

## SUSPICIOUS DEATHS, ILL-TREATMENT AND CONDITIONS IN TURKISH PRISONS

### I. Introduction:

1. This report, based on the data embedded in various reports on human right violations and victims' statements in media reports and documentations, describe a general view of such violations and conditions in Turkish prisons and provide a background analysis of the problem. It also underlines the discrimination of inmates in the correctional system.

### II. Background analysis:

2. Human rights violations in Turkish prisons have dramatically increased since the July 15<sup>th</sup> military coup attempt in 2016, which had been already suppressed by the government on the same night. The dismissal of hundreds of thousands (hundred thousands of) public officials in a very short period of time, especially (specifically) thousands of judges and prosecutors among them, resulted a radical change of the Turkish Judicial System. Together with subsequent waves of mass arrests and Emergency Decrees-KHKs (*Kanun Hukmunde Kararname in Turkish*) which dissolved the control mechanisms, the change has become constant while human right violations and the lack of rule of law have become the hallmark of this change. The two-year state of emergency rule has been formally ended in July 2018 but, in fact, has continued as those *KHKs* have still been in force. Detainees and convicted prisoners, in this context, are among the most disadvantaged groups to defend their rights.
3. Since the coup attempt, leading political cadre of the state has adopted a violent political rhetoric that defined members of almost all opposition groups as terrorists, traitors, criminals with evil intentions and for that reason who have no right to live. Among others, members of the Gulen Movement<sup>1</sup> have become the main target. President's advocacy of capital punishment and hate speeches by leading politicians have well resonated among the ranks of security bureaucracy and judiciary. As a result, policies of criminal justice system, including security and correctional system have been shaped in Turkey accordingly. These policies, including excessive power of executive bodies over the criminal justice system and impunity decrees,<sup>2</sup> have led to a punishment policy that have been conducive to cruel, inhuman, and degrading treatment.

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<sup>1</sup>The government has named the group as "FethullahGulen Terrorist Organization-FETO."

<sup>2</sup>See the grounds of the rejection of a torture allegation documented by Trabzon Prosecutor Office on 5<sup>th</sup> January 2017, stating that it is not possible to prosecute those suspects (police officers) in consideration of the prosecution ban issued in the State Of Emergency Decree of 22 July 2016 (KHK/667, Article 9) accessible from <https://odatv.com/polis-sizi-tehdit-de-etse-darp-da-etse-bir-sey-yapamazsiniz-1501171200.html>; also see HRW's (2017, pp. 30-31) report accessible from [https://www.hrw.org/sites/default/files/report\\_pdf/turkey1017\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/turkey1017_web_0.pdf)

4. Terrorism charges against opponent groups have been widely used since 2016. Among over 260,000 inmates, around one-fifth of prison population has been charged with or convicted of terrorism offences today. Among them are journalists, teachers, civil servants from various fields, and politicians as well as law enforcement and military personnel. The largest group allegedly has links with Gulen Movement while the second largest one with the outlawed Kurdistan Workers' Party. The general practice of holding individuals in prolonged pre-trial prison custody has become a form of execution.

### III. Torture and ill-treatment

#### A. Overview, methods of torture and ill-treatment, and no complain policy:

5. There has been a tremendous increase<sup>3</sup> in the practices of torture and other forms of ill-treatment since 2016. Along with deprivation of medication, it appears that all forms of arbitrary treatment and disciplinary punishments, solitary confinements, and arbitrary transfers to other prisons have been observed as major problems.
6. Based on recent complaints, HRF identifies the following methods of torture and ill-treatment recently being used in prisons<sup>4</sup>:
  - Verbal assaults: Insult, humiliation, threats, and threats with relatives.
  - Coercive actions: Forcing to witness the torture of others, forcing to obey nonsensical orders, forcing to listen marches and high-volume music, and so on.
  - Physical assaults: Beating, continuous hitting on one part of the body, falanga, and electricity.
  - Sexual harassments: Include both physical and verbal sexual harassment as well as stripping naked, naked search, and threat of rape.
  - Positional torture: In various forms and hanger.
  - Exposure to physical factors: Forcing to wait in very cold or hot environment, restricted respiration, and exposure to chemicals.
  - Restriction of basic needs: Solitary confinement, restriction of food and drink, restriction of urination and defecation, and other basic need restrictions including deprivation of medication and sleep.
  - Restriction of social rights: Inhibition of meeting with other detainees and visitors, inhibition of sending and receiving letters, cafeteria ban, forcing to wear uniform, and others.
7. Petition letters complaining, particularly of those send to international institutions, are confiscated. Writers of the letters faced with disciplinary punishments under the accusation of propaganda of terrorist organization. Similarly, detainees' oral

