



**BROKEN
CHALK**

Submission to the United Nations OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS

CALL FOR INPUT | SPECIAL PROCEDURES

**Current issues and good practices in prison
management – Thematic report of the Special
Rapporteur on Torture**

Submitting Organization: BROKEN CHALK

November 2023

By

Carolina Silvestre

Dimitrios Chasouras

María Núñez Fontán

Olimpia Guidi

Samantha Orozco

Vahit Uzunlar

Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31687406567

upr@brokenchalk.org

www.brokenchalk.org

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Broken Chalk is an Amsterdam-based NGO established in 2020 that monitors and minimises worldwide human rights violations in education. We aim to promote universal and equal access to education for all.

We encourage and support achieving societal peace with our international sponsors and partners by advocating for intercultural tolerance, preventing radicalism and polarisation, and tackling educational inequalities.

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Introduction

Through this report, our organisation aims to address current issues and promote good practices in prison management, focusing on Turkey. In alignment with the objectives set forth by the Office of the United Nations High Commissioner for Human Rights (OHCHR), this thematic report endeavours to shed light on the prevailing challenges and commendable practices within the Turkish prison system. The report considers the OHCHR's delineation of eight crucial focus areas, which serves as the foundational framework for our comprehensive assessment of Turkey's prison management practices through "Call 9." As a critical contribution to the discourse on human rights and prison conditions, this report aims to offer valuable insights and recommendations for enhancing the well-being and dignity of detainees within Turkey's correctional facilities, thereby advancing the cause of human rights on a global scale.

For the comprehensive evaluation of prison management in Turkey, "Broken Chalk" has laid down ten critical points of focus that underpin the core objectives of this report. These ten key areas encompass issues of profound importance in understanding prison conditions and human rights in the Turkish correctional system. These points are as follows:

- 1. Babies in Turkish Prisons:** The presence of infants in correctional facilities raises concerns about the rights and well-being of both the child and the incarcerated parent.
- 2. Sick Prisoners in Turkey:** Ensuring adequate healthcare and treatment for ill inmates is fundamental to their human rights.
- 3. Pregnant Women in Turkish Prisons:** The unique needs of expectant mothers behind bars require special attention and care.
- 4. Deaths Due to COVID-19 in Turkish Prisons:** In light of the global pandemic, examining the impact of COVID-19 on prison populations is of utmost importance.
- 5. Deaths Due to Sickness in Turkish Prisons:** Understanding the circumstances leading to deaths within prisons is essential to addressing systemic issues.
- 6. Parole Right Violations in Turkish Prisons:** Ensuring prisoners' rights to parole are respected and upheld is critical in fair and just incarceration.
- 7. Allegations of Torture and Ill-Treatment in Turkish Prisons:** Investigating claims of torture and ill-treatment is critical for upholding human rights and international standards.
- 8. Exceeding Capacity in Turkish Prisons:** Overcrowding poses significant challenges to the well-being of inmates, and its implications are central to this report.
- 9. Denial of the Right to Defence in Turkish Prisons:** Ensuring access to legal representation and due process is pivotal in safeguarding the rights of those incarcerated.
- 10. Access to Health Services in Turkish Prisons:** Adequate healthcare services are a fundamental human right for those within the prison system.

Each of these points has been included in the report to shed light on specific areas of concern within the Turkish prison system, with the ultimate goal of improving conditions, safeguarding human rights, and contributing to international discourse on the subject.

1. Babies in Turkish Prisons

In the Turkish Republic, governed by President Recep T. Erdogan, there has been a concerning deterioration in the treatment of women prisoners and their children, especially since 2016 after the attempt of a coup d'état and this period coincided with a broader shift towards authoritarianism in Turkey.¹ The conditions in prisons for children, particularly those under the age of six, are suboptimal, giving rise to significant concerns about their well-being during crucial phases of growth and development. As of December 2021, there were 548 children in prison with their mothers.² Children, often entering prison at a very young age, face critical periods in their mental and physical development without access to necessities such as crayons or toys. Cells lack essential items like carpets for crawling babies, leading inmates to create makeshift rugs from blankets. Many children share their mothers' food and do not have individual beds³.

