

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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### Annual reports

Events of 2004

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Turkey's human rights record continued to improve during 2004, albeit slowly and unevenly, as the country attempted to recover from the legacy of gross violations committed by state forces and armed opposition groups fighting in the countryside and cities in the early 1990s. The reduction in political violence since 1999 has encouraged reform. It was therefore disappointing when Kongra-Gel (Kurdistan Peoples Congress, formerly known as the Kurdistan Workers Party [PKK]) resumed attacks in the mountainous southeast of the country, and state forces responded with heavy-handed security operations affecting civilians in rural areas.

Reform has taken one step back for every two steps forward as police, governors, prosecutors, and government institutions tend to interpret legislation as restrictively as possible. Nevertheless, there have been significant turning points: on June 9, 2004, for example, four Kurdish former deputies imprisoned for their non-violent activities since 1994 were released, and the state broadcasting channel gave its first program in the Kurdish language.

Progress in extending basic freedoms has been frustratingly slow, but continues a consistent trend of improvement as over previous years. Achievements in combatting torture remain fragile, with a risk of backsliding into old habits as anti-terror operations resume. The government has once again failed to establish an effective framework for the return of the hundreds of thousands of Kurds forcibly displaced from the southeast during the early 1990s.

Events reflect the interplay of four strong forces: pressure for reform coming from Turkish civil society, impatient with longstanding restrictions and ingrained institutional abuses; the incentive provided by the European Union through Turkey's candidacy for membership; resistance to change presented by the powerful sectors within the military, security forces and the state apparatus; and the destructive effects of political violence.

#### *Freedom of Expression*

These tensions have produced a very mixed picture for freedom of expression. Journalists and politicians who in earlier years would have received prison sentences for their statements have been acquitted, but prosecutors continue to indict people for their non-violent expression, and several writers served prison sentences during 2004. For example, in May, Hakan Albayrak (Milli Gazete) began a fifteen-month sentence at Kalecik prison near Ankara under the Law on Crimes against Atatürk for writing that prayers were not said at the funeral of Mustafa Kemal Atatürk, the founder of the Turkish Republic. Nevin Berktaş is now serving a three and a half year sentence under article 169 (supporting an armed organization) of the Turkish criminal code for writing a book critical of isolation in F-type prisons.

State security courts, commonly used to prosecute and imprison people for their non-violent opinions, were abolished in June 2004, but laws used to stifle free speech such as articles 159 of the criminal code (insulting state institutions) and 312 (incitement to racial hatred) remain in place, and were copied into the new criminal code that was adopted in October.

In June 2004 Turkey's longest-standing prisoners of opinion, the four Kurdish former deputies Leyla Zana, Orhan Doğan, Hatip Dicle, and Selim Sadak, were released pending retrial, after ten years at Ankara Central Closed Prison. They had been convicted in 1994 for their

non-violent activities as parliamentary deputies in an unfair trial under the Anti-Terror Law.

In June 2004 state television began broadcasts in Kurdish, Bosnak, Circassian, Arabic, and Zaza. The programs were short with uninspiring content, but represented a significant change in official attitudes to minority languages. Private radio stations in southeastern Turkey applied to the High Council for Radio and Television for permission to broadcast in Kurdish, but had not received permission by the end of 2004.

### ***Torture and Ill-treatment***

There were fewer cases of torture and ill-treatment in 2004, largely due to safeguards imposed in recent years, and by the governments frequent assertions of zero-tolerance for such abuses. Nevertheless, detainees from all parts of the country report that police and gendarmes beat them in police custody. In some cases, detainees still complain that they have been subjected to electric shocks, sexual assault, hosing with cold water, and death threats. The persistence of these violations is a consequence of poor supervision of police stations, which permits security forces to ignore detainees rights and most importantly, the right to legal counsel. Human Rights Watch has urged the government to impose measures to improve internal monitoring of police stations by provincial governors and prosecutors, to permit independent monitoring by members of bar and medical associations, and to launch ministry-level investigations of all allegations of torture.

