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## HUMAN RIGHTS IN TURKEY

Summary

1. Widespread criticism of Turkey's human rights record continues. The Government says democracy and human rights are fully restored. An authoritative judgement is difficult.  
(paragraph 1)
2. No long democratic tradition; and recent ten year cycle of anarchy and military intervention. A fierce crack down in early 1980s followed by relaxation under Mr Özal. But the Constitution remains restrictive.  
(paragraphs 2-3)
3. Torture remains a problem. The steps taken to eliminate it have not yet gone far enough. But Turkey's signature of the Council of Europe convention may prove a break through.  
(paragraphs 4-11)
4. Prison conditions are poor but improving (paragraphs 12-14). "Crimes of conscience" and the death penalty are still on the Statute Book. Obstacles to a fair trial have been reduced.  
(paragraphs 15-18)
5. Press criticism of the Government is unfettered but taboo subjects remain. Freedom of assembly and trade union rights are severely restricted. Laws guaranteeing religious freedoms are generally respected. Some one and a half million Turks are denied a passport. The Kurds still suffer discrimination. Progress towards equality for women is slow.  
(paragraphs 19-28)
6. The overall picture is mixed. Progress under Mr Özal but shortcomings persist, including torture. Further, but rather slow, improvement is likely.  
(paragraph 29)



BRITISH EMBASSY

ANKARA

17 March 1988

The Rt Hon Sir Geoffrey Howe PC QC MP  
Secretary of State for Foreign and  
Commonwealth Affairs  
London SW1

Sir,

#### HUMAN RIGHTS IN TURKEY

1. The Turkish application for membership of the European Communities is frequently objected to on the grounds that Turkey's respect for human rights falls far short of the European norm. Organisations such as Amnesty International, and individual critics of repressive regimes, argue that Turkish law, let alone Turkish practice, remains restrictive; and that progress over human rights has lagged behind the undoubted progress over restoring democratic government. They remain highly suspicious and critical despite Turkey's recent signature of the Council of Europe and United Nations Conventions against torture. It is extremely difficult to form an authoritative judgement on these issues, or even to say for certain that the trend in Turkey with regard to such matters remains firmly in the right direction. This despatch nonetheless, and with that general caveat, attempts an assessment.

#### Background

2. The traditions and practices of Ottoman Turkey put little emphasis on individual rights and freedoms. Atatürk turned republican Turkey westward and laid the foundations on which successors have built a democratic state. But the entrenchment of human rights was not part of his achievement. Respect for them since the 1940s has tended to follow the cycle of the political process: significant improvements during periods of civilian rule and economic prosperity, but sharp decline as bust succeeds boom and public order deteriorates, with further deterioration whenever the military take over. The military argue that, compared with an average of twenty terrorist-related deaths per day during the previous two years, the situation following the military coup of 12 September 1980 was an improvement. Very many ordinary Turks would agree. Whilst deploring the anarchy of the late 1970s, the human rights lobby sees the period 1980-83 as a low point. Martial law, in force in 13 provinces since 1978, was imposed throughout the country.

/More



More than 500,000 people are said to have been arrested. Human rights organisations argue that many, perhaps a majority, were tortured. Detainees were held in overcrowded military prisons while they waited for the grindingly slow legal processes to take their course. A total of 242 death sentences were passed after 1980: 51 were carried out. Censorship of the press was routine. All political parties were closed down. Trade union political activity was banned. Freedom of movement and assembly were severely restricted.

3. Martial law powers were draconian and were ruthlessly used. Political violence by terrorist groups of left and right disappeared almost overnight. With a civilian government installed under Mr Ozal in 1983, a relaxation of the military grip started, martial law being lifted in the last four (of 67) provinces in July 1987. But, to prepare for its abolition, the Government passed a controversial police bill in 1985. This gave extra powers of arrest and detention to the security authorities (eg so that individuals arrested for "group" offences might be held for interrogation for 15 days before being charged). In much of the South East of Turkey, a state of emergency replaced martial law in 1987, giving a "super" Governor extraordinary powers to combat Kurdish terrorism. Istanbul also remains under a state of emergency (renewed for four months on 8 March) in case of renewed urban terrorism.

