

NGO SHADOW REPORT

FOR THE REVIEW OF THE TURKISH GOVERNMENT UNDER THE
UN INTERNATIONAL CONVENTION AGAINST TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT (CAT)

Submitted by Roj Women Assembly

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Roj Women Assembly

Roj Women's Assembly is a London-based organization that campaigns for far-reaching legal and political reforms in Turkey with the ultimate aim of improving the lives of Kurdish and non-Kurdish women. In Turkey Kurdish women are subject to double discrimination as a result of their gender and of their ethnicity. Our aim is to improve the lives and expand the opportunities available to women living in Kurdish regions by means of drawing attention to the political factors that shape their particular struggle and of lobbying and campaigning for the necessary changes to overcome them.

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Introduction

1. This shadow report concerns mainly the right of women human rights' defenders in Turkey to engage in political activism without being targeted and tortured for this reason. This report has a regional focus in the South East of Turkey, mainly populated by Kurdish people.
2. Roj Women Assembly acknowledges improvements in the Turkish legal framework that protects victims of torture and inhuman treatment. Yet, these measures don not seem to be integrated in a holistic and comprehensive programme. While they seek to expand the space for individuals to exert their rights vis-à-vis the security forces, a more substantive institutional reform is needed within police and gendarme forces. We welcome that first steps are being taken by providing with training on human rights to numerous members of Turkish security forces as well as by introducing an 'Independent Police complaints Commission and Complaints System for The Turkish Police and Gendarmerie'.
3. Unfortunately, Turkey does not provide much data on how or whether these reforms are being implemented effectively. Despite a policy of "zero tolerance" on torture, announced on 10 December 2003, and although violence by the State is generally agreed to have decreased in recent years, the fear of violence by State officials still appears to cling to the consciousness of many women living in the Kurdish regions. This report illustrates that Turkey fails to comply with its obligations under CAT.
4. The Southeastern regions of Turkey are mainly populated by Kurdish people, a large ethnic minority yet to be recognized by the State. In the context of an armed conflict in this region, a product the State's denial of Kurdish self-determination aspirations, politically active women have become a target for police and military forces following the hardening of punitive measures for committing acts of torture. State agents have resorted to using violence against women as a substitute for torturing men. Violence by State agents targets women who are active in the Kurdish movement that claims their minority and human rights and who voice political beliefs unacceptable for the government and the military in order to hinder their fight and to punish the whole community.
5. Torture experienced by women political activists and human rights defenders at the hands of Turkish security forces occurs both under custody and not in detention and includes threats

and acts of sexual abuse, such as rape, stripping and verbal sexual abuse. Common forms of sexual torture performed by Turkish security forces reported by the victims interviewed by the International Free Women's Foundation in 2005 include vaginal, oral, or anal rape using penis, batons, water hoses or other materials; mass rapes; urinating into the victim's mouth; electroshocks to breast nipples and sexual organs; forced virginity-tests; strip-searching, and stripping during questioning. Threats of rape in the presence of their husbands or other close relatives are also used. Inventive methods are being deployed so that the signs and scars of torture and degrading sexual harassment, sexual threats and psychological abuse are not evident.

6. Within Kurdish society rape and sexual abuse are seen as matters of grave dishonor. The chastity of women is a core component of the social structure of the family. Thus, the State's targeting of women and their use of sexual violence strikes at the very heart of the kinship group, disrupting the family structure and demoralizing the whole community, as well as causing life-long physical and psychological damage to the women victims.

7. Moreover, torture in the form of sexual abuse by security forces is conducive to further violence against their victims by community actors. Kurdish women need to be armed with great courage in order to speak out and formally complain of the sexual violence and rape perpetrated on them by agents of the State. It is not merely that Kurdish women are routinely threatened with death by their rapists should they make a complaint; rural women fear the stigma and the consequent ostracism by their families should it be known that they had been sexually violated. There have been cases where victims of sexual violence have committed suicide or have been killed by a family member, in an "honor" crime, or sent far away once details of their ordeals had become known.

8. Torture of women at the hands of security forces is all the more reproachable because of the Turkish judiciary failure to provide with legal redress to the victims. The obstacles posed by Turkish courts are massive, leaving the European Court of Human Rights (ECHR) as the only legal avenue available through which to institute proceedings. Unfortunately this avenue is often unavailable until the women have fled abroad. The State has circumscribed the legal prohibition of torture and detention without trial by turning a blind eye to the abductions, detentions, sexual and psychological torture of Kurdish women by plain-clothes members of the police or gendarme.

