



INTERNATIONAL ASSOCIATION FOR HUMAN RIGHTS ADVOCACY IN GENEVA

Universal Periodic Review Submission

Turkey

Executive Summary

1. In Turkey today, persons accused of terrorism or of being linked to the July 2016 attempted coup are at risk of torture in police custody. Reports¹ by Human Rights Watch and other observers indicate that torture and ill-treatment in police custody in Turkey has become a widespread problem. More specifically, at the greatest risk of torture are persons directly or indirectly associated with the Gülenist Movement² and persons with alleged links to the armed Kurdistan Workers' Party (PKK/KCK). There has been a spate of reported cases of men being abducted, some of whom were held in secret detention places, with evidence pointing to the involvement of state authorities. Based on the UN **Committee against Torture's** previous concluding observations³, Human Rights reports from other institutions, and a review of court transcripts, it is apparent that torture is systematic in Turkey. The HRW report also provides information about the growing problem of kidnappings of persons by state authorities often entailing enforced disappearance since July 2016.
2. The aim of this Report is to offer a general overview of the state of the research on Human Rights Violations in Turkey. The first section documents Turkey's worsening Human Rights record, following the 15 July 2016 attempted military coup and an overview of the unlawful practices experienced after the coup in Turkey. The second section analyses the issues of Right to life and refers to findings by the Torture Committees in Silenced Turkey by utilizing an evidence-based paradigm and incorporating a discussion to what extend the **Torture and Ill-Treatment in Custody, Abductions** in Erdogan's Regime.

Turkey's worsening Human Rights record, following the military coup attempt.

3. After the July 15 coup attempt in Turkey, a 'witch hunt' against suspected opponents of Erdogan was unleashed. In particular, there are no legal infrastructures for these

¹ The evidence presented in the Human Rights Watch reports shows the abuse of detainees in police custody has continued.

In Custody Police Torture and Abductions in Turkey. 2017 Human Rights Watch <https://www.hrw.org/tr/report/2017/10/12/310066>.

Turkey Events of 2018, 2019 Human Rights Watch <https://www.hrw.org/world-report/2019/country-chapters/turkey>, <https://turkeypurg.com/report-turkey-sees-61-suspicious-deaths-in-prison-in-past-2-years>

² The government and courts in Turkey refer to as the Fethullahist Terror Organization (FETÖ).

³ With reference to the **Committee against Torture's** previous concluding observations are provided as reference like APA or footnote style.

operations that the political will made by linking people in different layers of society with the coup attempt. In fact, the Turkish government's political operations had previously begun in December 2013 as a counter-operation . The investigations of 17 and 25 December revealed unethical policies put in place by the Turkish government, including interference by ministers and officials of the Prime Minister targeting a number of businessmen. At that time, the process of taking revenge and self-laundering of the Turkish Government had begun firstly against the police, prosecutors and other public officials conducting these investigations into bribery, corruption and money laundering. This further degenerated after 15 July 2016, impacting almost all segments of society in opposition or potential opposition to the government. In these unlawful operations, hundreds of thousands of people were dismissed from their jobs under the Emergency (OHAL) and were either arrested or subjected to judicial control.⁴

Utilizing Evidence-Based Paradigm in Analysing human rights violations in Turkey

4. However, in June 2018, the Minister of Justice Abdülhamit Gül's made a statement on the end of the coup. According to data published by the Ministry of Justice, in Turkey, the so-called FETO / PDY integration and management and related offenses in total, 441195 persons were concerned by the operation, of whom 89718 were women and 351477 men. Moreover, Turkey 5315 prisoners throughout the investigation 203518 persons, 16195 to 83722 persons under arrest for the ongoing proceedings in the courts; a total of 34926 persons were convicted of a crime; Of the 13992 persons who had been acquitted, 12,617 were reported to be still in detention.⁵
5. To sum up, the members of the Gülenist Movement⁶ have been faced with intense surveillance and harassment by the security forces in the wake of the attempted coup. Moreover, there are no procedural guarantees nor fundamental legal safeguards in law and practice. (Reference to A/HRC/37/50/Add.1, para. 58.)
6. Strong evidence is provided by the lawyers of victims concerning their treatment during the first period of detention. In particular, beatings, kicking, punching, verbal assaults, threats of sexual violence, long-term painful positions, handcuffing, water, food, and sleep deprivation and rape.
7. Individuals deprived of their liberty, still have difficulties in accessing medical examinations and treatment and in explaining freely their health condition. (Reference to the **Committee against Torture**'s previous concluding observations para. 42)
8. Detainees who alleged torture were brought before doctors for routine medical reports. In many cases, the doctors indicated no interest in physical evidence of torture in custody. (Reference to the Istanbul Protocol)