#### Constitutional Framework

4. The military put much of the blame for the anarchy which had preceded their coup on - as they saw it - the lax 1961 Constitution which had permitted deviations from Atatürk's concept of nationalism. Determined to lay a secure foundation before handing back power to the civilians, the generals drafted a new and much more restrictive Constitution (adopted by referendum in 1982). Apart from the political ban on Demirel, Ecevit and other leading political figures at the time of the coup (lifted by referendum in 1987), the restrictions imposed by the 1982 Constitution remain in force today. This Constitution lists the freedoms to which Turkish citizens are entitled, but is also based on "the determination that no protection shall be afforded to thoughts or opinions contrary to Turkish national interests ... historical and moral values ... or the principles of Atatürk". Thus, trade unions may not engage in political activity and freedom of movement is subject to such factors as the "national economic situation" and "civil obligations". Ideas may not be expressed in "any language prohibited by law" (in practice Kurdish). The press is free so long as it does not publish articles threatening "the indivisibility of the State, the fundamental principles of the Republic, or national security". Associations may not pursue "political causes", nor hold meetings or demonstrations to promote political aims. Critics assert that this constitutional framework precludes the establishment of full human rights as accepted in Western societies. A group of Turkish lawyers recently claimed that eighteen articles of the Constitution and a variety of other laws were contrary to the European Convention on Human Rights, of which Turkey is a signatory.

#### /Individual Freedoms



Individual Freedoms

5. Against that general background of constraint on individual freedoms, the following paragraphs consider the main current areas of concern about respect for human rights in Turkey.

Torture

6. Torture, to quote the 1987 US Report on Human Rights in Turkey, remains an "unresolved human rights issue". The bastinado was traditional under the Ottomans. The modern Turkish police have long been used to roughing-up suspects. But "systematic" torture (characterised by the use of equipment especially kept for torture) in modern Turkey probably only began seriously after the 1971 coup when the military detained a huge number of suspected terrorists/revolutionaries and the Generals wanted quick convictions. Instruments of torture (pressurized water hoses, electric shock equipment, facilities for hanging prisoners in positions of discomfort for long periods, various implements for beating etc) were installed in interrogation centres and used to obtain confessions.

7. Following the 1980 coup, the sheer scale of the security problem and the number of those detained probably led to torture again being seen by many security officials as the only effective way of breaking the terrorist networks and securing convictions. The Human Rights Society alleges that 170 people have died from the effects of torture since 1980; and not all of them before 1983.

8. Most instances of torture occur during the interrogation of suspects by the police or Gendarmerie. The long period for which suspects may be detained incommunicado does nothing to discourage their maltreatment. Although under Turkish law individual detainees can be held without charge for only 24 hours, for anyone suspected of committing a "group" offence this period can be extended to 15 days (and under a state of emergency to 30 days). The communist leaders, Kutlu and Sargin, were recently detained for 18 days (during which they claim to have been tortured). Press stories from the South East suggest that groups of detainees there 'disappear' for longer periods.

9. The climate of public opinion on torture has, however, changed considerably over the last two years: extensive, critical reports of torture, including photographs and sketches of premises where torture is said to take place, have been published in Turkish newspapers. Following a new complaints procedure introduced by Mr Ozal's Government, some 500 police and security officials have been convicted for the use of torture, although sentences are usually light (eg on 9 March 1988, two policemen were fined and given suspended sentences for torturing a suspect who suffered severe brain damage as a result). Judicial attitudes are lenient (eg a high court judge recently ruled that treatment which did not disable the victim for at least a week was not torture). The Government has rejected opposition attempts to increase penalties for torturers.



10. Ministers continue to proclaim their desire to eradicate torture. In January 1987, the Government accepted the right of individual appeal to the European Human Rights Commission. In January of this year it signed the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment. It subsequently signed the UN Charter Convention against torture. The provisions in the Council of Europe Convention for inspection on demand of police and prison facilities provide an unprecedented means of checking whether Turkish laws against torture are being applied. It may not be easy to sidestep these provisions. Signature of the Convention may therefore mark a very important step forward.