9. Kurdish women face extreme difficulties when trying to access domestic and international legal remedies. Turkey has failed to fully implement the judgments of the ECHR. In many cases, even where the ECHR has found Turkey guilty of human rights abuses such as torture, the perpetrators have not been tried or punished, but have continued in their positions and therefore able to continue repeating such abuses with impunity.

10. Roj women calls upon the Turkish Government to ensure that all acts of torture and ill treatment of women by State agents are appropriately investigated, prosecuted and punished and the victims provided with adequate reparations. Roj Women insists upon the need for the Government to fully implement all of the provisions of the standards and recommendations of the Committee against Torture, the Special Rapporteur on Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the European Committee on the Prevention of Torture, the Convention for the Elimination of All Forms of Discrimination Against Women, the Beijing Rules and Platform for Action and the Declaration on the Elimination of Violence Against Women as these instruments provide detailed protection for women against violence in the family, in the community and at the hands of State officials.

11. Article 1 of the Convention defines torture as 'any act by which severe pain or suffering, whether physical or mental, intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity'. As per this definition the abuse described above amounts to torture committed by Turkish State agents. This abuse is not of an anecdotic nature, but it appears to be consistent, systematic and planned.

12. Despite the fact that information and statistics around this abuse are very difficult to gather and publicize, the following cases and statistics can serve a sample of a wider phenomenon. These statistics have been gathered by a number of organizations based in Turkey:

- The Legal Aid Project Against Sexual Assault and Rape in Custody (LAPASAR),

- Ka-mer Foundation, with 23 branches across South East Turkey, supports victims of violence against women,
- Human Rights Association (IHD), with 29 branches across the country, challenges a wide variety of human rights' abuses,
- The Foundation for Social and Legal Research (TOHAV) investigates and follows up human rights violations in all regions of Turkey.

Abuse scale

- a. LAPASAR estimated in 2003 that three-fourths of Turkish women detainees experience sexual harassment although only a fraction lodge complaints.
- b. As per November 2008, LAPASAR reported that 294 women had applied for legal support to this organization within the previous eleven years; 71 of them were rape applications. Among those, two women committed suicide after raped and a fourteen year old girl was killed by her relatives in order to cleanse the family's 'honor' after learning she had been raped.
- c. IHD believes that only 10% of women abused by security forces actually come forward to complain.
- d. TOHAV estimates that between 100 and 150 women report yearly on violence, including sexual violence, perpetrated by State actors.
- e. Ka-mer has used a sample of 3,542 cases out of the 10000 brought forward by their applicants between 1997 and 2009. In 468 or 13.2% of these women were victims of violence at the hands of security forces or other fighting factions in the conflict.

Data from different sources, thus, seems to consistently estimate that no less than 100 women come forward yearly to denounce abuse by security forces. Since only an approximate 10% of victims do complain, the real figure would ascend to around 1000 cases of violence against women perpetrated by security forces every year.

Abuse nature: targeting women political dissidents

- f. Of 211 documented cases of custodial rape by LAPASAR, 167 were Kurdish women
- g. 188 of these women women cited political or war related reason as causes for their arrest
- h. Lawyer Erin Keskin, Director of Legal Aid Project Against Sexual Assault and Rape in Custody, faces many indictments for representing women who allege crimes

perpetrated by state agents and speaking about such abuses at conferences abroad. Female members of the Peace and Democracy Party (BDP) are sexually harassed not only in detention places, but also in public spaces. For example, BDP Assembly member Nursel Aydoğın pointed out in a public speech in June 2010 that during the previous year many women members of the closed Democratic Society Party (DTP) and BDP had been exposed to verbal abuse, threatened and followed in public spaces by policemen and gendarmes. She also stated that “the attacks have especially accelerated during the term when the Women’s Assembly of the party launched the year-long campaign ‘Let’s struggle for freedom, let’s overcome the rape culture’”, which attempts to expose how security forces “in order to break the pride of the society they attack the pride of women”.

- i. In occasions, state actors target female relatives as a way of punishing of specific individuals.

Abuse nature: sexual violence against women

- j. As of 2003, out of 182 applicants to LAPASAR based in Istanbul, 60 had been raped while 162 were sexually assaulted.
- k. According to IHD’s figures, between 2007 and 2010, 92 denounced in this organization they had been raped, including by security forces.

