

EVALUATION OF THE HUMAN RIGHTS SITUATION IN THE KURDISH REGION/ SOUTH-EAST TURKEY

February 2006

Kurdish Human Rights Project is the only non-partisan human rights organisation working consistently in the Kurdish regions that is completely independent of political affiliation. Founded and based in London in 1992, it is a registered charity. It has maintained a reputation for independence and neutrality by representing over 500 survivors of human rights violations, both Kurds and non-Kurds, in cases before international human rights courts and mechanisms. It was awarded the Sigrid Rausing Trust's Minority and Indigenous Rights Award in 2005 and was short listed for the Law Society of England and Wales/JUSTICE/Liberty's Human Rights Awards 2004.

Turkey's accession to the European Union frequently topped the political agenda in 2005, particular in the lead up to the October decision to begin official membership talks. The Kurdish issue is central to a stable, democratic and peaceful Turkey. There was optimism in July when Prime Minister Erdogan acknowledged past mistakes and the existence of a Kurdish question – in itself a transformation of official policy. However this optimism was offset by widespread concerns of a deteriorating human rights climate and the renewal of armed conflict.

Turkey has passed seven packages of reforms that attempt to harmonise Turkish law with EU standards on human rights, minority rights and democracy. However, human rights monitors including Amnesty International, Human Rights Watch and the Human Rights Association (IHD) have been unanimous that implementation of the reforms has been uneven or non-existent. The European Court of Human Rights continues to deliver judgments condemning Turkey. While many cases relate to human rights abuses during the mid-1990s, the Council of Europe Committee of Ministers was recently prompted to pass a rare Interim Resolution concerning Turkey's non-implementation of some European Court judgments against it.

The EU accession process has undoubtedly prompted positive developments, such as a liberalisation of restrictions on use of the Kurdish language and a pronounced 'zero tolerance' policy on torture. However some notable omissions are evident in the reforms. For example, the new Code of Criminal Procedure allows for trials of alleged perpetrators of torture to be postponed indefinitely and is



11 Guilford Street
London WC1N 1DH
United Kingdom
Tel: +44 (0)207 4053835
Fax: +44 (0)207 4049088
khrp@khrp.org
www.khrp.org

Honorary President
Lord Avebury

Executive Director
Kerim Yildiz

Board of Directors
Chairman

Mark Muller (Barrister)

Secretary

Michael Ivers (Barrister)

Treasurer

Ed Grieves (Barrister)

Members

Tertia Bailey (Development Consultant)

Paul Lewis (Editor)

Julian Ozanne (Journalist)

Gareth Peirce (Solicitor)

Rajesh Kumar Rai (Barrister)

Legal Consultant
Tim Otty (Barrister)

Board of Patrons

Prof. Haci Akman

Geoffrey Bindman

George Black

Hans Branscheidt

Noam Chomsky

Julie Christie

Andrew Collender QC

Nazmi Gür

Paul Hoffman

Bridget Hughes

Bianca Jagger

Baroness Helena Kennedy QC

Bruce Kent

Lord Kirkhill

Michael Mansfield QC

Ian Macdonald QC

Harold Pinter

Lord Rea

Bernice Rubens

Jon Rud

Daniel Serin MD

Klaus Slavensky

Per Stadig

Willem Van Genugten

Sanar Yurdatanpan

Leo Zwaak

Advisory Group

William Archer (Theatre Producer)

Bill Bowring (Professor)

Louis Charalambous (Solicitor)

Louise Christian (Solicitor)

Jane Connors (Lecturer)

Alice Faure Walker (Solicitor)

Julie Flint (Journalist)

Malcolm Harper (formerly UNA)

Gillian Higgins (Barrister)

Stuart Kerr (Solicitor)

Philip Kirkpatrick (Solicitor)

Laurence Lustgarten (Professor)

David McDowall (Writer)

Chris Milroy MD (Forensic Pathologist)

Caroline Nolan (Solicitor)

Nathalie Prouvez (Lawyer)

Colin Wells (Barrister)

**Women and Children
Programme Consultant**

Margaret Owen (Barrister)

ambiguous on appropriate penalties for those convicted.

Human rights advocates claim that hundreds of detainees were tortured in 2004 in the southeast, where the problem was particularly serious, but that only a small percentage of detainees reported torture and ill-treatment because they feared retaliation or believed that complaining was futile.¹ Turkey's official statistics claim that in the first quarter of 2005, 1,239 torture and ill-treatment cases were filed against law enforcement officials. Of these 447 prosecutions were pursued by the relevant prosecutor.² In 2004, of the 1,831 cases that were concluded, 1,631 led to acquittals, 99 to imprisonment, and 85 to fines.³

In October 2005 the EU Human Rights Sub-Committee visited southeast Turkey and voiced concerns that security forces were reverting to abusive practices redolent of the early to mid-1990s. Richard Howitt MEP claimed, "There were accounts of soldiers cutting off people's ears and tearing out their eyes if they were thought to be Kurdish separatist sympathisers."