### ***Internal Displacement***

More than a quarter of a million villagers, mainly Kurdish, remain unable to return to their homes in the southeast, after having been forced out of their homes by security forces in brutal operations accompanied by torture and disappearance during the conflict between security forces and the PKK during the 1990s. In most cases, communities were forcibly evacuated if they refused to join the paramilitary village guards, a brutal and corrupt force that was armed and paid by the government to fight the PKK.

Government projects for return did not provide the displaced with adequate resources to re-establish their lives in their former homes or establish conditions which would enable them to return in safety. Those villagers who attempted to return were in some cases turned back by local gendarmes because they refused to join the village guards, or were at risk of attack by village guards. In September a village guard allegedly shot and killed Mustafa Koyun and wounded Mehmet Kaya in the village of Tellikaya of Diyarbakir. The villagers who were attacked had been forced to leave Tellikaya in the early 1990s after they refused to join the village guard

Those who attempted to draw attention to the plight of the displaced risk official persecution. In January 2004, efika Grbz, president of the Migrants Association for Social Cooperation and Culture (G-Der), was convicted of incitement to racial hatred for preparing a study of the difficulties faced by displaced Kurds. Grbz received a ten-month prison sentence converted to a fine.

### ***Key International Actors***

The Parliamentary Assembly of the Council of Europe (PACE), which had imposed human rights monitoring on Turkey in 1996, lifted the mechanism in June 2004. This was an appropriate move, in view of the general improvement in the intervening nine years, but it is crucial that Turkey and the Assembly do not lose site of the wide-ranging recommendations that accompanied the decision. Other Council of Europe bodies continued their long-standing and close engagement with Turkey. In June the Committee for the Prevention of Torture (CPT) published a report on its September 2003 visit to Turkey. The CPT noted a general improvement, with lawyers, human rights organizations, and even detainees themselves noting a sharp decline in heavy torture. On the other hand, there were consistent reports of electric shocks used in one custody unit, and medical evidence consistent with beatings in three others. The CPT found that in southeastern Turkey the great majority of those detained by the police or gendarmerie were unable to gain access to a lawyer, and that there were major deficiencies in the system for medical examinations.

The European Court of Human Rights (ECtHR) issued further judgements against the Turkish government on issues ranging from freedom of expression to torture and extrajudicial execution. In February 2004 the court found the Turkish government responsible for the deaths of Ikram and Servet Ipek, who disappeared after being taken into custody by soldiers who were destroying houses in southeastern Turkey in 1994.

The ECtHR ruled in June 2004 that the ban on wearing the headscarf in universities was not a breach of the right to freedom of religion. Leyla Sahin had been denied access to university because she wore a headscarf. The court echoed the Turkish governments arguments that the ban is justified in order to preserve the secular public order and to protect the rights of other non-Muslim students and students who choose not to wear the headscarf. Human Rights Watch believes that the ban is discriminatory and breaches the rights to freedom of religion and expression.

International and domestic attention has been firmly fixed on the E.U.s dealings with Turkey. 2004 was the fifth year of close monitoring to establish whether or not Turkey had met the Copenhagen Criteria: the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This was seen as a make-or-break moment, since a decision in December to open negotiations for membership would strengthen the government and those within the government who have pushed for reform, while a refusal or postponement was likely to be regarded as a sign that the E.U. intended to pull out of the process unilaterally in spite of the substantial human rights improvements.

In October 2004 Hina Jilani, the special representative of the United Nations Secretary-General on Human Rights Defenders visited Turkey to examine the pressures still faced by civil society. In a statement at the end of her visit she noted genuine steps toward change but urged that the growing human rights movement should no longer be treated with suspicion by security forces. In November the government issued a circular recognizing the legitimate role of human rights defenders and requiring security forces to treat them accordingly.

Also in October 2004, the European Commission recommended that Turkey's candidacy should move forward to the next step, with the opening of membership negotiations in 2005. The recommendation included extra monitoring measures, including a brake clause that would suspend the candidacy process if respect for human rights are put under threat. In December the Brussels European Council will give a final decision on the opening of negotiations.

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