11. Despite these moves, present evidence suggests that instruments of torture are still held and used in interrogation centres; and that excessively rough treatment is still meted out in police stations. Amnesty International, Helsinki Watch and the US Department of State all reported that torture was widespread in 1987. That the practice continues is due to a number of factors, the most important of which seem to be:

- (a) police reliance on confessions to secure convictions - sophisticated police investigative methods are lacking; and bad, yet effective, practices once instituted are difficult to eradicate;
- (b) cultural and educational factors - most Turks accept a certain degree of violence in society as normal and police officers are poorly trained;
- (c) lax enforcement of the laws against torture (prosecutions are rare and convictions hard to secure).

#### Prison Conditions

12. Prison conditions in Turkey remain poor. The Human Rights Society claims that none of the country's 640 prisons meets minimum UN standards: UNHCR representatives visiting Iranian detainees report similar impressions. But, in a country with a GNP per head of \$1,000, it is not surprising that prison conditions should be sub-standard.

13. In a spirit of openness, the Government allowed journalists into eight prisons in August 1987. They reported that prisoners complained of bad food, poor facilities, lack of fresh air, infrequent and short visits, censorship of newspapers and books, arbitrary and sometimes violent interpretation of prison rules, and degrading prison uniforms. In February 1987 inmates at Adana prison went on hunger strike for 23 days. In January of this year, the Prisoners' Families Association presented a 26,000 signature petition to the President of the National Assembly calling for an end to, inter alia, 'indiscriminate beatings, chainings and blindfoldings' in Turkish prisons. A mass hunger strike by Kurdish prisoners in Diyarbakir military prison in February, supported by families and two deputies, produced an important range of concessions from the Prime Minister, notably concerning the use of Kurdish, the wearing of uniforms and prison visiting.



14. The Government has recognised the problems. It has earmarked new money for improving prisons and building new ones. The prison population has been reduced from 80,000 in 1984 to about 50,000 in 1988. Although, five years after civilian rule was restored, there are still civilian prisoners in military gaols, the Government has prepared a bill expediting their transfer to civilian prisons. Despite the January petition, there have been very few recent reports of torture in the prisons.

#### Crimes of Conscience

15. According to the press count, nearly 70,000 people have been charged since 1980 under Articles 141, 142 and 163 of the Turkish Penal Code. These articles are vaguely worded, catch-alls against communism, fascism and religious extremism. Although they deal with violent activity and attempts at subversion of the state, they also define as crimes many activities which in Western Europe would be entirely legal. The Government has promised a review of the penal code but there is no assurance that these articles will be removed from the statute book.

16. Unless there is radical change, Turks will continue to be subject to arrest for promoting communism, fascism, Islamic fundamentalism or Kurdishness. Such offences, even if involving no violence, are liable to heavy penalties. Several sentences in excess of 20 years have been imposed since 1983. In 1987 it was noticeable that the National Security Courts were being used mainly against Islamic fundamentalists. But the treatment of Kutlu and Sargin showed that the authorities remained highly suspicious of peaceful communist activity. The decision of the Constitutional Court over the legitimacy of the newly-formed Socialist Party and the eventual trial of Kutlu and Sargin will indicate to what extent the boundaries of political freedom have been broadened.

#### Obstacles Preventing a Fair Trial

17. Many observers argue that the judgements made in martial law courts after the 1980 coup were often arbitrary and ill-founded. The size of some of the mass trials, the lack of experience of some military judges and the reliance on confessions (often secured by torture) are factors which cast doubt on the Turkish judicial system. The Human Rights Society has campaigned for a general amnesty to redress these perceived injustices. Legislation in 1986 reducing sentences by up to 60% went a considerable way to meeting this demand. But history (the 1974 amnesty which preceded the revival of terrorism) and the provisions of the Constitution argue against attempting more. In any case the conduct of new trials, as opposed to those started under martial law - some of which are still dragging on in military courts even into 1988 - is not open to criticism of the same seriousness.