⁴ <https://www.haberler.com/445-bin-fetocu-hakkinda-islem-yapildi--11064079-haberi/>

⁵ [https://cnnturk.com/turkiye/adalet-bakanligi-yayinladi-iste-feto-davalarina-ait-bilinmeyen-detaylar?](https://cnnturk.com/turkiye/adalet-bakanligi-yayinladi-iste-feto-davalarina-ait-bilinmeyen-detaylar?page=5)
page=5

⁶ Groups and organizations suspected of being involved in the attempted coup of 15 July 2016.

9. In Turkey, one of the aims of torture and ill-treatment is to coerce victims, in addition to confessing, to denounce others from a list of names and photographs of suspected members of terrorist organizations. Therefore, many persons have still been arrested on the basis of false accusations or denunciations made against them under torture.⁷
10. The principle of the inadmissibility of evidence obtained through torture is systematically violated in practice.
11. Even though under Turkey's Anti-Terror Law lawyers' meetings with clients in police detention can be legally restricted for the first 24 hours, lawyers reported that in many cases the police still bar access beyond that period. (Reference to A/HRC/37/50/Add.1, para. 67).
12. Cases of remand prisoners being taken out of prison and transferred into police custody for questioning without informing families or lawyers have been reported in the media.⁸ The provision that allows this practice to continue (article 8, decree no. 670) should be rescinded immediately. Should the prosecutor authorize the police to recall a detainee for further questioning, the interview should take place at the prison in which the individual is held and not at a police station.
13. On 5 January 2017, the Trabzon Public Prosecutor's Office issued a decision⁹ of non-prosecution on the ground that there was no criminal liability for the acts of state officials under the State of Emergency¹⁰ in accordance with the State of Emergency Decree (Article 9 of Decree Law No. 667).¹¹
14. This and similar regulations are in conflict with Turkey's international obligations. It also means those police officers and other government officials can violate the human rights of detainees in total impunity, without hesitation of any legal or other consequences.¹²
15. In November 2016 the Turkish government closed down three associations for the promotion and protection of human rights (the Paris Principles), namely the Contemporary Lawyers' Association, the Free Lawyers' Association, and the Mesopotamia Lawyers' Association. These lawyers' associations presented an

⁷ A/HRC/37/50/Add.1, para. 31.

⁸ For a case from Antalya, see "12 Eylül uygulaması hortlatılıyor: Tutuklulara 'yeniden gözaltı'" (12 September practice resurrected: "re-arresting" pretrial detention detainees), Siyasi Haber news website, January 30, 2017: <http://siyasihaber3.org/12-eylul-uygulamasi-hortlatiliyor-tutuklulara-yeniden-gozalti> (accessed August 15, 2017).

⁹ A/HRC/37/50/Add.1, para. 85.

¹⁰ A provision of Emergency Decree 667 which states that "individuals who make decisions and perform their duty in the context of this decree bear no legal, administrative, financial or criminal responsibility for those duties performed", as well as with regard to Decree Law No. 668 of 27 July 2017, which some observers have interpreted to suggest that perpetrators of torture or ill-treatment may be afforded impunity

¹¹ Human Rights Watch telephone interview with Trabzon lawyer, June 1, 2017. For a copy of the decision, see "Polis sizi tehdit de etse darp da etse bir şey yapamazsınız" (If the police threaten you or beat you, there's nothing you can do), Oda TV news website, January 1, 2017: <http://odatv.com/polis-sizi-tehdit-de-etse-darp-da-etse-bir-sey-yapamazsiniz1501171200.html> (accessed September 29, 2017).

¹² By special operations teams of the police or by the gendarmerie and included severe beatings, kickings, punches, verbal assaults, threats of sexual violence, prolonged stress positions and handcuffing, and being deprived of adequate access to water, food and sleep, as well as one reported rape.

important part in promoting fair trial standards¹³. They also played a key role in promoting the rights of detainees and defendants and as watchdogs of the independence of the Turkish legal order (Reference to A/HRC/37/50/Add.1, para. 90.)

16. There are enormous barriers to documenting torture in Turkey, because allegations are not properly investigated, the majority of complaints being ignored. In many cases, advocates of victims have applied to the European Court of Human Rights, complaining of lack of effective inquiry into the practice of torture and kidnappings. (Reference to CAT/C/TUR/CO/4/Add.1, para. 9. and CAT/C/TUR/CO/4/Add.1, para. 10.)

