

14.04.2023

From the Rights to Life Association

93rd Session
of the UN Committee on the Rights of the Child

***RIGHTS VIOLATIONS FACED BY CHILDREN OF
IMPRISONED PARENTS***

Turkey

Contact address: Istanbul, Turkey
Tel.: +90 533 483 0268- E-mail: ranaberk@yahader.org

CONTENTS

	<i>Page</i>
1. INTRODUCTION	3
2. CURRENT SITUATION	4
3. FINDINGS	5
3.1 <i>Raids on homes, detentions</i>	5
3.2 <i>Prison visits</i>	5
3.3 <i>Security checks and the open visit environment</i>	6
3.4 <i>Discrimination and stigmatisation</i>	7
3.5 <i>Poverty and falling living standards</i>	7
3.6 <i>Psychological problems</i>	7
3.7 <i>Educational life</i>	8

1. INTRODUCTION

According to the statistics published by the Ministry of Justice in 2022, there are 314,502 individuals in penal institutions in Türkiye¹. However, there are no data concerning the number of children who are affected by this situation. By way of an estimate, we may assume that the mothers or fathers, or both, of at least 150,000 children are in prison. This means that thousands of children are deprived of a family environment in which they can feel safe and at ease.

Children in Türkiye may witness their parents being taken into custody or even being tortured. Most parents who are imprisoned are sent to prisons in distant provinces, and the children are obliged to make long, tiring journeys in order to see their mothers or fathers. They have to see their parents in a prison environment which may be frightening for a child, after passing through security checks and body searches that may also be frightening, and then only for very limited periods of time.

Unfortunately, while all this is going on, neither the public institutions tasked with protecting children nor the officials of these institutions can be said to respect these children's rights. Türkiye has no law, practice or procedure for protecting the rights of children with parents imprisoned in penal institutions. Decisions and practices that may result in major traumas for the children are left to the arbitrary initiative of the prison management and employees.

We decided to draw up this report on the rights violations faced by children with parents in prison, the hidden victims of the penal system, in order to draw attention to the absence of laws, procedures and precautions for protecting these children and upholding their rights.

We aim to submit our report to the attention of the relevant public institutions, the media and national and international child rights mechanisms headed by the United Nations Committee on the Rights of the Child, the Council of Europe Commissioner for Human Rights, the Ministry of Justice, the Ministry of Family and Social Services and the Constitutional Court.

¹ <https://cte.adalet.gov.tr/Resimler/Dokuman/istatistik/istatistik-1.pdf>

2. CURRENT SITUATION

During the course of our review of the literature, we were unable to uncover any statistical information about children with parents in prison or any study that monitored the violations of their rights. The only statistics we possess are the data published by the Ministry of Justice at the end of March 2022². According to these data, 3.7% of the total number of 275,965 convicts are women, 96% men and 0.24% children. Of the total of 38,537 detainees, 4.7% are women, 91.6% are men and 3.6% are children. However, no information is to be found here concerning how many children are affected because their mothers and/or fathers are in jail.

There is also insufficient news in the media concerning children with parents in prison. Our main sources of information are our own observations, the views of experts and the wide-ranging report entitled “Children of Imprisoned Parents”³.

In drawing the framework for the rights of children with imprisoned parents, we would like to start with Article 3 of the UN Convention on the Rights of the Child⁴. This article sets out a very fundamental and comprehensive requirement by making “the best interests of the child” a primary consideration in all actions concerning children.

In addition, children are to be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child's parents or other family members (Article 2). In the event of any separation, children must be able to have regular and frequent contact with their parents (Article 9). Children have the right to express their own views and opinions and have them taken into account (Article 12). No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence (Article 16). Children are to be protected from all forms of physical or mental violence and abuse (Article 19). Every child has the right to education, and this right is to be provided on the basis of equal opportunity (Article 28).

Article 8 of the European Convention on Human Rights⁵ and Article 23 of the Covenant on Civil and Political Rights⁶ guarantee the right to respect for family life and the right to the protection of the family by state and society. The right to the protection of family life is not only secured from the point of view of the child; the family life of the mother or father in prison is protected in the same way.

Alternatives to imprisonment are not considered when imprisoning persons who are children’s primary caregivers. Under Law No. 5275 on the Execution of Penalties, the implementation of a prison sentence is postponed in the case of women who are pregnant or who have given birth within the past one year and six months⁷. As it stands, this law is far from protecting children’s rights: alternatives to prison are not considered, for example, for mothers with children aged two. According to Paragraph 5 of Article 16 of the same law, the postponement of the penalty does not apply for persons “regarded as dangerous on account of their actions and demeanour”⁸. This clause

² <https://cte.adalet.gov.tr/Resimler/Dokuman/istatistik/istatistik-1.pdf>

³ <https://childrenofprisoners.eu/wp-content/uploads/2014/01/Full-report-Children-of-Imprisoned-parents.pdf>

⁴ <https://www.unicef.org/turkey/%C3%A7ocuk-haklar%C4%B1na-dair-s%C3%B6zle%C5%9Fme>