Human rights advocates have emphasised the need for courts to consider the economic and family situations of mothers with children under six. They argue that female inmates with children should be placed in prisons with better conditions conducive to proper child-rearing⁴. Despite prison regulations explicitly stating that pregnant and breastfeeding mothers, along with children, should receive nutritious food, this is often not the case. Moreover, the lack of social contact and developmental stimuli in prison has led to some children developing asocial behaviours.⁵ The absence of toys or a daycare centre further inhibits their ability to socialise with peers. Research on the impact of living in prison on a child's early development is limited, but children of imprisonment likely lack the necessary stimuli for normal development.

A legislative proposal presented to the Grand National Assembly of Turkey in July 2018 revealed that 668 children were incarcerated with their mothers, with a majority aged between 0 and 3.⁶ While keeping children in prisons with their mothers presents its own set of problems, the supply of essential goods such as food, toys, and clothing is often inadequate. Despite the availability of alternative enforcement models under the Law on Execution of Sentences,

¹ Office of the United Nations High Commissioner for Human Rights. 2018. Report on the Impact of the State of Emergency on Human Rights in Turkey, Including an Update on the South-East (March).

https://www.ohchr.org/sites/default/files/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report.pdf

² Stockholm Center for Freedom. (2022) Rights activist says Turkish Prisons do not accommodate the needs of children who accompany incarcerated mothers. <https://stockholmcf.org/rights-activist-says-turkish-prisons-do-not-accommodate-the-needs-of-children-who-accompany-incarcerated-mothers/>

³ Stockholm Center for Freedom. (2022) Rights activist says Turkish Prisons do not accommodate the needs of children who accompany incarcerated mothers. <https://stockholmcf.org/rights-activist-says-turkish-prisons-do-not-accommodate-the-needs-of-children-who-accompany-incarcerated-mothers/>

⁴ İnsan Hıgları Dernegi, Human Rights Association (2018) Children are children with their rights. <https://ihd.org.tr/en/wp-content/uploads/2018/11/IHD-2018-Report-on-Rights-of-the-Child-in-Turkey.pdf>

⁵ İnsan Hıgları Dernegi, Human Rights Association (2018) Children are children with their rights. <https://ihd.org.tr/en/wp-content/uploads/2018/11/IHD-2018-Report-on-Rights-of-the-Child-in-Turkey.pdf>

⁶ Stockholm Centre for Freedom, Note 2.

women with children are frequently denied access to such alternatives, exacerbating the challenges faced by this vulnerable demographic.

The issue of children living in prison with their mothers has been a subject of concern and scrutiny by various international bodies. The European Court of Human Rights acknowledges the complexity of the matter, recognising the unsuitability of prisons as an environment for babies and young children. Simultaneously, it underscores the undesirability of forcibly separating mothers from their infants.⁷ The Court refers to the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which advocates for a child-centred environment, emphasising the need to create conditions free from visible incarceration elements, providing a stimulating and safe setting.

The UN Rules for the Treatment of Women Prisoners emphasise that decisions allowing children to stay with their mothers in prison should be grounded in the best interests of the children.⁸ Furthermore, the Convention on the Rights of the Child places responsibility on States Parties to safeguard the "best interests" of the child. However, despite ratification, challenges persist in implementing comprehensive legislation in Turkey to effectively protect and promote children's rights. Solutions proposed thus far are often temporary and procedural, mainly focused on incidents brought before public authorities.

Recognising the World Health Organization's recommendation that a healthy newborn should stay with its mother, the European Court of Human Rights highlights the responsibility of Turkish authorities to establish suitable conditions for implementing this principle, even within detention facilities. The court suggests the establishment of specialised mother and child units within Turkish prisons, equipped with facilities comparable to those available to nursing mothers in the broader community. These units should provide children with a stimulating and secure environment, ensuring access to appropriate medical treatment, immunisation, and specialised child health services.

Aligned with these recommendations, the Council of Europe's Committee for the Prevention of Torture (CPT) Standards advocates for a child-centric prison environment in Turkey. The standards call for eliminating visible incarceration features and providing adequate play and exercise facilities. Moreover, the CPT emphasises the normal development of movement and cognitive skills for babies in Turkish prisons, promoting opportunities for them to experience ordinary life beyond prison walls whenever feasible.

In the context of Turkey, it is important to note that during the UN Congress on the Prevention of Crime and the Treatment of Offenders in 1990, participating States expressed a commitment to restrict the imprisonment of mothers with infants or small children. There was a collective

⁷ European Court of Human Rights. *Korneykova and Korneykov v. Ukraine*, 2016, par. 112-115.