#### /Death Penalty



Death Penalty

18. The death penalty exists under Turkish law and the Government believes it would be premature to abolish it. But executions can only be carried out with the assent of the Assembly and the President of the Republic (who supports the retention and occasional infliction of capital punishment). Currently, nearly 200 cases await this assent. There have been hints that a new bill will be presented providing for the commutation of all death sentences outstanding for more than one year. The Prime Minister, in a recent interview, said that, although he favoured commuting those sentences which had been before the Assembly for a certain period, he considered that some of the more recent death sentences (eg for terrorism) should be carried out in order not to undermine the deterrent value of capital punishment.

Freedom of Speech

19. Turkish laws prohibiting the expression of ideas considered to be threatening to the security of the Atatürkist state are being interpreted increasingly liberally by the courts. Journalistic freedoms have increased in recent years. Press criticism of the Government is widespread, colourful and apparently unfettered. However, journalists admit to self-censorship on certain subjects which remain taboo (eg explicitly Kurdish issues, Atatürk's prestige and the status of the military), and large fines have been imposed on the publishers of irreverent cartoons. There is concern at the Government's apparent intention to introduce new legislation against publishers of "false news". In broadcasting, the state monopoly TRT follows a policy of cautious mediocrity, invariably accepting the Government's directives.

20. A number of editions of left-wing magazines continue to be confiscated by the authorities, usually for articles on the Kurdish question. A handful of journalists were convicted last year for objectionable writings but prison sentences tended to be converted into fines. On 7 March 1983 a journalist working for the now defunct left-wing weekly 'Yeni Gündem' was sentenced to 7 1/2 years for writing 'communist propaganda' in praising the poems of the Turkish Marxist poet Nazim Hikmet. The journalist remains free pending appeal.

21. In the universities, academic contacts report that the political branch of the police force maintains a close watch on the content of lectures and classes. Concerns over academic freedoms remain. But the Government is considering a new Higher Education Law to replace the existing, controversial system. Observers do not yet know how liberal this will be.

Freedom of Assembly

22. Assemblies and rallies are permitted in Turkey with prior authority. But the Law on Associations prevents all bodies such as trade unions, professional associations and student clubs from involving themselves with any form of political activity. It took a year for Turkey's Human Rights Society, formed in 1986, to



receive permission to exist. The 'Turkish Doctors Association for the Prevention of Nuclear War' faced a similar legal battle before it was allowed to start functioning on the lines of similar associations in Europe.

23. The Government has used the Law on Associations to curtail student political activity in the universities: 140 students who protested against changes in the university regulations concerning political activity are currently on (protracted) trial. Turkish trade unions have, in the recent past, been more compliant in accepting a constitutional ban on political activity. Pressures on the Government to change the law are nonetheless building up. The US Ambassador, under pressure from AFL-CIO, has recently complained to the authorities that Turkish labour law does not meet minimum standards.

#### Freedom of Religion

24. The Turkish Constitution guarantees 'freedom of conscience, religious belief, and conviction' but bans proselytising of any kind. In practice, the Christian Churches and notably the Greek Orthodox have for years complained of persecution by the authorities. The Ecumenical Patriarchate (which the Turks recognise only as the Greek Patriarchate in Turkey) was for three decades effectively prevented from rebuilding the Phanar after a fire. But conditions have undoubtedly improved under Mr Ozal. The Phanar is already being rebuilt. Meanwhile the Jewish community in Istanbul professes that it has no complaints on the score of discrimination or administrative pressure.

25. The Constitution provides for 'instruction in religious culture and moral education' in Turkish schools. The Ministry of Education (a centre of Islamic reaction) interprets this obligation as a right to impose on non-Muslims instruction in Koranic theology and prayer. The Churches vocally - and the Jews discreetly - resent this, as they do the continuation of popular prejudice against them by the 98% of Turks who are Moslems. But the Orthodox acknowledge that it is not easy in their case to disentangle the anti-Greek strand from the anti-Christian or the xenophobic. And none maintains that there is religious discrimination in Turkey amounting to an abuse of basic human rights.