Abductions, Missing Persons and Enforced Disappearances

17. Enforced disappearance occurs when a person is taken into custody, but authorities later disown it or refuse to provide information about the person's location.
18. Witnesses have reported that the victims were abducted in daylight on the street by men who proclaimed that they belonged to the civil police.
19. As similarly, in many cases, the same type of vehicle, a black VW Transporter, was used to abduct the victims.
20. The Turkish Government should present evidence related to reliable cases of abduction and enforced disappearance.

Recommendations about the laws regulations and expressing particular concern about Human Rights violations

21. During the examination of Turkey's fifth periodic report, the United Nations Committee against Torture referred to a list of reported torture cases and asked clarification from the Turkish authorities. In particular, in the Committee's letter of 31 August 2016 information was requested concerning legal safeguards, investigations into allegations of torture and ill-treatment, and independence of the judiciary during the state of emergency. The Committee duly considered Turkey's submission of 8 November 2016 (CAT/C/TUR/CO/4/Add.1) and recalled its recommendations formulated in paragraphs 10 (c); 14; 26 (d); and 44 (b) mentioned above have not been implemented (see paras. 34; 10, 14, 19, 38 and 39; 21-23; and 19; as well as paras. 4, 5, 6, 8, 10, 11, 12, 14, 21, 31, 37, 38, 39, 41 and 44; and paras. 17 and 18 of its concluding observations.
22. According to the information provided by Turkey on 8 November 2016 a certain number of torture and ill-treatment cases have been investigated by a new unit that within the Ministry of Justice.
23. It is not known how many of these investigations have been concluded.
24. It is not known how many cases of Abductions, Missing Persons and Enforced Disappearances have been solved. Or what are the outcomes of any such trials?

¹³Violation of the right to a fair trial (ECHR A. 6), The right to Access to the court has been violated (Article 6/1 of ECHR), Presumption of Innocence has been Violated (ECHR, article 6/2), All Principles of Right to a Fair Trial were Violated (ECHRa. 6/1, a. 6/3a,b,c,d,e).

25. Information is needed concerning the result of prosecutions and trials conducted since 15 July 2016 in relation to allegations of torture and ill-treatment and on any redress accorded to victims. Information should be provided on redress and compensation measures.
26. The Turkish government has not followed the recommendations of the 2015 Human Rights Council Working Group on the Universal Periodic Review. The situation has become worse since 2015.
27. On 27 September 2011, Turkey became a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT). Although Turkey's priority should be institutionalization in the field of human rights, the aforementioned cases demonstrate the opposite¹⁴.
28. There is yet no specific information addressing the recommendations and criticism from different countries including Kuwait, Lao People's Democratic Republic, Albania, Spain, Jordan, Kazakhstan, Russian Federation, Azerbaijan, Côte d'Ivoire, Switzerland and Tajikistan in Turkey.
29. Efforts to combat impunity and carry out rapid, impartial, and in-depth inquiries for all past or present allegations of human rights violations committed by security forces must be undertaken so as to ensure that such violations do not remain unpunished¹⁵.

Recommendations

30. Specifically, after 15 July 2016, although high-level state officials condemned the use of torture and promised reforms, torture in detention continued to be widespread. In any democratic country, the government would be held responsible for Torture and from such tragic cases. Moreover, Erdogan and his allies are pushing for higher polarization after their election failure.
31. In the light of these observations, the writer of this report deems it timely and appropriate to conduct a careful and sober analysis into the violation of Human Rights issues, including Torture and Ill-Treatment in Custody, Abductions in Turkey, from the perspective of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In addition, the definition of "actions and coercion that are applied to obtain information or confessions from a person" is urgently required.
32. The Turkish government should be urged to treat all persons under its jurisdiction with respect and to abandon practices that reinforce prejudice and division.
33. All reported cases of torture and ill-treatment in detention, and of enforced disappearances must be thoroughly investigated.
34. Pertinent recommendations to the Turkish government by several human rights organizations should be implemented in good faith.

¹⁴ Report of the Working Group on the Universal Periodic Review (13 April 2015)

¹⁵ https://www.swissinfo.ch/eng/diplomatic-incident_arrest-warrant-issued-for-turkish-diplomats/44198410

35. The Republic of Turkey Prosecutor's Office must assume responsibility for the complete investigation into human rights abuses committed by the police.