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**From Diyarbakir Bar Association**

**Submission to the UN Committee on the Rights of the Child on Report on Conditions and Violation of Rights of Children Convicted and/or on Remand in Diyarbakir Closed Penal Institution for Children and Young People**

**For the Pre-Session and Prior to Adoption of the List of Issues**

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**Turkey**

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**Report on Conditions and Violation of Rights of Children Convicted and/or on Remand in Diyarbakir Closed Penal Institution for Children and Young People**

**A- SUBJECT OF THE REPORT**

This report includes the complaints by child residents at the Diyarbakir Closed Penal Institution for Children and Young People during the execution of their sentence or detention about prison practices, findings regarding rights violations experienced and solution proposals and assessment regarding the situation.

**B- COMPOSITION OF THE REPORTING COMMITTEE**

The committee was formed from among the members of the Children’s Prison Commission of the Human Rights Centre of the Diyarbakır Bar Association and the Prison Monitoring Committee of the Human Rights Centre of the Diyarbakır Bar Association.

**C- CURRENT COMPLAINTS AND RIGHTS VIOLATIONS**

Starting in May 2021, members of the reporting committee regularly visited the children in prison for three months to achieve the aims described above. During this period, 32 children were interviewed. Depending on the differing circumstances of the children, it was found necessary to interview some children more than once. Therefore, the committee carried out a total of 53 interviews throughout the process. The complaints conveyed to us during interviews and the rights violations thereby identified are examined in detail below by subject matter.

**THE RIGHT TO FOOD**

● In the interviews, it was stated that the meals provided twice daily by the prison administration were usually too fatty and tasted bad, that similar dishes were constantly being served, that complaints about this had been presented to both the prison director and prosecutor many times but that the problem remains unresolved. The response received by committee members from prison guards upon notifying them of the problem stated that they were served the same food as children, that they often left it uneaten and that they too were unhappy with the situation.

● The interviews show that some of the children received no financial support from their families, that they were forced to rely on the help of their peers staying in the same wing and that those who could not obtain help could not meet their needs from the cafeteria.

**THE RIGHT TO HEALTH AND HEALTH CARE, PREVENTION OF TORTURE**

● A significant number of children stated that during regular medical examinations or post-arrest medical examinations in the health ward or at the prisoners’ ward in hospitals, guards on duty or gendarmerie officers stayed inside with them and that doctors did not intervene against this practice in contravention to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Standard Minimum Rules for the Treatment of Prisoners, and Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

● It was stated that medicine prescribed following examination was delivered at least two to three days later, which disrupted the treatment processes.

● Although children presented no complaints to the reporting committee about access to hot water early in the process and stated that they could access hot water 24/7, in time problems occurred regarding this matter and access to hot water was restricted to certain days and hours. Although at meetings the committee held with the prison administration upon these complaints it was stated that the problem would be resolved, interviews conducted by committee members have shown that the problem continued and worsened over time.

● It was observed that children bought the goods used for hygiene and cleaning themselves from the cafeteria. This situation was found to lead to significant economic hardship, that a significant proportion of the low amount of financial support provided by families was devoted to cleaning and that this constituted a significant violation.

**RIGHT TO EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

● The reporting committee observed that the books in the prison library were generally for younger children. Although there are requests for access to books that appeal to adolescents that would contribute to their development, no progress has been made in this regard.

● Children stated that depending on the season, open airtime during certain hours of the day is highly inadequate. Although this matter brought before the authorities, children’s demands had not been taken up for consideration.

● Children stated that they were taken to a play arcade once a week, that this right was sometimes arbitrarily withheld, that the arcade was technically insufficient, and the shortcomings were not being alleviated. In addition, they stated that the already insufficient courses and activities that contributed to their development had been fully halted on the pretext of the pandemic.

**RIGHT TO COMMUNICATE AND RECEIVE INFORMATION**

● It was stated that the TV units in common rooms displayed very few channels, that no channels that could contribute to the development of children were available and some of the channels that had been available were blocked arbitrarily and without explanation by the administration.

**TORTURE, INHUMANE AND DEGRADING TREATMENT**

● During interviews with children in the prison, it was reported that they were exposed to intensive degrading treatment and torture by prison guards. Prison guards, especially guards S.T. and A.Ç. inflicted violence on children, that violence took the form of beatings on the hands and the feet with truncheons (falanga) or battery by more than one guard, and that during one incidence of violence a guard in boots had stepped on the mouth of a child who was crying.