⁸ United Nations General Assembly. Resolution (A/65/457) Rules for the Treatment of Women Prisoners and No custodial Measures for Women Offenders (Bangkok Rules). (2010)

call for special efforts to minimise prolonged detention for this demographic, underlining the significance of addressing this issue in Turkey with a thoughtful and humane approach. This commitment aligns with the broader international standards. It emphasises the need for Turkey to take proactive steps in ensuring the well-being of mothers and their infants within the prison system.

The international community has been aware of the precarious situation in Turkish prisons regarding the treatment of children living with their mothers. The European Union-funded initiative focuses on establishing an institutional framework for children residing with their mothers in prisons and those with parents in jail. This project aimed to address the distinctive needs of children living within a prison environment with a parent and those with incarcerated parents—an aspect often overlooked in broader prison studies.⁹ It recognised the importance of supporting the physical, cognitive, emotional, and social development of these children during this critical phase of their lives, intending to mitigate the adverse effects of the prison setting on them. The implemented project was designed to formulate a model encompassing psychological support, education, and rehabilitation programs tailored to the distinct requirements of various age groups. Despite efforts to improve conditions, the precarious state of prisons persisted. An illustrative example is the case of B.B., a child residing with his incarcerated mother in Diyarbakır Women's Closed Prison in 2021, who did not receive any required medication.¹⁰ B.B. was denied access to the medication crucial for his well-being during his stay in Diyarbakır Women's Closed Prison. The consequences of this denial became visibly apparent as B.B. bore wounds in various parts of his body due to the inability to receive the required medical treatment. This not only raises concerns about the prison's healthcare protocols but also highlights the immediate impact on the health and safety of a vulnerable child. Furthermore, the right to play, a fundamental aspect of a child's development and well-being, was denied to B.B. The responsibility for facilitating playtime rested with the psychosocial services, yet B.B. was deprived of this essential right. This denial not only infringes upon his fundamental rights but also contributes to a restrictive and potentially harmful environment for a child within the prison setting. As revealed by a report from the Right to Life Association in October 2021, the broader context adds another layer of concern. The report indicates that a total of 345 children under the age of 6 were accompanying their mothers in Turkish prisons. This statistic underscores the magnitude of the issue and the number of children potentially exposed to similar challenges and deficiencies in the prison system. The case of B.B. serves as a stark example of the urgent need for reform and improvement in the conditions of children staying with their incarcerated mothers in Turkish prisons. It prompts a critical examination of the existing healthcare and psychosocial support

⁹ Delegation of the European Union in Turkey. EU funds a Project to minimise the negative effects of the prison environment on children that may stay with their mothers. (2021) https://www.eeas.europa.eu/delegations/t%C3%BCrkiye/eu-funds-project-minimise-negative-effects-prison-environment-children-may-stay-their-mothers_en

¹⁰ Turkish Minute. Turkey continue jailing mother with babies as part of crackdown on Gulen Movement. (2022) <https://www.turkishminute.com/2023/05/17/turkey-continue-jailing-mother-with-babies-as-part-of-crackdown-on-gulen-movement/>

systems within these facilities, urging authorities to prioritise the well-being and rights of children in these challenging circumstances. According to the report, children are traumatised by strip searches. They are not well-fed and don't receive sufficient medical care. They also have difficulty getting time to play. Human Rights Foundation of Turkey (TİHV) Secretary-General Coşkun Üsterci said the courts need to consider the economic and social conditions of mothers with children under 6. According to the UN Committee on the Rights of the Children, "In cases where the parents or other primary caregivers commit an offence, alternatives to detention should be made available and applied on a case-by-case basis, with full consideration of the likely impacts of different sentences on the best interests of the affected child or children¹¹."

¹¹ Turkish Minute. Turkey continue jailing mother with babies as part of crackdown on Gulen Movement. (2022) <https://www.turkishminute.com/2023/05/17/turkey-continue-jailing-mother-with-babies-as-part-of-crackdown-on-gulen-movement/>

2. Sick Prisoners in Turkey

A report from Turkey's Human Rights Association (İHD) revealed that, as of 2022, there were at least 1,517 sick prisoners in Turkey, with 651 of them in serious condition. The same report also states that out of the 76 inmates who passed away in 2022 while in prison, 39 were severely ill.¹²

