thought there was a conscious policy on the part of the Turkish State of setting Kurd against Kurd in this way.¹⁴¹

My own experience dealing with asylum cases echoes this impression. Many Kurdish asylum seekers complain of the bullying they suffered during military service. Such complaints are sufficiently common that their significance can only be dismissed by suggesting that somehow Kurdish conscripts suffer collective paranoia. There has been a steady trickle of disquieting fatalities among Kurdish conscripts. ISKD states: 'there is frequent bullying of Kurdish soldiers wherever they are stationed: in 1995 ISKD reported an incident of two Kurd soldiers stationed [sic] being badly beaten up by other soldiers, one of them, Yuksel Guzel, dying the same day.'¹⁴²

Amnesty International has also expressed its unease concerning the treatment of Kurds in the armed forces more recently, following the death in suspicious circumstances of a Kurdish conscription evader in summer 1999. In its statement (quoted in full in Appendix 5, p. 130) it lists the suspicious deaths of Suleyman Aksoy (July 1999), who was a returned asylum seeker, Hüseyin Baykara (June 1998), Zeki Imen (November 1997); Hasan Yesilova (May 1998). The Turkish Human Rights Association (IHD) has also recently issued a list of 13 deaths in suspicious circumstances many of whom come from the predominantly Kurdish or Alevi regions of Turkey. This list is also in Appendix 5).

**Evasion of service**

It is our understanding that conscripts who fail to report on time, have three months grace in which voluntarily to report for duty. They will be fined, and then complete their service. ISKD states:

'the laws concerning draft evaders are not very strict and they do not, in practice, contain the punishment of imprisonment. The real intolerance of military authorities is towards deserters....These sanctions are the kind of punishments which cannot be changed into a fine, cannot be delayed nor prescribed. If a deserter commits the same crime twice his punishment is increased heavily....There are other heavy sanctions against people who help deserters, which are not carried out practically.... there is a high number of deserters imprisoned.'¹⁴³

Although this states that evasion does not lead to imprisonment, the case of Osman Murat Ulke (p.45) indicates that on the contrary, it can. In theory it is possible to be stripped of Turkish citizenship.¹⁴⁴ ISKD ambiguously states: 'Men who left the country avoiding military service or deserting were stripped of Turkish citizenship, if they do not follow the citations. But asylum seekers who were sent back to Turkey were conscripted in any case.'

¹⁴¹ Sarah Woodhouse, Birnberg Peirce & Partners, to David McDowall, 16 October 2002.
¹⁴³ ISKD, 'Request for information on the situation of draft evaders (and deserters) in Turkey', 13 November 2000.
¹⁴⁴ There was, apparently, a case of a man in Canada whose family was deported following his forfeiture of citizenship. It is said two others forfeited their citizenship two years ago and are now in Australia. To the best of our knowledge these three cases are undocumented.
At the end of 1998 the number of those who had ignored their call-up papers or not applied to delay their service had reached 200,000 in Turkey and another 226,000 living abroad. With roughly half of those avoiding military service remaining in Turkey, it seems questionable whether this is likely to be the primary motive for flight from Turkey. With the need to raise money after the August 1999 earthquake, and possibly to deal with the backlog of evaders, those born in 1973 or before were offered the chance, for a short period, to buy their way out of full military service, on payment of DM15,000. This can be paid in instalments, but a single default in payment may render the whole arrangement void. There had been such financial amnesties before. An evader seeking to leave the country is unlikely to get beyond passport control unless he can demonstrate that he is going abroad for the purposes of study (language courses or university) and has delayed his military service accordingly. Efforts to avoid military service generally mean avoiding various kinds of registration of residency and the impossibility of even obtaining various kinds of official documents like passports, or of subsequently renewing them. Without registration access to basic services like health and education for children and civil rights are effectively forfeit.

Desertion is treated much more seriously than draft dodging, and leads to imprisonment. ISKD's view is:

'If a deserter tries to live up to his principles as a political, religious or ethnic person and does not obey the rules, extra repression is imposed on him. Insisting on disobedience depending on ethnic identity or similar reasons will cause specific repression on Kurdish deserters (and soldiers).'

ISKD gives two examples of deserters subsequently dying. In June 1994 a Turkish deserter, Halil Tüfekçioglu was tortured to death. One of the two soldiers held responsible for his original escape, Enver Uzun, subsequently took a leading part in torturing Tüfekçioglu to death. Uzun was convicted to 36 years. Six others, including 'high rank officers' were sentenced from one to 21 years in prison. A second example was of a Kurdish deserter, Ali Çiçek Aydogdu. Aydogdu was from Tunceli and therefore probably also Alevi. In any case he deserted three times until he was killed by a bullet in the back in Edirne. The authorities said he committed suicide, but his family accused NCO Adil Özdemir. ISKD states that it has documented approximately 40 deaths in suspicious circumstances during military service. The majority of these were Kurdish, suggesting that they may be more at risk of paying for their temerity with their lives. The State normally defines these as suicide, whereas the families accuse the State of murder. Usually neither party is able to marshal definitive evidence. AI and IHD documents in Appendix 5 should be referred to.

Conscientious objection

There is virtually no tradition of conscientious objection in Turkey. ISKD was set up in February 1994 with a stated aim of ‘fighting war, militarism and racism… of helping to promote a pacifist and free culture in place of the [prevailing] hegemonic racist-militarist culture’. The case that brought conscientious objection to public attention was that of

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146 ISKD, citing Hürriyat, Ulkede Gundem, and Evrensel, 6 October 1998.
147 ISKD citing Ulkede Gundem, 26 November 1997.
Osman Murat Ülke. As early as 1992 an enquiry was made following an article he published which fell foul of article 155 of the Turkish Penal Code which makes it a punishable offence to ‘alienate the people from military service’. It was not until Ülke brought the principle to public attention by holding a press conference on 1 September 1995 at which he publicly burnt his draft papers and declared himself a conscientious objector that the campaign attained some visibility and Ülke just over one year later was arrested, charged and imprisoned, facing a variety of sentences for different offences, and the War Resisters Association subsequently formally outlawed. Ülke spent in all two and a half years in prison, and was released on 9 March 1999. The Prosecution ignored his reason for refusing service and prosecuted for his failure to report to barracks. Following his release he should have reported for military duty, but failed to do so. He thus faces the prospect of being imprisoned once again at any moment as a deserter who has not responded to call-up, with 'no way to end this vicious circle for conscientious objectors.'

**Gendarmerie (Jandarma)**

It has apparently been argued that the evidence is insufficient to indicate that the gendarmerie is habituated to the use of brutal, inhuman or degrading treatment and that consequently one may not reasonably infer that anyone conscripted into this rural police force is at real risk of being required to co-operate in acts contrary to the basic rules of human conduct.

The following should be taken into consideration:

Gendarmerie brutality has a long and continuing history. Shortly after the foundation of the Republic it was engaged in the suppression of the Kurdish rural population. The British embassy (then still in Istanbul) reported

‘a gendarmerie major on short leave from Diyarbakir told a friend he was disgusted with the work he had had to do and that he wanted to be transferred. He had been in the east provinces all through the period of tranquillisation [sic] and was tired of slaughtering men, women and children.’

One of the most authoritative recent books on Turkey’s Kurdish problem states:

‘The gendarmerie, the rural soldiers, have historically played a key role in the internal security of the country. It is especially in the Kurdish areas that it has been most prominent. Unlike regular troops, gendarmerie conscripts are not well trained. They are more susceptible to committing human rights violations and, as a result, have been traditionally detested by the local populations.’

One must ask whether it is likely that in a country where serious human rights abuses are an institutionalised feature of the security forces, the gendarmerie is likely to be exceptional and different from the police in its treatment of security suspects. Inevitably the greatest excesses have been committed in those areas most seriously affected by the PKK. Indeed, an example from the work quoted above states:

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150 Henri Barkey and Graham Fuller, *Turkey’s Kurdish Question* (Maryland, 1998) p. 141.
‘A gendarmerie officer who testified at a parliamentary investigation committee reportedly pointed out that “in the south east one need not be a sympathiser of the [PKK] to warrant his execution. It is sufficient that he be close to its ideology.” He also recounted how mass and indiscriminate retaliation was conducted on a pro-government village that was unfortunate enough to lie close to the location of a firefight between the PKK and the security forces.’

It is illogical to assume that, except in the well-documented cases of where it has used brutality in the storming of prisons, the gendarmerie otherwise respect the rule of law. If gendarmes have a propensity to apply gratuitous violence, to torture and humiliate prisoners during prison disturbances, it is somewhat perverse to suppose that on other occasions this is a law-observant force. In the context of prison transfers, AI states:

‘Prisoners are usually transferred to other prisons, to medical treatment or to court by gendarmes. AI has received numerous accounts of prisoners being beaten and ill-treated during these transfers and has repeatedly called on the Turkish authorities to ensure that remanded and convicted prisoners are never brought into contact with police and gendarmerie.’

If law observance is uncharacteristic of police behaviour when dealing with security suspects, it is not logical to assume that the gendarmerie is likely to be significantly different.

Evidence of specific cases is often hard to come by. The gendarmerie operates mainly in the countryside, where a large number of violations remain unreported. Furthermore those who do report violations often simply say, or their account is translated to say, they were tortured by ‘the police’, for the gendarmerie is the rural police force. As Amnesty International indicates:

‘In Turkey, torture mainly occurs in the first days of police or gendarmerie custody, when detainees are held without any contact with the outside world…. Gendarmes – soldiers carrying out police functions in rural areas – are also more likely to use severe forms of torture, because the victims have no easy access to human rights defenders in their vicinity.’

Amnesty also states ‘during incommunicado detention in police or gendarmerie custody woman and men are routinely stripped naked. Torture methods repeatedly reported to Amnesty International include electro-shocks and beating on the genitals and women’s breasts, and sexual abuse including rape or rape threats.’

Two recent examples: three men were detained by Izmir Province gendarmerie on 18 April 2002, on suspicion of some connection with the PKK. They were held for four days in Kapikaya station in Torbali district: ‘On the first day they were reportedly forced to remain standing, stripped naked, beaten on the soles of the feet, severely beaten elsewhere on their bodies, sexually abused, threatened, insulted and given little food and water and limited access to the toilet. On the following day they were allegedly beaten,

151 Barkey and Fuller, p. 152, n. 20, source ‘Guneydogu Gercekleri’ (Realities of the South East), Zaman, 1 March 1997.
152 Amnesty International, Torture and Impunity, p. 20.
sprayed with water, threatened and insulted.\textsuperscript{155} ‘C.C.’, a 23-year old Kurd was forced onto a gendarmerie vehicle at the entrance to his workplace in Menderes, Izmir, on 9 May 2002. He was taken to a remote place where he was reportedly beaten on the head with rifle butts by four gendarmes from Ahmedbeyli gendarmerie. He had reportedly been threatened by one of the group, a sergeant, after he had refused to address him in a conversation as ‘my commander’.\textsuperscript{156} Further examples of gendarmerie torture and mistreatment are listed in Appendix 5 (Military Service) on p. 130.

What are the chances of a conscript being assigned to the gendarmerie? There are currently 528,000 conscripts. The gendarmerie force has a strength of 218,000, of whom over 90 per cent are conscripts, i.e. approximately 200,000, or 38 per cent of all conscripts,\textsuperscript{157} but the actual number of conscripts serving in the gendarmerie may be greater as some conscripts apparently serve part of their time in the regular army and part of their time in the gendarmerie.

**Village Guards** The voluntary recruitment of village guards was initiated in April 1985 (Village Law No. 442, Article 71) to provide self defence for villages and support for local gendarmerie forces. (It was not a substitute for compulsory military service.) According to the law recruits were to be of good character and without a criminal record. In reality persons with a criminal record were recruited from the outset,\textsuperscript{158} and the village guard has a reputation for violation of the rules of war and a variety of criminal activities. Furthermore, it was not long before pressure was brought on villagers to enrol, regardless of their desire to do so, both inside and outside the OHAL. Willingness to enrol was used as a test of loyalty to the State. Enrolment was used to coerce villagers suspected of pro-PKK sympathies in order to demonstrate State authority and the popular support the State enjoyed. To allow refusal would imply that the PKK's writ ran in the countryside. Refusal to enrol therefore usually led to eviction and destruction of habitat.\textsuperscript{159} Home Office refusal letters which find it incredible that the Turkish authorities would wish to recruit somebody who they suspected of being a sympathiser of the PKK fail to recognise this fact. Those who enrolled, and those villagers and villages that refused to enrol were duly listed by JITEM (gendarmerie intelligence). According to Dr Sukran Akin, TIHV Istanbul, these lists are available to MiT, the National Security Organisation. This means that all those who desert or refuse service in the village guards are supposedly on record. We believe this has clear implications when considering the return of a refused asylum seeker in one of these categories.

It might be assumed that with the apparent end of the guerrilla war, the village guard is in the process of disbandment. By 2000 there were probably in the order of 80,000 village guards under arms. This poses a major problem for the State, since they have become reliant on their village guard salaries. If they are disbanded it is feared this could unleash

\textsuperscript{155} Amnesty International, *Turkey: Systematic Torture Continues*.
\textsuperscript{156} Amnesty International, *Turkey: Systematic Torture Continues*.
\textsuperscript{157} Extrapolated from *TCA*, paragraphs 4.24 and 4.45.
\textsuperscript{158} Examples may be found in McDowall, *A Modern History of the Kurds* (IBTauris 1996) pp 421-424.
massive criminal activity, backed with firearms. Not only, therefore, has the government taken no steps to disband them but it has considered recruitment of 'penitent' PKK guerrillas into the village guard. There have been cases in 2000 of displaced villagers being refused permission to return to their villages unless they enrol in the village guard. In October 2002 several incidents were reported of village guards shooting villagers returning to their lands although in possession of official permission. In other words the current evidence indicates that the village guard militia may have become a long-term and ugly feature of the region.

Service in a war waged contrary to the basic rules of human conduct
Conscripts may seek asylum under the 1951 Convention rather than serve in forces in which they may be required to engage in activities 'condemned by the international community as contrary to basic rules of human conduct'. In the Sepet/Bulbul Determination paragraph 62 the Immigration Appeal Tribunal states:

'We find that formal international condemnation is not essential, although the existence of such condemnation is clearly an important factor. The source, nature and extent of the condemnation is clearly an important factor. There are likely to be cases where political bias or lack of objectivity taints such condemnation, particularly where it comes from participants in the conflict or their supporters.'

Briefly, Turkey's conduct of this war has attracted formal condemnation in addition to piecemeal violation of the rules of war as defined in Common Article 3 of the Geneva Conventions and also in Hathaway's commentary to that Article.

a. Formal condemnation. On 9 June 1999, the Council of Europe 41-member ministerial committee made an unprecedented criticism of a member state when it criticised Turkey for 'repeated and serious' human rights violations which security forces have committed against Kurds. In the interim resolution (Interim Resolution DH (99) 434) the ministerial committee refers to the European Court of Human Rights condemning Turkey in the previous two years in more than a dozen cases related to the security forces. The committee stated that 'no significant improvement' was evident in the past two years. It called upon the Turkish authorities to take the necessary measures to halt torture, destruction of property, illegal killings and disappearances. One should also

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160 Kurdish Observer, 20 February 2000 referring to unsourced reports in the Turkish and Kurdish press.
163 As paragraph 171 of the United Nations Handbook citing exceptional grounds for asylum for evaders of military service puts it.
164 IAT Appeal Nos. HX/71237/94 and HX/74065/96, heard on 6th and 7th April 2000.
165 The crucial part of this article is 3 (1) 'Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable by civilised peoples.'
be aware of the European Commission's concern expressed in November 1999 regarding Turkey's 'persistent violations of human rights' and the 'lack of real civilian control over the army.'\textsuperscript{167} Human Rights Watch has set out its own condemnation of Turkey's manifold breaches of the laws of war.\textsuperscript{168}

b. Piecemeal violations of the rules of war. Examples of violation of Common Article 3(1) are legion and could easily fill a book. Excesses by the Turkish armed forces in the Kurdish region have occurred since the foundation of the Republic.\textsuperscript{169} From 1925 onwards the Turkish security forces have not hesitated to commit mass killings, mass deportations and the wholesale destruction of villages when deemed necessary. The conduct of the security forces during the PKK insurgency since 1984 has not been out of character. Although there have been severe restrictions and penalties on reporting from the south east, a variety of publications are in the public domain which indicate serious violations of Common Article 3. These are far too numerous to list, but have been published most notably by Amnesty International, Human Rights Watch, IHD and TIHV.\textsuperscript{170} In fact, by 2000 the total number of villages and hamlets evacuated exceeded 3,500, nearly equivalent to the mass evacuations of Kurdish villages committed by Saddam Hussein in Iraq, 1986-88. The total estimated evicted population is now thought to be in the order of 2.5 million, roughly the same as the population of Wales. There are, of course, circumstances in which evacuations are justified but such justifications are strictly limited and restricted in application, and the stringent conditions that obtain have not been applied.\textsuperscript{171} Article 17 of Protocol II of the Geneva Conventions 1949 states:

'The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of civilians involved or imperative military reasons so demand.'

In October 1994 Human Rights Watch published a 27-page report documenting the campaign of forced displacement in south eastern Turkey. It stated:

'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.'\textsuperscript{172}

That report went on to give the reasons for village destruction in descending order of magnitude: refusal to join the pro-government militia, the 'village guard'; retaliation for

\textsuperscript{167} Human Rights Watch, \textit{World Report 1999:Turkey}.

\textsuperscript{168} For a Human Rights Watch analysis of international law as it believes it applies to the State/PKK conflict, see Appendix A 'The laws of war and the Turkish/PKK conflict' in \textit{Weapons Transfers and Violations of the Laws of War in Turkey} (Washington and New York, 1995).


\textsuperscript{170} For example Human Rights Watch, \textit{Weapons Transfers}.

\textsuperscript{171} UN Resolution 1993/77 on Forced Evictions

\begin{enumerate}
\item Affirms that the practice of forced evictions constitutes a gross violation of human rights, particular the right to adequate housing.
\item Also urges governments to undertake immediate measures, at all levels aimed at eliminating the practice of forced evictions.
\item Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes or needs, to persons and communities which have been forcible evicted, following mutually satisfactory negotiations with the affected persons or groups.
\end{enumerate}

\textsuperscript{172} Human Rights Watch, \textit{Turkey: Forced Displacement}, (Washington 1994) p. 3.
PKK attacks in vicinity; being in an area of counter-insurgency operations. The scale of the evictions is one reason for viewing them as a serious breach of the rules of war. These reasons, as evaluated by Human Rights Watch, also give credence to the idea that while it has been a war on the PKK in name, in practice it has been an ethnic war waged upon much of the Kurdish population by the Turkish state.

In its 1999 report on human rights in Turkey, the US Department of State said:

'Torture, beatings and other abuses by security forces remained widespread, at times resulting in deaths....With the decrease in operations and detentions in the south-east, there were fewer reported cases of abuse; however, the proportion of cases in which abuse occurred remained at high levels.'

Nadire Mater’s *Mehmedin Kitabi* (Mehmet's Book) was published in April 1999. It consisted of the testimonials of 42 men who had served in the south-east. A brief excerpt is in Appendix 5. Mater's book effectively broke the silence surrounding military service. Both from human rights reports and from Mater's book it is clear that the security forces and the PKK have routinely violated the rules of war.

**c. Non-defensive incursions into foreign territory.** Turkey has mounted repeated assaults on northern Iraq to remove the PKK. In March 1999 the European Parliament passed a resolution which referred to the instability caused by these incursions into Iraq. These have frequently resulted in civilian deaths. It might be argued that since the PKK had been mounting attacks from Iraqi territory, these were indeed 'defensive'. Yet this is harder to sustain in the case of 35,000 troops that crossed the border in March 1995 where they remained for six weeks. Another major force crossed again in May 1996. It is also difficult to describe as 'defensive', assaults across the border which have taken place since the PKK abandoned its military struggle over a year ago. On 15 August 2000 the Turkish security forces carried out an aerial bombardment of what appear to have been civilian targets in the summer pastures of Khandakhor, Lolan district in the extreme north east of Iraq, leaving some 40 dead including women and children. It is alleged that napalm was used. While part of the *de facto* Kurdish autonomous region, this is also indisputably Iraqi sovereign territory as the Kurdish Regional Government in Arbil would itself insist. In January 2001 Turkish troops were reported to have advanced to a depth of 100km into Iraqi territory. There is also the case of Turkey's military occupation of Cyprus.

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174 Mater was prosecuted under article 159/1 of the Penal Code for "demeaning and caricaturing the army", but was acquitted in September 2000. The Public Prosecutor has appealed against the judgement. 175 Reuters, 17 August 2000, AFP 18 August 2000, Ozgur Politika, 18 August 2000. Human rights workers believe Turkey subsequently paid $½ million in damages, presumably via the KDP. 176 It is also, incidentally, part of the designated 'No-Fly Zone' imposed by the United States and its allies following the 1991 Gulf War, although there seems to have been no protest by either the US or its allies, possibly because Turkey provides the airbase (Incirkil) for the provision of air cover to northern Iraq or because Turkey is a NATO ally. 177 Since the international community does not accept the legitimacy of the Turkish Republic of Northern Cyprus, which exists by dint of the presence of Turkish armed forces, this also constitutes an incursion into foreign territory, namely the Republic of Cyprus, as from 1974.
Cultural Freedom

The question of cultural freedom may or may not directly affect an individual asylum seeker, but it is certainly an important manifestation of the oppression perpetrated on the Kurdish community. It is also, as the examples given here amply demonstrate, an issue in which the State and its officers can behave disproportionately and distinctly abnormally against an often imagined assault upon Turkey's national ethos.

Language

In 1991 Law 2932 of 1983 was repealed. This law on 'Publication in Languages other than Turkish' reaffirmed that the 'native language of Turkish citizens is Turkish' and banned any language other than the first official languages of countries recognised by the Turkish Republic. It was clearly intended to outlaw Kurdish, without ever mentioning the offending word. Even speaking Kurdish in private was an offence. Those Kurds who did not know Turkish ran the risk of indictment. With the repeal of this law, Kurdish has been used increasingly in print, song and public speaking. But it would be misleading to assume that 'liberalisation' has taken place without considerable qualification. In the view of many state officials the Kurdish language does, indeed, threaten national unity, like many other forms of Kurdish cultural expression. Its use is taken as an expression of support for separatism and illegal organisations which support separatism.

Consequently, when a Fazilet (Virtue) Party member registered the languages he knew as Arabic, Persian and Kurdish in the Parliamentary Yearbook in August 1999, deputies from the ruling coalition complained that Kurdish is not a recognised language in Turkey. They claimed it amounted to 'non-recognition of the Turkish state and propaganda for separatism.' The entry was deleted from the member's biographical details on the Parliament's Internet website. In June 2000 a court in Gaziantep stopped an edition of the Turkish-medium local paper Firat'ta Yasam because of an article which included in its Turkish title the Kurdish words 'bire min' meaning 'my brother'.

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178 In 1989 a woman who knew no Turkish was imprisoned for one year for speaking publicly in Kurdish, Medico International & Kurdish Human Rights Project, Cultural and Language Rights of Kurds, London, February 1997, p.9.
179 In fact he had even listed Kurdish as a foreign language, whereas in reality it was his mother tongue, Reuters, 5 August 1999; Hurriyet, 11 August 1999.
180 Yeni Gundem, 2 August 2000
With Constitutional liberalisation in October 2001, a growing number of Kurds sought the right to learn their mother tongue. So far this request has been met with repression: ‘The Turkish military have reacted to a demand for lessons in the Kurdish language with the largest mass arrest of students in years. Five hundred mainly Kurdish students were detained by soldiers, with agreement of the university administration in the southern Anatolian city of Van, as they submitted a petition to the university principle. Prior to this the principal had refusal to accept the 3,000 signatures from a student delegation. The students had then decided that each of the signatories should personally submit his or her demand for native language lessons.’

In the west of the country a total of 45 people, who had travelled to Cagaloglu to submit formal requests to the Istanbul Provincial Authority for National Education for Kurdish education in primary schools, were arrested. Because of similar such action police had imposed strict security controls in several districts of Istanbul. The 45 who were arrested, 18 of them women were placed against the walls of the Iraqi Consulate and then searched. They were then taken to the police station in Eminonu. A total of 200 people have been arrested and detained in various prisons for campaigning for native language education.

One student, Mürsel Sargut, was arrested on 30 November 2001 while handing over a petition for Kurdish as a subject choice at the University of Istanbul. He was taken to the Anti-terror police station at Vatan Caddesi. He was allegedly tortured there:

"The police demanded that I should confess to being a member of an illegal organisation and to give the names of other members. When I refused, they told me to undress. They completely undressed me and crushed my testicles. I was beaten and sprayed with high-pressure water. I was threatened with being raped with a truncheon and of being shot in the woods." Mürsel Sargut was later put into custody and was allegedly again undressed and beaten while registering in Bayrampasa’s prison.

On 21 January 2002, 17 students from a total of 163 were arrested in Malatya as they handed over a petition for Kurdish as a subject choice to the university’s vice-chancellor, and were then held in custody. They are charged with supporting the PKK. According to some students who were released, they had not been allowed to sleep during the 4 days that they were held by police, as well as not being allowed to converse with each other. During questioning they had had their heads shoved against the wall while some police officers had reportedly gouged them in the eyes and had beaten them with truncheons.

Two days later, on 23 January, five students were similarly detained in Diyarbakir. One of those detained, ‘L.N.’, described the treatment she received:

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182 Cumhuriyet, 27 February 2002.
'She said she was strip-searched by a female police officer, then blindfolded and brought to a room with loud music where she was told to “confess”. After a brief period in a cell she was again blindfolded and brought to a room with five or six police officers who threatened to rape her. During a third interrogation she was stripped to her underwear, hosed with pressurised water and given electric shocks to her toes, knees and belly for 15 minutes. She was not given food for two days and rarely allowed to use the toilet. Police reportedly forced her to sign many documents, the contents of which she did not know. After three days she was medically examined in the presence of police and subsequently released by a prosecutor. After she filed a formal complaint about her treatment, police repeatedly came to her home and two weeks later detained her again, In addition to this pressure, L.N. has been dismissed from school.'

Turkish officials claimed that the language campaign is masterminded and directed by the PKK as part of a "civil disobedience" strategy developed after September 1999, when the PKK said it was laying down its arms to seek a peaceful resolution to the Kurdish conflict, which has claimed some 36,600 lives since 1984. Despite the August 2002 constitutional change to permit Kurdish lessons, many of the students detained during the preceding year still faced charges for ‘aiding and abetting the PKK.’