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<sup>3</sup>Human Rights Foundation of Turkey (July, 2018). Treatment and rehabilitation centers report 2017 (p. 19). Ankara. [www.tihv.org.tr](http://www.tihv.org.tr).

<sup>4</sup>Ibid, p. 51-52.

and written communication with their lawyers are prevented. Letters in Kurdish language are prohibited<sup>5</sup>.

Inmates' all communications with their visitors and lawyers are monitored with cameras or by direct presence of prison guards. Inmates are not allowed to sit in close range with their family members for this reason.<sup>6</sup>

#### B. Suspicious deaths in prisons:

8. The HRA identifies 23 suspicious deaths in prisons of Turkey, which have not been effectively investigated.<sup>7</sup> Likewise, JWF lists 61 suspicious deaths occurred between 2017 and 2018<sup>8</sup>. It is claimed that investigations by authorities are not shared publicly and not being held accordingly to international standards.
9. According to the JWF's report, in 18 out of 61 cases, deaths occurred because of serious illnesses in the absence of proper treatment or deprive of medical treatment. Likewise, other 12 inmates died from heart attack. In 5 out of 61 cases, women and babies died from miscarriage. In addition, suicides of 15 inmates, 2 deaths in prison fire, and 9 deaths from unknown causes require in deep investigations<sup>9</sup>(see example cases in Annex I).

#### C. Ill-treatment of women with children and pregnant women in prisons

10. According to Gergerlioglu's account, there are 743 children in total between the ages of 0-6 living in prisons with their mothers, while 343 of them are babies between the ages of 0-3 only. The figure of mothers include 519 convicts and 224 in pre-trial prison custody. Gergerlioglu has questioned about issues of women with children 18 times in the parliament; however, none of them had been responded<sup>10</sup>.
11. Other 35 pregnant women should be added to the figure above. In total, the largest group of mothers has been linked to Gulen Movement, while the second largest one to the outlawed Kurdistan Workers' Party<sup>11</sup>.

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<sup>5</sup>See article 3.5 of the CHP report on human rights violations. Accessible from [http://cdn.chp.org.tr/cms/0/Other/NewFolder/hak\\_ihlali\\_raporu.pdf](http://cdn.chp.org.tr/cms/0/Other/NewFolder/hak_ihlali_raporu.pdf).

<sup>6</sup>Ibid, article 3.7.

<sup>7</sup>HRA (April 19, 2019). Human rights violations in Turkey-2018. Human Right Association's annual report. Accessed from <https://www.ihd.org.tr/ihd-2018-yillik-insan-haklari-raporu/>

<sup>8</sup> Among these inmates, there are teachers, university professors, businessmen, judge, medical doctor and other professionals of civil society as well as police chiefs and ranked army officials. See JWF (August, 2018). Policy paper: Death in custody, right to life in Turkish prisons. NY: Journalists and Writers Foundation. Accessible from <http://jwf.org/jwf/wp-content/uploads/2018/09/Death-in-Custody-Right-to-Life-in-Turkish-Prisons-1-2.pdf>

<sup>9</sup>Ibid, p.20.