The ATK is the organisation responsible for evaluating the health of sick prisoners in Turkey and determining their suitability for continued incarceration. It operates under the authority of the Ministry of Justice. However, concerns about the objectivity and quality of this institution have increased in past years as the number of seriously ill inmates passing away in custody has grown. The Health and Treatment Institutions (ATK) in Turkey, overseen by the Ministry of Justice, face mounting concerns about its objectivity and quality. The number of seriously ill inmates passing away in custody has raised questions about the institution's effectiveness. One major worry is the perceived lack of transparency in ATK's operations. The details of the health evaluation process and criteria for continued incarceration are often unclear, undermining public confidence. Limited accountability mechanisms compound these concerns. The absence of external checks raises doubts about the institution's ability to conduct fair and impartial assessments. Allegations of political interference have further eroded trust. Concerns linger about political considerations influencing health evaluations, potentially compromising the objectivity of decisions. Inadequate healthcare facilities within prisons add to the challenges. Reports suggest deficiencies in medical infrastructure, impacting the quality of healthcare provided and, consequently, the effectiveness of ATK's assessments. Training and resource issues among ATK personnel are additional worries. Insufficient training may lead to inaccurate health assessments, compromising the overall integrity of the evaluation process. The rising number of seriously ill inmates dying in custody raises alarms about the overall effectiveness of ATK's evaluations. This trend prompts questions about the institution's ability to address inmates' healthcare needs adequately. Lastly, concerns about inmates' access to independent medical opinions have been raised. The absence of mechanisms for seeking second opinions contributes to a lack of trust in ATK's evaluations and decisions.¹³

The prison's living conditions also pose a threat to the health of the inmates. According to them, the water is contaminated and improper for consumption, while the food lacks sufficient nutritional value.¹⁴ Furthermore, persistent challenges in maintaining hygiene and disinfecting

¹² SCF. (2022, December 28). Turkish prisons host 1,517 sick inmates: Report. Stockholm Centre for Freedom. <https://stockholmcf.org/turkish-prisons-host-1517-sick-inmates-report/>

¹³ SCF. (2022, December 28). Turkish prisons host 1,517 sick inmates: Report. Stockholm Centre for Freedom. <https://stockholmcf.org/turkish-prisons-host-1517-sick-inmates-report/>

¹⁴ English, D. (2021, October 29). Inmates complain about lack of access to healthcare in Turkish prison. Duvar English. <https://www.duvarenglish.com/inmates-complain-about-lack-of-access-to-healthcare-in-turkish-prison-news-59351>

surfaces frequently occurred during the pandemic. Similar issues arose in quarantine wards, increasing the risk for particularly vulnerable prisoners held there.¹⁵

The amendment to Article 16 of the Law "Deferral of imprisonment sentences due to sickness" in 2013, specifically the addition that allows the deferral of sentences for prisoners who cannot live on their own under prison conditions due to critical sickness or disability and are evaluated as posing no threat to public safety, represents a potential avenue for humanitarian consideration within the Turkish legal system. However, a significant problem arises from the fact that the criterion of "to be able to live on one's own" has not been consistently respected by the Forensic Medicine Institute. This lack of adherence to the criterion introduces a considerable challenge for prisoners seeking deferral based on health grounds. The failure to accurately assess whether a prisoner can live independently under prison conditions due to their critical sickness or disability can result in the continuation of their incarceration when, according to the legal provisions, deferral might be warranted. For prisoners facing severe health challenges that hinder their ability to live independently, the denial or improper assessment of their eligibility for deferral can have serious consequences. It not only exacerbates their physical and mental health conditions but also contributes to a broader issue of inadequate healthcare and support within the prison system. The impact is twofold: first, the well-being of prisoners with critical illnesses or disabilities is compromised as they remain in an environment that may not cater to their medical needs adequately. Second, it raises questions about the efficacy and fairness of the legal mechanisms designed to address the health-related needs of prisoners. The Forensic Medicine Institute's failure to consistently apply the criterion underscores a potential gap in the system that requires attention to ensure that prisoners who genuinely meet the eligibility criteria for deferral are not unjustly denied this opportunity. Addressing these challenges is crucial for upholding the principles of justice, human rights, and the humane treatment of individuals within the Turkish penal system.¹⁶

Moreover, this provision was further amended in 2020 through Law No. 7242, reportedly reacting to the COVID-19 pandemic. This change resulted in a severe form of discrimination by simply excluding inmates held under the Anti-Terrorism Code (ATC). Prisoners suffering from illnesses and detained under this specific code lacked proper access to medical care, leading to the deterioration of their conditions, which eventually became long-lasting.¹⁷