The Higher Education Council (YÖK) has decided that students who initiated actions to make Kurdish a subject of choice at universities are to be punished for their "separatist activities", with penalties ranging from a disciplinary hearing through to expulsion. YÖK head Kemal Gürüz stated: "It has been confirmed that the PKK had instructed their supporters to initiate campaigns for education in Kurdish. In this respect, action was taken in our universities and colleges whereby issues of Kurdish identity were in the foreground. Applications were made for education and training in Kurdish. Disciplinary inquiries are taking place against students involved in these activities". The student campaign in colleges and universities includes the submission of applications, speaking Kurdish during lectures, writing in Kurdish, giving answers to tests in Kurdish, podium discussions and conferences held in Kurdish, theatre performances in Kurdish, posters and banners in Kurdish, demonstrations and many other such actions. Investigations have been initiated by college principles into the students involved in this campaign. The Turkish Human Rights Organisation (IHD) condemned the attitude of YÖK as a violation of a basic right, education in a native language.

In August 2002 the National Assembly (parliament) granted education and broadcasting rights to the Kurds. However, as Nicole Pope reported: ‘No one expects the mentality in Turkey to change overnight. Kurdish courses will be placed under the control of the Ministry of National Education, while the notoriously rigid RTUK, or High Council for Radio and Television, will monitor Kurdish-language broadcasts – as it monitors all radio and television broadcasts in Turkey – and ensure their content is in line with the

principles of the Republic.\textsuperscript{189} There is plenty of scope there for the intention of the National Assembly to be thwarted.

**Cultural organisations**

In October 2000 we called at the headquarters of the Mesopotamia Cultural Centre (MKM) in Istanbul. We met one of the staff, Kemal. He had been charged with 'separatism' under Law 168/2. The incident which provoked police anger had been the staging of a Kurdish play in Mersin on 11 December 1997. The text had been submitted to the authorities beforehand to allow them time to prohibit the performance if they so wished. However, they did not prohibit it. One of the lines of the play spoken by Kemal was the phrase: 'Do you mean you wish to say "Long Live Kurdistan?"'. Perhaps unfamiliar with nature of staged drama, the police immediately stopped the play and the performers were not even allowed out of their melodramatic costumes, but were taken to Mersin police station. Everyone present, both performers and audience had their ID cards checked.

On 28 May 2000 MKM planned to hold a symposium entitled 'Multiculturalism and Democracy' at the Marmara Hotel, Istanbul. The governor of Istanbul prohibited it on the grounds that 'separatist propaganda may be disseminated during the course of the symposium.'\textsuperscript{190} Kemal told us, 'We were detained, tortured, many things happen. Our aim is just to continue our culture in Kurdish.'\textsuperscript{191} He was not exaggerating. The very existence of MKM offends many police. In June 1999 police raided a wedding in Yenisehir. Bedran Sener, a staff member of MKM in Mersin was present. Plainclothes police asked him where he was from:

>'When I mentioned MKM they told me "Go up on the roof. Your friends are there." I went up on the roof. The plainclothes policemen followed me. There were no friends of mine there. One of the police officers pointed his Kalashnikov at my head and said he would kill me. Then they force me to step backwards. I was very close to the edge of the roof, and they began to punch me. I lost my balance after the third punch and fell off the roof. I lay on the ground for half an hour. The neighbours took me to hospital.'\textsuperscript{192}

Sener was kept in intensive care for two days. One of the police officers came to the hospital to take a statement and said 'You are still alive?' Sener said 'I was afraid of having to go through the same things again so I said in my testimony that I have fallen off the roof.' In the meantime a spokesman in the Governor's office told journalists that no police officers had been involved in the incident.

On 19 November 2001 eighteen associations and cultural centres and offices in various parts of Istanbul were stormed by large units from the Istanbul police. Many people were taken into police custody and archives were confiscated. The MKM was the first target. Police forced their way into the building stating that they had a search order from the state security courts. Following the search two people, whose identities have not yet been

\textsuperscript{189} *Middle East International*, No. 681, 16 August 2002.

\textsuperscript{190} *Evrensel*, 29 May 2000.

\textsuperscript{191} Visit to Mesopotamian Cultural Centre, Istanbul, 6 October 2000.

\textsuperscript{192} *Ozgur Bakis*, 15 August 1999.
confirmed, were taken into custody under the pretext that arrest warrants existed against them. Under the same order, other institutions were also searched including the Zend Foundation for Science, Culture and Education, the Dicle Women's Centre and the editorial offices of the Yedinci Gundem and the Kurdish Institute. A total of 17 people were arrested and taken to the Istanbul police's anti-terror unit. The Istanbul branch of the IHD criticised the raids and claimed them to be anti-democratic attacks against freedoms of organisation and opinion.\textsuperscript{193}

The MKM attempted to establish Kurdish language courses at the centre. We were informed in October 2000 that it has been forbidden to provide Kurdish classes, except for its own staff. Another Kurdish cultural centre has had a similar experience. The Foundation for Kurdish Culture and Research (Kurt-Kav) applied to the Ministry of Education in August 1996 for permission to run Kurdish classes. In March 1997 the Ministry rejected the application. Kurt-Kav appealed against the decision, and on the rejection of this appeal lodged an appeal with the Supreme Court in Ankara. Then the Chairman and Deputy Chairman of Kurt-Kav were both arrested for alleged violation of Article 292 of the Penal Code. Prosecutors had demanded sentences of up to 4½ years for 'open incitement of hatred and animosity among the people on the basis of differences of class, race, religion, sect and region.' They had placed an advertisement in a mass-circulation daily announcing scholarships for 'higher education students who can write and read in Kurdish.' In February 2000 the charges were finally dismissed.\textsuperscript{194}

Although their cases were finally dismissed, Kurt-Kav had to abandon its efforts to introduce private language tuition, and its two classrooms have remained sealed by the authorities. The deliberate frustration of Kurdish language instruction remains a serious violation of a basic cultural right. Rough treatment, as this section indicates, is meted out to those who seek to lift the curtain of silence. Having exhausted all forms of domestic recourse, Kurt-Kav has taken its case 'Refusal to permit a course in the Kurdish language' to the European Court of Human Rights.\textsuperscript{195}

**Kurdish Names**

The question of Kurdish personal names also provokes tension. In a decision in March 2000, the Court of Appeal overturned a lower court's prohibition on a father who sought to replace his daughter's name "Hatice" with the Kurdish name "Mizgin". The lower court ruled that "Mizgin" did not exist in the Turkish language. The Court of Appeal ruled that

"Article 16 of the 'Law on Public Registrations' [Law No 1587] was passed to prohibit names in contradiction to the national culture, traditions and moral values, not to cleanse the Turkish language of words of foreign origin. South eastern Anatolia is an area where people of various ethnic backgrounds live, and many names of Arabic or Persian origin are widely used.... A person has a


\textsuperscript{194} Agence France Press, 1 February 2000.

\textsuperscript{195} Dema Nu, No.29, 15-31 May 2002, in IMK bulletin No. 156. 13-24 may 2002.
perfect right to be recorded in official documents with the name he or she is
known and referred to by."  

However, the implications of this ruling have not been readily accepted elsewhere. In July the mother of two Kurdish children aged two and four, both born and living in Germany, discovered on arrival at Istanbul airport that she would not be allowed to take her children out of Turkey because they had no ID card and because their names, Rojbin and Rozerin respectively were not recognised. The mother had refugee status in Germany. Bulanik (Mus province) population registry office refused to register them for the ID cards because their names were Kurdish. Legal efforts failed and the mother was obliged to return to Germany without her children. As she left the police told her 'These children will not go back until the father comes.'

In early 2002 seven families from the villages of Meydan, Ugrak, Üzümlü, Bozoba and Cavli in Dicle district of Diyarbakir have been prosecuted because the first names of 21 children allegedly contravene Article 16 of Law No. 1587 on registration. It is claimed that they do not conform to Turkey's “national culture, ethics, norms and traditions”. In December 2001 Interior Minister Rüstü Kazım Yücelen, ordered the suppression of Kurdish expression regardless of the constitutional liberalisation of October 2001. The directive referred to previous directives dated 15 October 1986, 7 August 1990 and 30 March 1992.

Allusions to Kurdish identity
Turkey has a problem containing potential allusions to Kurdish identity. In May 1999 the Interior Ministry introduced a list of phrases 'to avoid terms that could lead to debate or exploitation in the future'. Consequently government departments and media were instructed to discard 37 'hazardous' terms such 'citizens of Kurdish origin' in favour of 'Turkish citizens' or 'Turkish citizens who are described as Kurds by separatist circles'. Even the term 'people of south eastern and eastern Anatolia' was no longer safe. They should be called 'citizens who live in the east of Turkey'. 'Kurdish leaders' and 'peshmergas' [what Iraqi Kurds call their fighters] were to be described as 'Northern Iraqi clan leaders' and 'Northern Iraqis' respectively. Any activity relating to the PKK had to be preceded by the adjective 'terrorist'. Euphemisms also included the replacement of the term 'evacuated villages' by 'abandoned villages.'

In late 1999 the Ministry of Education directed primary maths textbook editors to remove the letters 'P' and 'K' from algebraic equations, and directed the publishers of Can maths workbooks to replace the offending letters with 'E', 'G', 'F', and 'H' so as to avoid 'wrong interpretations'. The order was made as a result of a query raised by a member of parliament: 'Do you consider it appropriate for our children to write with their pencils these letters, which bring to mind the PKK and its confederate,

196 Turkish Daily News, 1 April 2000.
197 Ozgur Politika (Kurdish Observer) 30 August 2000.
198 The names involved were: Serhat, Berivan, Zilan, Rojda, Baver, Velat, Kendal, Zinar, Hebun, Baran, Rojhat, Agit, Zelal and Zozan.
199 Cumhuriyet, 19 February 2002; Radikal, 4 March 2002.
In January 2001 state prosecutors began investigating 15 leaders of HADEP in Hakari because of a calendar containing Kurdish month names. According to Radikal they are accused of propaganda and supporting the PKK.  

Newroz

Celebration of the Kurdish New Year, Newroz, on 21 March is a classic example of state nervousness and inconsistency about Kurdish expression. With the active encouragement of the PKK, Newroz became more than the ancient Iranian cultural tradition it had always been. It became the major annual expression of Kurdish cultural nationalism and by 1992 was accompanied by civilian casualties as the security forces tried to stifle the expression of popular feeling. In 1995 the State bowed to the inevitable and sought to co-opt the festival by declaring it a national holiday on the mendacious grounds that it was a Turkish tradition. From 1995, Newroz has been accompanied by much putting out of Turkish flags. It was a clever and partially successful move, but it does not imply tolerance of Newroz as a Kurdish event, and those who sport Kurdish colours (red, green and yellow) are still liable to be arrested and beaten up, be it at Newroz or some other time of the year. Most years there are still arrests. Here is an Amnesty example from Newroz in 1998:

'Gazali Turan reported that she had been tortured during seven days in police custody following her detention on 21 March 1998 in Izmir during Nevruz celebrations. According to Gazali Turan's account, she had been detained because she was accused of carrying the flag of an illegal armed organisation. She said that police officers applied electric shocks through her fingers on three occasions, and threatened to strip her naked and torture her further unless she admitted to their allegations. She signed a statement, but because she cannot read, does not know what she signed.... The Izmir State Security Court Prosecutor reportedly ignored her statement that she had been tortured. She states that at the end of the detention a doctor issued a medical report stating that she was in good health, without examining her at all.‘

Because of the capture of Abdullah Ocalan Newroz in 1999 was particularly critical. The Turkish security forces took extreme methods of control. Some 8,000 persons were detained, 1,700 of them in Istanbul alone. An revealing little example of continuing State nervousness was the press report concerning Newroz 2000 in Batman. Six local newspapers in Batman were under investigation, it said, for spelling 'Newroz' the Kurdish way rather than the Turkish way of 'Nevroz'.

In the absence of press reports, however, it is easy to assume Newroz passes off quietly. This assumption is mistaken. Nothing describes so eloquently the real nature of ordinary police behaviour on the streets than the account of an incident in Gaziantep at Newroz 2000 given in Oral Statement 17 in Appendix 1, p. 109. It is arbitrary and based upon anti-Kurdish prejudice rather than the rule of law.

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204 Associated Press, 2 April 2000.
Newroz in 2001 saw the detention of more than 100 people in Istanbul. Police fired shots into the air to disperse the demonstrators and detained 116 of them, who disrupted traffic and smashed the windows of cars and shops. The governor of Istanbul denied HADEP permission to hold a Newroz meeting in the city. On the other hand, about 75,000 Kurds gathered outside Diyarbakir and a peaceful atmosphere prevailed. It was organized by HADEP for the second year in a row. In other parts of the country, several groups demonstrated against the state. In Mersin, some 300 people shouted slogans in favor of the PKK and hurled stones at the police. Security forces detained 49 people, 32 of whom were released shortly after.

Newroz 2002 was also marred when dozens of participants were wounded when police used truncheons, tear gas, water cannon and plastic bullets to disperse demonstrators. Ankara, Istanbul and Mersin were worst affected. In Ankara a female member of the Ankara branch of IHD was allegedly beaten on the head and had to be treated in hospital. Two men detained at Altindag police station in Ankara claimed they were sprayed with cold water, beaten, thrown against the wall, beaten on their backs and feet with a piece of wood, punched slapped, kicked, insulted and threatened – at one point one of them was allegedly threatened he would be shot in the head. Police beat and arrested 81 and 230 people in Istanbul and in Mersin respectively. Amnesty warned they were at risk of torture or ill-treatment. In Mersin, demonstrators were forcibly dispersed by police officers with tanks, water cannon, tear gas and plastic bullets. Some demonstrators reportedly fought back with sticks and rocks. Two demonstrators died, one crushed by a police tank, the other crushed when a tank knocked down the wall behind which he was sheltering. More than 100 demonstrators and 41 police officers were reportedly injured. In and around the district of Topkapi in Istanbul, 546 individuals were detained as they tried to gather in a public square to celebrate Newroz. Police officers reportedly also used water cannons, tear gas and plastic bullets to disperse the crowds. Some people apparently responded by throwing rocks at the police officers. Most of the detainees have been released from Istanbul Police Headquarters, though 81 people reportedly remain in custody. Twenty-four of those released have since lodged a complaint with the IHD stating that they were beaten by police officers.

**Kurdish Colours**

Mention has been made of flaunting Kurdish colours, red/yellow/green. It is a measure of State anxiety about the subversive nature of red/yellow/green that discussions apparently actually took place regarding the possibility of changing the colour of Turkey's traffic lights. Apparently in some areas the green traffic light was actually changed to blue. In March 2000 police detained some 100 wedding guests in
(Sanli)Urfa for riding in cars decorated with red, yellow and green ribbons. After questioning at the police station all were released.²¹⁰

Kurdish Music
The authorities also find Kurdish music threatening. A Kurdish singer was sentenced to 10 months' jail for singing a Kurdish song at a fund-raising event organised by the Diyarbakir branch of the Physically Handicapped Persons Association on 7 September 1999. He was charged in court on 17 November with 'disseminating separatist propaganda', as defined by Article 8 of the Anti-terror law of 1991. Among the evidence presented was the occurrence of the Kurdish words for 'green', 'red', 'yellow' and 'Kurdistan'.²¹¹ The sentence was suspended, pending good behaviour over five years. Six musicians who had performed Kurdish songs at a circumcision ceremony for 75 poor boys in Diyarbakir sponsored by Baglar municipality and the Provincial Health Directorate were brought before the State Security Court prosecutor in December 1999. Five were released on bail, pending trial, but the sixth, the 24-year old singer, was arrested for 'separatism' and detained in the Diyarbakir prison. The released musicians claimed they had been interrogated and tortured at the police mobile force headquarters.²¹²

One of the ironies of State concern about Kurdish music is the ubiquity of tape cassettes throughout Turkish Kurdistan and in the cities and towns of Kurdish migration. Theoretically they are allowed, in practice they cannot be stopped. In August the Diyarbakir Governor's office banned no fewer than 242 offensive cassettes. Local dealers insist that such prohibitions merely increase sales.²¹³

Kurdish Broadcasting
Turkey's foreign minister announced in December 1999 that the government would introduce Kurdish medium broadcasting, but the government remains divided over the issue. Since its foundation in 1996 RTUK, the radio and TV censoring agency, has issued a total of 48 years of broadcasting bans. There have been 10,000 days of broadcast bans against 41 stations for “separatist” broadcasts and 5,903 days against 34 stations for Islamic reactionary broadcasts. In addition, 24 TV stations have been warned 71 times since 1994 for separatist broadcasts and 9 stations have had a total of 1,020 days of broadcast bans. In 265 cases the authority gave warnings to 66 radio stations for separatist broadcasts and imposed a total of 9,000 days of broadcast bans. A total of 55 radio stations were warned 240 times for Islamic reactionary broadcasts with 25 of them having to halt broadcasting for a total of 3,780 days. What RTÜK considers to be “separatist broadcasting” is evident from a recent ban. “Gün FM” and “Gün TV” from Diyarbakir were banned from broadcasting for 1 year for broadcasting songs in Kurdish and Armenian. They had breached the rule “broadcasting programmes which comply with the existence and independence of the Turkish Republic and the indivisibility of the state and nation”. RTÜK had already imposed a

²¹¹ Ozgur Bakis, 14 and 18 November 1999.
²¹² Ozgur Politika (Kurdish Observer), 12 December 1999.
year’s ban on “Gün TV” for the same reasons. Gün TV also reported on HADEP events. Kurdish language broadcasts were permitted by a change in legislation in August 2002. It remains to be seen whether this right will be severely curtailed by RTUK, as many expect.

Returned asylum seekers

pp. 86-91: Discussion regarding the extreme low level of information currently available, the conclusions that may be drawn and the most reliable sources for indicators regarding the risks that are run.

pp. 91-96: Outline of what is understood to be police procedures for returnees with and without valid travel documents, and a few examples of the dangers experienced. More examples may be found in Appendix 6.

Uncertain consequences
The TCA 5.83 asserts ‘currently available information indicates that undocumented returnees are generally not being maltreated while being kept in custody.’ There is no ‘currently available information’ worthy of that description, since no one, not even any returning government, monitors what happens to returnees. Returnees are sent into uncertainty, without any mandatory follow-up by the returning government. As the TCA itself states ‘the only way incidents of mistreatment are brought to notice is if the person him or herself notifies human rights organisations, press, embassies and so on.’ All estimations of what happens and the risks involved are based on fragmentary knowledge.

How many are likely to report mistreatment? It is very difficult to know. When evaluating why so few cases are reported, one should bear in mind the following:

• Very few returned asylum seekers make it back to countries of asylum. Yet it is they who are the main source for information on mistreatment. In other words, reports of mistreatment come from a tiny sample that repeat the attempt to access asylum. If one wonders why so few try again, the answer may be that the process of seeking asylum is usually very dispiriting for the applicant, with its uncertainty and loss of family life and cultural context. If that experience leads to removal, a failed asylum applicant will have a very low expectation of being believed a second time around if he has been disbelieved the first time. Only the most persistent (and with sufficient financial reserves) are likely to try again.

• In Amnesty International’s words: ‘Torture is not only inflicted in order to extract confessions, but also to instil profound dread into victims, and to demonstrate the seemingly boundless power of the perpetrators. This ensures that victims and relatives are frequently terrified into silence, and is perhaps the chief barrier to investigation.

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214 Cumhuriyet, 21 February 2002; Milliyet, 22 February 2002; Reuters, 12 February 2002.
215 Home Office, TCA, paragraph 5.80.
and prosecution.\textsuperscript{216} It follows that, apart from making any formal complaint, victims are likely to be reluctant to report their experience if there is the slightest risk of being found out, as in the two points below. According to a study by the Lawyers’ Association of Izmir over a five-year period in Izmir region, 848 cases of torture were registered, but in only 94 of these cases (i.e. 11 per cent) were charges of torture brought against suspected police officers.\textsuperscript{217} Torture victims have a very low expectation of redress.

- Reporting mistreatment to a human rights organisation is a risky undertaking. Both TIHV and IHD had their offices raided by the security forces during 2001, during which computer and paper files containing personal details were removed. Those citizens of Turkey aware of their rights and aware of these organisations will also be aware of the attendant risk.\textsuperscript{218}

- Reporting mistreatment to the press is particularly risky if one goes to those papers most likely to publish it, i.e. ones most concerned about human rights abuses, which tend to be left of centre papers which already have an uneasy relationship with the authorities. The police are likely to feel much greater freedom in persecuting someone who tells his story to a sympathetic left wing paper than to a mainstream paper. But mainstream papers are not likely to publish the story unless very blatant and verifiable torture has taken place.

The implications of this are obvious. One may confidently predict that only a small fraction of those mistreated on return are likely to reappear as statistical evidence of mistreatment.

**Assessing the Risk**

The *TCA* understandably attempts to assess the risk. Its primary sources are other governments which, like the UK government, do not monitor what happens to returnees either. The German government (TCA 5.81) states that in general ‘rejected asylum seekers returning to Turkey do not risk persecution.’ No evidence is provided to indicate that this point of view is anything but conjecture. The Turkish Foreign Ministry informed the IND fact-finding mission that the overwhelming majority of Turkish nationals who had applied for asylum overseas had done so for purely economic reasons. ‘They were of no interest to the Turkish Government... the airport police might question them about, for example, the loss and destruction of their passports, but this would be a low level investigation. The subjects would be quickly released...’ (TCA 5.82). How believable is

\textsuperscript{216} Amnesty International, *Torture and Impunity*, p.25.
\textsuperscript{217} *Agence France Presse*, 28 May 2002.
\textsuperscript{218} On 10.10.2001 the police returned all confiscated documents concerning patients and doctors. The raid on the TIHV [Diyarbakır] offices on 7.9.2001 was not just an attack on the confidential relationship between doctor and patient but also frightened away people who may have turned to the TIHV for treatment and rehabilitation. The number of visitors has gone down since then. Local authorities have begun inquiries into the legality of the raids and the seizing of documents. On 25.10.2001 an investigation by the state prosecutor and state security court in Diyarbakır into the TIHV and the lawyer Sezgin Tanrikulu for suspected support of the illegal "Kurdistan Worker's Party", was stopped. However, new legal proceedings have begun against Sezgin Tanrikulu who is alleged of setting up a medical and rehabilitation treatment center without permission from the authorities. In similar cases against TIHV offices in Adana and Istanbul, the courts decided that such permission from the health ministry was not necessary. AI-Urgent Action 228/01-1 AI-Index: EUR 44/004/2002, 15th January 2002; see also UA228/01, AI-Index: EUR44/046/2001.
this? Would this Ministry really admit that a number of returnees are actually detained and tortured? Would it even know whether some returnees were detained and tortured?
The Swiss authorities (TCA 5.83) end up saying ‘nothing can be completely excluded or assumed from the start: it depends on individual case.’ Which implies that it accepts that torture occurs in an unquantified number of cases.

**Is the Home Office sufficiently concerned with the safety of returnees?**

As stated, no returning government seems to monitor what happens to returnees. There is a particular UK case which gives rise to concern. In June 1993 Mr Kucuk Huseyin Avlik was returned to Turkey by the Home Office. He was a military service evader as well as an asylum seeker. He was in ‘restraint’ and accompanied by two British immigration officers who, on handover at Istanbul airport, witnessed his being assaulted by the Turkish police and, it seems, his also being questioned about his reasons for leaving Turkey and whether he was a terrorist. As the Determination of his subsequently successful appeal states:

'... in my judgment, the manner in which he was treated by the police on his return to Turkey under escort of British officers, indicates that his fear of further persecution was objectively justified.'\(^{219}\)

The case only came to light with a Special Adjudicator’s Determination in March 1999. The significant factor concerning this case is that no action seems to have been taken at the time by his escort to protect Mr Avlik or by the Home Office to lodge a formal protest at such unlawful and unacceptable treatment. One might argue that it is a lone case, but it was clearly a very serious one. If the Home Office needed any indication of the ease with which Turkish police mistreat returned asylum seekers, then this incident clearly offered it, with its own officials as eyewitnesses. If no formal protest or post mortem occurred, as now seems virtually certain,\(^{220}\) it provides a disturbing indication that the Home Office does not itself view such mistreatment with the gravity it merits. If the incident was reported and a protest was made, how has it been possible for the Home Office to assume since 1993 that it can return refused asylum seekers without taking any steps whatsoever to check that they are indeed unmolested? If it took no steps to investigate either in 1993 when the incident should have been reported or following the Determination in 1999 (when it became public known), it implies that the level of Home Office concern is not commensurate with the gravity of the incident.

**Seeking the best sources for reliable feedback: UNHCR, TIHV and IHD**

As stated in the introduction to this report, the choice of sources and weight placed upon each of them is a subjective but telling exercise. UNHCR is often taken to be the most authoritative source. It is important to recognise the degrees and limits of its authority, limits which UNHCR itself acknowledges.

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\(^{219}\) HX/68478/96 decision, 22 January 1999, by Mr BWM Downey, pp. 7, 9.

\(^{220}\) An enquiry was lodged with the Secretary of State on 4 September 2000, which by mid-January 2001 had received no reply. A letter to the Head of IND sent about six weeks later also received no reply. An enquiry to the UK Mission in Ankara indicated no electronically stored record of the incident. I was informed it was possible but highly unlikely that a record of a protest existed solely on paper somewhere.
UNHCR specifically warned the Home Office in its letter dated 22 March 1999 against returning anyone suspected of any connection with the PKK or with any 'political profile'.

'Persons who are suspected of having the slightest links with the PKK are detained and kept in detention. It is known that they are at times subjected to torture/ill-treatment and cases of extra-judicial executions have been reported. In view of the above, it is essential to find out if Turkish asylum seekers, if returned, would be at risk of being suspected of connection to or sympathy with the PKK, or have otherwise a political profile. If this is the case they should not be considered as having been able to avail themselves of the option to relocate in a region outside the south-east of the country. Besides, such an alternative must be accessible in safety and durable in character.... In accordance with standing jurisprudence, a person who has been excluded from refugee status on the grounds of Article 1(F) of the 1951 Convention should nonetheless, not be returned to Turkey if it can be established that he/she is likely to be submitted to torture or inhuman or degrading treatment or punishment in violation of Article 3 of the UN Convention on Torture, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention on Human Rights.'