<sup>10</sup>Omer Faruk Gergerlioglu is a member of the Parliamentary Commission on Human Rights Examination. Last figures dated on 31<sup>st</sup> October 2018. Accessible from <https://www.omerfarukgergerlioglu.com/basin/basindan/700-cocuk-niye-cezaevinde/9440/>

<sup>11</sup> Ali Daglar (13<sup>th</sup> of May 2019). Turkey's children in prison. Why are 700 children in prison and how is their life. Accessible from <https://www.independentturkish.com/node/27266/haber/t%C3%BCrkiyenin->

12. JVC's (2019)<sup>12</sup> research report provides in depth description of the problems related to this issue. Women and children loss their lives and women give birth to premature babies because of the prison conditions and lack of prison services as well as ill-treatment and neglect of authorities. Their health and children's development are at stake. Almost no service is adequate to their specific needs. It has become obvious that all problems, or factors, together accumulated for the sake of inhuman, cruel and degrading punishment of this disadvantaged group (to review a summary list of these problems, see Annex II).

D. Transfers from prisons to police units for questioning:

13. Inmates who are in pretrial prison custody have been transferred from prisons to counter-terrorism police units for further questioning. The authorizations, based on the KHKs, are given by prosecutors, without informing families or lawyers, and executed without time restrictions with repeating authorizations. Torture and other forms of ill-treatment occur in such police units<sup>13</sup>.

E. Solitary confinement of inmates sentenced to aggravated life imprisonment:

14. Solitary confinement has been designed as a punishment method for those who are sentenced to aggravated life imprisonment as a replacement of capital punishment, which was abolished in 2002. Thus, punishment of aggravated life imprisonment is separated from the sentence of life imprisonment.

15. Specific restrictions bylaw apply to these inmates in order to isolate them from the world and keep them in the cell in extreme solitude. For instance, they are given only one hour a day for respiration; they are not allowed to communicate with other inmates and to accept visitors other than their first-degree relatives. They are restricted to speak with their families for less period of time and in less frequency.

16. According to the Justice Ministry's account, 1453 convicts were being kept in solitary confinement in year 2014, including 126 convicted of terrorism related crime and 1327 others. Today's figures are unknown. However, based on the increase of the figures since 2016, it is estimated that there are approximately 3,000 inmates have already been convicted for aggravated life imprisonment, including publicly well-known journalists Ahmet Altan and Nazli Ilıcak. This means, 3,000 inmates have been likely to be in solitary confinement now<sup>14</sup>.

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<sup>12</sup>JVC-Justice for Victims Community (January, 2019). Research report: Social costs of the State of Emergency at the 2<sup>nd</sup> year. Accessible from <https://magdurlar.myfreesites.net/2-yilinda-ohal-i-CC%87n-toplumsal-mali-CC%87yetleri-CC%87>

<sup>13</sup>Human Rights Watch (October 2017). In custody: Police torture and abductions in Turkey, pp 21-23. <http://www.hrw.org>.

<sup>14</sup>See DW Turkiye website at <https://www.dw.com/tr/t%C3%BCrkiyede-tek-ki%C5%9Filik-h%C3%BCrelerde-ka%C3%A7-mahk%C3%BBm-var/a-48624244>

#### F. Arbitrary solitary confinement:

17. As the government does not respond to questions about their numbers and conditions, how many inmates(prisoners) are being kept in solitary confinement is unknown. However, there are many individual cases known, indicating that inmates are being kept in arbitrary and unlawful solitary confinement for over 2 years<sup>15</sup>. The number of these inmates has dramatically been increased since 2016<sup>16</sup>.The situation is worse particularly in F Type prisons. Even former Supreme Court members, judges, and prosecutors, who are accused of being members of Gulen Movement, have been subjected to punishment of arbitrary solitary confinement<sup>17</sup>.
18. Some inmates have already lost their lives in these cells as a result of the isolation from other inmates' aids and prison services. Among them, Muzaffer Ozcengiz, a couple days before his death, wrote a letter<sup>18</sup> from Corum Prison to Judiciary authorities about his critical health condition as well as his unlawful punishment of 14 month solitary confinement and its conditions, which was very similar to those of convicts who were sentenced to aggravated life imprisonment:
19. He had the one hour restriction for daily open air hour which was not given if the medical consultation or lawyer meeting coincide with the open air hour; he was not allowed to join social activities in the prison; no access to TV, Internet, and computer; no access to canteen; and his telephone access was so restricted that he was not able to talk with his children. As usual, his petition and demand for relief of solitary confinement was disregarded by authorities.