It was stated that a few of the violent acts were committed in full view of cameras with no hesitation while some of the acts were committed in the head guard’s office, the director’s office, the psychologist’s office, the Sound and Video Information System (SEGBİS) room, under the stairs or in the inmate admissions units where there are no cameras or where cameras do not cover the whole area.

It was reported that children subjected to these acts of violence were forced to write petitions that they did not want to be taken to hospital of their own will, that for children who were incapable of writing after violence their friends in the same units were made to write petitions, that children were threatened not to complain about the acts of violence, that they were prevented from meeting the prison director on this matter and that they were subjected to psychological pressure by being told that even if they complained, they would not obtain results. Committee members were told that upon one of the children complaining about a guard who had engaged in violence, the child was told “Don’t complain about him, complain about me” by another guard.

Children are exposed to incommunicado detention as a form of punishment. Those children are held in in isolation in the units of political prisoners. In addition, committee members were told that prison guards implemented arbitrary rules to force children to appear before guards with hands crossed in the front, the head bowed and in a supplicatory position, otherwise their behaviour was considered disrespectful and they were subjected to violence and that in addition to acts of physical violence children were insulted, their every action was seen as grounds for punishment and that a child who had injured his arm was considered to have been at fault, he was told that not even a medical dressing would be applied and that his treatment was delayed. It was also stated that the requests to visit the psychologist by even children suffering from psychological problems to the degree of attempting self-harm were stalled.

According to information obtained from observations of marks on the bodies of children interviewed and the information they themselves provided, it is understood that many children are subjected to physical and psychological violence by their peers. Some had their hair cut and tattoos applied by force, some were bodily harmed using sharp objects, some were pressured into cleaning the prison unit and running errands, some had their money confiscated and their cafeteria rights used by others, some were prevented from petitioning the administration for meeting the prison psychologist or changing units, some were subjected to pressure by the unit’s head to remain on a single floor tile or to sit with knees closed. It was reported that prison guards knew about this situation, yet they did not take the required measures.

In interviews, committee members were told that children were handcuffed while being transported to hospital or the courthouse and that the handcuff was applied to one side with the opposite hand being bent inwards.

Although there were no complaints of full strip searching at the Diyarbakir Closed Penal Institution for Children and Young People, it was stated that children brought in from neighbouring provinces, such as Muş and Elazığ, had been subjected to full strip searches there and that those who opposed had been subjected to violence.

After their meetings with committee members, interviewed children were asked about what was discussed in the interview by prison guards. It was reported that they were threatened with violence and being sent to prison units with other children they were in conflict with, that children were forced to write petitions not to attend anymore interviews with the reporting committee members. Some children were prevented from meeting committee members.

**D- FINDINGS AND ASSESSMENTS OF THE COMMITTEE**

As a result of the committee’s periodic visits to the Diyarbakir Closed Penal Institution for Children and Young People, the points conveyed insistently to the committee were found to be consisted and the committee has formed a strong opinion that children are subjected to physical and psychological violence and degrading and inhumane treatment by some prison guards, A.Ç. and S.T. in particular; that children are threatened over many issues and that the rights to food, health and health care, communication and obtaining information and education were being violated in addition to the problem of torture, inhuman and degrading treatment. Our requests to meet the prison administration regarding these matters did not get a response.

The significance of the claims of children prompted interviews to continue with an increased frequency of visits by the Diyarbakir Bar Association. During this process, some of the guards alleged to have engaged in violence questioned the periodic visits. The reporting committee told the guards about the aim of the visits and that there were plans to resolve the existing problems in solidarity and cooperation with the prison administration. Despite this, according to information obtained from children in later interviews, children were illegally forced to disclose the contents of the interviews held with the committee to the prison administration.

Later in the process, three of the children who stated that they were being subjected to physical and psychological violence and therefore wanted to meet with the committee more often submitted fully identical petitions that were clearly written by a single person stating that they did not want to meet any lawyers other than their own. This incident that took place on June 1st 2021 was put into an official report by the reporting committee and the periodic visits continued. At the first visit that took place after the incident, it was found that children were asked whether they wanted to meet the lawyers from the Diyarbakır Bar Association and were pressured not to, an act which the committee stated as against the law and recorded in another official report to the Ministry of Justice.