On 3 July 1999 Mr Hanlom of UNHCR in London wrote to the Home Office setting out a position which countermanded a UNHCR letter of 31 March 1999 but not that of 22 March. The 3 July 1999 letter stated:

‘As you are aware, UNHCR does not have an official position on the return of rejected asylum seekers to specific countries, it being understood that a fair and efficient asylum procedure has been followed prior to the decision to return. Based on information provided by UNHCR Headquarters as well as our branch office in Ankara, I am unable to confirm that Turkey should be considered differently from other countries as far as the return of rejected asylum seekers is concerned. Any contrary view that might have been deduced from our letter of 31 March should therefore be disregarded.’

This leaves the position of UNHCR potentially ambiguous since it did not withdraw its letter of 22 March. The following is perhaps the clearest recent statement of its position, made in March 2001:

‘UNHCR is not a human rights organisation and is not in a position to give expert advice on general human rights questions. Equally, UNHCR does not hold itself out as an expert on the general human rights question in Turkey. When UNHCR presents its views on the situation in any country, it does so only in so far as this relates to its mandate for the international protection of refugees. This mandate includes the duty authoritatively to comment on whether conditions are safe for the return of failed asylum seekers and the proper approach to take to notions such as ‘internal flight alternative.’ When governmental and non-governmental bodies seek the advice of UNHCR they do so in the light of the expertise and experience of UNHCR has acquired in pursuing its mandate over the years. These considerations do not suggest that UNHCR has any direct responsibility for

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221 UNHCR to Home Office, Country Information and Policy Unit, Ref 600 Turkey, 22 March 1999.
human rights as such, or that it is necessarily the best informed source as regards any particular country situation.'

In other words, it states its duty to speak authoritatively but admits ‘it is not necessarily the best informed source as regards any particular country situation.’

Bearing in mind the explicit warning in its letter of 22 March regarding anyone connected with the PKK ‘or have otherwise a political profile’, the key question is less whether or not this is what UNHCR states than whether, in the light of the record of treatment of PKK and other political suspects, there is indeed a real risk in returning a refused applicant with this kind of profile. Readers of this report must clearly make up their minds about this. (UNHCR’s position is set out in greater length in Appendix 6).

Is any organisation better informed than UNHCR concerning what happens to refused asylum seekers returned to Turkey? Arguably, there is. Both main Turkish human rights organisations, TIHV and IHD, are the usual ‘first port of call’ for torture victims, regardless of whether these are returned asylum seekers or not. As a consequence they have a much more intimate idea of what takes place in police custody and also the mentality of the police when detaining someone. The probability is that UNHCR relies considerably on both for first hand information. It is difficult to know where else it would turn for this kind of information.

In March 1999 both TIHV and IHD issued explicit warnings to European countries receiving asylum applicants from Turkey that they should on no account return those to whom they refused asylum. They did so because (a) they were alarmed at the cases of mistreatment on return about which they had heard and (b) their belief, based on experience, that they only learn of a very small fraction of total amount of mistreatment.

In addition these organisations were concerned at the level of Turkish surveillance of Kurdish expatriate communities, so much so that attendance or suspected attendance at a Kurdish demonstration somewhere in Europe, would be treated as evidence of support for or membership of an illegal political organisation, usually the PKK. Examples justifying this concern may be found in Appendix 6.

This is what the Human Rights Foundation of Turkey (TIVH) stated in March 1999:

'The practice of deportation for asylum seekers carries certain risks, even for those whose applications are not strong, and these risks have reached a peak at a time when substantial human rights violations are occurring at a sensitive period.

'For the official authorities in Turkey, the act of applying for asylum abroad is viewed as evidence of "guilt". Even if there are no outstanding accusations against the person in Turkey, the police are suspicious that, during the period that the person is applying for asylum, that they are involved with "anti Turkey" political

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222 Text of letter from Mr Michael Kingsley-Nyinah UNHCR, London to Morrisey’s Solicitors, Ref 644.2 Turkey/630 dated 29 March 2001 Title: Re: Return of Asylum Seekers to Turkey and the notion of ‘internal flight alternative’ your [Morrisey’s] ref AN/379/L of 20 February 2001. See Appendix 6 for fuller coverage.
activities, such as becoming a member of opposing associations and taking part in anti-government demonstrations. The police often manage to take statements from those who have been deported back to Turkey that "prove" such suspicions, especially from those of Kurdish origin. Those who are deported back to Turkey are, in practice, often seen to be detained at the airport at which they land. This practice became a rule. The decision to detain mostly lays [sic] with the police officials at the airport. Such detention may last a few hours and the person may be released. However, there are examples of such detention practices leading to serious consequences. The practice of detention in Turkey is a process that often involves inhumane treatment and torture and sometimes results in death.....

'The risk of facing ill-treatment is very high for those who are deported to Turkey. In this matter, the examples reaching human rights organisations in recent times show that some of those whose claim for political asylum had been refused and sent back to Turkey, were subjected to torture and inhumane treatment.'

In March 1999 the Turkish Human Rights Association (IHD) also issued an explicit statement concerning the danger for asylum seekers returned to Turkey. It criticised European governments repatriating Kurdish activists whose applications for asylum had been refused and said it was unable to protect them from detention and torture by the Turkish authorities. Furthermore, it stated

'The IHD regards the deportation of Kurdish refugees as contrary to the Geneva Convention on the Status of Refugees dated 1951... The IHD thinks that there are crucial problems in Turkey regarding the implementation of the European Convention on Human Rights... The IHD objects in principle to the deportation of any person to a country where such problems [routine and flagrant violations of the basic articles of the European Convention] exist.'

They both clearly believed that the risk of mistreatment is high even for those whose only offence is to seek asylum outside Turkey and that European governments should not return refused asylum seekers to Turkey (presumably until Turkey has demonstrably improved its human rights record).

In October 2000 we made a specific point of asking the Ankara headquarters of both IHD and TIHV whether they would now modify their warnings in any way. Both confirmed they still stood by what they had said in March 1999 verbatim. It is difficult to dismiss what they say for the simple reason that they are incontrovertibly closer to what happens in detention than any other organisation, except for the torturer and the victim themselves. Since then the Istanbul branch of IHD issued a further statement in May 2002 confirming its stance.

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223 Human Rights Foundation of Turkey (TIHV), 'The position of refugees who are sent back to Turkey', March 1999, p. 2
224 IHD, 15 March 1999, quoted in IMK Weekly Information Service No. 11, 1 April 1999.
225 'The Human rights Association is concerned about the refugees who are recently returned to Turkey from various countries in the world. Most of the refugees who are deported from various countries are taken into custody. The Human Rights Association states examples of torture and ill-treatment in detention in its monthly reports. As a result of this, it is the HRA’s [IHD] opinion that the torture is administratively practically applied. Most of those victims who applied to the Human Rights Association stated that they
What happens on arrival at Istanbul or another Turkish airport?

Our understanding regarding returned asylum seekers, having spoken with officials in IHD and TIHV, is as follows. Any person with a valid travel document will be checked on the immigration computer which will reveal whether there is any national or international warrant for arrest, or is a conscription evader or is registered *persona non grata* or otherwise wanted. The fact that a person is *not* on the computer is no guarantee that that person is not wanted by some police or gendarmerie station somewhere in Turkey.

It is clear, however, that the police identify others whom they wish to interview, although it is unclear whether this is based on computer information at the airport, or the extensive memory of an alert police officer. This came to light recently in an appeal hearing, when a witness gave evidence. The witness, a refugee holding a British passport, returned to Turkey in summer 2001 after an absence from Turkey of nine years (itself an indication how long one may remain vulnerable even without having committed an offence). He flew to Adana airport. He was told his name appeared on the computer:

‘I was taken to a separate room where I was searched. I was asked whether anyone waited for me and said that my nephews were waiting for me outside. I was then told to give my luggage to the nephews as they were going to keep me for a while in order to talk to me. A policeman then escorted me to where my nephews were waiting. They came to pick me up from the airport. When they saw me with the police officer they asked what was happening. The police officer said that my name had appeared on the computer. I insisted that it was my right to know why I was detained. Once we left my nephews the policemen asked me how I dared speaking to him in this manner. The police told me that I was not in England now, that I talk too much, and that he would smash my face. I repeated asking what I have done. He then took me to another room and as soon as we walked into the room he attacked me. An older police officer who was in the room tried to stop him. He said to the younger officer that I was a British citizen and that they would get into trouble if they beat me. I was told by the policemen that my name was put on the police record as wanted by a Gendarme station in Dersim [Tunceli] but the reason for it was not noted in their records and that I should know the reason. They challenged me to admit what I had done. I told the police that I left Dersim when I was 12 years old and that I could not imagine why my name would appear on a wanted list. I was questioned at the police station at the airport for six hours. [He was questioned about sibling and a cousin all of whom were outside Turkey, as the police confirmed they knew] After six hours I had been subjected to torture and ill treatment. Therefore, the Human Rights Association does not share the view that the said persons will not be subjected to torture and degrading treatment.... [example occurring in March 1999 given].... the Human Rights Association accepts the universal standards regarding asylum right. Those who seek asylum because of political reasons can not be returned. It is against the human rights law to return refugees who sought asylum also because of race, religion and ethnic origin, before the human rights and democratic standards change and these changes are observed in their countries. This is the basic opinion of our Association on the refugees and the return of refugees. We believe that the situation of those who may be returned to Turkey needs to be considered in this framework.’ Signed: Eren Keskin, Chair Istanbul branch, IHD.
was taken to another police station. On the way to the police station I was continuously interrogated. I was also threatened. I was told that I would be beaten up and that I would not be allowed to return to the UK. [...] I was taken to Malisuba police station. There I was interrogated again by different police officers who insulted and threatened me. I was asked for my brothers’ whereabouts. I was continuously verbally abused and threatened. At some point I notice that someone phoned the police and from the exchange I understood that it was pointed out to the police interrogating me that I had a British passport. I was then asked how I got the passport and his behaviour towards me then changed. During the 24 hours I was held the police tried to find out why my name appeared in the computer records. I was continuously questioned. The same questions were repeated over and over again and consisted mainly of questions relating to my siblings and my activities in Turkey and abroad. After 24 hours I was told that I would be transferred to a Gendarme station in Adana. I was warned that the Gendarmes would not be so respectful towards me as the police was. At the Gendarme station I was held again for several hours. All together I was held for approximately 54 hours. [...] I believe I was not detained for a longer period, nor seriously ill treated in detention because of by [sic] passport.  

One may reasonably conclude that his British passport did indeed protect him from mistreatment and from more prolonged detention. Someone not enjoying the protection of a non-Turkish passport would probably have been at much greater risk. The incident also reflects the long arm of the security services even after nine years’ absence. The witness had left Dersim at the age of 12 and Turkey at the age of barely 19 in 1993. It also indicates not only the vagueness of why someone is wanted but that even when the reason is unclear a person is still at risk of mistreatment.

Undocumented returned asylum seekers are undoubtedly at greater risk. They are held for 24 hours at the airport. The police send ID information to the Political (or Anti-terror) Department headquarters on Vatan Caddesi. A check is run with police or gendarmerie stations in the birth-place and other places of residence in Turkey. It seems that embassies and consulates abroad keep the security forces informed about the activities of individual Kurdish expatriates and community organisations. Sometimes during this period there is ill-treatment at the airport. If anything suspicious comes up the detainee is removed to Vatan Caddesi (which has a notorious track record for torture of detainees) where he is likely to be held for four days. It is the belief of both TIHV and IHD that torture is frequent during this process. The Anti-terror department has an unsavoury record. On 8 March 2002, to quote a relatively recent example, 23 year-old ‘H.T.’ was detained at the Istanbul Anti-terror headquarters on suspicion of membership of an illegal organisation. Amnesty International continues: ‘During the [three day] detention she was allegedly tortured and raped with pressurised water, stripped naked, spat at, and forced to sit in excreta.’ It is not therefore at all surprising that Amnesty International reports the following regarding a returned asylum seeker:

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‘On 5 February 2002, Orhan Kop was reportedly arrested by a group of 50 masked Romanian police on his way to work in Romania, where he had applied for asylum. He reported that he fainted when the police sprayed gas in his face. He was subsequently deported to Turkey as the alleged “representative of the Kurdistan Workers’ Party for Romania.” He regained consciousness at the Anti-terror Branch of the Police Headquarters in Istanbul. He reported that, although he was still unable to stand on his feet as a result of the shock of deportation and the effect of the gas, that he was insulted, kicked and slapped, had his hair torn out, put into cold water, had his testicles squeezed, and was given electric shocks in order to make his “confess” links with the PKK. When he was brought before a prosecutor and a judge, he had to sit as his statement was taken because he was reportedly still unable to stand on his feet. He was remanded to Bayrampasa Prison. On 12 February 2002 Orhan Kop told his lawyer that his feet were numb (which he believed to be a result of the electric shocks) and that he had pain and bruising on his legs, back and arms from the beatings.’

TIHV states that some persons are returned direct to their place of birth after two or three days of torture. According to TIHV, Istanbul, a village guard refuser would be at risk of torture, as the Political Department at Vatan Caddesi has access to MiT files regarding village guard enrolment and refusals. The other important point, noted by Amnesty International (Germany) in 1999, was the increase in returned asylum seekers managing to enter Turkey at Istanbul safely, but to be assaulted either en route home or after their return home.

**Trying to estimate what proportion of returnees are mistreated**

In *TCA* paragraph 5.87 the Home Office discusses seventy or so cases of mistreatment of returned asylum seekers, of which it is aware. At paragraph 5.88 it claims that ‘In order for an assessment of risk to be made the reported cases of mistreatment must be set against the total number of returnees.’ It is impossible to agree with this proposition since it does not compare like with like. The number of returnees is known since returning governments keep a record of those they return. The number of mistreated returnees is not known and cannot possibly be guessed at, since no government monitors these. One may come to a guess that only a tiny fraction of those returned are subjected to torture but it can only be a guess, an extremely unreliable one at that, based upon a wholly unscientific and patently unreliable foundation. As such it is probably erroneous.

There are several factors that need to be considered:

(a) Kurds are much more likely to be tortured than are Turks, something in the probable order of a ratio of 8:1. As a consequence, the *TCA* claim ‘Being of Kurdish origin does not in itself constitute a higher risk of inhuman treatment’ is unsustainable. What

229 Amnesty International, Germany, ‘Risks to Kurds when returning to Turkey’, 3 February 1999.
230 Statistics collected by the Human Rights Foundation of Turkey indicate that two thirds of its torture victim clients are Kurds although Kurds form barely one quarter of Turkey’s population. The Legal Aid Project for Women Raped or Sexually Assaulted by State Security Forces to June 2001 records that 75 per cent of victim applicants to the project were Kurdish.
231 *TCA* 5.85.
evidence there is indicates the risk is substantially higher for Kurds, and higher yet for Alevi Kurds. This is dealt with much more fully in the sections on *Kurds in Turkish Society* and *Alevi Kurds*.

(b) The evidence collected also indicates that everything does *not* 'depend on the individual and his activities in Turkey and abroad' as TCA asserts.\(^{232}\) Everything depends upon *suspicion* of what activities a detainee may have participated in, what political or cultural views a detainee may hold, whom a detainee may be related to, where he comes from, and so forth. Mistreatment can also be a function, not of imagined offences, but of the indiscipline, sadism, prejudice and institutionalised violence present in the police and security forces. This should be taken properly into account.

(c) Yet another factor is whether there is any suspicion of a returned asylum seeker having been involved with any Kurdish associations or groups while abroad. By definition all these are viewed as illegal or inherently separatist by the security forces. Two German NGOs have attempted to document the cases of mistreatment of returnees which have come their way. Of 32 cases documented in their report, two thirds, i.e twenty one, were mistreated either solely or partly on suspicion of being involved with a Kurdish political or community organisation while in Germany.\(^{233}\)

(d) Finally, as discussed above, the vast majority of those mistreated or tortured on return probably do not report this to anyone.

**What can happen to those mistreated**

One asylum appeal current in September 2002\(^ {234}\) includes a brief account of the appellant’s experience, as described by his legal representatives, having been refused asylum in 1996 and returned to Turkey mid-1996:

‘On his return to Turkey, Mr XXXX was kept in a cell at the Anti-terrorist Branch Police Station in Istanbul. He was held there for three days and three nights. During his detention he was beaten up, sworn at and interrogated whilst blindfolded. He was asked why he had left Turkey and told that he was not in Turkey to speak his mind freely. On the first day of his detention Mr XXXX was made to sit on a box-like object which had a special seat that allowed his legs to be raised. After his legs were raised falaka was applied to his feet. They were beaten severely with truncheons. He was then made to stand in a small plastic container full of salt water. Due to the wounds that he had sustained, this experience was extremely painful and traumatic. He became very ill and was nearly unconscious. After he had been tortured Mr XXXX was taken back to his cell and left there until his release on the third night of his detention. He was not given any food at all during this time.

When Mr XXXX was released he was told that there would be further repercussions if he continued activities against the Turkish State [he was a village guard service refuser].[....] [He decided to flee his village to avoid harassment] One week after they moved to Antep a number of policemen raided the family’s

\(^{232}\) *TCA* 5.85.
\(^{233}\) Pro Asyl and Förderverein Nds, *From Germany to Turkish Torture Chambers: on risks for Kurds returning to Turkey*, Hildesheim, June/English edition August 2000.
\(^{234}\) Home Office Reference T260961/4, being represented by Christian Fisher Khan solicitors.
house. Mr XXXX does not know why they raided his house although he believes that they may have received information about him from the gendarmerie in Pazarcik. [...] He was taken to the Anti-terrorist Branch in Antep where he was beaten up by four or five policemen. [...] Mr XXXX was beaten up so badly that he was left in a heap and was unable to get up. [...] He was threatened with repercussions if he did not return to his village. [...] At the end of 1997 some gendarmes came to Tilkiler village and took Mr XXXX away. They took him outside the village to a wooded area where he was blindfolded. His legs were tied to a large stick which was raised. One soldier beat him severely on the soles of his feet with a wooden stick. Mr XXXX nearly fainted due to the severity of the beating. They told Mr XXXX that if he did not become a village guard and an informer the beatings would continue. 

Accounts like these are hardly reassuring regarding the argument that ‘currently available information’ indicates it is safe to return refused asylum seekers. This case came to notice purely by chance. We know of the Kucuk Huseyin Avlik case noted above, only by chance. Neither seems to have attracted due attention at the Home Office although it is obviously cases of mistreatment which should attract careful attention in order that it can satisfy itself regarding the safety of returning refused asylum applicants.

A couple of other cases of mistreatment of refused asylum seekers returned by the United Kingdom are given in Appendix 6. In addition 13 brief case studies have been taken from 32 such studies in a major report on mistreatment of returnees from Germany: Pro Asyl and Förderverein Nds, From Germany to Turkish Torture Chambers: on risks for Kurds returning to Turkey, Hildesheim, June/English edition August 2000. For anyone wishing to weigh the potential consequences of being returned to Turkey, these case studies make essential reading. They show that returned persons are at risk of mistreatment in order to ascertain with whom they have been consorting during their period of asylum application. They reveal that the police can detain and mistreat a returnee on the grounds of coming from a notorious district, for example Pazarcik in K.Maras, or of implicitly being an Alevi Kurd, or of being a supporter of HADEP. They indicate that even someone apparently inactive politically and resident abroad for 20 years can be at risk on return; that a minor, seeking asylum at the age of 15 or thereabouts can be at grave risk when returned; that one need only be a displaced villager or one who has fled to avoid being coerced into the village guard to be at risk of serious torture. They also suggest that the anti-terror police on Vatan Caddesi apparently more or less automatically torture those person delivered to it, even when they have no record of any offence or suspected offence for the detainee.

**Conclusion.** Being Kurdish places a returned asylum seeker at greater risk of mistreatment than being Turkish. Without travel documents he will be thoroughly checked, first at the airport and if there is an apparent need for further investigation, at the notorious political/anti-terror police headquarters on Vatan Caddesi. Torture is likely in either location. It is not actual anti-State activities either in Turkey or in Europe which place a returned asylum seeker at risk. It is a wider danger, for example: the *suspicion*

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that a returnee holds anti-State views or may have committed anti-State activities, or the activities of a returnee's relatives or his place of birth which may place a returnee in jeopardy of torture. The known number of cases of mistreatment set against the known number of returned asylum seekers is no basis for calculating the danger of mistreatment on return. The two most knowledgeable and experienced human rights organisations in this matter both categorically advise against returning refused asylum seekers under any circumstances, yet their warnings apparently go unheeded.

Appendix 1: Oral Statements collected in October 2000.

Note: These accounts are given verbatim and unadorned, as they were told to us. Some are disjointed, either because of the severe distress in retelling the tale or because the teller found it difficult to present their experience in an orderly way. Several who recounted their experiences, wept as they spoke. Almost all these statements were received covertly. Most were taking a serious risk talking to foreigners, and knew that they might be taken in for questioning and possibly tortured. With very few exceptions each witness is given a pseudonym.

1. Irfan, refused asylum seeker returned by Germany, now in Cibali, Istanbul, 6 October 2000.

   ‘I was returned on 6 May 1999. I had served three months in military prison. The reason was that an Armenian conscript had set fire to the barracks. I was guarding the barracks and held responsible. While in prison I was tortured daily. When I got out my father arranged an agent to get me to Germany where I claimed asylum. However I was returned without documentation. I was kept one day at the airport and ten days in detention at the Political [anti-terror] police. I was not beaten at the airport but they were very abusive. Many friends who were returned say they were beaten at the airport. I was taken to the political police and questioned. I arranged payment of DM500 not to be beaten, so I was not tortured. But many returnees are tortured.’

2. Rifat, acquaintance of Irfan

   ‘I was returned. I was detained for two days. I was not tortured. You can avoid it if you pay money. Four days ago I came from Bingol. There were many checks on the road. If you complain they make you wait hours. You do not buy pro-Kurdish newspapers [i.e. Radikal or Yeni Gundem] in Bingol, as you risk a beating if you are caught with any. My house [in Istanbul] was raided two months after I was returned, at 3am. My children were terrified. After the raid I changed my address and am now unregistered. So my children are unable to attend school. But I do not dare register.’
3. Yusuf, farmer, from Gulali village, Malazgirt district of Mus province, in his late 30s, now living in Umraniya shanty area, Istanbul, 6 October 2000:

'My village was burnt down three times. When we first came here in 1993, I could not even find bread for my six children, but people helped and supported us. I could not get used to life here. I wish to go back but it is not possible. They won't allow it.

'They burnt our village once in the winter. One month they abused us. Women, men and children were stripped naked. Women were dragged naked by their hair. The children were small and defenceless. Even now it makes me cry that human beings did this to us. They put a notice at the entrance to the village: 'This is an Armenian village [a reference to the hated Armenians, and Turkey's liquidation of them in 1915]. It is forbidden to enter.'

'I cannot put my children into school. I do not have the money. My father has been detained and tortured three times during the course of security operations. Each time he needs medical attention. Once he came back having lost his teeth as a result of the security forces beating him with truncheons.

'The last of the three burnings was in the winter of 1993. I cannot remember the previous dates. Some people went to Malazgirt. A few months later some people returned and saw the sign. The village hoca [Sunni Muslim cleric] was with us. The Special Teams [ozel timler], feared for their great brutality towards the civil population] seized him. They said: "You are not a Muslim", and they took his Qur'an from him and tied him behind a car and dragged him around. Somehow he survived. We were told to become village guards. We refused and were accused of supporting the PKK. They even arrested the women. My nephew and niece were detained and tortured. They stripped them and made them face each other. [Weeps] They were told "Look at each other. Behave as if you are not brother and sister" [i.e. have sexual relations] My nephew died of a heart attack. My niece joined the PKK. They seized a child nephew of mine. They took a cushion and suffocated the child. They put pressure on us to say it was the PKK that did it, and that it was the PKK that burnt the village. They even took the clothes of the children, though they were up to their knees in snow. We still don't have peace [i.e. in Istanbul] because there are so many checks. They check our ID and once they find out our place of birth and find out where we are from, we are detained. We cannot sleep quiet at night.

'In 1993 the Special Team took 35 men and chained them inside a stable and burnt the building down. One of the men had six children. He left a widow who came here. Everyone here is very afraid. I do not know if she is still here. In 1993 they burnt 105 villages in Malazgirt. They killed two PKK fighters. They put chains around their necks and dragged them through the village as an example.'

'We want to enrol children in school. None of the children are in school. My child's name is Kurdish so they refused to enrol her in school. I changed her name from Kurdish, Dilgis, to Turkish, Sabir. It is very difficult to find work. People do not wish to employ us. I was a farmer with two tractors, 100 sheep and 30 cows, with 60 calves. They burnt all of them. But I am still alive and still have my head. I am a day labourer. Every day I
go to market and see if I can pick up a day's work. I only get work on a construction site if they cannot find a Turkish worker. We only tend to get employed by people from the east [i.e. other Kurds]. It once was possible to get TL150 million [£150 approx] from a Turk who refused to employ a Kurd. But Turks always employ Turks before Kurds.

'My father was three times tortured. He is still in the village. We have 3,000 dunams [750 acres], but the army allowed us to use only 50 dunams [12.5 acres] close to the village. We cannot buy everything we need to farm because they also put an embargo on bringing food into the village. There were 120 households. Now there are only 4 or 5 left. The army trashed any food they found in excess of our allowance.

'I do not feel safe here. Two or three months ago someone informed the police that I was sheltering someone from the PKK. I was accused of harbouring the PKK. I was released, but I said nothing. I was released after 14 days. I have been detained six or seven times since 1993.

'If I registered with the muhtar [headman of neighbourhood] with my true address, the police would come every day. I have registered with a muhtar at a false address.' [Our guide interposed: Yes, I am in the same situation, registered with a false address.]

'I believe there are informers in this shantytown. I do not know if something bad will happen to me because I have talked to you. I do not know if the police will come and arrest me because of it. They can arrest me anytime. I am not safe here. My family suffers. I have agreed to speak about my experiences because I have nothing to lose.'


'Our village came under great pressure in 1993/94. The contra-guerrillas [probably the ozel tim] came and killed people, but claimed it was the PKK. They used rape, beatings and torture. Finally, one winter night when the snow was a metre deep, they made all the people leave their houses. They destroyed everything. We lost everything. Not one stone was left on another. Even the poorest had 50 cows. We are now here, as slaves. There were 150 households. Now the village is empty. No one is there. No one knows where everyone is dispersed to. We knew no one [when we came here]. It was very confusing arriving in Istanbul. We have no friends here or relatives.