A recent case, not occurred under custody, encapsulates the nature of the abuse. An active member of the Free Women’s Democratic Movement (DÖKH) and of BDP was kidnapped on June 17 this year at 2.30pm in Bagcilar Town by two policemen in plain clothes. Before they caused her to faint through inhalation she was told “who do you think you are, we have been chasing you for two months”. It was 6am in the following day when she woke up in an abandoned house. She was naked and her bag has been searched. After the incident her colleagues from BDP obtained a hospital medical report. The report showed that she had been raped.

Perpetrators of the abuse

- i. As per 2003 statistics by LAPASAR, perpetrators included 139 police officers, 43 soldiers, 7 village guards and 1 prison officer¹. As per March 2005, the majority of

¹ The reason the figures are high is that in some cases there were more than one perpetrator

perpetrators, in total 163, were policemen, followed by gendarmes, soldiers, prison guards and village guards.

ARTICLE 2

1. With reference to the previous conclusions and recommendations of the Committee, please provide detailed information on the measures ensuring that detainees, including those held for offences under the jurisdiction of State Security Courts, benefit fully in practice from the available safeguards against ill-treatment and torture, particularly by guaranteeing their right to medical and legal assistance and to contact with their families.

13. In paragraph 29 of the State Party Report it is stated that ‘the Government takes every possible effort necessary for providing health services to convicts and detainees’ and that ‘the examinations and treatments of the convicts’ and detainees’ health problems are carried out meticulously’. Additionally, paragraph 38 states that ‘in order to protect the patient-doctor confidentiality and enable the inmate/patient to freely express all his/her complaints, and unless otherwise requested by the prison doctor, none other than medical personnel shall be present during the examination. Necessary measures shall be taken by the prison management, for security purposes and in a way so as to prevent the conversation in the room being heard.’ However, such commitments are not lived up to in many occasions, particularly when the detainees are perceived to be political dissents. When S.K. attended the Diyarbakır courthouse in August 2010 she and her work colleague A.K were beaten by two policemen following their refusal to be strip-searched by men in a public place. After a 5,5 hours beating, A.K and S.K. were taken to the police station, where their detention procedures were done before they were taken to a doctor. The doctor though did not write an accurate report despite their visible the bruises and scars. A.K. recalls that “they directed us to their own doctor, whom we saw after they maintained a conversation. Then, when I was taken in, the doctor didn’t even examine me. He only asked me what was wrong with me. When I told him that I had difficulty in moving my body as policemen had beaten me, he just said to me ‘ok,ok’ and told me that I had no problem except from exhaustion, which he said he would write down on the report. Then, they brought me back to the police station.”

9. Currently, under which specific norms are perpetrators of acts of torture prosecuted, including with regard to military personnel? Please provide detailed statistical information on the prosecution and convictions of perpetrators of acts of torture, including military personnel.

14. In paragraph 114 the State Party states that ‘allegations of torture and ill-treatment are taken seriously and diligently by the judicial authorities at all stages of the investigation and trial process.’ It adds that ‘when a claim is supported with concrete evidence (such as witness statements, medical reports, etc.) public prosecutors promptly initiate criminal cases to bring those responsible to justice.’ Roj Women Assembly is concerned that victims of torture under custody might not be able to produce such evidence as independent medical assistance is not always provided and as witnesses are unlikely to be present in the place where torture is taking place.

15. Even when victims were able to garner sufficient evidence, the Turkish State does not apply its legal commitments. For example, Şükran Esen, a Kurdish woman who had allegedly been tortured and raped on three occasions by gendarmes who unofficially detained her. The Prosecutor had indicted 405 gendarmes for this crime which significantly lessened the probability of the guilty to be convicted beyond a reasonable doubt for physical and sexual violence. The victim’s attorney requested that the court order the indicted gendarmes to be arrested for fear that the guilty ones would flee; instead, the court allowed the indictment of forty additional gendarmes which further reduced the victim’s ability to assert her rights.

16. Additionally, the victim’s attorney drew attention to the fact that the Chief Commander of the Gendarme who had been found guilty of torture by the European Court of Human Rights in *Aydin vs Turkey* had still not been removed from his post.

17. The BDP’s Women’s Assembly also highlighted the ineffectiveness of the State in prosecuting and convicting the perpetrators of acts of torture in a conference in June 2010 given that none of those who sexually harass and abused members of the Women’s Assembly has been found and sentenced.