#### Freedom of Movement

26. Some 1.5 million Turks are currently denied a passport, because they are "suspected of being harmful" to the nation. Individuals who are the object of criminal investigation or prosecution, or considered politically suspect, lose passports, and frequently find it difficult to have their right to travel reinstated. The Government is currently considering changes to bring Turkish regulations in this area closer to European standards. A recent Interior Ministry edict ordered the destruction of all files held on individuals who had been considered "harmful" but not brought to trial.

#### /Discrimination



Discrimination on grounds of race or sex

27. The Lausanne Treaty of 1923 includes an undertaking by the Turkish Government "to assure full and complete protection of life and liberty to all inhabitants of Turkey without distinction as to birth, nationality, language, race, or religion". But the Government has pursued a long-standing policy of assimilation of minorities, and successive governments have always denied that non-Turkish minorities exist in the country - other than the Armenians, Jews and other Christian minorities specifically mentioned in the Lausanne Treaty. The main minority omitted - and they are some 9-12 million strong - was the Kurds. Their lot was discussed in my despatch of 16 December 1987. Those living in the South East of Turkey are indeed the victims of official discrimination. They are not allowed to publish books or newspapers in Kurdish, and it is an offence for any individual to speak in public of the Kurdish ethnic identity. The changes announced by the Prime Minister in January (paragraph 13 above) were the first concession of any modern Turkish Government towards Kurdish ethnic rights.

28. Under law, women in Turkey have full voting and social rights. Women are frequently found in the highest official positions: the new Government announced in December 1987 contains one female Cabinet Minister. Socially, however, centuries of patriarchal tradition in much of Anatolia ensure that women, and especially Sunni Muslim women, continue to lead the life of serfs. Education and economic development will, in time, improve their status - at least so long as the Islamic reactionaries do not have their way. Much as liberal Western opinion may deplore the lot of many women in Turkey, the Government cannot reasonably be convicted of obstructing progress: rather the reverse.

Conclusion

29. The human rights picture in Turkey is, overall, a mixed one. Mr Ozal deserves credit for introducing important improvements since 1983. Martial law has been abolished. Press and political freedoms have been significantly increased. Major steps have been taken towards full democracy (as discussed in my despatch of 21 January). But shortcomings obstinately persist. The restrictions in the Turkish Constitution itself, as in the Penal Code, remain; and the Government has turned a deaf ear to most calls for their liberalisation. Many of the reforms which are envisaged, eg on trade unions, higher education or the press, are either minor or could even emerge as steps in the wrong direction. Kurdish rights, although debated more freely, are still largely suppressed. Public policy and even public opinion may disapprove of torture but the practice evidently continues. Even now, it is difficult to escape the conclusion that it remains systematic. The authorities' handling of demonstrations and marches against recent price hikes does not indicate early further improvements: nor does the more difficult economic climate which gave rise to those demonstrations. But Turkey's need to present herself as a credible candidate for EC membership, and the decision to adhere

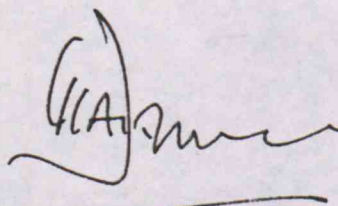
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to international conventions on human rights (particularly the Council of Europe torture convention) should strengthen the hand of those who wish to improve human rights standards in this country, and may lead to further real improvements.

30. I am sending copies of this despatch to Her Majesty's Representatives at Athens, Nicosia and Washington, to the United Kingdom Permanent Representatives to the Council of Europe, UKREP Brussels, UKDEL CSCE Vienna and UKMIS New York, and to Her Majesty's Consul-General at Istanbul.

I have the honour to be,  
Sir,  
Your obedient servant

A handwritten signature in black ink, appearing to read 'T L A Daunt', with a horizontal line underneath.

T L A Daunt