#### G. Ill-treatment of inmate patients:

20. There are 1,154 inmates currently have serious health problems in prisons and 458 of them are in critical condition.<sup>19</sup> Many of them died while they were still incarcerated or shortly after their release. They were released to die out of prisons.<sup>20</sup>
21. An examination of Halime Gulsu's death sheds light on the process that results such deaths. The series of events and persistent neglect of authorities demonstrate

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<sup>15</sup> Bylaw, the punishment of solitary confinement for disciplinary reasons cannot exceed 20 days limit.

<sup>16</sup> Ibid.

<sup>17</sup> See Zaman Australia website at <https://zamanaustralia.com/2018/06/06/iste-isim-isim-2-yildir-hucrede-tutulan-hakim-ve-savcilar/>

<sup>18</sup> Muzaffer Ozcengiz, 58 year old former teacher, appealed his 12.5 year prison sentence. Being kept in solitary confinement in Corum Prison, he was found dead on 27<sup>th</sup> of April 2019. He needed other inmates' aid to live because of his health problems. His petitions letter to authorities has been published at <https://medyabold.com/2019/05/01/hucrede-tek-basina-olen-muzaffer-ozcengizin-4-sayfalik-dilekcesi-nefes-alamaz-hareket-edemez-ayakta-duramaz-haldeyim/>

<sup>19</sup> Human Rights Association. Human rights annual report 2018. Retrieved from <https://www.ihd.org.tr/ihd-2018-yillik-insan-haklari-raporu/>

<sup>20</sup> CHP (28<sup>th</sup> August 2018). Central Executive Board Report submitted at Party Caucus Meeting (p. 157). Ankara, TR. Available from <https://chp.azureedge.net/29agustos2018myk.pdf>

that the ill-treatment has been exercised in forms of deprivation of medication, the lack of effective and timely medical treatment, and neglect of authorities<sup>21</sup>.

22. In a list of summary, inmate patients suffer from ill-treatment basically in the following forms<sup>22</sup>:

- Preventing inmates' appointments for general practitioner or expert doctor.
- Long waiting duration for hospital appointments or transfers.
- Postponing hospital transportations and medical controls through making an excuse based on security issues outside of the prison.
- Hospital transportation with single-celled prison vehicles.
- Handcuffed examination and treatment in medical facilities.
- Medical examination in the presence of security personnel.
- Unable to get medical reports on demand.
- Issuance of "patient can stay in prison" reports for inmates who have critical medical conditions, even though prison conditions are not suitable for treatment necessities.
- Being subjects of discriminatory attitudes and hatred during the medical examination and treatment.
- Delay of sending medical files when inmate patients are transferred to another prison. This causes late medications and treatments.
- Inconsideration of medical expertise in hospitals nearby the newly transferred prison even though the patients' medical treatments require such expertise.
- Depriving patients from medicine or providing them late.

H. Discrimination of inmates based on their social group for harsher treatments:

23. Research findings of JVC (2019) report about former public officials who have been dismissed by KHKs and have prison experience shed light on the discriminatory administration of prison polices, demonstrating the arbitrary punishment and ill-treatment of the specific group. More restrictions and preventions applied to them than other groups in the following matters,<sup>23</sup> (pp. 428-436):

- Meeting with their visitors and legal advisors,
- Communicating with their families,
- Accessing medical treatments,
- Accessing educational rights and materials,
- Enjoying social activities,
- Having responses from prison administration about their demands and complaints.