The official reports on the illegal acts and the persistent warnings to relevant authorities resulted in the prison guards halting the practices in question. However, children continued reporting their experiences of violent reprisals from the prison administration just because they wanted to meet with lawyers from the reporting committee. Also, reports of physical and psychological violence in the prison continued. Children reported an increase in inhumane and cruel punishments and treatment. Prison administration threatened children before every interview not to convey the situation to lawyers and asked children for information after every visit by the Diyarakir Bar Association’s reporting committee.

**CONCLUSION AND SUGGESTIONS**

The interviewed children have stated that:

1- Children being held at the prison are subjected to torture, degrading treatment, battery and insults and that they are threatened not to complain about these rights violations;

2- That their rights to food; health and health care; communication and receiving information; education were being violated.

The committee recommends the following for the protection and advancement of the rights of children protected by the national and international legislation:

1- That an active and transparent ex officio judicial and administrative investigation be launched against prison guards who are alleged to have engaged in acts of torture, degrading treatment, battery, insulting and threats against children and the results of the investigation be made public in full detail;

2- That an administrative investigation against the prison guards in question be launched and they be suspended of duty for the sake of the safety of children being held in the prison;

3- That prison guards, gendarmerie personnel on duty at the prison and administrative staff undergo comprehensive training on fundamental human rights and freedoms;

4- That in order to prevent acts of torture and degrading treatment in the prison, cameras should be installed in all areas, beginning with under the stairs, the head guard’s office, the director’s office, the SEGBİS room and the inmate admission unit and taking convict/detainee children to any rooms without installed camera systems should be banned;

5- That to prevent bullying children of different age groups should not be held in the same wing barring special circumstances, as children may exhibit significant physical and psychological differences during development;

6- That the practice of handcuffing children while in transport to hospital or the courthouse should end, as article 50/2 of Law 5275 states that children may not be handcuffed under any circumstances and an ex officio investigation should begin into the matter;

7 – That children should be given access and encouraged to benefit from psychosocial support services to prevent recidivism and to resolve psychological problems that may arise from prison conditions that are not suitable for children;

8- To resolve complaints about the violation of the right to nutrition, there should be more frequent inspections at the open prison from which the food for the entire prison population is procured and the quality of the food should be improved;

9- Access to hot water should be made available 24/7 and health problems due to lack of hygiene should be prevented;

10 – Book diversity in the prison library should be increased to ensure the access of children of all age groups to books that may interest them and contribute to their development;

11- That the number of channels available on TV should be increased for children who spend most of the day in the common area of the wing to be able to spend time according to their age group, interests and by educational criteria and that the administration’s practice of arbitrarily deleting some channels should end;

12- That the video call systems placed in wings should be made available for use as soon as possible to alleviate the negative impacts of weekly family visits being reduced to bi-weekly due to the pandemic;

13- As open air time during some hours of the day are very disadvantageous depending on the season, this issue should be accounted for in planning and if prison circumstances require that these hours be used for open air time, scheduling should be fair and alleviate any inequality among wings;

14 – That the activities and courses halted on the pretext of the pandemic should begin again for the development of children and the improvement of their psychological conditions with the necessary measures in place and the technical issues at the play arcade which children are taken to once a week should be resolved;

15 – That the prison management should periodically and regularly meet the cafeteria needs of children who receive inadequate or no financial support from their families;

16 – Given that most children held in prisons do not receive sufficient financial support from their families to meet their needs and the principle of the best interests of the child necessitate positive discrimination for children in prisons, purchases at the cafeterias of children’s prisons should be exempted from VAT;

17- Given that most children held in prisons do not receive sufficient financial support from their families and that most of this support is spent on the purchase of cleaning materials for wings, the cleaning materials should be regularly and periodically provided by the prison administration;

18 – That the illegal practice of prison guards or the gendarmerie being present in the same room as children during medical examinations at the prison war or the hospital should end, that the officers and personnel should be warned about their matter and that the Medical Association should be engaged to request that doctors be informed about this matter;

19 – That medicine prescribed for children should be delivered post haste and that no violations of the right to treatment be allowed;

20 – That visits should be carried out to prisons in neighbouring provinces to investigate the

claims of children transferred from these prisons of full strip searches taking place.