'Why did they destroy our village? There was pressure to be village guards. We all refused to take the gun. In 1994 they [the security forces] raided the village one night and took four people away one and a half kilometres, shot them and then claimed the PKK did it.

'We find city life very difficult. All we want is the right to speak our language and have our culture. I am registered elsewhere, not here. I stay away [from the area of registration]. My children are unregistered. The pressure continues. I would like to return [to the village]. Some villagers had joined the PKK. In 1994 three men from our village
who had joined the PKK killed themselves to prevent clashes between the army and the villagers. They sacrificed themselves.

'We rent this house from a Turkish man from Malatya. [Because they are unregistered,] if a child is ill we have to go private. We cannot go to a state hospital because they want to know where we are registered. There are also police in the hospital, so it is dangerous. I brought money but it has nearly run out. It is ridiculously difficult trying to find work. I have not worked much. I have worked for approximately one month out of every year since 1994. I have been unable to get work. The police have come to my dwelling many times. I was detained last year for one week. They tortured me. [Pause] I can't talk about it. Afterwards, I got away to Izmir for six months.'

5. Leyla, widow aged 32 from Siirt province, Umraniye, 6 October 2000
'I came from Siirt in 1998, when the military took the government [i.e. when the National Security Council effectively removed the elected prime minister, Necmettin Erbakan of Refah (Welfare) Party from office]. When I woke up I saw an 18 year old neighbour. I witnessed how they [the soldiers] shot him dead. Especially in Kurdistan girls have no freedom. People are uneducated. They have arranged marriages and are sold by their fathers. When I finished school at 14, I was pressured to marry. One day in spring 1988 I was at my parents' house. I saw 12 dead bodies naked on their backs. Their penises had been cut off. In 1990 I was married. I have 4 boys. Our house was always raided [by the security forces]. They terrified us. They put a gun to my chest.

'On 12 February 1993 at about 4pm two young men knocked on our door. I was alone but I opened it. They said they were from Siirt, I didn't realise they were guerrillas. They said they were electricity workers. There is a strict obligation of hospitality. I let them in. Half an hour later I saw masked Special Teams [ozel tim] around the house. I had given birth to twins a short time earlier. They knocked on the door. I opened it. The ozel tim soldier said "I want to search the house". They pushed guns into my chest and knocked me down. The two guerrillas were hiding in the bedroom. A relative of my husband was taken outside. They broke his hands, injured his chest and broke his legs. Then they shot him in the head. His brains went everywhere. I asked "How could you shoot him without reason?" One guerrilla shot himself. The second guerrilla killed himself with a grenade. I had six children. They dragged me to the cemetery. My mother in law was upstairs. They beat all of us. They held me for two weeks. They did everything sexually. There are still burn marks on my arm. I was fifteen days in detention. I fainted many times. They used cold pressure water. I cannot remember clearly. They dragged me to another room. I had to watch a man in prison as they took out his nails. They burnt him. They took him to the slaughterhouse and killed him. "Now speak" they said, "or we'll rape you in front of your children." Before they took me to court they took me to a doctor. I could not stand up. When the doctor saw me he wept. The soldiers took me without a [doctor's] report to court. They had broken four of my teeth. I could not speak properly. They gave me a paper to sign. I could no longer bear the pain so I signed. My hearing is damaged. I cannot hear from my right ear. I was blindfolded when taken to the Prosecutor. They took me to a room. I had to face the wall. Behind me were many weapons. They filmed me in front of the weapons and broadcast the capture of guerrillas and weapons.'
'They took me again to the Prosecutor to admit to what I had already signed. They threatened me if I refused. The statement said I had done many things. Then they took me to a judge who was a woman. To prove I could not have done the things of which they accused me I showed my caesarean [scar], as proof I have just given birth to twins. The woman judge came and beat me. The police took me out. "What shall we do with you?" They put me in a vehicle and took me to Siirt prison. They beat me on the way. I was in a cell with PKK and criminal prisoners for 45 days. Every night the gendarmes came and beat me, seeking my husband. He had not gone home. He had gone to the mountains [i.e. joined the PKK].

'They gave me numbers 65 and 168. What did they mean? 65 meant I would get no report and 168 meant that I would be charged under Law 168 with separatism. After 45 days I was taken to Diyarbakir. On the way the soldiers beat me. They took me to court and charged me with Article 168. The court case took two years. I was transferred to Batman prison. My story was published in Yeni Gundem [a legal leftist newspaper]. They published my picture. My husband was killed in a clash. I had three lawyers representing me. I was not charged with separatism but with harbouring PKK guerrillas. I was convicted and sentenced to three and a half years. I spent three years in Van prison. They released me on 29 December 1995. While in prison in Van the soldiers and prison guards twice broadcast that the prisoners were rioting. I was simply a woman. When the chairman and Commandant of the prison came about forty soldiers beat me. I was the only political prisoner. Three social [criminal] prisoners were badly tortured during these months. It also happened to me. Even the chairman of the prison himself beat me. The last time the chairman of prison beat me they put my child in front of the door of the prison. I was always under pressure to become an informer because they considered me to be a PKK woman. In prison we were treated like animals.

'When I was released I was in a very bad psychological condition. I did not know what to do. The family picked me up from prison and the police followed me back. I was always under observation. I had six children to look after, but no husband. I lived with my family for two months but after my release from prison the authorities did not leave me in peace.

'Before [the incident] we had everything. In one hour everything had changed. My parents were living in Istanbul. I wondered if I should come. The city frightened me. After a few months I went back to Siirt. But the police started following me. I lived in Siirt for two years. I came back to Istanbul in 1997. I could only bring the washing machine. It had bullet holes in it. I rented a dwelling in Istanbul. My oldest son and I started working in a textile factory. After six months the employer still had not paid us. He finally said, "You are Kurds. I don't have to pay you." I work, but I sent my children back to Siirt. My oldest son has just found work. I have had no work for four months.

'When I was released I tried to get a pension for my husband as he was a civil servant for 10 years, but they refused it because he was a terrorist.
'This last winter I went back to Siirt to try to live. Again I came under pressure. I do not know what will happen next. In Siirt there are many police raids. I lived sometimes in the house of my sister. I am registered in my sister's house but I live elsewhere. My children have Kurdish names. The head teacher made trouble because they are enrolled with their own names in school. The first child has a Kurdish name, 'Botan' [the name of a bygone Kurdish emirate]. Now he must be called 'Guney' [a Turkish name]. I thought about killing myself many times.

'When I was in Siirt last winter I was detained again by JITEM [the gendarmerie intelligence unit]. I am very careful never to get into a dangerous situation. I was in prison for two years nine months. If I do anything they will put me in again. I do not know if I will live tomorrow. You don't know if you will be shot tomorrow. I live in fear in Istanbul. We feel we have no justice here.'


'My brother has just died. I have not been detained over the past three years. They accused me of helping the PKK, since one of my brothers joined the PKK. I have been politically conscious since the 1980s and because of this I have a problem. My village is not burnt but I was suspected of helping the PKK. We left the village. We were not alone. Of 150 households only 60 or 70 are left. I left in 1997 because I was afraid I would be victim of an extra-judicial killing and there was real pressure. So I came here and have been in Gazi for three years. I have four brothers who were always detained and tortured. My older brother was three or four months in prison. One brother joined the PKK as a guerrilla in 1996. The police knew. I now rent my house from a landlord from Bingol. Because I am a Kurd I could not get a house, because of the discrimination. For two years I could find no work because I am a Kurd. For a few months I worked, now I am unemployed again. When I first came to Istanbul I went to the shanty. I am not registered here. I am using my old address to get my children to school. We have an economical problem. We do not have other problems because Gaziosmanpasa is all Kurdish. Police are apprehensive of repeating the events of 1995 [when Alevi Kurds were deliberately targeted by (presumably rightwing) gunmen. The ensuing protest demonstration turned to riots as police shot eighteen demonstrators dead].

'The children have to sing the Turkish national anthem as part of the education. The aim of schooling is to assimilate children. One of my children has a Kurdish name. I could not enrol him in Bingol. Now the child has a Turkish name. It is forbidden to speak Kurdish as a child [in school]. In every school text book opens with a sacred national pledge [andicmiz]:

'I am Turkish. I am upright, I am industrious. My aim is to protect little ones and to respect adults, to respect my motherland, my nation, to love my nation with all my heart. I will advance the State, move it forward. You [Mustafa Kemal] were the great Ataturk ['Father of Turks']]. We will continue to walk in the way you have shown us and I swear I will do it. I will sacrifice myself for the existence of Turkey. How happy is he who calls himself a Turk.'
Two weeks ago my parents were notified that their son was killed. The police went to my brother in Karliova. He was wounded and captured in a clash. You could see he had been tortured to death: legs, arms and neck broken. After we buried him a few days later the authorities mined his grave. [It is a cultural practice for mourners, particularly kin, to prostrate themselves on the grave mound.] We went to the Prosecutor to complain but he did nothing. They have not been looking for me on account of my brother, but then they do not know I am living here. Because of my brother's involvement in the PKK none of our family is safe.

'Villagers went to different places. Some went to Europe, others went to Malatya. If they would let us, we would all go back. I am not very hopeful we can go back. The 'peace process' comes from only one side. I do not believe in the peace process as the State makes no move. From the past we know the State always promises but then makes massacres. Two other people, a man and a woman, joined the PKK from my village.'


'Not much has changed since [the events of] 1995. The checks continue with police driving around all day and all night. After 1995 they started using armoured vehicles. People who have fled here usually register. I do not give the list to the police, but they take the list and I cannot say no. So many people do not register. I estimate nearly 20 per cent are unregistered. The population of Gazi is probably 80,000 or so registered persons, and so I estimate a total population of about 100,000, containing a large proportion of displaced people, but this is not more than 50 per cent of the total in Gazi. The Alevi population of Gazi is probably between 40 and 50 per cent, while the Kurdish population is probably between 30 and 40 per cent. There is great solidarity between Turkish and Kurdish Alevi because of their religion.

'I do not myself experience official pressure as an Alevi, but I do experience social pressure as an Alevi. I am from Sivas. I came to Gazi 26 years ago.

'People have to bring their registration for police checks. There is a larger risk of being detained or mistreated if unregistered.


'It began on 17 April 1999 when my son was 16. The police came to bulldoze the shanties. [This is used as a form of collective punishment against displaced Kurdish families suspected of sympathy with the PKK] My son wrote a graffito: "The houses should not be bulldozed." He was spotted by the police, arrested, tortured but released the following day. In the night of 19 April, however, the Ozel Tim [Special Team] came to our house and went to the room in which my son was sleeping and aimed a gun at him. I caught his hand and cried "what are you doing?" He replied "Your son is a terrorist." I was sure he was going to kill my son. I tried to stop him and another officer intervened. I thought they were going to shoot all of us.
'They arrested my two sons. They stripped them naked and put blocks of ice on them. They gave them Palestinian hanging [being suspended by the arms behind the back, usually leads to dislocation of arm sockets], electric shocks to the penis and hanging by the penis, and hosing with pressurised water. I cannot tell you the other things they did to them.

'My sixteen year old son, Ikrem, is in Umraniye prison for 20 months. He was charged under Turkish penal code article 168: membership of a terrorist organisation. They tortured him till he signed a confession. This confession stated that he attacked an MHP (National Action Party) office. [MHP is an extreme right wing party with very close links with the police and gendarmerie, many of whose ranks are MHP supporters.]

'They took the other son, Mustafa, to the prosecutor and to the judge who released him. He also signed a confession under torture. I had told Mustafa to be careful to finish university. He is in his third year. But the police want him again because he took place in a demonstration at a Galatasaray demonstration against the adoption of isolation cells in prison. [The entrance of Galatasaray has become a regular Saturday place for human rights protestors, and brutal counter-measures by the police.] He is now in hiding. They have come for Mustafa on four occasions recently. I can remember three of them: on 20 and 26 September and once in October [2000]. But they are also always outside the house. My 14 year old son is psychologically destroyed. They stop and ask him, "where is your brother?" He is so afraid he cannot sleep. Because of his participation in these demonstration they want to charge Mustafa with two offences: helping a member of an illegal organisation and being a member of an illegal organisation. They wish to convict him for 14 years. There are two charges against Mustafa under file No: 2000/XXXX [number withheld]. On 9 September they detained four of Mustafa's friends. On 10 September they released them. On 11th they detained them again and they are still inside. Now they are looking for eight people, Mustafa included. All they did was to participate in a demonstration. They live in Umraniye.

'We can't sleep because of the terror that they will raid the house. When the Ozel Tim knocked on the door I asked "Do you have permission from the Prosecutor?" They replied "And who is the Prosecutor? If you do not open we shall shoot. Open the door!" When they came into the house they sent me upstairs as a human shield. When they came to the house they asked "Where is the picture of Ataturk? Where is the Qu'ran? Where is the [Turkish] flag? Why [the picture of] Yilmaz Güney? [Güney was a famous Kurdish film maker and political prisoner who died in the late 1980s, widely regarded as a national hero in the Kurdish community].

'We do not know what will happen tomorrow. Once I attended a demonstration. They beat me and put me in a vehicle and took me to the gendarmerie station. All the people who were in the demonstration had their clothes ripped and were given black eyes. When they arrest you they put you on the ground and beat you. They beat you in the gendarmerie station. We were put in a cell. Then they fired teargas into the cell. They did

236 We believe he misunderstood and that this means weights were hung from the penis, a practice doctors at the Medical Foundation have reportedly come across among torture victims from Turkey.
it to everybody, including women and children. They beat the kidney, and where it
cannot be seen. They do this to young people.

'When they catch him [Mustafa] they will kill him. I have asked Eren [Eren Keskin,
lawyer and general secretary of IHD Istanbul] what I should do. Perhaps I should send
him to Europe but I do not have the money. I don't know what to do. They are listening to
our phones. When I was arrested I was taken to Vatan Caddesi HQ [headquarters of the
political police and notorious torture centre]. They make you listen to the torture. It is not
the judge but the police who say who should be detained.

'They gave electric shock to the [Ikrem's] penis and hanged him by the penis. A
woman was arrested at the same time as Ikrem. She was threatened with rape if she did
not sign confessing to membership of the PKK.

'They are also putting pressure on my oldest son, who is a medical doctor and also on his
Uzbek wife. They told her to live elsewhere [i.e. outside Turkey].

9. Omer and family are from Pervarya, a hamlet in Siirt. They now live in a shanty
area of Adana. Statement taken in his home, 10 October 2000:

'Our village was on the edge of the mountains. There were PKK guerrillas. So the
authorities raided us on a daily basis. Sometimes we were taken into custody for beating.
We were afraid in case they would kill us. There were 32 households. That was nine
years ago. Today there are nobody left. First we went to a neighbouring village and lived
there eight years. One year ago we came to Adana. But we have no land and it is
impossible for us to work. I was taken into custody and beaten. Yes, of course I was a
shepherd. A village informant said the PKK had visited us. Yes, I am registered with the
muhtar. It is very difficult to find work. Since coming here I have not been detained. I
feel safe here, but nearly every evening the police come. I am not aware of problems, but
we have only been here a short time. [Our guide told us that Omer did not admit that his
family had been pressured to leave the second village, and that he was afraid to admit it.]

10. Zeynep, a grandmother from Ordik village in Hakkari, statement taken in home
in Adana, 10 October 2000:

'Ordik village is really three villages with one muhtar. It is now all destroyed and empty.
The reason? The State accused us of helping the PKK. The day before we left the PKK
had attacked the gendarmerie station. The State said "you did not help the gendarmes so
you must be supporting the PKK. So you must leave the village." Some people took their
property but others were prevented. They started to burn the houses while people were
still in the village. There were 300-400 households. The authorities pressured our family
to join the village guards, and we accepted. Four of my family died in clashes. One was
the son of my brother-in-law, one was the son of a sister-in-law, two were nephews of
cousins. The State mined the village. This is how they died. It happened five or six years
ago. We left in 1995. We came directly to Adana and lived with relatives until we could

\[237\] See footnote 00.
construct a house. One of our sons joined the PKK so [they said] you must become a village guard. We don't know what happened to our son. Some say he died, some say he is still alive. They burnt every house in the village. Many things were lost, mainly food for the winter. It is difficult. Some of my children are working collecting waste for recycling.

'\'My son joined the PKK after doing military service. He deserted after three months and joined the PKK. So they came asking for him. A few days ago they summoned my husband to the gendarmerie station. Two years ago they came always to the house asking about my son and we say the picture [of him on the wall] is from before he left for military service. We have not seen him since. Since the peace it has been quiet but the police patrol after dark and they are checking everything. We are registered.

**Her husband comes in and speaks:**

'They shot all the animals. I cannot work here. My sons give me money. The pressure is less since one year. It has been quieter. Before one year the house was constantly raided and they were asking for my [PKK] son. Four of my sons did military service. I served in western Turkey.

'In 1990 I was arrested and was in custody for a week. They tortured me badly. Then I was in prison for one month because they accused me of helping the PKK. For three years I did not become a village guard. Then they told me to be a village guard or to leave the village. I had no choice. I became a village guard. I had animals, and a stable 30 minutes walk from the village. Early one morning I went to feed the animals. The stable was surrounded by gendarmes. They searched everywhere in the stable. We were subject to great pressure. If the pressure continues I will not go back. If we can live in peace, of course I will go back to my land.'

**11. HADEP official, Yakapinar shanty area, Adana**

'I came here from the east after operations in 1991. People came here because they had relatives here. There are places like this everywhere. You will find displaced people in even the smallest villages and settlements. They called the place 'Misiz'. In 1999 DSP beat HADEP in the election by a margin of only 60 votes. Because DSP is frightened for the outcome of the next election , they don't give any work to force the shanty dwellers to move away, so that there will be fewer voters for HADEP in this district. There is always pressure on the people. Make them go away. It is a political decision. To get a Green Card [the unemployed/social welfare permit] the last station you must visit is the gendarmerie station. The gendarmes tell us to go to HADEP or the PKK for help. You cannot even retrieve a body from hospital without a Green Card or without payment. The gendarmerie commander is violating the law in not giving out the green card. Even when a son is kept in prison, still the gendarmes continue to harass the families.

**12. HADEP official, Adana**
'I used to beat my wife routinely. In 1991 I was taken in and tortured. They did everything to me, for three months. When I was released I never struck my wife again. Now I understood.'

13. A lawyer in Gaziantep

'I have many relatives in Pazarcik district. There is nothing special about Pazarcik. A year ago the gendarmes fired a rocket at my cousin's house in the village. Luckily no one was killed. For two years the shepherds have been unable to go into the mountains and they are beaten if they are still out after [evening] curfew. I do not know the situation there now. I take political cases of torture victims and I am one of Ocalan's lawyers. There are many current cases of torture in custody in Gaziantep. I was myself the victim of torture. In 1996 I spent three months in prison. It is to do with your political outlook. I am a HADEP member. Our provincial chairman [HEP, not HADEP] was killed in 1992.

'I know of a case of a man returned about two years ago from the UK. They are still harassing him. They wanted him to become an informer. He was detained one month ago for acting as a sebeke [migration agent]. There is still pressure but it is not as bad as before. Human rights violations have declined since the end of the war but if you express your opinion in any way against the State you will be liable to police action. We are still waiting for changes. Ten days ago the chairman of HADEP, Sirnak, was arrested. He was framed. They [the police] put guns and bombs in the boot of his car and then 'discovered' them. Ten HADEP people were arrested. They are now in prison. Police action against you depends on your political position.


'You can buy Yeni Gundem in Gaziantep. It is a legal newspaper. We have four delivery staff to subscribers. One started a month ago and so far has been taken into custody four times and intimidated and told to stop by plain clothes security people. After the first week they started to make death threats. The most recent death threat was two days ago, on 10 October when they also demanded a list of subscribers. You can also buy it at certain kiosks, but it is kept under the desk. We complained to the Public Prosecutor and governor regarding the harassment. They have done nothing.

'One month ago a Yeni Gundem journalist in Mardin was arrested and beaten, first on the street. He was accused of breaching public safety and challenging the police without reason.

'I have been here two months. People are detained for one or two hours, one or two days and get beaten simply for standing on the street in a suspicious manner. HADEP people have been taken into custody in Islahiye simply for carrying an issue of Yeni Gundem
which carried a portrait of Sivan [Sivan Perwer, a renowned Kurdish singer currently living in exile].


'The reason for asylum seekers is that Alevis and Kurds have found themselves in opposition to government since Ottoman times. It is very difficult for Alevi Kurdish people to get a respected position in society. Many people leave Pazarcik. Many Alevi Kurdish villagers were pressured to become village guards. They refused because they were afraid from the mountain [i.e. from the PKK]. If you refuse to join the village guard it is very difficult to stay. But many agreed to become informants so we have 'village guards without guns.' Because of that we could not rent anywhere for HADEP in Pazarcik, Maras or Narli. For example, yesterday we wanted to rent an office for HADEP. We offered a high rent but when the landlord found it was for HADEP he refused.

'Tilkiler [scene of greatest conflict in Pazarcik] has many hamlets. In 1999 people were prevented from using their summer encampments near the pistachio orchards and there were three extra judicial killings. Of course they are under pressure. HADEP got 250 votes in Tilkiler. Other villages gave few votes. But during the 1999 elections the gendarmerie commander and the kaymakam [district governor] went to the village muhtar and warned him against any votes either for HADEP or for Fazilet [the Islamic Virtue Party]. The people of Tilkiler defied intimidation. Before the election there was oral harassment. After the election the Salliusagi and Tilkiler candidates and supporters of HADEP were detained and beaten up. Everyone with any contact with HADEP are under observation. One month after the election, in May 1999, there was a clash near Tilkiler and one soldier died. Because of this operation 33 were taken into custody. After three months 31 were released and two remain in prison. One of the detainees was badly tortured and made to eat his own shit. Everyone who was arrested and detained was tortured (see Amnesty International report on this, p. 00).

It was bad in '91 and '93. In '91 they killed eleven young men with napalm. Also in '91 11 young men from Kartalkaya clan were killed. In '92 six were killed from Armutlu village.

'From 1992-96 I was many times taken and tortured. In May/June 1995 the security forces started operating against HADEP in Maras. Many supporters were detained here and in Narli. I was in Ankara and heard they were looking for me so I stayed away for a month. But after I returned I was taken and tortured on the basis of a false accusation. I was taken to the Prosecutor and was released. The landlords are against HADEP and with the State. These landlords were involved in what happened to me. In 1995 the authorities incited one of our management committee to kill another committee member. He refused and told us. It was an attempt to get HADEP people to fight internally. In March 1998 his wife was stabbed to death and they accused and charged him with the killing. He was in prison for six months and released for lack of evidence. On 1 September 1997, International Peace Day there was an operation against HADEP and 60 were detained in Pazarcik and Narli, including four members of the management committee. When taken to the Prosecutor, all but four were released. All had been physically mistreated. They
released 56 after four days. The remainder were released after 55 days. I was tortured, chained by the hands and hung from the ceiling. The 56 who were detained were supporters and helpers, not members. When I was tortured the police told me "Don't think Çatlı is dead. 238 We are all Çatlis...if you continue with HADEP we shall kill you." Many times they followed me to my village.

'In 1992 my sister joined the PKK. In 1993 we were notified she had been killed in a clash. Her body was unrecognisable. Her breasts had been cut off. I was detained for two and a half months. For seven days I was tortured by security. Later on they realised she was not my sister. The security forces want this area emptied because it is Kurdish Alevi.'

17 Ritvan Ozer, chair of a HADEP branch in Gaziantep, living in G/Antep for past 17 years but originally from Siırt, statement taken in G/Antep on 12 October 2000
'It happened at Newroz (21 March) 2000. I have two daughters, aged 12 and 14. They lit a fire in the garden [It is part of the Newroz tradition to light a fire]. Because of the fire they were taken to the gendarmerie station. At Newroz they arrested many who had made a fire. Both girls spent the night in the station and were under pressure to sign documents saying their father had given them military and political training. The next day they were released. I was taken into custody. They held me for two nights at the security headquarters. I was taken into the basement. I had to register all the possessions that I had on me and had to face the wall. While doing this another policeman came and beat me on the back. I said "You do not have the right to do this." Then they blindfolded me. "You can't blindfold me before you search me," I said. They took it off, then blindfolded me again and beat my chest and back. One of the police stepped on my hand. Another policeman said "Don't, it will leave a mark." So he desisted. But I fainted from the pain. Water was thrown on my face. I recovered consciousness.

'Last Newroz 60 people were detained in Gaziantep. One had his leg driven over by a 'Panzer' [an armoured vehicle]. Another was injured in his hand. Another was shot but survived.

'When they detain you they take you before and after to the doctor. Of course the police who tortured me accompanied me. I told the doctor what had happened but he was afraid. "I cannot see a mark" he said. The police were standing either side of me. I was taken to the Prosecutor and released. When others were released, the torturers were standing either side of the doctor so although they were badly beaten they told the doctor they had no complaint. They were released without going in front of the Public Prosecutor.

238 Abdullah Catli was a mafia boss who died in the Susurluk car accident, November 1996, that linked senior officials of the government and the State with the criminal world. He was deputy chairman of the extreme right-wing Idealists (MHP) prior to 12 September 1980 but fled abroad after he organised the murders of the seven TIP [Turkish Labour Party] members in Bahcelievler. He was captured in Paris carrying narcotics. He was returned to Switzerland where he was wanted for narcotics offences. He escaped from prison in Switzerland and returned to Turkey in 1990. He was involved in the murders of Kurdish businessmen. When he died at Susurluk he was carrying a weapon license signed by Mehmet Agar (former Director General of Security, then Justice Minister) and a 'green' passport [issued to civil servants].
'When we were taken to the Prosecutor the plain clothes police and a clerk for the Prosecutor were both MHP. These people have a special nod of recognition. One is in the police and one is in the Prosecutor's office. One can see how they operate hand-in-glove. By the way, the phones are tapped so families will not come to speak to you. [While we were interviewing at the HADEP office the HADEP staff unplugged the phone, stating that the police could otherwise listen in.]