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<sup>21</sup>HalimeGulsu was a 34 year oldwoman incarcerated in Tarsus Prison. She died from coronary and kidney failure on 25<sup>th</sup> of April 2018. See <http://hakinisiyatifi.org/2019/05/11/halime-gulsunun-yasam-hakkini-ihlal-edenler-yargilansin/>

<sup>22</sup> See Ankara Medical Chamber (September 12, 2018). Report on violations of human right to health in prisons. Retrieved from <https://ato.org.tr/announcement/show/381>

<sup>23</sup>JVC-Justice for Victims Community (January, 2019). Social costs of the State of Emergency at the 2<sup>nd</sup> year: Research report. Accessible from <https://magdurlar.myfreesites.net/2-yilinda-ohal-i-CC%87n-toplumsal-mali-CC%87yetleri-CC%87>

- Being kept inwards which are extremely overcrowded.
- Being transferred to prisons at locations far away from the addresses of their families.

#### I. Naked searches and invasive body searches:

24. Inmates have been searched naked when they have entered or transferred to a new prison. Sometimes, women's naked search has been conducted in front of male prison guards, for instance, in Van Prison<sup>24</sup>. Furthermore, naked searches and invasive body searches have been used as a way of punishment by prison guards<sup>25</sup>. Inmates who rejects these treatments are beaten or punished with other means, including solitary confinement. Visitors of inmates have also become subject to invasive body searches.

### IV. Conditions of prisons

#### A. Overcrowding:

25. According to the last available figures, the total population of prisons is 260,144, including 202,434 convicts and 57,710 pre-trial inmates<sup>26</sup>. The capacity, on the other hand, can hold only 220,008 inmates in 396 facilities,<sup>27</sup> even though the capacity increase is provided basically through increasing the number of beds. Considering the non-updated official figures and the fact that inmate numbers have a tendency to tremendously increase in Turkish prisons, it is easy to say that approximately between 40,000-50,000 people, or more, have been held in prisons over their capacity.

26. Individual cases also verify the overcrowding problem. For example, M.H.Baki, an inmate from Osmaniye Prison, has appealed to the Constitutional Court, based on the human rights ground. He has complained that 25 inmates shared the same prison ward while the actual capacity was limited to only 16 people. So, 9 out of 25 inmates, in the absence of regular bunk beds, slept on the floor. However, the court has rejected the appeal.<sup>28</sup>

#### B. General conditions and health service problem related to overcrowding:

27. The overcrowding problem negatively affects prison conditions for inmates. Some restrictions not only emanate from overcrowding but also execution of KHKs. Thus

<sup>24</sup>Van Bar Association (5<sup>th</sup> April, 2017). Human Right Commission's report about Van Prison. Accessible from <http://www.vanbarosu.org.tr/insan-haklari-komisyonu-cezaevi-inceleme-raporu-icerik-8.html>

<sup>25</sup> For naked searches in Sincan Women Prison see

<http://www.cumhuriyet.com.tr/haber/turkiye/1184832/insanlik-disi-uygulama.html>

<sup>26</sup> Given by the Justice Minister of Turkey, Abdulhamit Gul (on 20<sup>th</sup> December 2018). See

<https://tr.sputniknews.com/turkiye/201811201036231217-adalet-bakani-abdulhamit-gul-cezaevleri-hukumlu-tutuklu/>

<sup>27</sup> Figure is obtained from the website of the Justice Department accessible from <http://www.cte.adalet.gov.tr/index.html>

<sup>28</sup> See <http://haber.sol.org.tr/turkiye/aym-mahkumlara-425-metrekarelik-alan-yeter-244106>

inmates are allowed to have less visitors and less phone calls in less frequency with their family members and lawyers. Inmates have limited open air hours; limited hot and cold water running limited period of time; insufficient sanitary supply; and limited bedding. Inmates sleep on the floor and share the same bed to sleep in turns. Heating in cold seasons and cooling in hot seasons are serious violations to be addressed<sup>29</sup>. In addition, nutrition is far away from being sufficient in quantity and quality of food in general as well as in responding to patients' specific diet needs.