⁵ https://www.echr.coe.int/documents/convention_tur.pdf

⁶ <https://tihv.org.tr/iskenceye-karsi-uluslararasi-belgeler/bm-siyasi-ve-medeni-haklar-uluslararasi-sozlesmesi/>

⁷ <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5275.pdf> See Article 16 Paragraph 4

⁸ Article 16: (5) (Added 24/1/2013 by 6411 Art. 3) The provisions of Paragraph 4 shall not apply to those who become pregnant after entering into closed penal institutions if there is more than six years to go to their provisional release or if

might be valid only in very exceptional cases, but it is applied to many political prisoners. This situation clearly constitutes a major violation of the best interests of the child and the protection of the family⁹.

3. FINDINGS

3.1 Raids on homes, detentions

“That morning they came to our home and took my mother and father away. I told my little siblings my dad had gone to work and my mum would be back in a short while.”

The words above were spoken by a refugee participant who is now 15 years old but was only 12 when the events occurred and had to cope with the situation together with three younger siblings.

“We were going to go to school in the morning. It would have been our first day at school. And that day they took my mother and father away. My little siblings were asleep. When they woke up I didn’t tell them, because my mother had told me they would be right back. Before they put the handcuffs on my father they gave him an electric shock on his hands. They searched the entire home and tipped everything on the floor but they couldn’t find anything. Then I tidied up. My siblings woke up and asked where mum and dad were. I told them dad had gone to work and mum would be back in a short while. My mother had told me not to tell them; she’d said they’d be coming back.” (age 15, child, 4 siblings)

In some cases, mothers tried to prevent their children from coming into contact with the police by keeping the door of the room where their children were sleeping closed.

“I didn’t let any of them in. The children were sleeping at the time of the raid and I closed the room and stood in front of them and told them to put their weapons away and take off their masks and then I would open the door of the room, and they agreed. They turned the light on and looked in the room and saw the children and the children didn’t wake up. My husband didn’t let them in either because he didn’t want the children to see me like that.” (age 35, mother, 3 children)

Our interviews revealed that children had experienced raids on their homes by law enforcement agencies and witnessed one or both of their parents being detained, handcuffed and subjected to torture. Mothers were obliged to prevent masked law enforcement officers with guns in hand from entering the rooms where their children were sleeping by holding the door of the room. Even in a case where both the mother and the father were detained and arrested, the children were left at home entirely on their own and there was no state institution, expert etc. to call and ask after them or keep an eye on them. However young children may be, they are left to fend for themselves.

3.2 Prison visits

The occasions when children are able to see their mothers and fathers in prison take place under such harsh conditions as to make them excessively onerous not only for the children but also for the adults.

One of the most visible forms of discrimination between political and criminal convicts is that political convicts are generally imprisoned in provinces that are far from the provinces where their families live. Covering these distances takes hours and challenges the families both financially and emotionally.

they are considered dangerous on account of their actions and demeanour. The part of the sentences of these persons envisaged in Paragraph 4 shall be carried out in suitable places arranged for them in the penal institutions.

⁹ Covenant on Civil and Political Rights, Article 23: 1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

European Convention on Human Rights, Article 8: 1. Everyone has the right to respect for his private and family life, his home and his correspondence.

Children and the adults responsible for looking after them have to undertake long and difficult journeys in order to see their mothers and fathers for 40-45 minutes a month. The children are woken from their sleep in the middle of the night to set out on their journeys. They arrive in the provinces where the prisons are located early in the morning and must then wait around in the provincial bus station.

"I have to wake the children up at two o'clock at night and get them dressed so that we can start out at three. So I begin the journey without having had any sleep at all. I told the psychologist I take my children to that if you want to understand what my children go through you should come with me on one of those visits in the black of night because if you want to treat a wound you have to get to know and understand it." (age 40, mother, 3 children)

Unfortunately we have a highly-publicised and extremely tragic example of how the rights of children to establish regular and frequent communication with their parents are violated. Six year-old Yusuf Kerim had severe cancer, and the disease had reached its fourth stage. He was unable to go and visit his mother in prison in December. Nor was his imprisoned mother given leave to go and visit him. Following an intense public outcry, the mother was permitted to visit her child in hospital at the end of February. For three months, the right of Yusuf Kerim to see his mother was violated, even though he was seriously ill. Moreover, when his mother was brought to the hospital, his father was made to leave the room, thus violating the right of Yusuf Kerim to be together with both his mother and his father¹⁰.

3.3 Security checks and the open visit environment

The security checks in prisons are one of the violations of fundamental rights to which children are subjected. The searches conducted before prison visits take no account of children or babies: the searches conducted on adults are carried out on them as well. Babies' diapers are opened, their socks are removed and they are put through x-ray machines. The babies' bottles and soft toys are taken away. Adolescent girls may have their sanitary towels checked, and when the metal parts of their bras cause the detector to beep, they are asked to take them off.