18. Sait, both of whose legs had been amputated just below the knee, displaced from Ormanici, Sirnak province and now living in G/Antep. Statement taken in G/Antep on 13 October 2000.
'The gendarmes came early to the village, at 5 am on 20 February 1993 and started firing on our homes till 8am. Two children died in this firing, one aged three the other aged four. Forty five of us were tied together with rope and made to lie in the snow from morning till evening. Then they started burning down the houses. We 45 lying in the snow were blindfolded, our arms tied behind our backs and we were beaten. In the evening 44 were tied and taken to Guclukonak, a two hour walk. When we arrived in Guclukonak we waited another four hours outside in the snow. On our journey we had had to pass through a river, so we were soaked as well. One elderly woman was released. Forty three were held for 21 days. Of these seven were sent to Mardin and three of them to Diyarbakir. During this time we were barely given food or water and not allowed to use the toilet. After 21 days we were taken to Sirnak where we were held in custody for 5 days. After 5 days we were taken to Mardin for one day. There is a book by Mahmut Alinak, *Sironan atesi*, about this story. Of the seven in Mardin, two had their toes amputated because of the cold. Three of them were taken to Diyarbakir where one died as a result of torture. I was in custody for a total of 68 days. I lost both my legs. I was 47 days in Diyarbakir and was tortured. The man who died under torture was my cousin. One of my brothers was the village imam [religious cleric]. He is mentally and physically destroyed. He can no longer use his legs. He is under treatment. After 68 days they said "You are innocent, we release you."

'After they burnt the village we lived in caves for five or six months. My brother's wife was pregnant. She gave birth in the caves. One year later some people went back to the village and repaired some houses and started to live but within twelve months there were military operations. Two villagers were shot in their gardens, and another two were taken out of their homes and shot. After they had killed these four people they gave the people 48 hours to vacate the village totally or they would be killed. The four dead people were put into the ground without ceremony.

'Financially we are OK. The village is close to the mountains and people helped the PKK. There was pressure to join the village guards but it was resisted and so the village was destroyed. My father is working as a toilet cleaner in a mosque. He must support the family of his son who is physically unwell. He was subjected to torture and forced to eat his own excrement. We suffered sexual abuse. They put us inside truck tyres and rolled them downhill. Four people are disabled from this event. We were also exposed to extreme cold.
'We live unregistered here and do not go out. We first went to Cizre, then Mersin and finally G/An
tep. Approximately three months ago my imam brother is mentally and physically disabled now. He was tak
e into custody in Istanbul because we are taking our case to the European Court. They want to send him to Elazig to a psychiatric institution to disappear him. IHD [Turkish Human Rights Association] got involved and prevented him being sent to Elazig. The authorities still harass him because they are going to the European Court. They beat both of us including beatings on my stumps. In 1994 we were arrested in Cizre and frightened into changing our statement to say the PKK burnt our houses and tortured the people.

19. A man from Yavuzaymank, Guclukonak district, Sirnak, statement made in G/An
tep 13 October 2000.
'The village was bombed. One bomb did not explode. It was big like my body [probably a cluster bomb container intended to spread its bomblets over a large area.] Many animals died. One woman died, it was not possible to gather the pieces of her body together. It was ten or eleven years ago, I cannot remember. The security forces came to the village. They tied six or seven people together and took them up into the mountains to show them where the guerrilla positions were. No one is living in the village anymore. My financial situation: I was a farmer. I could sell three tons of raisins. Now my children are street porters. In the village there used to be 400 households. It is empty now.

'My son was detained for three months in 1999. He was tortured and his head wounded in many places. Since Newroz 1999 till today our house has been raided at least 50 times.

'We were not allowed to take anything away from our village. Near the village were caves and people had already moved there. The gendarmes told the remainder to leave: "get out now!". During their operations it was not possible to leave the home. When the animals made any noise they were killed. The operations went on over two or three months. First we went to Siirt, then we came here. Villagers were scattered. Some went to Batman, others to Nusaybin, Denizli, Istanbul and many other places.

20. Emine, a mother from Erikent village, Pervari district, Siirt province. Statement taken in G/An
tep on 13 October 2000.
'My son is in prison serving a life sentence. He tried to immolate himself. The pressure in the village continued for a long time and we could not sleep in our house. We went and slept in caves. They killed our animals, and burnt our garden and our home. Then the village was bombed, including the animals. That was in 1992 or 1993. Our possessions were buried in caves and we left them there. Many went to Siirt, Adana, Mersin or G/An
tep. It was a village of 150-160 households. Now no one is left. Everything is destroyed. In our village there were 14 herds, each herd with 1,000 sheep and goats. I had 160 sheep and goats.

'There are ten members of our immediate family. I have one son in prison. He has a wife and four children. My disabled son works as a street peddler. The police come all the
time to our house and accuse us of helping the terrorists. I say "We can't help ourselves. How do you think we can help them?" They reply "Your son is a terrorist."

21. Elif, a villager from Anazen, statement taken in G/Antep on 13 October 2000. 'My son is still in the mountains. He is married with a son. They [the security forces] never left us in peace. They attacked our village, they killed our animals, they tortured our children. We could not sleep in our house. When we awoke in the morning we saw we were surrounded by the gendarmes. Because of the bombs we had made shelters. They threw all our food stocks for the winter in one heap and poured gasoline over it to spoil it. During this operation they arrested eight men and the women and children ran to the mountains. The gendarmes shot over their heads to frighten them away. Of the eight arrested, three were released and the other five were taken to Siirt where they were held in custody for 25 days and tortured and then sent to Mus prison for one year. The operations went on for four months. In this period the villagers suffered daily bombing. When I went to the stable, the house next door was bombed and fragments entered my own house. We brought two or three cars to move from the village. The gendarmes prevented the cars from leaving. Somehow we managed to leave. Then we tried going back but the attacks continued. All the animals were killed and we left the village.

'The harassment continues here. Harassment is our fate. Because of my son who joined the PKK aged 12, my husband, son and brother-in-law spent three months in Diyarbakir prison. My husband now collects recyclable rubbish. That is how we make a living.


'For one year we lived under continuous attacks, and sometimes had to run to the caves. One woman died in the attack. Nobody cared for the body. People were afraid. Cats ate the flesh of the woman. Some of our animals were killed, others were lost in the mountains, some were eaten by wolves. In the village there were many unexploded bombs. Even today the bombs are unexploded. Our village had 60 households. Many left at the time of the attacks. At last there were few households left. We were often called to the gendarmerie station. They said everything and did everything to us. There were just a few households of old people. They gave us six days to leave or they would kill us and burn our homes. We could not take our possessions with us. The animals that were left we sold cheaply for half prices. Now the village is empty. It is a forbidden area. Even the pistachio and walnut trees were burnt down. In the village they did not allow the goats to graze for six days. After six days the goats ate their own kids.

23. The tale of CS (16) and Deniz Polattas (19) who lived in Iskenderun, as told by TS, father of CS, Ankara, 14 October 2000. (see also AI statement in Appendix 2)

'My daughter was 16 and a student in the lycée. She was at a friend's house and taken from her bed at 1am. They looked for others in four houses that night. A close friend of hers wanted her to stay in her house that night. The friend was a girl in a family that had been displaced from Hakkari. We, her parents, gave her permission to stay there. They took my daughter to the police station. They should have informed us [since she was a
minor]. After 18 hours her friends phoned them. It took another 16 hours [i.e. 34 hours in all] before the police admitted they were holding her. She was seven days in custody. [For security offences there is no right of access for seven days.] Because I have friends in the political world and a friend in parliament I managed to see her twice during those seven days. When I saw her one day later her face was bruised and her lip bleeding. She could not speak. She was in a very bad condition. After four days her mother went to see her. She thought it would be easier for her to speak to her mother than her father. She said "I have not been tortured" but there were obvious signs of torture. On 12 March 1999 she was taken to prison, and two days later she said she had been tortured. We complained with a lawyer but the Prosecutor refused to deal with the complaint. She was sent to the Medical Union which had to write a report.. One could see with one's own eyes she had been tortured.. Six months later the Medical Union provided a report stating that the two girls had been tortured. It also mentioned in the report that the report provided by a doctor after the initial seven days in custody was irrelevant and should not be used because it was untruthful. Now that we had evidence of torture we made many press releases. The TV came to our house and recorded and broadcast the news. Again we tried to open a case against the torturers. This time the Antakya court allowed the case. After we had reached the public it was possible to make a court case. She was convicted to 21 years and 6 months (15 years for being a member of a terrorist organisation, and 6.5 years for throwing a Molotov cocktail at a car. [There had been an attack on a vehicle]. She was under 18 but was tried in an adult court under Article 168 of the Penal Code and sent to an adult prison. After eight months they were sent to Adana Medical Centre. CS said she was unable to walk for three days while Fatma was unable to walk for 10 days as a result of mistreatment in prison. Then the court decided they should be sent to a medical centre for torture victims, the first time a court had sent a prisoner for medical treatment after torture. The treatment is finished and in the next few days they will produce a report. Both of them will attend a hearing on 21 October. [According to AI, this hearing has been postponed]. They are in Istanbul Prison for Women and Children. There is no chance of freedom yet. If there is evidence of torture there could be a retrial.

Ibrahim Polattas: 'We spoke with our daughter. It is clear she was no member of an illegal organisation. We took her to the police station to clear her. They came in the night and asked for Fatma Deniz. We said she was with her friends and we would bring her tomorrow. In fact she was at her uncle's home, and he is himself a policeman. They told me they simply wanted to take a statement. Then I was told she would be there a few days and from then on she suffered the same fate as Ceren. After custody she was sent to prison. The first person to see them was a lawyer who immediately saw her condition was not good. When we went to see her and asked her what had happened she said she had been raped. They also suffered many other kinds of torture.'

24 Murat Bilgic, IHD Adiyaman, statement about life in Adiyaman taken at IHD Congress, Ankara 15 October 2000

'One month ago a lawyer friend of mine, Mustafa Alkayis, went to prison at 2am to see a client in a criminal not political case. This lawyer asked his client "Have you been tortured?" Although he had been tortured, he said "No, but I was stripped naked." Because the lawyer asked this question the police warders beat the lawyer's head against
the wall, saying "Who are you, to ask this question? We are taking you into custody." We in the Bar Association were able to put pressure on the Security Headquarters to get this lawyer released. The Public Prosecutor came. We said the police culprits should be identified. He said "Sorry, we do not know who they were." In fact we persisted. The five police responsible were actually sitting next door. We made a complaint but no charges were made. This was a lawyer with the whole Bar Association behind him. What of ordinary people who do not have the Bar Association to fight for them? The police went to a house looking for a man in a criminal case. Only his 14-year old nephew was at home. They took him to the police station and beat him on the hands and the tops of his feet. That was one month ago."


'Do the police respect the rule of law? Izmir is known for its prisons. There are many prisons and many attacks on the prisoners a few months ago. A few days ago they said they wanted to check the prison but in fact they attacked. Twelve prisoners were injured. Izmir IHD is one of the branches that has many charges against it. When it issues a press release it leads to charges. Just ten days ago we wanted to go to the cemetery to remember prisoners who died in hunger strikes. Even this was attacked by gendarmes and prevented.

'In Gurcesme district of Izmir an ordinary Kurdish person had an ordinary ID check the other day. The police wanted to take him to the police station. His brothers wanted to challenge this. The police proceeded to beat him and broke his arm and his pelvis. It was reported in the newspapers. A complaint was made to the Public Prosecutor. He got a report from the medical centre that he had been tortured. He was unable to walk for three weeks.

'The Turkish authorities give the image that the law has changed and that there are no human rights violations. But nothing has changed at Security headquarters and gendarmerie stations.. Everybody taken to these stations are subjected to torture.

26. The mother of Ozger Soner, a boy who is the victim of this kind of process. The family lives in Ankara. This is what she said on 15 October 2000:

'He was detained in '91 at lycée when he was 14 years old for distributing leaflets, which he denied doing. He was detained in '92 and '93 again and in '93 was given a suspended prison sentence of 3½ years. There had been a similar case in which a boy was killed on the streets. We were frightened. After he [my son] was 18 he was detained for reading a legal cultural magazine called Tavir. He was charged with membership of a terrorist organisation, and with bill-posting and was sentenced to 19 years and six months (this included the 3½ suspended sentence). He was badly tortured. His case is taken to the European Court and has been declared admissible. He will be released in 2008. He is now 25. There is no evidence or witness but they charged him and sentenced him with 19 years and six months. He had a broken nose, given electric shocks to his fingers and genitals. There is a scar on his side and on his arms. He was subjected to Palestinian hanging. Last month his case was published in the magazine Vatan and he described what
happened to him. I am Turkish, my husband is Kurdish. My son is sympathetic to Kurds. He was active in the students' union. In '92 [his second brief] custody they took his to our home and searched it. His coat was covered in blood. We took his coat and brought it to [then Prime Minster, later President] Demirel. He [my son] was just 16. He [Demirel] reported the matter to those responsible. In three days Demirel stated publicly that no one in Turkey should be tortured. Even so, he was beaten up in custody.'

Appendix 2: Cases of Rape

1. Sevil Dalkiliç is a lawyer who practised in Kaman, a small town between Ankara and Kirsehir. She was detained by the security forces after she had investigated the death of a person of Kurdish background who had been killed in suspicious circumstances. It had been alleged that there was state involvement in his death. A relative described what happened:

'They raided Sevil's house at two in the morning of 2 March 1994. Since I live very close to Sevil I went immediately to her home. They did not let me in. The Special Team [Anti-terror Special Operations Team] were there. They were wreaking terrible destruction in the house. They killed the pet birds kept in the house. They threw her dog down from the balcony. They tore up flowers that were in the house. They fired shots into the floor to frighten people. Down below I was very afraid to hear the gunshots. I thought that they had killed Sevil. This search and terrifying wait lasted for two hours. Later they manhandled Sevil into a car and drove her off. They took Sevil's money and jewellery with them. As they left they told us not to go into the house. At that time I was pregnant. As a result of these dreadful days I lost the baby. When daylight dawned I and my family panicked. We got no news of Sevil after they took her away. We began to think that she was dead.'

Sevil Dalkiliç was held in a cell for 15 days and reportedly tortured by the police until they extracted a statement from her. She reported that as well as being exposed to verbal abuse and death threats, she was repeatedly sexually assaulted and threatened with rape. According to her account, her jaw was dislocated by a blow to the right side of the head, and she was subjected to electric shocks and hosed with pressurised cold water. She was forced to watch fellow detainees being stripped and beaten, was denied sleep and food, and access to toilet facilities. At her trial she was charged with being a member of the illegal PKK, with throwing explosives and with separatism. The only evidence brought against her was her own statement made in police custody, apparently under torture, which she rejected in court, incriminating statements made by other defendants in the trial, apparently also under torture, and police statements prepared when police took the accused to the scenes of the bombing incidents. She was jailed for thirty years. She has been adopted by Amnesty International as a Prisoner of Conscience.

2. AI states: "Women may be vulnerable to violence perpetrated by persons in positions of authority in both conflict and non-conflict situations. Training of all officials in

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humanitarian and human right law and the punishment of perpetrators of violent acts against women would help to ensure that such violence does not take place at the hands of public officials in whom women should be able to place trust, including police and prison officials and security forces” (Beijing Platform for Action, Strategic Objective D, paragraph 122). On separate days in early March 1999 two Kurdish young women -- 16-year-old high school student N.C.S. and 19-year-old student Fatma Deniz Polattas-- were arrested by police authorities and detained at the Anti-Terror Branch of police headquarters in Iskenderun, Turkey, for seven and five days respectively. The young women claim to have been tortured and forced to give false confessions while in police custody. According to the young women’s testimony, their torture included rape and other sexual assault. They were kept blindfolded throughout their detention. For the first two days, N.C.S. was forced to stand continuously, prevented from sleeping and from using the toilet, and denied food and drink except for sour milk. She was forced to strip and remain naked in a cold room. During the interrogation she was beaten all over her body -- with blows directed especially at her head, genitals, buttocks and breasts -- and forced to sit on a wet floor for long periods before being made to roll naked in water. On other occasions she was suspended from the arms and hosed with pressurised cold water. She was threatened that she would be killed and that her mother would be raped. Fatma Deniz Polattas was reportedly subjected to the same methods of torture as N.C.S. She was also threatened that both her father and her mother would be raped in front of her and that her father would be dismissed from his job. At one stage she was punched on her face and one of her teeth broke. Later, she was also raped: “A police officer asked me to 'take off my trousers and socks.' I was scared and obeyed. I was standing. A police officer in uniform asked me to 'bend over'. Afterwards he pushed something into my behind. It was something long and serrated. At that moment I started to bleed. I was bent fully over [but] they were beating me with their sticks, saying 'stand up straight'.’” After this incident, one of the police officers involved in the torture reportedly said to her, “Even if you go to a doctor, you cannot prove anything.” Indeed, at the beginning and at the end of their time in police custody the young women were seen by five different state-appointed doctors, including gynaecologists on 6, 9 and 12 March. None of the doctors reported any signs of violence, although -- acting without the consent of the young women or their parents -- the doctors did perform “virginity tests”. However, a “virginity test” (examination of the hymen) does not prove whether a rape has taken place, since rape can take place without penetration that breaks the hymen. Furthermore, the independent Turkish Medical Association has stated in 1992 that “virginity examination” is a form of gender-based violence and an assault to the woman’s sexual identity. It can have traumatic effects. In January 1999, the Ministry of Justice issued a decree to the country's prosecutors banning the practice of virginity examinations of women when there is no allegation of sexual assault. Amnesty International believes that forcibly subjecting detainees to so-called “virginity tests” is an egregious form of gender-based violence constituting torture or cruel, inhuman or degrading treatment. On 12 March, the two young women were remanded to prison by the State Security Court in Adana, charged with being members of the armed opposition group Kurdistan Workers’ Party (PKK) and with involvement in a Molotov cocktail attack during a demonstration. On 2 November 1999, Fatma Deniz Polattas was sentenced to 18 years’ imprisonment. N.C.S. was sentenced to 12 years in prison, a lower sentence in recognition of her young age.
The two young women claim that their convictions are based on statements extracted under torture, yet they remain in prison pending the decision of the Appeal Court. In July 1999 four doctors from the Turkish Medical Association (TMA) were given access to the young women in prison. They were given permission to interview them but not to physically examine them. According to their report, the medical symptoms described by the young women corroborate their detailed torture testimonies. The TMA noted that all official medical reports issued by the state-appointed doctors fall short of the Turkish Health Ministry’s and the TMA’s standards for forensic reports. The TMA emphasised the importance of appropriate medical examinations, including psychiatric examinations, in documenting evidence relating to the allegations of torture. The Association called for such examinations to be carried out with the consent of the two women alleging torture. The young women’s lawyers also requested that the two young women be transferred to specialised psychiatric units to assess possible continuing trauma and to ensure that they receive correct treatment, but to date the young women still have not had access to this vital medical and psychiatric care. Complaints have also been filed against the state-appointed doctors for issuing medical reports that concealed torture. Following a public outcry and a formal complaint submitted by lawyers acting for the young women on 9 November, the public prosecutor opened an investigation into the torture allegations against the police officers involved. Though four doctors from Adana Forensic Institute examined the two young women on 27 November and certified that they had been tortured, their report was not considered by Iskenderun Chief Public Prosecutor. He decided not to prosecute the police officers. In recent years Amnesty International has documented several cases of rape and sexual assault committed by security force members in Turkey. The experiences of N.C.S. and Fatma Deniz Polattas demonstrate the continuing vulnerability of children and women in Turkish police stations and prisons. During incommunicado detention in police or gendarmerie custody women and men are routinely stripped naked. Torture methods repeatedly reported to Amnesty International include electro-shocks and beating directed at genitals and women’s breasts, sexual abuse, including rape or rape threats. Since mid-1997, a legal aid project in Istanbul aiming at bringing perpetrators to justice has been helping women who were raped by officials and subjected to other forms of sexual torture. Some 100 women, more than 80 of them Kurds, have sought the support of the project. Nearly 40 of them reported rape, 65 other sexual abuse. The suspected perpetrators are overwhelmingly police officers, others are gendarmes, soldiers, or village guards. They are rarely held responsible for their alleged abuses.²⁴⁰

3. Amnesty International reports: ‘Eight police officers are to go on trial on 30 January 2001 for the rape and torture of a Kurdish woman in their custody. Plainclothes police have been harassing her, and she is afraid to travel to the trial. Amnesty International is concerned at this apparent attempt by police to intimidate her, and believes she is in danger.

S.Ö., a mother of six, was arrested by Anti-Terror-Branch police in November 1997, at her sister-in-law’s house in Diyarbakir, eastern Turkey. There they locked her in a room, where they beat and threatened her. They then drove her, blindfolded, to Diyarbakir Police Headquarters, where a police officer stripped her naked and raped her. She was later able to identify him when her blindfold slipped.

The police then forced her, still naked, inside a tyre, which they pulled up by a rope and spun around. They then hung by her arms and gave her electric shocks to her genitals, her nipples and her toes. They stubbed out cigarettes on her arms and her genitals. On the third day, they forced her into a tyre, naked, again, and raped her several times with a truncheon, vaginally and anally.

After three days she was transferred to Izmir Police Headquarters, where she was hung by the arms, tortured with electric shocks and threatened with rape and murder. When she was left in a cell she attempted suicide, but was discovered and taken to a hospital. She told a doctor and a prosecutor that she wanted to die because she had been raped, but they did nothing. She was handed back to the police, who threatened her, but did not torture her any more.

On 12 November 1997 a prosecutor and then a judge from Izmir State Security Court remanded her to prison. For five months she reportedly suffered from anal bleeding, but the prison doctor told her, “don’t tell me about the torture you experienced.”

In prison she reported the rape to the Legal Aid Project against Rape in Custody. The project lawyers filed a formal complaint about the rape and torture she suffered in February 1999, reportedly corroborated by a medical report. The Governor of Diyarbakir refused permission for the police officers to be prosecuted, but the Diyarbakir chief prosecutor lodged an appeal against this decision, which was accepted by a local court in February 2000. The indictment of the eight police officers lists the different forms of torture S.Ö. suffered, but does not mention the first rape.

S.Ö. was charged and later convicted of aiding and abetting the armed opposition group Kurdistan Workers’ Party (PKK), and remained in prison for three years and nine months. She was recently released, and is now living with relatives in Izmir, in western Turkey, with her children. She is afraid that she and her relatives will face reprisals if she goes to give evidence at the trial, at Diyarbakir Heavy Penal Court No.3. When she visited her husband in prison in the city of Burdur, she was reportedly detained together with two of her children for about a day. Police apparently warned her: “You are travelling a lot. Be careful, something might happen to you. ... You seem to have filed a complaint. But the things [you allege] did not happen”.

This is only one of hundreds of similar cases. During incommunicado detention in police or gendarmerie custody women and men are routinely stripped naked. Torture methods repeatedly reported to Amnesty International include electro-shocks and beating on the genitals and women’s breasts, and sexual abuse, including rape or rape threats. Between mid-1997 and November 2000, 133 women sought the help of a legal aid project in
Istanbul for women raped and sexually abused in custody. The alleged perpetrators are almost always police officers, but include gendarmes, soldiers and village guards. They are rarely brought to justice. In 1999 Amnesty International documented a general climate of impunity for torturers.  

4. In Yigitler (Sagnic) village of Karliova-Bingol, an 11 years old girl was infringed sexually by 3 [gendarmes] soldiers of Yigitler village police station. According to local information we received; the event was realized after the girl's reaching the village in bloods. Then father of the small girl Abdullah applied Karliova Public Prosecutorship and asked for criminals' being found. After announcement of the crime, police station commander of the village called the family to the station, threatened them to kill if they don't withdraw their complaints. Father Abdullah was afraid from this threatening so wrote a petition to Karliova Public prosecutorship, told that they didn't know the criminals.

An eyewitness told that when he/she had been at crowd commandership in 17th of July on Monday, he/she had witnessed the victim girl's testimony's being recorded. The witness told that father of the small girl had been beggar in Bingol, even knew that the criminals were soldiers he couldn't tell because of fear.

It was learned that testimony of the girl had been recorded at Karliova Prosecutorship as: "She had been infringed sexually by unknown civilian people."  

Sexual Abuse and Threatened Rape
5. Yuksel Bulut was detained on 7 April 2002 in Gaziantep. During her interrogation, she was reportedly stripped naked, insulted, threatened with death, beaten and had her hair pulled, and was sprayed with cold pressurised water, sexually assaulted and filmed while naked.  

6. Jale Kirman was detained from her home on 3 April 2002. At the Anti-terror branch of Ankara police headquarters she was reportedly insulted, beaten, sexually harassed, and threatened with rape and that photographs of the rape would be taken and displayed in a public place.

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242 "Soldiers' Savageness" (Karliova) Kurdish Observer, on or about 22 July 2000, received on 24 July. See also Ozgur Politika, 9 April 2002.
244 Amnesty International, Turkey: Systematic Torture Continues.
Appendix 3: HADEP

Origins of HADEP: HEP and DEP. The People’s Labour Party (HEP) was founded in June 1990 by seven Kurdish MPs who had been expelled from the Social Democracy Party (SHP) following their attendance of an international Kurdish conference in Paris in 1988. Despite its clear agenda to do something about the Kurdish question, HEP tried to operate sensitively. It appointed a Turk (Fehmi Isiklar) as its first president. In the 1991 election it was able to make a pact with the SHP, which was anxious to get seats in the south east, and obtained 22 seats. On winning, some Kurdish MPs wore Kurdish colours, others took the oath of allegiance in Kurdish and this predictably undermined the alliance with the SHP. Members and supporters of HEP were harassed, tortured and killed. It was closed in July 1993, but was immediately succeeded by another party, DEP (the Democracy Party) which had already been established in anticipation of State closure of HEP.

Until the banning of HEP 47 members and officials of the party had been killed by ‘unknown assailants’. By the end of 1993, ten members of DEP had also been killed. By the end of that year, also, ‘Numerous officials and members of this party have been arbitrarily imprisoned and interrogated under torture, and many party headquarters have been bombed or otherwise destroyed.’245 DEP had intended to fight the local elections of March 1994. This is how it has been reported:

‘In the lead up to the local elections on 27 March, attacks on and detentions of DEP members increased prompting commentators and DEP members to suggest that this was part of an orchestrated state campaign to scare off DEP candidates from standing in the elections.