28. Access to health services is among the most problematic issues, as there is insufficient number of doctors working at prisons and sending inmates to hospital requires long waiting duration. Access to psychiatry and psychological support is almost none or very much limited that inmates who have tendency to suicide cannot be cured. Similarly, oral and dental health problems cannot be solved in prison facilities.

#### C. Safeguard and prevention

29. There is almost no control mechanism to stop these ill-treatments. Criminal Justice System does not work properly. Fear of retaliation against them or their relatives prevent inmates to make formal complaints. Reports of ill-treatment often have been disregarded by the prosecution and the judiciary as well as prison authorities<sup>30</sup>.
30. The Prisons Subcommittee, established under the Prisons Human Rights Commission of the Turkish parliament, disregards all torture and ill-treatment allegations. The head of the Subcommittee, Mehmet Metiner, a leading member of the governing political party, disapproves in advance to initiate investigating torture allegations if victims are members of Gulenist Movement<sup>31</sup>. The subcommittee is unable to work effectively and impartially. Considering the fact that 16 members of the parliament from opponent political parties have still been prisons for political reasons<sup>32</sup>, it is worth noting that members of the Prisons Subcommittee are also under political pressure.

## V. Conclusion

31. It is difficult to determine the actual extent of human right violations with all their variations and frequencies as there is no transparency in governance. The result of investigations of individual ill-treatment cases are not shared publicly by authorities. Questions, even those asked in Turkish parliament by its members,

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<sup>29</sup>For instance heating problems occurred in Burdur E Type Prison, Menemen T Type Prison, Manisa Akhisar Suleymanli Prison, and Usak Prison.

<sup>30</sup>JVC-Justice for Victims Community (January, 2019). Social costs of the State of Emergency at the 2<sup>nd</sup> year: Research report (p. 373, 495, and 522). Accessible from <https://magdurlar.myfreesites.net/2-yilinda-ohal-i-CC%87n-toplumsal-mali-CC%87yetleri-CC%87>

<sup>31</sup>See <https://www.gazeteduvar.com.tr/politika/2016/10/01/metiner-iskence-iddialarini-incelemeyecegiz/>

<sup>32</sup>HDP (2018). Peoples' Democratic Party Law and Human Rights Commission Report. [https://www.hdp.org.tr/images/UserFiles/Documents/Editor/2018\\_%20I%CC%87nsan%20Haklari\\_Rapo\\_ru.pdf](https://www.hdp.org.tr/images/UserFiles/Documents/Editor/2018_%20I%CC%87nsan%20Haklari_Rapo_ru.pdf)



remain unanswered. Prisons hardly open their doors for impartial and independent visits for a full range inspection.

32. Various forms of ill-treatment have been conducted systematically, covering all issues around inmates and their visitors within the parameters of almost all prisons where terrorism related convicts or pre-trial detainees are being held. There is no national mechanism to effectively prevent and investigate these violations.

#### Recommendations:

33. Turkey should be strongly urged to establish adequate prison conditions as well as prevention and control mechanisms of ill-treatment according to international standards.
34. Country visits by international organizations and bilateral diplomatic engagements are necessary to ensure that the government comply with its responsibilities emanating from international treaties and regulations.
35. Sick inmates' release, who have serious health problems, must be given priority considering the conditions in prisons. Legal restrictions against that purpose must be abolished.
36. The application of solitary confinement for a long period of time and its arbitrary application must be abolished, regardless of sentences and charges of crime type.
37. Discrimination of inmates based on their political opinion, belief, ethnicity, or social group must be prohibited and prevented.
38. Pre-trial detainees must be separately accommodated from convicts.
39. Pre-trial detainment should not be applied for long durations. Turkey must look for other means for criminal case processing.
40. Restrictions and applications instated by KHKs must be abolished and other prison policies must be reviewed and changed in accordance with international standards.