14. Pursuant to the recommendations made by the Committee, please provide detailed information on the measures adopted to guarantee that prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment are carried out, and to ensure in this connection that an efficient and transparent complaint system exists.

15. Please inform the Committee if the statute of limitations for crimes involving torture has been repealed; if not, provide the reasons for not implementing this recommendation and the steps that have been taken in that direction. Expediting the trials and appeals of public officials indicted for torture or ill-treatment and ensuring that members of the security forces under investigation or on trial for torture or ill-treatment are suspended from duty during the investigation and dismissed if they are convicted were also [among] Committee's recommendations. Please update the Committee with regard to those concerns, including with comparative data specifying trial duration and numbers of [public officials suspended and dismissed in relation to] torture and ill-treatment.

18. In paragraph 130 the Turkish report states that 'allegations of torture and ill-treatment are taken seriously and diligently by the judicial authorities at all stages of the investigation and trial process' and that 'public prosecutors immediately initiate investigations concerning allegations of torture and ill-treatment'. Additionally, according to paragraph 269, 'freedom of assembly and association, as well as freedom of expression and inviolability of the domicile are safeguarded by the Constitution. NGO's and human rights defenders duly benefit from these rights.'

19. Contrastingly, an article by Women Living Under Muslim Laws maintains that 'police have failed to investigate the abuse or punish the perpetrators and an issue of a newspaper that reported the crime has been confiscated' in relation to the sexual assault suffered by a young Kurdish woman activist, a member of the Women of the Democratic Free Women's Movement (DÖKH), who on 21 June 2009 was stopped by four plain-clothes armed police officers, saying they had come from the police headquarters. When she said that the home owner whom they were asking about was not in, they nevertheless used threats and forced her inside, thus breaking the constitutional principle on domicile inviolability.

20. The officers searched the house but did not find anything incriminating. Two of them forced the woman to take her clothes off and sexually assaulted her, accompanied by threats and insults. They did not write a report on the house search and did not show any documents.

They threatened the woman not to "get involved in politics about Kurdish issues" and warned that "other women rights activists working in similar projects will be treated the same way." To date the perpetrators of this crime have not been brought before a judge.

21. According to a Human Rights Watch report, police violence in Turkey has been exacerbated by changes to the law on police powers made in June 2007, which give police excessively broad discretion to use lethal force and encourage arbitrary stops and searches by police. The problem is compounded by the failure to adequately investigate abuses when complaints are made.

16. Please provide information on the measures taken to guarantee that the detention records of all detainees in police custody are properly kept from the outset of the custody period, including for the times they are removed from their cells, and that such records are made accessible to their families and lawyers. With regard to this guarantee, please indicate the procedure [for accessing] the records and provide statistical data on their access.

22. In paragraph 156 the State's report affirms that 'the procedures concerning taking into custody are registered in the Lockup Records. Direct investigation can be initiated by the office of the public prosecutor regarding the personnel who are found to have failed to fulfill these procedures.'

23. A delegation led by the Kurdish Human Rights Project found that the lack of proper recording of detentions, especially those such as the unofficial detention suffered by Şükran Esen, prevents women from successfully bringing to justice those state agents responsible for the torture and ill treatment of female detainees. The Human Rights Association in Turkey (İHD) reported to the delegation that 99 per cent of detentions went unrecorded.

ARTICLE 16

21. Please provide information on the measures taken to implement the recommendations contained in paragraph 79 of the report on the visit to Turkey of the Special Rapporteur on violence against women, its causes and consequences with regard to implementing a zero-tolerance policy towards all forms of violence against women, identifying, prosecuting and adjudicating cases of forced suicide and disguised murders, protecting women at risk of violence, improving the database on violence against women, its causes and consequences

and taking suicide prevention measures. What specific measures have been taken with regard to preventing and combating domestic violence?

24. In relation to paragraphs 220 and 221 from the State's Party report, Roj Women Assembly is concerned that the National Action Plan (NAP) to Combat Violence Against Women (2007 – 2010) which was funded by the European Union with €3 million (out of a total of €80 million to fund gender equality programmes in Turkey) is not being effectively implemented. Civil society oversight is rendered very cumbersome since there is not a monitoring mechanism with publicly available results. The Directorate on the Status of Women remains evasive when questions are asked around this issue. Roj Women Assembly is concerned that without a mechanism for monitoring and evaluation the Directorate's ambitious NAP might not be effective. Similarly, without a meaningful budget allocation and very specific time and target-bound measures results cannot be achieved.