‘The DEP chairman of Digor in Kars, Mehmet Yardimiciel, was detained during a police raid on his house on 3 February. On his release he made a statement saying that he was tortured during his four-hour detention and that this was one of a growing number of detentions of DEP members....One person was killed and 16 people injured when a bomb exploded in the DEP headquarters in Ankara on 18 February.... By 24 February, the DEP Assembly in Ankara voted to withdraw from the elections. DEP Chairman Hatip Dicle explained that the decision had been taken because of the deaths of seven DEP members over the last 45 days, bomb attacks on the headquarters and six provincial offices, the detention of party members and routine harassment by the security forces of populations in areas where the potential DEP vote was strongest.’246

246 Turkey Briefing, vol. 8, no. 1 Spring 1994.
In fact 320 DEP activists were detained by the security forces during the election campaign. These were ordinary supporters and members, either at local branch offices or campaigning.

**HADEP** was formed on the State’s closure of DEP in June 1994. It too suffered harassment. For example, in the December 1995 general election it faced intimidation, harassment and attacks on its members and supporters. While it polled very well in a number of cities in the south east, the vote was suspiciously weak in villages close to those cities. Soon stories of intimidation and election fraud gained currency. As if to demonstrate the absurd lengths that intimidation went to, one journalist found a situation in Mardin province where the local HADEP candidate had not polled a single vote in his own village, not even from his wife, nor from his children nor from a single relative. Only the most severe intimidation of the villagers could realistically explain such an outcome. Touring the region in February 1996, I was given accounts of intimidation, harassment and torture not only by HADEP officials but also from one electoral inspector who watched the local gendarmerie intimidate villagers at the polling booth.

In June 1996 three young HADEP members were ambushed and killed near Kayseri, on their way home (Elbistan in K. Maras province) from the party’s annual congress. It brought to 92 the total of unsolved killings of HADEP, DEP or HEP members and supporters since 1990. Three years later, the figure was well in excess of 100. Although the rate of killings has declined there have still been deaths of young HADEP members or officers in police custody. In one particular case two young HADEP members were detained in November 1998 by the police in Diyarbakir. One died under torture. The other, a young woman, Medina Oncel, survived. However, when police came to her house the following July to take her to the police station for questioning, she threw herself to her death (from a 7th-floor window) rather than endure further torture.

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250 Such is the terror that detention inspires that people will go to great lengths to avoid it: 'Ms. Medine Oncel died in Diyarbakir on 14 July after throwing herself from a seventh-floor window in order not to be detained by the police. According to reports, police officers raided the house of Ekrem Oncel in the Baglar quarter of Diyarbakir at about 3 a.m. on 14 July. They broke down the front door of the building and went to the flat on the seventh floor. Oncel subsequently told journalists: "We were sleeping on the roof, as it was hot. Five police officers came. One of them was wearing a mask and a commando uniform, whereas the others were in plainclothes. They took my wife and me down from the roof and asked me to open the door of the flat. They said they had come for Medine and that they would take her to the security directorate. My daughters were sleeping. They were awakened by the voices of the police officers. The officers waited in the living room, ready to fire. I told Medine to keep calm and to get dressed. Medine said, 'Father, please don’t leave me, don’t let them take me away. This time they’ll kill me.' I told her to be calm, and that they would release her. But she didn’t calm down. She was shivering. Medine and my other daughter, Devran, came to the living room after getting dressed. Suddenly Medine ran to the window in the next room. Her mother followed her but she could not catch her. Medine threw herself out of the window." Medine Öncel, a member of the People’s Democracy Party (HADEP), had reportedly been detained during a raid on the HADEP headquarters for Diyarbakir province on 16 November 1998 and subsequently
Finally, we (the fact-finding mission) sat in the HADEP office in Gaziantep in October 2000. A plainclothes policeman was outside on the street watching who came and went. Furthermore, the office phone was tapped, or so HADEP officials assumed. All those who met us at the office waiting for a couple of hours after our own departure from the office to reduce the possibility of the police connecting their visit to HADEP with ours.

**Detention, Harassment or Mistreatment of HADEP members and supporters in 2001**

The following is a list of incidents that have come to notice, through Amnesty International or from press notices. They are not necessarily exhaustive, but show a range of events in which, although senior HADEP people feature prominently, it is likely that they do so because the press pays more attention to them. There is an inclination to attribute their adverse experience (whatever it may be) to their being senior in HADEP. An adverse incident for a junior HADEP person may, even if noticed by the press, be less easily ascribed. Unless it represents an ostensible attack on HADEP as an organisation, the press may not feel like reporting it, simply because without that dimension it is not newsworthy. Routine torture has such little news value. Such caveats being noted, one can still see that a number of young HADEP people engaged in promoting HADEP do indeed suffer the adverse attentions of the security forces:

In December 2000 there were numerous raids and detentions of HADEP members in VAN, MALATYA, IZMIR, SIIRT, HAKKARI.

3 Jan    SIRNAK provincial chairman Resul Sadak stopped on road by gendarmes and threatened with death by garrison commander, Sirnak.

4 Jan    BINGOL, SOLHAN, GENC and KARLIOVA: HADEP offices raided.

7 Jan    ISTANBUL HADEP district office in Zeytinburnu raided, 6 detained.

7 Jan    MARDIN HADEP chairman of HADEP Gaziantep detained.

9 Jan    SIIRT 6 HADEP party members detained.

11 Jan    ERZURUM HADEP offices raided and whole archive confiscated.

11 Jan    MARAS Elbistan HADEP office raided

12 Jan    OSMANIYE (ADANA) office raided

14 Jan    ERGANI (Diyarbakir) chairman of HADEP, Kayapinar, detained on road charged with resisting an officer on duty.

16 Jan    ISTANBUL (Bagcilar district) 8 HADEP executives detained

22 Jan    SIIRT 5 HADEP members detained.

25 Jan    SILOPI Serdar Tanis (aged 24) and Ebubekr Deniz (aged 26), respectively head and secretary of HADEP Silopi branch, disappear after being taken into detention at gendarmerie station. Not seen since.

FEBRUARY: TIHV states: ‘In February HADEP was subjected to extensive pressures due to the demonstrations staged in protest of the “disappearances” of Serdar Tanis and Ebubekr Deniz in Sirnak-Silopi. The police forcibly intervened in demonstrations and detained many members and executives of HADEP. Among the detainees many were tortured and put on trial.’ (Report for February 2001, paragraph 7.2.1.)

tortured during the twelve days she had been kept in detention. Hamit Cakir, who was detained in the same raid, was tortured to death at the Security Directorate.’ Özgür Bakış, 16 July 1999.
19 Feb BINGOL (Karliova district) HADEP member Selahettin Oge abducted, tortured. and left in comatose state.

21 Feb HADEP complains publicly of harassment of its officials and members in the east. It did so after an ordinary member, a villager, Selahettin Oge, was detained in Bingol on 19 Feb and was found the following day in a comatose state near the local school. He was put into intensive care at Elazig hospital. It also said the head of HADEP, Cizre branch had received death threats from the head of the local gendarmerie unit.

25 Feb SAKARYA (west of Ankara) HADEP festival planned for this day banned.

MARCH: TIHV states: ‘In March thousands of HADEP members and executives were detained, hundreds of them were put on trial, especially during demonstrations held on 8 March World Women’s Day and 21 march Newroz Fest. The testimonies extracted under torture were used in evidence in the cases launched against the detained HADEP members. ‘The HADEP General Headquarters stated that between 1 and 31 March a total of 649 HADEP members and executives were detained in Istanbul.....’ (TIHV Report for March, paragraph 7.2.1)

12 March IZMIR police raided the house of Gulbeyez Gokce and detained 24 people, all of whom were members of HADEP.

21 March Newroz: numerous HADEP personnel were detained in Adana, Mus and Elazig in connection with Newroz celebrations

2 Apr CIZRE Eight members of HADEP branch, Cizre, were detained and feared tortured (Amnesty alert).

11 Apr DIYARBAKI Twenty one students in Diyarbakir arrested and feared ill-treated. (Amnesty alert). It is thought they were arrested because they visit the new HADEP office in Termik, and police reportedly found a HADEP flag and two issues of the journal Ozgur Halk. [Both these items are perfectly legal.]

10 May IZMIR HADEP 10 members of executive committee detained.

16 May ANKARA 43 members detained, 27 as members of the PKK.

18 May ANKARA Police seized 43 HADEP members in Ankara, of whom nine were senior officials. It was on suspicion that they had displayed banners during a protest march.

18 May ANTEP 33 detained at HADEP youth football match.

24 May AYDIN (south-western Anatolia) police raid HADEP Women’s Branch. 16 detained, released on going to court on 26 May.

24 May MERSIN HADEP office raided.

25 May ANTEP 13 detained returning from HADEP picnic. Released after 4 days detention.

26 May MERSIN State Security Court five local HADEP officials charged, following demonstrations by thousands attending a HADEP meeting, with aiding and abetting an illegal organisation.

25 May MERSIN Seventy-two HADEP members arrested, 54 of them in Icel (Mersin) province, and 18 in Aydin province (in western Turkey).

30 May IZMIR 4 members of Bornova district youth wing detained.

7 June ADANA (Osmaniye town) HADEP office raided.
12 Jun ADANA Ninety five football players participating in the ‘Peace and Brotherhood Soccer Tournament’ sponsored by HADEP Adana provincial youth wings were detained and sent to the State Security Court to face charges under article 8 of the anti-terror law [for making terrorist propaganda, presumably in the form of a football match]. They were charged with ‘forming an alternative football league, conducting illegal sporting activity, finding supporters for and illegal organisation and propaganda’.

15 Jun ISTANBUL 100 members of HADEP youth wing wanted to protest detentions in Van on 15 June. 10 were detained.

5 Jul IZMIR 12 members of HADEP youth branch detained as alleged members of PKK.

24 Jul ADIYAMAN 16 members of HADEP detained following visit of Amnesty International representative who interviewed members regarding asylum seekers to Switzerland.

9 Aug VAN Twenty-six members of HADEP, Van were released by the state security court in Van, but still face charges of aiding and abetting a terrorist organisation, namely the PKK. They face custodial sentences of between 3-5 years.

15 AUG ISTANBUL prior to anniversary of commencement of PKK guerrilla war police conducted operations against various HADEP in various quarters of Istanbul.

17 Aug HADEP deputy chairman, Ahmet Turan Demir jailed for 1 year for disseminating ‘separatist propaganda’ (to be released after 35 days in view of time spent under arrest.)

17 AUG BURSA four HADEP members detained during raid on seasonal workers’ tents and charged with ‘conducting activities for the PKK.’

20 Aug BINGOL: police detained 9 administrators of the local HADEP branch after they had distributed leaflet invitations for 1 September World Peace Day.

20 Aug BURSA: 11 HADEP members detained ‘for making PKK propaganda and collecting money’. Four HADEP officials were charged.

31 Aug ANKARA At least 50 persons travelling to HADEP-organised World Peace Day rally in Ankara detained. At least 25 wounded in Diyarbakir while waiting to mount buses to Ankara. Two wounded and fifty arrested in Batman.

1 Sep ANKARA World Peace Day. Hundreds of HADEP members and supporters detained either in or making their way to Ankara. According to official figures 877 people were arrested throughout the country as they attempted to join a march that HADEP had tried to organise in Ankara. In Amnesty’s words ‘The true figure is likely to be much higher: police detained at least 700 in Ankara alone, and were forced to use a football stadium to hold the detainees On 31 August, 200 people gathered outside the HADEP branch in Zeytinburnu, Istanbul, to board buses to Ankara. Police attempted to break up the group with batons and teargas, and some fled into the building to escape. Nineteen year old Zeynel Durmus fell from the fifth floor and died. Yasar Ozdurak also fell and suffered serious injuries. Police reportedly detained most of the group.’

ISTANBUL 50 HADEP members detained in Topkapi Square for marking World Peace Day. In all 195 HADEP members and supporters detained in Istanbul.

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2 Sept ISTANBUL crowd of HADEP supporters gather outside HADEP office in Zeytinburnu. Police use tear gas and water cannon to disperse and detain many people.

3 Sept KARS 24 detained

9 Sept ISTANBUL 19 HADEP youth wing members detained during demonstration to protest police violence and the death of Istanbul HADEP member Zeynel Durmus

10 Sep MUS Ten HADEP members detained in Varto, Muş.

11-14 Sep IZMIR multiple police raids on newspapers, cultural centres and HADEP offices leads to detention of 17 Kurds.

22 Sep KARS four HADEP members detained in raid on village.

2 Oct CIZRE Mehmet Dilsiz, HADEP chair, Cizre, detained and at risk of torture (AI alert)

8 Oct AYDIN & IZMIR 17 detained during night raids in both cities. Most of them members of HADEP.

17 Oct IZMIR police raid HADEP office disrupting a seminar of 40 people, mostly youth wing workers. All but two released over next 48 hours.

17 Oct IZMIR 37 people, mainly young activists of HADEP attending human rights seminar arrested in Izmir.

22 Oct ERZURUM (Hinis) HADEP office raided by police who seize 20 copies of Yedinci Gundem, a legal newspaper and a donations box.

24 Oct K.MARAS HADEP building raided during seminar and 23 HADEP members detained. All released within 24 hours.

Here ends TIHV documentation

1 Nov DOGUBAYAZIT Burhan Kocker, a municipal policeman and member of HADEP killed in Dogubayazit by unidentified men wearing uniform balaclavas.

5 Nov DIYARBAKIR Fear for Emrullah Karakoz, archaeology student and HADEP member in Diyarbakir, who `disappeared’ in police custody after arrest on 29 October. Amnesty alert.
Appendix 4: Events in K. Maras

The following intermittent diary of events is extrapolated from material submitted to asylum courts in Europe and from press reports. The importance of these scraps of information is that they give some idea of the lawlessness nature of two districts, never within OHAL, but from which a high proportion of asylum seekers come.

Elbistan: 19 July 1990 Bakis village supposedly attacked by members of the PKK, weapon of the night guard was taken, village buildings burnt.
15 April 1991 a small bus came under fire near Kantarmaci, 7 killed, 5 injured. The PKK paper Serxwebun accuses the village guard.
15 May 1991 Seven PKK fighters killed (two of them women) near Gavur mountain.
22 July 1991 Police officer Tayfun Demir injured when his car hits a mine near Nurhak mountains.
17 August 1991 Fakretting Duy injured by mine near Turkmenler village, district Ekinozu;
10 September 92 Ten suspected members of Dev Sol arrested in Afsin and Elbistan, fourteen of them taken into detention.
10 May 1993 15 persons taken into detention from Elbistan and Ekinozu for supporting the PKK.
3 June 1993 Gursel village between Nurhak and Engicek, all 80 houses emptied, 9 of the 10 houses of Celikli emptied, 25 of the 35 houses of Serbetli emptied. The only remaining person in Celikli, Husn Bunul lost his brother Salman under torture. His wife, Newroz, and his son tortured. Oruc Serbet of Serbetli lost toenails under torture. (source TIHV and Özgür Gundem).
12 July 1993 Concurrently with clashes near Nergele, Yilanobasi and Agagicemeler (Elbistan and Ekinozu). Village guards and security forces terrorise the population of parts of Elbistan town. Mehmet Terzi reports his bus torched by village guards and plain clothes officers, 6 July. On 10 July security forces round up and beat 11 villagers of Ciflik, Elbistan.
17 July 1993 major operations: villagers of Bakis, Sogucak, Agacacar, Zilliian, Hanciplak, Hatkiran, Kale and Kosekahya (Elbistan and Pazarcik) notified to evacuate within a week.
28 November 1993  Sixty arrested in Darbent, Altinyaprak, Nergele, Ciflik, Serbetli, Hasanalili, Atmealikasanli. Afterwards Tacim Gexer, Ismail Beypinar, Ibrahim Elma and Ibrahim Polat reported missing. The prosecutor told enquirers they were taken to Malatya, but Malatya denies receiving them.

11 November 1994  AI Urgent Action: Huseyin Koku, Chair of HADEP Elbistan abducted on 20 October. (Corpse later found in Malatya province.)


ENTRIES AFTER 1995 UNAVAILABLE

Pazarcik  The pattern is very similar to that in Elbistan:

13 September 1990  15 persons arrested for supporting the PKK;

28 November 1990  IHD concludes that among supposed dead PKK fighters killed in a clash on 28 November at Bolukcan were ordinary villagers.

2 April 1991 In police operation in and around Pazarcik 30 persons arrested for support of the PKK. Mustafa Ilengiz, aged 22, killed by Special forces in Cicekalan village. Two members of Special forces prosecuted but not detained.

12 July 1991  During attack on Harmancik village, 6 persons killed and 5 injured. Serxwebun reports the 6 were 'traitors' responsible for death of 10 PKK fighters.

23 August 1991  Clashes between PKK and village guards when PKK attack hamlet near Keteri. 6 PKK fighters and two children killed.

22 August 1992  Police operation in Pazarcik and Gaziantep, 19 detained and 11 formally arrested;

21 March 1993  Shepherd Haydar Yagkiran dies in hospital. Shot by member of the special team on 10 November 1992 near Tilkiler as PKK suspect;

1 July 1993  Excess by village guards reported from Pazarcik villages. Village guards from Keteri participate. Villagers who refuse to take weapons, 5 out of 30 families, forced to quit. Village guards reportedly also attacked Horubaski hamlet near Tilkiler, and stole valuables and food. Women who resisted theft of jewellery were forced to stand on one leg for hours. Village guards from Karagol committed similar depredations. They reportedly abducted girls from villages from Sadaklar and special teams had kept them for a week and raped them. Last March village guards abducted a young woman from Hurriyet village and later killed her. Village guards have assisted special teams steal animals. Reports that villagers of Keteri and Tilkiler subjected to inhuman treatment and cannot get their pistachio harvest in and have fled. Keteri 25 out of 30 houses belong to village guards terrorising the others and the area. Gundem 9/7/93

18 July 1993  Five shepherd boys (named), one 16 years, one 11 years, remainder ages unstated, from Horubaski near Tilkiler beaten up by special forces and village guards looking for PKK. The arms of two boys broken.

19 July 1993  Security forces attack hamlet of Cerdiken near Tilkiler. Arrest Bilal Alpdogan (who is blind in left eye), brother Mahmut and uncle Ibrahim. All three beaten up. Mahmut and Ibrahim released. Bilal dragged to gendarmerie station in Pazarcik tied by a rope round his neck to a tank. (Note Ibrahim Alpdogan was to suffer torture in June 1999, see below.)

8 August 1993  The badly burnt corpses of PKK fighters killed in Nurhak fighting were buried under strict conditions. However, a medical doctor managed to removed a hair
from his uncle, who was among the dead. Analysis by a trusted doctor in Adana concluded it contained a high proportion of chlorine and HN3, implying some form of chemical attack. Villagers say they were threatened by the special forces that their village would be razed if photographs of the corpses were published. The village closest to the clash was completely evacuated. Sources: Ozgur Gundem and oral information from medical doctor to researcher.

3 August 1993 Ayse Rani and her two children (7, 4) killed by two persons with axe. Widower states he had no quarrel with PKK so does not think it responsible. His brother fled to Germany to avoid threats from Special teams. He, his brother, his sister and his wife were all tortured on different occasions. Ozgur Gundem

1 November 1993 Six children in Emircelik die touching unexploded artillery projectile left by security forces.

3 February 1994 Mehmet Pelen and son shot and killed at army roadblock, Igdeli village. Ibrahim Pelen, also in car, stated afterwards ‘At the entrance of our village soldiers stopped our car and took me out of the car. Shortly after I walked away I heard shots. Hasan and Mehmet did not return this evening. When we enquired with the authorities the next day they replied they had no information. A short period later they called us to inform us that they have the corpses of Mehmet and Hasan and that we should take them.’

5 February 1994 Sixty village leaders from Pazarcik area told all villagers must join the village guards. The gendarmerie commanders told them 'the village guard system will be established here, and you will choose who is to take part in the force. If you do not prepare a list of names by the time of the second meeting I shall have you all beaten up. That's how it is going to be.' Aydinlik 5/2/94.

9 February 1994 During police raid in Narli town on 1 February Hasan Kiraz arrested. According to his father he was subjected to intensive torture. He was later sent to K.Maras hospital. Ozgur Gundem.

10 February 1994 On 6 February Huseyin Mentes arrested in Maksutagi for possession of Kurdish tapes and DEP (Democracy Party) literature. His mother and others arrested.

23 June 1994 Damlatas, Memiskaya and Doganlikarahislar villages banned from using summer pastures. Accused of supporting terrorists. Turkish shepherds not similarly banned.

ENTRIES FOR 1995 UNAVAILABLE

18 January 1996 High school student Sultan Ocar (18 years) reported missing for 5 days. She has been arrested several times in the past, and threatened because she is cousin of Ibrahim Ocar, died in 1993/4 as PKK fighter. Father says she left to go to Istanbul, but does not seem to have arrived there. Gendarmerie deny arresting her.

24 January 1996 security forces attack village of Alibeyusagi and tell villagers to join village guards or quit. Of 150 originally inhabited houses, 60 still inhabited.

23 September 1996 Mehmet Bezgince and Ibrahim Demirsal from Igdeli (Cimikan) were arrested last week. Tortured for three days in Maras because they painted 3 sheep in summer pastures red/yellow/green. They were banned from summer pastures. The sheep were sheared.

1 September 1997 International Peace Day. Sixty HADEP supporters detained in Pazarcik and Narli. All but four were released after four days. All had been physically mistreated. Remainder released after 55 days (see Statement No. 15).
17 January 1998  Inhabitants of Kelisbeler, Bezolar and Akdemir and hamlet Hamzicanli regularly visited by security forces and pressured to be village guards. Former HADEP chairman for Maras says they are effectively under siege and many arrested and tortured. He says aim is to pressure villagers to leave.

24 June 1999  Reported that people detained in Pazarcik villages subjected to inhumane treatment and severe torture. Bilal Ipek one of 49 detained, made to eat excrement.

Concerning this incident Amnesty International stated:

In 1999, Amnesty International received a number of reports of unacknowledged detention and torture of Kurdish villagers. For example, between 8 and 12 June some 50 people from Tilkiler and four other villages of Kahraman Maras Province, Törolar, Çöçenler, Sallusagi and Musolar, were taken into detention at the Pazarcik Gendarmerie Command and reportedly severely beaten and otherwise tortured. Methods of torture included being forced to eat human excrement, being suspended by their arms which were tied behind their backs, being beaten with truncheons and being sprayed with pressurised water. One of the detainees disclosed to his lawyer that: "They did not take us to toilets, so that we had to excrete where we were hung. We were covered with excrement as we could not clean ourselves while we were hung. Later they put excrement on the truncheon, and inserted the truncheon into my mouth. They inserted the truncheon into my anus [....] throughout the eight days they forced me to sit naked on the concrete floor, and without allowing me to lie down." On 17 June, 35 of them were formally arrested and taken to Kahraman Maras prison. Seventeen others who were held in detention were released on 17 June. On 20 June 1999, 63-year old Ibrahim Alpdogan was taken into unacknowledged detention in Pazarcik district of Kahraman Maras. Amnesty International believed that he was detained because he had given information to his local branch of the Human Rights Association (IHD) the day before about recent attacks by soldiers in his home village of Tilkiler in Kahraman Maras province. He had explained to IHD that villagers had been tortured, verbally abused and that six of them had been taken into custody. Also that 15 houses had been destroyed by fire during the attack. After issuing urgent appeals, Amnesty International was informed that Ibrahim Alpdogan had indeed been arrested. He was later remanded to Kahraman Maras prison, charged with helping the PKK.

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252 According to reports some 32 of them who had been charged with supporting the PKK were acquitted by Malatya State Security Court on 22 October 1999. They had been released in the previous hearing. One of the villagers was charged with membership of the PKK.

Appendix 5: Military service

Reporters Sans Frontières: October 2000 website text on Mehmed’s Book by Nadire Mater (reprinted here with RSF permission) extract: ‘I would tell young people if I knew an alternative for refusing military service’ (p. 127-130)

I wanted to go to the south-east. I had heard a lot about the war there. I was curious. I wanted to see. But by the first day I was crying. My hair was shorn. The treatment by the seniors, by the officers, destroys your self-confidence. In that sense I too was defeated on the first day. We were given G3 rifles. Trained for G3s and LAW weapons. A very hard training for three months. At night we received anti-terrorism combat training. As long as I managed the lessons my curiosity grew.

We did not search villages because they had already been evacuated then. If any were still populated, we burned them to the ground. We even burned down mosques. We burned a village beyond Eruh district - I forget its name. There were around 35 houses. We forced the people out of their homes. We had already surrounded the village. Our commander ordered the villagers to evacuate the village. Three teams went into the village. People are forced to get out of their homes and the houses are searched. Men, women, and children are separated from each other. The men are denounced: "You are leaving this place, you support the PKK, you give them food". And the people are driven to Siirt province. The people are helpless, they take their belongings and the teams rush into the houses. They pour petrol inside and set them on fire. As the village goes up in flames, we watch it from the top of the hills. I saw everything I had been curious about. I got my answer.

My impression is that the state wants the war to continue. If the state meets their demands, if it responds to their cultural, linguistic and ethnic needs and improves their standard of living, there will be no good reason for making war.

I was not especially interested in the Kurds. For me they were just like the others, Pontus, Circassians, Armenians. Before going for military service I used to read the pro-Kurdish Gundem newspaper. I knew that they were a party to the conflict. But it was the only paper to report about the war zone. I used to read the others too. But they would simply report "there has been a clash and a certain number of men have been killed." One day they brought an old man along with his two mules. They were dragging him on the ground. He was being charged with carrying food supplies to the PKK. The man denied it. It was not clear if he did it or not. They had found two sacks of flour on the mule's back and told him: "You were taking them to the PKK." They were dragging him on the end of a rope. I guess he was around 60. Yet you cannot tell, since people there are so
oppressed that even the young look old. The man was crying and shouting. I never believed the Guclukonak incident was the work of guerrillas. (In January 1996, 11 people from the village of Guclukonak, most of them village guards, were found burned to death in a van. Although the military authorities blamed the PKK for the incident, independent investigators and journalists have shown that at that time no guerrilla activity had been detected in the vicinity and that the victims were in conflict with the local military authorities because they were unwilling to join the village guard system). Attacking a surrounded locality is equivalent to committing suicide. If they had done it, there would have been a clash and they would have suffered heavy casualties. Even if there had not been a gendarme post there, the guerrillas should know that the hills are full of ambushes. On the top of every hill at least two teams are positioned. It is impossible that they did not see the guerrillas. The locals liked the infantry but they disliked the gendarmes, the police and the special teams.