IHD claims that during the first five months of 2005 it heard reports of 174 incidents of torture and ill-treatment, including 53 committed by gendarmerie officers and 111 by police and security officers. Its October 2005 'Report on the Prevention of Torture and Impunity of Perpetrators' gathered information from the 52 cases and 59 investigations in August 2005, demonstrating that 69 per cent of trials led to acquittals and 15 per cent led to postponement, bringing no punishment to suspected perpetrators.⁴

Moreover, human rights groups have reported a worsening climate over the course of 2005 compared with previous years. The Human Rights Association recorded 5117 incidents of human rights abuse between January and May 2005. It reports the following violations in Batman between 1999 and 2005

Violations	1999	2000	2001	2002	2003	2004	2005
------------	------	------	------	------	------	------	------

¹ USDOS "Country Report on Human Rights Practices" 28 February 2005

² European Commission 'Turkey 2005 Progress Report' p.23

³ European Commission 'Turkey 2005 Progress Report' p.23

⁴ İnsan Hakları Derneği, 'İşkenceye Sessiz Kalma' 2005

Unknown Killings	12	2	5	4	2	6	
Extra Judicial Killings, death as result of torture or arrest	2	0	0	1	0	0	
Death as result of Conflict	19	5	1	0	11	0	9
Torture Allegation			4	7	2	3	2
Disappearances						4	2

Source: Human Rights Association Batman Branch

Ceasefire and security issues

On 2 August 1999, Kurdish rebel leader Abdullah Öcalan and the PKK withdrew armed forces from Turkey and declared a unilateral ceasefire. Their stated aim was to open the way for a peaceful and democratic resolution of the Kurdish question. In June 2004, Kongra-Gel stated that Turkish authorities had utilised the PKK unilateral ceasefire as an opportunity to crush the country's democratic forces rather than as one for democratisation. Accordingly, it pronounced the end of the unilateral ceasefire and armed conflict has been renewed in the region. Hundreds of military, guerrilla and civilian fatalities have been reported. According to information we have received, the last large operation in the region was conducted in Tunceli province of the south-east Kurdish regions.

It has also been reported that on 13 February 2006 the Turkish army's tank battalion in Cizre district of Şırnak Province was passing through the streets of Cizre as a demonstration of power. To observers, this action carries significance as it is redolent of coup d'états in previous years. This was repeated on 15 February 2005.

The IHD states that 147 people were killed during hostilities in the first five months of 2005, with 140 of them occurring in March, April and May. It says that five people were murdered and six others were wounded as a result of attacks carried out by unidentified assailants. Landmines and bombs killed 13 victims and wounded 12. Dicle News Agency's Şırnak reporters also state there has been an increase in

militarisation in the south-east in February, with military tractor trailers, tanks and military vehicles crossing the borders into the Siyah Kaya where the PKK are based.



Turkish - Iraqi border / February 2006



Şırnak City Centre/13.02.06

The Situation of Internally Displaced People

A KHRP fact-finding mission to south-east Turkey in June 2005 investigated the current status of the region's internally displaced persons (IDPs) and their rights to compensation. In conducting its research, the mission interviewed IDPs living in slums in Diyarbakır, local and national NGO representatives, and representatives of political parties. The mission found that the capacity of Turkey's "Law on Compensation for Damage Arising from Terror and Combating Terror" (Law No. 5233) and its implementation regulations contain ample opportunity to avoid minimise and delay payments of claims.

These obstacles have been used in practice, through over-burdensome requirements for evidence, automatic exclusions from compensation, and the use of acceptance commissions that are not independent. As a result, many complainants have failed to receive appropriate remuneration. The fact-finding missions concluded that Law No. 5233 is failing to improve significantly the situation of IDPs in Turkey, and to protect their basic human rights.

Extra-judicial Killings

Despite a number of pro-EU reforms, many of which are designed to protect human rights, there is still considerable evidence of human rights abuses by security forces. Incidences of extra-judicial killings include the following:

- Uğur Kaymaz (12-years-old) and his father Ahmet Kaymaz (31-years -old) shot by Turkish police in Kızıltepe District of Mardin province on 21 November 2004
- Fevzi Can, a Kurdish shepherd in Hakkari Province of Kurdish region, lost his life from shots fired by a junior officer, on the evening of 29 November 2004 in Örencik-Ortaklar village, in the Şemdinli area, while he was pasturing his animals
- Selahattin Günbey (13-years-old), a Kurdish shepherd taking his animals to pasture, was shot by four people, one of whom was a village guard on 22 March 2005
- On 22 June 2005 soldiers shot into a crowd of people who wanted to take part in the funeral of a Kurdish guerrilla in Batman. One of the crowds, Vahdettin İnanç, was a fatality.
- On 3 August 2005 a German and Turkish citizen, Hasan Şahin (68 years old) was killed at the front of his house in his village during his holiday. Before this event, his vegetable garden had been burned by Turkish Private Teams. Şahin was the father of Süleyman Şahin (Bawer), an upper level official of HPG, an armed Kurdish group of the PKK. The family believes he was killed by JİTEM - Gendarmerie Intelligence and Counter Terrorism - a paramilitary group organised by the Turkish state.
- Abdullah Aydan was shot by Turkish soldiers in Siirt during a demonstration on 6 September 2005.
- Üzeyir Taşar was going from Van to İstanbul to get married when he was killed by Turkish policemen on 22 September 2005.
- On 5 October 2005 a villager, Orhan Budak, lost his life when Turkish soldiers and policemen came down to Memkan, a village of Hakkari province. Another villager, Ferzende Budak, was seriously injured.
- Violent protests erupted in south-east Turkey when state security officers were implicated in an extra-judicial killing in Şemdinli, Hakkari province. There were three further fatalities

and dozens of injuries in the ensuing protests. Three F16 fighter aircraft flew close to the ground during the funerals of these young men, perceived to be an act of intimidation

In summary, there remain grave concerns about the protection of human rights and fundamental freedoms in southeast Turkey. The process towards EU accession has no doubt been beneficial, but implementation of reforms has been uneven and particularly inadequate in the Kurdish regions of the south-east.