When parents object to any kind of humiliating treatment during the security checks, a record is kept and they are threatened with visit bans. In such situations, the prison officer on the spot can get a ban on open visits imposed for six months, for example.

The atmosphere during open visits is far from child-friendly. Uniformed, armed prison officers wander around the place where the open visit is taking place. They stand over the children as they are talking to their mothers and fathers and pass between them. In such circumstances, is there any way the children might not feel fear and anxiety? We can answer this question with two examples. One twelve year-old child who has been going to open visits with his father for four years has not told his father anything during the course of those four years. And a two-and-a-half year-old baby went into the interview room crying after strangers touched her and opened her diapers. By the time the baby had got used to the environment, the uniformed, armed people and her father, the time allowed for the visit had come to an end. This time the little girl started to cry because she did not want to leave her father.

¹⁰ <https://www.diken.com.tr/kanser-hastasi-yusuf-kerim-annesiyile-bir-araya-geldi/>

3.4 Discrimination and stigmatisation

Children have the right not to be discriminated against on the basis of the activities, opinions or beliefs of their parents or other family members¹¹. Following the attempted coup of July 15th, the “FETÖ” label [standing for Fethullah Terrorist Organisation, the name given to the organisation blamed for the coup attempt] became an expression of hate, and led the children of decree-law victims [persons penalised through decree laws issued under the state of emergency imposed after the coup attempt] to be subjected to exclusion and discrimination.

We have observed that children whose parents were imprisoned in connection with “FETÖ” investigations were obliged to conceal their identities at school and among their friends. In this way, these children may have protected themselves from being discriminated against for a while, but they also became estranged from their environments and their own identities and effectively isolated themselves.

“Nobody knows about his father’s situation. He’s a tight-lipped child anyway; he’d never tell anyone. He speaks to three or four people in the class and he doesn’t talk to the others at all. He doesn’t even know the names of his classmates. Never mind the class, I haven’t even seen him share this within his own family. I don’t know but he might let it all out one day.” (age 46, mother, 1 child)

One of our participants, whose husband had been imprisoned for five years and who was a KHK victim herself, summed up the situation of her two children aged 14 and 18 as follows.

“My daughter says, ‘My friends tell me everything but I don’t tell them anything.’ My children have always hidden themselves away; they’ve never been able to be themselves.” (age 44, mother, 2 children)

3.5 Poverty and falling living standards

Children whose parents are in prison also face the risk of poverty. If a parent who brings home an income is imprisoned, and especially if they have small children and the mothers aren’t able to work, the families are left to live on the assistance they get from the people around them. Mothers in these situations have to take care of their children while making incredible efforts to work at home and do temporary jobs.

The families also face great financial difficulties in meeting the prison expenditures of the imprisoned parent and the costs of prison visits, which require long journeys. The families of the political prisoners whom we spoke to for this study received no financial support from the state. The discrimination between criminal convicts and political convicts is apparent here too. There is no policy for the employment of the caregivers either.

3.6 Psychological problems

Children whose parents are imprisoned have a heavy psychological burden to carry. Most of our caregiver participants said that their children were inclined to show anger, fear, anxiety and sorrow, and to be introverted and depressed.

Some of our woman participants stressed that their adolescent children have been left to struggle with serious psychological illnesses. These children try to keep going by taking strong psychological medications. These children are in need of regular, comprehensive psychological support but the state does not provide them with any psychological support at all.

¹¹ UN Convention on the Rights of the Child, Article 2

"All my children became depressed because there was nobody around to support us. We took my elder daughter to the emergency department of a psychiatric hospital. She couldn't move. She doesn't talk anyway. She doesn't eat. She's 43 kilos and extremely thin. When I touch her, her bones hurt my hands." (age 45, mother, 3 children)

"A while back my younger daughter wanted to get away from home. She went missing. In the end the police found her and brought her back. It was a great trauma for all of us. She's afraid of losing me. Her father's not here anyway. 'What if you go?' she says. She was getting schizophrenic in a way. She started telling lies. Now she's better, thank God; she's taking medication. She goes to a psychologist ever two or three months." (age 35, mother, 3 children)

3.7 Educational life

The educational lives of children with parents in prison are also interrupted as a result of the psychological problems and poverty referred to above. Some children cannot go to school at all after their mother or father has been imprisoned. Three refugee siblings whose mother and father are both in prison are unable to go to school, although they are of school age, because their residence permits are in another province. Even if they get the right to go, moreover, the family responsible for caring for them, who are also refugees, haven't been able to send their own children to school recently due to financial difficulties.

Since there is no statistical information on children with parents in prison, we cannot give the number of children who have had to leave school and work due to poverty. Nevertheless, we can state that the number of children in this situation is by no means small.

One 15 year-old participant whose mother has been in detention for two-and-a-half years is among those who have been unable to continue their education. This participant is unable to register at school because the parents are splitting up and the mother has guardianship.

"After my mother went into prison I stopped going to school. I have only one friend. I see the daughter of my mother's closest friend. I watch films at home. I don't go out much; I'm mostly at home."