Before going there I wanted to know who my enemy was. Now I have the answer. Who is my enemy? The ruling classes. Who else could it be? There are scores of wars. Psychologically you are fighting against yourself, fighting against your adversary. Whether you take part in the conflict or not, you are a part of it, in that sense you have to protect yourself. Plus you are believed to be on the other side if you do not want to harm them. And then you fight in order to eat the good-quality canned fish. The toughest of the wars you fight is your own presence there, against your own will. Your civil war is against yourself.

You will endlessly encounter this contradiction. One of our friends was killed. He was a little bit of a heroic type. He would always rush to the front. His death was not a surprise. Striking at, repulsing the PKK, decapitating the guerrillas was a matter of honour for him. Most of us were sorry he was gone, I was sorry because a human being had died.

When I recall my days there I first remember my friends. The loaf of bread I shared with them, stealing the canned fish and giving it to them. They would not give us enough socks, I used to steal socks to give them. When I was back in my hometown, Tonya, people were expecting to hear what was happening there. I told them everything, what the PKK was doing, what we were doing, how the villages were being evacuated, how the war was being conducted. Back home, I could not sleep properly.

There in the military we used to sleep in the daytime and stay awake at night. At home I was out all night. Until midnight I used to chat with friends, or tried to find one to chat to. I would tell young people if I knew of an alternative for refusing military service. I have changed mentally. I now have a clearer idea about those who are responsible for the ongoing war, who benefits from the war. The officers would like the war to continue because they earn a lot of money there.’

**Amnesty International: Persecution or death of Kurdish conscripts: Evidence of persecution of conscripts on the increase.**

Reports of persecution and deaths in suspicious circumstances of young men carrying out their military service in the Turkish army are on the increase, Amnesty International said
today, giving rise to concern about ill-treatment in the armed forces. Many of these reports relate to individuals whose families originate from the predominantly Kurdish south-eastern provinces of Turkey.

Amnesty International is also concerned about the situation of numerous Turkish citizens of Kurdish origin who have left Turkey to avoid military service because they say they do not wish to fight their own people and are seeking political asylum abroad.

Süleyman Aksoy, aged 24, whose family is originally from Malatya, had managed to leave Turkey in 1995 in order to avoid doing military service. However, he was returned to Turkey by the authorities in the Netherlands. On his return he was reportedly detained for questioning for two days at Istanbul Airport and during this detention he was reportedly beaten.

As a draft evader he was sent immediately to Etimesgut in Ankara to do his military service. After two months, he went on leave to see his family before being sent to Gülhane Military Medical Academy for the remainder of his military service. Less than a week later, on 12 July 1999, his family were told that he had committed suicide.

The family have stated that they knew no reason for Süleyman to commit suicide and that they believe his death to be suspicious. Although they were expressly forbidden in writing by the Military Medical Academy command from opening his coffin, they did so and reported that the body was unrecognisable.

Amnesty International has written to the Turkish authorities on a number of occasions about similar incidents. On 31 July 1998, Amnesty International wrote to the then Prime Minister Mesut Yilmaz asking for an investigation into three earlier deaths:

· Hüseyin Baykara, from Adiyaman province, reportedly hanged himself at his military unit in Tekirdağ province. His body was handed over to his family on 9 June 1998.

· Zeki İmen, from Bitlis province, who was carrying out his military service in Diyarbakır province, was reportedly known to be opposed to the conflict in the south-east and was therefore not given a weapon. On 21 November 1997, his family was contacted to collect his body, which reportedly bore three bullet wounds. The family were given contradictory reasons for his death, one officer stating that he had committed suicide and another claiming that he had been killed in an armed clash.

· Hasan Yesilova, from Gaziantep, died on 14 May 1998 while doing military service in Agri province. He reportedly told his family the day before he died that he and two others had been beaten on the back of the neck with a rifle butt and subjected to *falaka* because they had refused to carry out the orders of an officer.

It is not uncommon for Turkish citizens of Kurdish origin to be reluctant or unwilling to do their military service because they do not wish to participate in the conflict in the south-east of Turkey. A number of such individuals have gone so far as to leave Turkey in order to avoid conscription into the armed forces.
Amnesty International recognises that while these individuals may not be unconditionally opposed to all service in the armed forces, they are exercising a genuine right of selective conscientious objection on political grounds to military service under the circumstances presently existing in Turkey.

The human rights organisation has previously expressed its concern about the lack of access to any alternative service to military service for conscientious objectors in Turkey and has urged the Turkish authorities to bring the country’s legislation into line with international standards.

Traditionally, young men called up for military service in Turkey were deliberately sent to another area of the country away from their native region, but in recent years many Kurdish families have migrated from the south-east to metropolitan areas of western Turkey, with the result that a conscript of Kurdish origin might well be sent to do his military service in the south-east part of the country from which his family originated and where he probably still has relations.

**Background**
For the past 15 years the security forces have been engaged in a bitter and bloody conflict with the Kurdistan Workers’ Party (PKK). The conflict has claimed an estimated 31,000 lives. Both parties to the conflict have been responsible for many civilian deaths in violation of international standards.

> **Conscripts sent to do their military service in the south-east may well be required to serve at least part of the time in the gendarmerie. The gendarmerie has played an active role in the policy of village evacuations. It is estimated that some 3,000 settlements were evacuated or burned in the course of the conflict in the south-east. Amnesty International continues to receive credible reports of burning villages and crops. An estimated three million people have been internally displaced.**

Amnesty International has documented in the past and continues to receive frequent and distressing reports of individual and mass detentions in the south-east. Reports of such detentions, which are usually carried out by soldiers attached to local gendarmerie commands, are all too frequently accompanied by shocking allegations of torture. For example, in June 1999, Amnesty International received reports that about 50 people from villages in Kahraman Maras province were taken into detention at Pazarcik gendarmerie command and reportedly severely beaten and tortured. This included being forced to eat human excrement, suspended by their arms which were tied behind their backs, beaten with truncheons and sprayed with pressurised water.

**Turkish Human Rights Association (IHD): Report on doubtful deaths in the army**
(Translated by Perihan Ozbolat, 1 November 2000)

1.) Kemal Volkan – born 1.3.1977 in Kemah (Erzincan) – Tailor
Hüseyin Volkan a relative of Kemal Volkan made a written report in our association 27.8.1998. He stated with regard to the latter’s death during the military service: “Kemal

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was doing his service for 9 months in the Manisa Military Section. It was declared that he committed suicide with his own weapon. We do not know if an autopsy has been made, but in any case we did never receive an autopsy report. As we did not believe that Kemal committed suicide we demanded from the military authorities an autopsy. This demand was refused. Kemal had no reason to commit suicide. We do not believe that Kemal committed suicide and demand your association to research the case and start in our name the relevant juridical steps.” Kemal Volkan was handed over to his family by military officials with the words that he had committed suicide. He was buried in Istanbul in the Güzelyali cemetery.

2.) Sinan Yaklav – born 1978 in Istanbul
Sinan’s mother Semra Yaklav made a written report to our association 29.10.1999. She declared that she had no received any news from his son during his service in Erzurum-Hinis. “My son Sinan Yaklav was sent to Erzurum-Hinis after he had received his training in Manisa Kirkagac. Military officials called us 1 September 1998 saying ‘your son was hit during an operation by a shot which rang out and he died. Our condolences. Please come here quickly.’ Our son’s corpse arrived 3 days later in Istanbul. Nobody of our family attended the autopsy. After the autopsy they showed us only his face. After our son was buried they informed us that it was decided to hold an inquiry with regard to his death. Nevertheless, thereafter we were not contacted once again. A week after the incident I went to the state prosecutor in Hisin who refused to speak to me and told me ‘I have no time in the moment. Do not annoy me.’ Officials at the Gendarmerie to whom I wanted to speak told me sharply ‘who are you?’ I consider the circumstances of my son’s death to be suspicious. I do not believe that his death was an accident.” Semra Yaklav asked to make a press conference at our association. She demanded us follow the case on the juridical level.

The report prepared by military officials states that “Sinan Yaklav was heavily injured when returning from an operation. He was hit in his head by a bullet from his own weapon because the safety catch was not put on. He died in the hospital. The careless behaviour can be explained by the worries of the soldier after he had lost the charger of his weapon on the return from the operation in a rural area where it could not be found.”

3.) Ismail Günes – born 1972 in Akcadag (Malatya) – textile worker
The brother of Ismail, Mehmet Ali Günes stated that they were informed that his brother committed suicide while making his military service in Northern Cyprus. “My brother served for 1 ½ months in Sivas as untrained soldier. Thereafter he went to the Turkish Cyprus Peace Forces as trained soldier. One month after he went we were informed 23 March 1999 that my brother ‘committed suicide’. When my brother had come home during his time in the training unit he was in a good mood - there was nothing similar to depression. He went happily to Cyprus. Two days before we were informed about his death I had spoken to him on the telephone where he had said that ‘he was very happy and has no health problems’. On my question if he has enough money he said that he has enough. He even asked me to open an account in his name at the Yapi Kredi Bankasi due to the fact that his bankcard did not work in Cyprus. His voice was very joyful and he often joked with me. He told me to say hello to everybody. In a telephone conversation once month prior to his death he had spoken one or two Kurdish words. At that very
moment I had heard via the receiver that somebody shouted at my brother. After that my brother had continued to speak in Turkish. As his family we do not believe that Ismail committed suicide. He was not disposed for that and had no reason. The death of my brother is very suspicious.”

Mehmet Ali Günes asked our association for legal aid. The case of Ismail Günes who served in the Turkish Cyprus Peace Forces (230. motorised infantry regiment) and ‘committed suicide’ is followed by one of the lawyers of our association, Gülseren Yoleri.

4.) Selim Aktas – born 1978 in Kargi
Elmas Aktas declared 2 July 1998 to our association that she had been informed that her son Selim had committed suicide after having served 12 days in the Bilecik 9. Training brigade. “The death of my son is suspicious. I do not believe that he committed suicide. Our demand to make an autopsy to establish the reason for his death was refused. We demand your association to support us legally in our demand for establishing the reason for his death.” In her application to the State Prosecutor in Kargi (province Corum) with the date 29.4.1998 she states that:
1. While our son was in the military two Gendarmes came and informed us that he was ill. They gave us a telephone number, which we should call. A neighbour called the number because I had fainted. The person on the phone said that my son had died and where I want the corpse to be sent. As we wanted him to be buried next to his father our relatives took the corpse and he was buried in the Demirören village (Kargi – Corum province).
2.) A few days after the burial we received a letter. It was the “Report on Inspection of the death and autopsy report”. In the third line it stated that my son, soldier Selim Aktas, “committed suicide”. As if they had not told us before that he had committed suicide.
3.) Due to this I doubt the reason for my son’s death. I want to know it. I demand that the grave of my son is opened and an autopsy is made.
In response to her demand a written response signed by Home Secretary – General Command of the Gendarmerie refuses her demand stating that a further autopsy of her son is not necessary.

5.) Aydin Arslan – born 1974 in Giresun
Salih Arslan stated 1 May 1998 to our association that his grandson Aydin was found dead while he was on duty in prison, where he did his military service. “This death did not seem credible to us. Aydin was not someone to commit suicide. We consider the way of his death and the reason given (suicide) to be suspicious. In order to disperse our suspicions we demand that the autopsy be repeated. This demand was refused. Due to that we want to start court procedures.” Salih Arslan asked for legal support from our association.

6.) Zeki Altunbas – born 1956 in Yozgat
Cafer Altunbas stated 26 November 1998 to our association that “my relative Zeki Altunbas had to report every day to the police-station in Yalova due to a sentence which he had received in the 1980s after the military coup. During this banishment sentence [i.e. being forced to stay continuously in Yalova] he was called to the army. He went to the
Canakkale Training Regiment. While he was soldier some persons who were arrested in Yalova mentioned Zeki’s name. He was taken into custody in Canakkale and sent to Yalova. He was questioned and tortured for a long period in the Yalova Security Department. It was decided that he should be brought to the Selimiye Military Barracks on the basis of his old processes. But after this day we did not receive any news from him. When we inquired about his where about the military officials told us that ‘Zeki Altunbas escaped on the way by jumping from the Kartal-Yalova boat’. After this answer gendarmes searched houses of us relatives in Yozgat-Sorgun and Ankara. Until this day none of our applications have led to a result. He was erased from the registry in Sorgun without informing us.” Cafer Altunbas asked us for legal support. Zeki Altunbas was before the 12 September 1980 coup, manager of the Socialist Youth Centre. He was sentenced due to this.

7.) Süleyman Aksoy – born 1975 in Akcadag (Malatya) – textile worker
Süleyman Aksoy was taken into the army after he had been deported from Holland 28 April 1999. It was declared that he committed suicide by jumping from a bridge at GATA [see further down] 12 July 1999 where he was serving. His father Ali Aksoy declared to our association 12 February 2000: “My son went 1993 to Germany. After his application for asylum was refused he tried to get illegally to Britain. He was taken into custody by the Dutch police on the way. He was held 6 months in prison in Netherlands and then was then deported 28 April 1999. On his arrival at the Atatürk airport he was taken for 2 days into custody. 2 May he was handed over to the military station. My son did his training in Etimesgut. He spent his 10 days allowance during the training in our house. He was assigned subsequently to service in the GATA hospital in Ankara. He started his service there as infantry soldier. We were informed less than 3 weeks later that he committed suicide 12 July 1999 by jumping from the GATA Bridge. We buried him 13 July 1999 after we had received his corpse. 3 to 4 days before we were informed about his death he had called his mother and had said: ‘Mother, they send me continuously on duty, at the same time they follow me, I do not understand what that is.’ We as a family do not believe that he committed suicide. Military officials told us ‘your son became depressed after his fiancée left him and he committed suicide.’ This is not possible as my son was at no point engaged. We believe that they killed Süleyman. The Dutch state is also responsible. In my opinion it is also guilty. If they had not sent Süleyman back it would not have ended it that way.” Ali Aksoy demanded legal support from our association.

8.) Masallah Yılmaz – born 1979 in Mus – ironworker
Abdullah Yılmaz, the elder brother of Masallah, declared to our association 4 February 2000 that Masallah did his service in Sirkak where he supposedly committed suicide. His corpse was handed over thereafter to his family. “Masallah was taken 3 times into police custody in Bursa during the peace process. He was threatened each time to do his military service. Due to this he went to Isparta in order to do his service. There he was taken arbitrarily into custody and subjected to torture. After he finished his training he was sent to Sirkak. When we spoke to him on phone he said that he was badly treated, insulted for his beliefs and his relatives and that he feared for his life. They handed Masallah’s corpse to us and said that he committed suicide 1 October 1999. They gave us also letters for all members for the family and said that Masallah had written these letters. We believe that
these letters are faked because none of these ended with ‘Mehmetcik’. Generally, he ended all letters with the name of the last imperator [obviously referring to Mehmet Reshad (1909-18)]. Due to these suspicions we inquired and learned that the JITEM member Murat Avci killed our brother on purpose. We started an action. This person received ‘a 5 months prison sentence for assault. After the appeal court had overturned the sentence, the court cleared him this time. Those who are responsible for the death of my brother are free.’” Abdullah Yılmaz demanded legal aid from our association. After the death of Masallah his family applied to all relevant authorities. As a result Murat Avci was arrested and transferred to Diyarbakır prison for “causing death”. Nevertheless, little later he was released.

9.) Ali Haydar Kalan – born 1979 in Karakocan
Ismet Kalan declared to our association the 31 January 2000 that his son Ali Haydar’s corpse was handed over to him after he committed supposedly suicide while serving in Sanliurfa 20. Armoured Brigade’s Support Detachment. “The death of my son is doubtful. I want to inquire about how he died and what was the reason for his death. If they made an autopsy I want to make a second autopsy. My son stated often in letters and telephone conversations that he was subjected to pressure and threatened with death by right-wing soldiers. My son served 2 ½ months and stated in this period often that he was threatened. Due to this I do not believe that he committed suicide. I want to take action against all soldiers and officials who were on duty on that day. I demand the IHD to give us legal support.” Ismet Kalan took actions at the Tekirdag State Prosecutor against the military officials whom he holds responsible for the death of his son.

10.) Nihat Özcan – born in Besiri (Batman)
Ahmet Özcan declared 6 October 2000 to our association: “My brother Nihat was for a period active as a supporter of Hizbullah. He left them after a disagreement of opinions. 1 year later he went as a volunteer to the army. He did his service in Hatay. My brother quarrelled several times with superiors while he served. They informed us that my brother had deserted from the army. We as a family do not believe that he deserted, as he had no reason for that. Furthermore only 3 days were left until his discharge. After the declaration that my brother had deserted, he was found at the Syrian border with 2 bullets in his heart. Captain Hüsnü Dündar and non-commissioned officer Sükrü Erdurar are responsible for the death of my brother. We never received any detailed information about the incident, in which my brother died. Therefore we demand the IHD to give us the necessary legal support.”

11.) Halim Bayram – born 1978 in Bingöl
Esat Bayram declared to our association 5 July 1999: “My brother Halim served in the Canakkale Strait Command Headquarters. 8 days after he had gone to the army we were informed 14 September 1998 that Halim was hit by accident. We went quickly to Canakkale. When I spoke to my brother in the hospital he said ‘the captain hit me’. My brother died after 7 days in the hospital. We have taken action against the captain who is responsible for the death of my brother. Therefore I demand from your association legal aid.”
12.) Lokman Bilmez – born 1978 in Taslidere (Kozluk – Batman)
It was declared that Lokman Bilmez committed suicide while serving at Afyon Bayat District Gendarmerie Headquarters. The officials declared to Lokman Bilmez’s family with regard to the incident ‘Lokman entered the armoury at a time when nobody was present, he shot himself with a G-3, which he put on the ground, he pulled the trigger with his foot.’ Lokman Bilmez’s family declared that they consider this story not to be credible. They took action against the people responsible.

13.) Ali Özcan – born in Kuzcukur (Susehri – Sivas)
Ali Özcan served in the Manisa Kirkagac Gendarmerie Training Battalion. It was declared that he committed suicide with a G-3 on 27 February 1997. No inquiry has been conducted with regard to the incident. It was decided to abate the action. The case has been sent to the European Court for Human Rights.

Examples of brutal conduct of the Gendarmerie
1. At the end of Appendix 4 (KahramanMaras) there is a specific case of Gendarmerie brutality and torture recorded by Amnesty International in K.Maras province (i.e. many miles outside the OHAL) and in the summer of 1999, after the capture of Ocalan.

According to current information the above 5 people have been transferred to a prison after having been tortured and ill treated while in the custody of gendarmes in Diyarbakir. Mullah Aragon and Mustafa Yasar were transferred to the prison in Sanliurfa on 11.12.2001. They had been held in the gendarmerie headquarters in Seyrantepe since 28.10.2001. According to the information available, during this time they were forced to sign blank sheets of paper and statements which they were unable to read. For 44 days they were continually questioned and, according to reports, ill treated and tortured. They were allegedly blindfolded and forced to undress, were beaten, nearly strangled and had their testicles crushed. They were also sprayed with high pressure water and then placed out in the cold. They were prevented from sleeping and were not allowed to lie down. Mustafa Yasar was also tortured with electric shocks to his genitals and was forced to stand out in the snow. Emrullah Karagöz had to lie on his back with his arms stretched above his head. Blankets were then wrapped around his arms and legs. He was then placed on his elbows and knees. Because of the pain suffered in doing this, he lost consciousness. On the 33rd day of his detention Emrullah Karagöz was examined by a doctor, who claimed: "... if this continues he will die". But according to the information available Emrullah Karagöz continued to be tortured until he was transferred to prison on 11 November 2001. Mustafa Yasar is in a poor state of health because of the torture to which he has been subjected. He is suffering from kidney pains, sleeplessness, nausea and shaking fits.
According to reports Hatip Alay was tortured for 14 days and had to be taken to hospital. Following treatment he was taken to the prison in Diyarbakir (Type E). According to the information available he had been beaten, hung from his arms, had his testicles crushed, was sprayed with high pressure water, and had a plastic bag placed over his head so that
he nearly suffocated. Ms. Remziye Dag and Fehmi Ak, who were held in custody for 24 days, were also allegedly tortured. The 5 detainees were held under § 3/c of Regulation No. 430. This regulation allows the state prosecutor, following an application to a judge by the governor of a state of emergency province, to place an already officially detained prisoner back into police or gendarmerie custody for a period of up to 10 days. Emrullah Karagöz and Mustafa Yasar have had their custody under the gendarmerie extended 4 times. On 10 December 2001, the Turkish president of state Ahmet Necdet Sezer criticized the use of such regulations as well as the long-term detentions in Diyarbakir, a province which is under a state of emergency.  

3. AI-Urgent Action: Concern for the Safety of Ms. Fehime Ete and her 5-year-old Child Sahadet Ete at Risk of Torture and Ill Treatment

Amnesty International continue to be greatly concerned for the safety of Fehime Ete, who had been taken back to prison in Bitlis on 14 December 2001 from the gendarmerie headquarters. According to reports she had been tortured and ill treated while in their custody. Fehime Ete had been arrested on 21 October 2001 and transferred to the prison in Van on 25 October 2001 by the state security court for "supporting an illegal organization". According to eyewitnesses who had seen Fehime Ete in court, she was in a poor physical condition. One week later she was transferred to the prison in Bitlis where she was placed in the female wing with her 5-year-old daughter Sahadet. On 25 November 2001 she was taken to the gendarmerie headquarters for questioning. The authorities have, however, not informed her lawyer about the latest transfer. According to reports she had been ill treated and tortured during her detention in Diyarbakir. She was blindfolded, beaten with a truncheon, forced to undress and sprayed with high pressure water. She lost consciousness several times during the torture and her family as well as herself were warned against making any complaint about torture. There were also threats that Fehime Ete's daughter would be tortured. When she was finally allowed to be examined by a doctor she was afraid to say anything about the torture because of the gendarmes' threats as well as the fact that they were present during the examination. As a consequence of the torture she is suffering from breathing problems and can only move her arms with a lot of effort. Sahadet Ete allegedly heard her mother's cries as she was being tortured and, according to a doctor's diagnosis, is therefore suffering from shock. On the grounds of § 3/c of Regulation No. 430 Fehime Ete was taken back into custody of the gendarmerie. This regulation allows the state prosecutor, following an application to a judge by the governor of a state of emergency province, to place an already officially detained prisoner back into police or gendarmerie custody for a period of up to 10 days. This regulation has already twice been used against Fehime Ete despite Van and Bitlis not being state of emergency regions.

4. Amnesty also reports another case in western Turkey:

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‘In three villages and the small town of Sivasli in the western province of Usak, 11 people were arrested from their homes by gendarmerie during the night of 23 and 24 January 2001. The arrests were based on an anonymous complaint that they had stolen sheep five years earlier. The local prosecutor gave permission to hold them in detention for four days. On 25 January they were released by a prosecutor. The men reported that they were blindfolded and handcuffed from the moment of their arrest. During transport and at the gendarmerie station they were beaten and forced to sit on a very cold concrete floor having been stripped of their trousers and underpants. Two of them also reported that they had been subjected to *falaka* (beating on the soles of the feet), one squeezing of his testicles, another one squeezing of his penis. They were also threatened with other forms of torture……’

5. Ramzan Tekin, Deputy Mayor of Diyarbakir and HADEP member was detained for 10 days by the gendarmerie on 21 January 2000. He was allegedly beaten, suspended by the arms and tortured with electric shocks. Doctors from the Forensic Institute who examined him reportedly confirmed that his ribs were broken and his kidneys damaged. 258

6. Selim Ozalp, Mayor of Siirt and HADEP member was reportedly arrested by the security police and gendarmerie at Siirt town hall on 19 February 2000 and taken to Diyarbakir gendarmerie for interrogation. After two days of alleged severe torture he was taken to Diyarbakir hospital for treatment. 259

7. On 18 April 2002 gendarmes in civilian clothing arrested Ahmed Yildiz, Zeki Kilavuz and Izzet Ensen in Buca, Izmir, on suspicion of theft. They were taken to Torbali-Kapikaya. According to their lawyers they were twice subjected to torture. Kilavuz stated ‘At the gendarmerie station my mouth was taped and I had to go about 1km into the woods. A pistol was held to my temple. They pushed me so that I fell to the ground. Then they kicked me and hit me in the testicles.’ Yildiz stated: ‘We were firstly taken to a small room, like a bathroom, and were stripped naked. After 10 minutes we had to get dressed again. The other two were taken away. I had to strip again and was forced to stand for 5-6 hours with my hands against the wall. I had nothing to eat and was not allowed to go to the toilet.’ Ensen claimed that he was threatened with the abduction of his son if he did not make a confession. 260

Appendix 6: Returned Asylum Seekers

1. Cases of severe mistreatment of persons returned to Turkey.

Three cases involving the United Kingdom:

1. Ahmet A escaped to France after death threats by the Turkish police in early 1997. He was returned to Turkey. He was held at Istanbul airport: ‘During the night they [the police] kicked me with their boots which had a metal toe cap on them, they kicked so hard that my legs were covered in blood and I still have scars as a result of this. The next day they released me.’ Ahmet A then fled to Germany in August 1997, but applied for asylum in Switzerland in October 1997. His claim was refused and he fled to Germany claiming asylum there in June 1998. His claim was refused and before he was deported he fled to the United Kingdom. On 3 November 1998 the UK returned Mr A to Germany. Mr A decided it would be safer to return to Turkey under his own steam rather than as a forcibly returned refused asylum seeker. He travelled overland but was stopped at the Edirne border post. The police established his involvement with HADEP, his asylum attempt in France and his failure to observe reporting conditions applied when previously held at Istanbul airport:

   ‘They invited me to become an informer again. I refused to do this, and they verbally abused me. They then attached a rope around my ankles and the rope was attached to a hook on the ceiling and a police officer held the other end of the rope, he pulled the rope and I was suspended upside down from the ceiling. I was hung upside down for about an hour, the police officers would take it in turns to beat me on my body with wooden sticks and truncheons. I was absolutely terrified. I was held for a period of six days in total. During this time, they would treat me in the way I have described at least once a day.’

Following his release Ahmet A fled to UK again.\footnote{Statement taken by Jacqueline Adams of Skene Edwards Solicitors, Edinburgh, 28 June 2002.}

2. Cengiz Yildiz was refused asylum by the UK and returned in 1997. The Special Adjudicator opined:

   ‘My interpretation of his evidence is to the effect that upon return to Turkey he was detained and subjected to what he describes as horrific tortures, most of which are the subject of comments by Dr Ross in his aforementioned medical report, and my interpretation of the report is broadly supportive of the appellant’s claims to have been tortured. I shall not repeat in fine detail the tortures but the appellant states that he was beaten, subjected to falaka and to the administration of electrical shocks... Miss Cole [HOPO] suggested that the letter of June of this year [a letter dated 15/6/99] indicates that the statistical probability of someone returning to Turkey from England as a failed asylum seeker and being ill-treated...’
is low. Be that as it may it is my firm finding of fact that this appellant was returned to Turkey at a time when his application for asylum had failed and that upon arrival in Turkey, he was detained and ill-treated as described.\(^{262}\)

3. ‘HG’ came to the UK in 1992. He was returned after ten days. His evidence shows how one may be not only mistreated on arrival but at risk thereafter. HG returned to his village in Elbistan, many miles from the OHAL:

‘As soon as I got off the plane at Ankara, I had to go through immigration control. I had no passport. The security guards blindfolded me, struck me on the face and put me in the back of the car. They took me to a police station and then they took off my blindfold. They struck me on the face. There were all wearing civilian clothes. They said to me, “you’re Kurdish... we could make you disappear.” I told them they couldn’t do that as my family would make enquiries and that human rights organisations would also make enquiries about my “disappearance.” After two days of detention they took me to the prosecutor’s office where I was fined approximately $600. They then released me and I went home. I encountered problems with the authorities after this date as they had my name on their computer records. They would come to the village and accuse me of treachery for leaving Turkey.’

HG was detained by the gendarmerie in his village in 1997. With other villagers he was tortured:

‘We were all blindfolded and put in the back of the jeep. When we got to the police station they tortured us. They tied our feet and hung us upside down from the ceiling. They made me take all my clothes off and I was hung upside down naked. They then took it in turns to kick and punch us and they sprayed us with cold water so that the swelling would go down. They made us walk on salt so that this would be more painful.’

HG’s second detention was in August 2000:

‘... they [the gendarmeres] blindfolded me and took me to Elbistan station.... They hit me so hard I think that they thought that I was dead. When I woke up I discovered I was in hospital. I was told later by the nurse that I had been found by a ditch on the side of the road. The nurse phoned my family when she realised who I was and they said I had been missing for eleven days. She told me I must escape as the security forces were coming to the hospital. I left the hospital still wearing a cast supporting my back and also supporting my finger.... As a result of this beating in detention my fingers are now permanently damaged and I am also having problems with my back.’\(^{263}\)

HG returned to UK, was refused by the Home Office but was granted refugee status on appeal.

**Cases involving Germany:**


The following are samples drawn from the 32 cases reported by Pro Asyl and Förderverein Nds (Lower Saxony Refugee Council) in its June 2000 report. They give an idea of what can happen and why.

**Case No 3** On 9 September 1997 Mehmet O fled to Germany, claiming asylum on the grounds of having been heavily tortured in police custody for 29 days in 1993, and later kept in prison for 17 months, accused of supporting the PKK. His application was refused and he was removed to Turkey on 9 September 1998. In the meantime the State Security Court in Diyarbakir sentence of 3 years 9 months imprisonment had been confirmed by the Turkish court of appeal. On arrival in Istanbul he was first questioned for several days but then released since no warrant had yet been issued. After his release he went into hiding from the police and in June 2000 was eked out a living sifting garbage. This is what he told the IHD about his reception at Istanbul airport:

‘I was deported.... from Hannover to Istanbul. I had only my identity card. The airport police detained me at the police station for one night and the following day. I was repeatedly beaten and hit using fists and feet. Then I was taken away in a police car. My eyes were blindfolded. I was tortured for five or six days... They asked me what I had done in Germany and whom I had met... They squeezed the soles of my feet, and applied electro-shocks to the soles of my feet, my armpits and my ears. I could not stand the torture....’

**Case No 6** Hasan Kutgan was deported to Turkey after his application was refused on 19 December 1996. He was arrested at Istanbul airport, held in custody and beaten for one day. Although the office of the public prosecutor ordered his release, Kutgan was held in custody and questioned for a further four days. Under torture he finally confessed he had been politically active in Germany and charged:

‘The accused knew the nature of the organisation (...) but supported them during the period from December 1992 to March 1993, taking part in demonstrations in Freiburg organised by the separatist terror organisation ......’

In court Kutgan revoked his confession but was kept in prison. In fact he claims he never attended any PKK meeting. Apart from the extorted confession there was no evidence of political activity and he was eventually acquitted. His defence lawyer, Eren Keskin (in fact IHD Istanbul branch secretary) is convinced that Kutgan was arrested after his deportation only because his place of birth (on his ID) was Pazarcik, a notorious area for PKK conflict and also as an area populated by Alevi Kurds.

**Case 7**: Salih Berkil had been resident in Germany for 20 years (I think he was a migrant not an asylum seekers). He went to Turkey on vacation and arrested and tortured on entry 14 November 1997. An Ankara police note of 16 November states:

‘It was ascertained that the person concerned has been acting as the 2nd president of a Kurdish association, has sold journals and other publications and thus helped to give the association a financial source, has made speeches against the government of the Turkish Republic, has donated money to the Kurds for buying arms, has regularly taken part in demonstrations in front of our general consulate in Nuremberg....’

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Mr Berkil was stripped, blindfolded, hosed with cold water, beaten and threatened with electric shocks. He signed a forced confession. In court he revoked his confession. The accusation turned out to be ill-founded: the association of which he was charged as holding senior office turned out to be non-existent, he himself had been unable to be politically active because of an illness. He was acquitted on 12 December 1997 although the State Security Court spoke of ‘residual suspicion’ so he was kept in custody for another month.

**Case 8**: Hamdullah Yilmaz has been working in Germany for 30 years, and arrived on holiday in Antalya airport, 2 December 1997. He was heavily beaten and subjected to electric shocks, etc. and accused. His detention was probably based on anonymous information sent to the Turkish consulate in Nuremberg.

**Case 10**: Mehmet Ali Akbas who was deported to Germany on 15 January 1998. He was detained for 9 hours on arrival in Istanbul but released on condition he left Istanbul. He was detained again on arrival at S.Urfa, intensively questioned and tortured for 8 days. Among other things the security forces held a pistol to his temples and threatened to pull the trigger:

“‘They wanted names, names, names.’ He said the tortures had detailed knowledge about Kurds active in Germany.... During the interrogation Mr Akbas was charged with having taken part in an occupation of the Turkish consulate in Hannover [which had taken place on 24 June 1993, five years earlier].’

**Case 12** Memduh Bingol fled to Germany in 1996, claiming he had been detained and tortured several times for his contact with the PKK. He fled after learning his name had been given to the authorities by someone under torture. His evidence was considered untrustworthy in Court and he was removed to Turkey on 16 March 1999. He was detained and questioned but released by police at 5am the following morning. He went to Edirne (on the border with Bulgaria) where he was arrested on 19 March. He was tortured and asked for his reason for staying in Germany:

‘I told them that I had gone to Germany in order to work there. They said I should tell the truth, otherwise they would kill me. They charged me with having been a member of the PKK in Germany, helping the PKK and having taken part in actions, that my brother was the president of an association, etc.. They took me into another room where they attached cables to my feet and applied live electrical voltage. While I was screaming they insulted me and laughed. I was permanently [repeatedly?] threatened with being killed’ (letter of 12 April 1999 from prison in Ummaniye, Istanbul.) Following this torture Bingol signed a confession. In the bill of indictment he was charged with having taken part in PKK events in Germany, such as demonstrations, festivals and rallies. The case against him was still continuing in June 2000.

**Case 14**: Emin Acar went to Germany aged about 15 in June 1997 and applied for asylum on the grounds that his family had helped the PKK and had been harassed and abused by the security forces. His father has disappeared after arrest. His application was refused and he was returned on 12 March 1999. The airport police asked the anti-terror department whether Acar was wanted. The answer was received the same day that there were no charges against him. However, a police bus had already picked him up and took him to the [anti-terror department] on Vatan Caddesi (Avenue). He said he was questioned under heavy torture and forced to sign a confession. His fellow prisoners
made a statement, published by a left-wing Turkish paper, *Ozgur Politika*, on 19 March as follows:

‘As a result of the torture our friend had to suffer, he has no control over his hands. He has trouble with breathing, his genitals are swollen, and his body is covered with haematoma effusions as a result of strokes from a stick.’

On 15 March Acar had been charged ‘with having taken part in a protest demonstration in Mannheim against the arrest of Abdullah Ocalan, having shouted slogans and borne a PKK flag.’ On or after 6 May Acar was medically inspected at the request of his lawyer. He was found to have a cracked eardrum, but was denied treatment. On 27 May Acar was acquitted on lack of evidence. He was arrested again on 20 August 1999 and charged with being a member of a terrorist organisation. Outcome unknown.

**Case 17** Ilhan O went to Germany with her two children in May 1996 to visit her husband who had been in Germany on a residence permit since 1995. She was refused a residence permit, so she applied for asylum. She was refused and she and her children were removed on 30 March 1999. At Istanbul airport she and her (now 3) children were held for 30 hours. During that period she states she was intimidated and beaten. The government hospital for psychiatry has attested that as a consequence of the deportation procedure and of maltreatment at the airport police station, the youngest child (22 months) was in a generalised state of anxiety and the older two (10 and 12 years) were in ‘acute stress disorder’.

**Case 19**: Abdulhalim Nayir was deported to Izmir on 5 February 1999.

‘He said he was tortured there [the anti-terror department] and questioned about his activities in Germany.... He said that he had been threatened by his torturers that he would be killed if he would retract his statements [obtained under torture].

**Case 22** Murat Polat fled to Germany in August 1998 and applied for asylum. He had been sentenced to three months in prison for refusing an order to take part in the evacuation of houses. He served his sentence in G.Antep prison. On returning to his village male villagers came under pressure to join the village guard in 1996, on account Mr Polat believed of the pro-HADEP vote in an election. He tried to flee but was caught and beaten at the local (gendarmerie) police station. His asylum application was refused on the grounds that according to Turkish law acceptance of the duties of village guard is voluntary. He was returned to Istanbul on 5 July 1999. A warrant had been issued against him charging him with support of the PKK. He believes this was on the basis of a letter he had telexed to various Turkish government departments from Germany, describing Turkey as a fascist state. He was picked up by a special team from Ankara and held y the anti-terror police department and detained in Ulucanlar prison. His lawyer states he was tortured in detention.

**Case 25**: Mustafa Boylu was deported in 1998. He was arrested, charged with membership of the PKK but acquitted on lack of evidence. On 21 June 1999 he was re-arrested, based on confessions of two others accused of membership of the PKK. e Boylu was

‘forced under torture to make extended confessions..... Boylu was charged with charged with having taken part in meetings and demonstrations in Germany, having shouted separatist slogans, having recruited one person for the guerrilla forces and having defamed Turkey.’
**Case 27** Ferit M fled to Germany the first time in 1986 to evade military service. He returned to Turkey in 1992 ‘voluntarily’. In November 1994 he fled again when he came under pressure to join the village guard. He has been mistreated and his house was burnt down. He fled with his family to Istanbul. He was detained for three days and beaten after a police check of ID papers on a bus. The German court dismissed his application on 23 June 1997:

‘The defendant can be expected to return to Turkey. He does not have to fear any serious infringements of an individually concrete nature.’

He was deported on 26 June 1998. He was allowed through Ankara airport. He took a cab to the bus station where he was taken by police officers to a car with darkened panes, handcuffed and blindfolded. He was held for 10 days, accused of being a supporter of the PKK and of having taken part in raids on against Turkish consulates and businesses in Germany. They said they could prove this, so Ferit m said in that case they should bring him to trial, they replied he would be taken to court only as a dead body. He would only go to court after he had confessed. He was beaten, hosed with water at high pressure, given falaka and electro-shocks:

‘I have repeatedly implored the men to kill me finally. Thereupon they laughed at me loudly and were amused because I had implored them to kill me. They said “Yes, yes, we shall kill you, but slowly like a dog.”’ (Hearing in German Federal office for Recognition of Refugees).

He refused to confess. He was finally dumped unconscious in a forest. When he regained consciousness he crawled to the nearby road. A car driver took him to his sister in Istanbul. He was treated in Istanbul University Hospital having sought the help of the Human Rights Foundation of Turkey (TIHV).

**Case 31:** Can I. had sought asylum in Germany in March 1999 on the grounds of persecution because of her commitment to HADEP. On 8 December she was arrested and returned to Istanbul. She was detained in Istanbul for two days but released. On 6 January she was arrested in Antalya. She was blindfolded and charged with being a PKK member, ‘having taken part in PKK activities in Germany and having visited Kurdish associations. She was specifically asked about certain persons alleged of having taken part in “church actions”. Later Mrs I. reported from the JVA Usak[?] the tortures applied to her:

“Since I did not admit the accusations made against me, I was slapped and beaten at my head, my eyes and various other parts of the body. At that, they did things which are beneath human dignity.”

Mrs I. had to strip to the skin, and she was insulted with sexist slogans, threatened with being raped and splashed with cold water at high pressure.

These are 13 of a total of 32 examples published by these two NGOs to illustrate mistreatment on return.

**2. The position of UNHCR:** Text of letter from Mr Michael Kingsley-Nyinah UNHCR, London to Morrisey’s Solicitors, Ref 644.2 Turkey/630 dated 29 March 2001 Title: Re: Return of Asylum Seekers to Turkey and the notion of ‘internal flight alternative’ your [Morrisey’s] ref AN/379/L of 20 February 2001:

‘We write with reference to your letter of 20 February in which you requested information regarding the above. We would like to clarify from the onset that UNHCR’s
background papers on various countries are based on information obtained from various sources including human rights organisations. UNHCR is not a human rights organisation and is not in a position to give expert advice on general human rights questions. Equally, UNHCR does not hold itself out as an expert on the general human rights question in Turkey. When UNHCR presents its views on the situation in any country, it does so only in so far as this relates to its mandate for the international protection of refugees. This mandate includes the duty authoritatively to comment on whether conditions are safe for the return of failed asylum seekers and the proper approach to take to notions such as ‘internal flight alternative.’ When governmental and non-governmental bodies seek the advice of UNHCR they do so in the light of the expertise and experience of UNHCR has acquired in pursuing its mandate over the years. These considerations do not suggest that UNHCR has any direct responsibility for human rights as such, or that it is necessarily the best informed source as regards any particular country situation.

In general, UNHCR does not object to the return of rejected asylum seekers to specific countries provided that a fair and efficient procedure has been followed prior to the decision to return. UNHCR has always advised that such returns should take place in circumstances of safety and dignity. Based on information provided by our headquarters in Geneva and our Branch Office in Ankara, UNHCR would suggest that cases emanating from Turkey should be addressed in the light of these general principles. And within the framework of relevant Guidelines issued by the Office.

As regards the notion of ‘internal flight alternative’ please find enclosed a UNHCR position paper dated February 1999 which discusses internal relocation as an alternative to asylum. It should be noted that this paper declines to approach internal relocation in a generalised or country-by-country basis. Rather, it suggests a case-by-case analysis of each case on its individual merits.

To conclude, the critical issue is not ‘who is the best informed source’ as regards any particular situation, but whether the relevant circumstances of every case are given full consideration in a manner consistent with the objects and purposes of refugee protection.’

The UNHCR position paper is 7 pages in length. Its essential points are:

**Paragraph 2** the use of this notion [‘internal flight alternative’] to deny access to refugee status determination, rather than situating it within the framework of the status determination analysis, is wrong in UNHCR’s view, and has the potential seriously to distort refugee law. Moreover, where it has been given a place in individual status determination procedures, it is commonly applied without a proper understanding of how it relates to the criteria for refugee status and without due regard for the circumstances in the displacement area and the reasonableness of relocating internally as opposed to seeking asylum.

**Paragraph 6** Non-refoulement, the principle prohibiting return to the frontiers of territories where a refugee’s life or freedom would be threatened, is perhaps the single most important refugee protection principle enshrined in the 1951 Convention.
...Without this fundamental basis as the starting point, the international framework for refugee protection could not work.

**Paragraph 7** The internal relocation notion, which advocates staying within the borders of one’s own country and trying to find safety there, rather than leaving and seeking asylum abroad, rests on understandings which are basically at odds with those underlying the fundamental refugee protection principles. For this reason, UNHCR cannot agree that internal relocation amounts to a principle of refugee law; it is rather, in UNHCR’s view, a factor or possibility to be analysed in the course of status determination in some individual cases. Caution has to be exercised where this notion is involved, not least because of its potential incompatibility with the right to seek and enjoy asylum from persecution.

**Paragraph 9** the judgement to be made in cases where relocation is an issue is whether the risk of persecution that an individual experiences in one part of the country can be successfully avoided by living in another part of the country.... In the event that there is a part of the country where it is both safe and reasonable for the asylum-seeker to live, the well-founded fear criterion may not be fulfilled.

**Paragraph 14** (Relevance [of internal relocation] analysis) Factors which will be relevant to consider include among others: the actual existence of a risk free area, which must be established by evidence; the stability of the area and the likelihood that safety will be a durable feature; the accessibility of the area (both internally and from outside the country); its fitness for habitation, that is, persons living there must not have to endure undue hardship or risk.

**Paragraph 16** (Reasonableness analysis) cites factors for consideration: age, sex, health, family situation and relationships, ethnic and cultural group, political and social links and compatibility, social or other vulnerabilities; language abilities; educational, professional and work background; any past persecution suffered and its psychological effects.

**Paragraph 17** The country’s particular political, ethnic, religious, and other make-up will also be important. Elements which should be taken into account may include: the existence and legality of government-sponsored population transfer programmes.

**Conclusion**
‘In summary, the so-called, internal flight alternative is not an easy answer to refugee claims, and cannot be used as a short cut to by-pass refugee status determination or to decide cases in an accelerated procedure. The possible relocation analysis may be relevant, in the individual case, to an assessment of the well-foundedness of the fear of persecution. However, the analysis must include assessment of the safety and reasonableness of internal relocation in all the circumstances of the specific case at issue.’
Appendix 7: The Kurds in Turkey, a background note

This background note is based on a piece written by McDowall for use in the Home Office Country Assessment, and first appeared with minor changes in its version dated April 2000. It is presented here for the benefit of those dealing with Kurdish asylum cases but unfamiliar with the background.

Turkey's Kurdish population Turkey has a population of approximately 70 million. Of these probably approximately 16½ million or 24 per cent are Kurds, although reliable statistics are unobtainable partly because Turkey would not brook such an exercise but also because of intermarriage and assimilation. By no means all Kurds think of themselves as Kurds. Nevertheless an increasing proportion of the Kurdish population in the past 30 years has started to feel strongly about its Kurdish ethnic identity. As a result of economic migration and during the 1990s mass forced displacement, there are probably only 7 million or so Kurds still living in the traditionally Kurdish south-eastern part of Turkey. The remainder are concentrated in low income and shanty areas of the major cities of western and southern Turkey.

The end of the Ottoman Empire In the nineteenth century most Kurds were tribal pastoralists. Kurdish city dwellers thought of themselves as 'Ottoman citizens', an essentially civic concept for city dwellers across the empire. The term 'Kurd' generally denoted a tribal pastoralist, just as 'Arab' and 'Turk' indicated peasants or pastoralists elsewhere in the Empire. At the end of the nineteenth century intellectuals among the different ethnic groups of the empire began to think in ethnic terms. Both the Arabs and Turks evolved ideas of ethnic nationhood, but such ideas were slower to develop within Kurdish society which remained fragmented and tribal.

The Foundation of the Turkish Republic Many Kurdish tribes supported Mustafa Kemal's (later Ataturk) war of independence in the expectation that they were repelling the Christian infidel to re-establish the Muslim Fatherland with its Sultan/Caliph. But Mustafa Kemal defined the new Republic as 'Turkish, secular and modern', and set about suppressing by force all manifestations that contradicted that definition: tribal society, Kurdish language and culture, and the religious brotherhoods that were so strong in the Kurdish region.

Suppression of the Kurds From 1925 onwards the government ruthlessly suppressed Kurdish resistance to this new ideology which denied their identity. Kurdish leaders appealed to nationalist ideas, the rank and file probably simply wanted their old way of
life back. Turkey took measures that involved mass killings, village destruction and the forced deportation of hundreds of thousands of Kurds.

**The reawakening of Kurdish identity** By the 1950s the Kurds seemed to have been finally hammered into Turks. The end of one-party politics in the 1940s, led the new opposition to woo the old tribal chiefs and new landlord class in the Kurdish region to deliver the peasant vote. This became a key feature of Turkish electoral politics. The landlord class benefited in material ways and obeyed State ideology. It was young middle class intellectuals in the 1950s who reawakened nationalist ideas within Kurdish society, challenging the mendacity of the State that Kurds were merely 'mountain' Turks. (Kurds are Indo-European, Kurdish is an Iranian language. They have no ethnic connection with Turks). Many Kurdish intellectuals experienced repeated imprisonment for claiming that Kurds exist in Turkey.

**Kurds and the Turkish left** During the 1970s many Kurds joined the revolutionary leftist groups which were soon in armed conflict against right wing groups that often enjoyed the tacit support of the State. Security operations routinely involved human rights violations against villagers in affected areas. With disorder proliferating, the army intervened in September 1980. During three years of military government over 100,000 Kurds were detained by the security forces. Many were tortured.

**The rise of Kurdish nationalist militancy** Many Kurds became disillusioned with Turkish left in the 1970s and started to form specifically Kurdish groups to challenge State repression. The most successful was the Kurdistan Workers’ Party (PKK), which commenced guerrilla operations in 1984 and was given substantial help by Syria. The PKK matched Turkish State ruthlessness, killing pro-government villagers and their families and also Turkish civil servants in rural areas, notably teachers, who were suspected of being government informants. Thus both sides routinely violated the rules of war and other legal instruments for the protection of basic rights.

**The beginning of the Kurdish mass movement** During the 1980s the PKK steadily widened its sphere of influence. Most Kurds were initially hostile to the PKK and hated its methods. But they had little time for a government that denied their identity or rights. When government forces forced them to chose sides, large numbers started to support the PKK, despite misgivings over its methods. Many were not interested or did not know about its atrocities. They saw government atrocities on a far more widespread scale and saw the PKK as defending the Kurdish corner. State repression and the PKK's successful guerrilla war led to the growth of a mass national movement among Kurds.

**State evacuation of the Kurdish countryside** In order to defeat the PKK, the armed forces were granted exceptional powers under the State of Emergency Decree of July 1987, and embarked on forcibly evicting villagers who refused to join the supposedly voluntary Village Guard auxiliary. This force, started in 1985, had rapidly acquired a reputation for corruption, criminality as well as brutality towards villagers deemed Kurdish nationalist. From 1990 village clearances, frequently conducted with great brutality and killings, became more systematic. In October 1994 Turkey's short-lived Human Rights Minster, Azimet Koyluoglu informed parliament that there already two million rendered homeless. In July 1995 the governor of the State of Emergency Region (OHAL) confirmed a total of 2,664 totally or partially evacuated villages and hamlets.
From 1997 the rate of evacuation declined. By 1999 most human rights organisations reckoned there were in excess of 3,500 villages evacuated and between 2.5 and 3 million rendered homeless. These were not confined to the OHAL provinces. S.Urfa, Adiyaman, K.Maras, Malatya, Sivas, Erzerum and other neighbouring provinces were also affected. Individual homesteads and villages here were cleared without legal process.

The end of the PKK war  In October 1999 Turkey threatened Syria with invasion if it did not expel the PKK leader, Abdullah Ocalan, from its territory. Ocalan began an odyssey in search a country of refuge before being captured in Nairobi and abducted to Turkey to stand trial. Ocalan was condemned to death but Turkey looked unlikely to carry it out. In August 1999 Ocalan called for a PKK ceasefire, which seems largely to have been respected. The Turkish armed forces did not reciprocate and continued to hunt PKK groups unable to escape out of Turkey, and launched attacks into Iraqi territory in order to destroy PKK personnel there.

The rise of the Kurdish political movement. In 1990 the People's Labour Party (HEP) was founded by Kurdish MPs expelled from Turkey's Social Democrat Party. HEP was widely perceived as the political wing of the PKK. The success of HEP led to its closure in 1993 on the grounds that it based itself on racial difference and undermined the indivisible nature of the State. The short-lived Democracy Party (DEP) succeeded it but was close in June 1994. Five of its MPs, most notably Leyla Zana, were stripped of their parliamentary immunity and sentenced to 15 years' imprisonment on the charge that they were members of the PKK. Its successor, the People's Democracy Party (HADEP) has fared better, but its officers, members and supporters have been subject to assassinations, shootings, torture and detention ever since 1994. It remains at risk of closure by the Constitutional Court. Although these parties have never supported political violence and have always been committed to a peaceful solution, the Turkish establishment has viewed them all as the political wing of the PKK. In April 2002 the PKK announced its own dissolution and the formation of the Kurdistan Freedom and Democracy Congress (Kurdistan Ozgurluk ve Demokrasi Kongresi or KADEK). Turkey indicated that it would be treated as an illegal organisation.

The Future. Although defeated on the battlefield, the PKK has created a popular nationalist movement which is unlikely to disappear. In its new incarnation as KADEK it now calls for a political and 'democratic' solution but faces a State that is likely to remain determined to extirpate Kurdish political expression. Since the PKK ceasefire HADEP and its supporters suffered an increased level of official harassment that contradicted its legal status. Beyond political action lie the social and demographic implications of the conflict. The massive dispossession of so many Kurds, half of whom are under the age of 15, is bound to have sown dragon's teeth for the future. Today they are present in large numbers in many Turkish cities. This raises potentially major long-term security and human rights problems for Turkey if it fails to resolve the Kurdish question adequately. The substantially higher Kurdish birth rate is likely to be a longterm factor. 265 There is an

265 In 1989 the average gross reproduction rate in the predominantly Kurdish provinces was 2.75 per cent, compared with that in the predominantly Turkish regions of the Republic of 1.49 per cent. Fifty per cent of the Kurdish population is under the age of 15 compared with only 35 per cent of Turks. Whereas Kurds
inexorable proportionate growth of the Kurdish community, both more numerous and more assertive of their identity and rights. There remains, therefore, the danger that no adequate steps will be taken either in terms of democratic freedoms or in human and civil rights to assuage the growing frustration of the millions who now self-consciously describe themselves as Kurds.

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probably constituted 19 per cent of the population in 1975, today they almost certainly constitute approximately 24 per cent.