Many of the inmates incarcerated due to the Anti-Terrorism Code are political prisoners, namely those connected to the harmed Kurdistan Workers' Party, the Fethullah Gülen movement, or radical left-wing organisations. However, there is an apparent absence of

¹⁵ A year in Turkey's prisons amid pandemic: Prisoners unable to access healthcare. (n.d.). Retrieved 10 November 2023, from <https://bianet.org/haber/a-year-in-turkey-s-prisons-amid-pandemic-prisoners-unable-to-access-healthcare-257412>

¹⁶hra. (n.d.). İHD Calls for the Release of Sick Prisoners – HRA. Retrieved 10 November 2023, from <https://ihd.org.tr/en/ihd-calls-for-the-release-of-sick-prisoners/>

¹⁷hra. (n.d.). İHD Calls for the Release of Sick Prisoners – HRA. Retrieved 10 November 2023, from <https://ihd.org.tr/en/ihd-calls-for-the-release-of-sick-prisoners/>

evidence supporting the involvement of many of these inmates in violent acts or their instigation.¹⁸ In light of this approach, activists championing human rights and politicians in opposition have consistently condemned authorities for their options regarding the treatment of sick prisoners.¹⁹

The Silivri prison in Istanbul has faced various challenges when treating sick patients. According to their accounts, ill prisoners are unable to access the infirmary. They are compelled to internally determine who among them is in the most urgent need of medical attention. In addition, individuals with long-term illnesses are often neglected and not escorted to the infirmary for treatment.²⁰

In other prisons, inmates have expressed difficulties in receiving hospital referrals and experiencing cancelled appointments by the prison administration. There are also reports of chronically ill individuals and those with mental health conditions being deprived of their necessary medications.²¹

The COVID-19 pandemic has further exacerbated the problems sick inmates face. Many elderly inmates had reportedly not received complete doses of vaccine booster shots. Moreover, upon re-entry to the prison, inmates were subjected to an isolation period, leaving those unable to attend to their own needs without assistance independently.²²

Berivan Korkut, the advocacy coordinator of the Civil Society Association in the Penal System (CİSST), has expressed concern over the effects of the COVID-19 pandemic on an already fragile system: “There are too many sick prisoners; they are not given the means to seek treatment. Despite nine months since the pandemic started, no steps have been taken for seriously ill patients. Sick prisoners may not die from the pandemic, but they will die because they are not treated”.²³

The case of Ayfer Aycicek

Media organisations have highlighted several cases of inmates that represent the fragile state of the prison health system. Ayfer Aycicek has bipolar disorder. However, since her arrest in

¹⁸ Turkey: COVID-19 Puts Sick Prisoners at Grave Risk | Human Rights Watch. (2020, April 3).

<https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>

¹⁹ SCF. (2022, December 28). Turkish prisons host 1,517 sick inmates: Report. Stockholm Centre for Freedom.

<https://stockholmcf.org/turkish-prisons-host-1517-sick-inmates-report/>

²⁰ English, D. (2021, October 29). Inmates complain about lack of access to healthcare in Turkish prison. Duvar English.

<https://www.duvarenglish.com/inmates-complain-about-lack-of-access-to-healthcare-in-turkish-prison-news-59351>

²¹ Turkey’s prisoners lack access to healthcare—Report. (2021, October 3). Ahval.

<https://ahvalnews.com/turkey-prisons/turkeys-prisoners-lack-access-healthcare-report>

²² Turkey’s prisoners lack access to healthcare—Report. (2021, October 3). Ahval.

<https://ahvalnews.com/turkey-prisons/turkeys-prisoners-lack-access-healthcare-report>

²³ SCF. (2020, November 4). Turkish penal system fails to provide basic healthcare for the sick. Stockholm Centre for Freedom. <https://stockholmcf.org/turkish-penal-system-fails-to-provide-basic-healthcare-for-the-sick/>

2007, she has experienced solitary confinement and violence. Despite displaying clear signs of a worsening condition, she continues to be detained and does not receive the necessary care.²⁴

The case of Bedri Çakmak

Bedri Çakmak, granted release in 2021, passed away in March 2022. Çakmak developed stomach cancer while incarcerated, yet he was not released until cancer had progressed to its terminal stage, tragically resulting in his passing.²⁵

Confronted with these critical circumstances, the European Court of Human Rights mandated that Turkey must enable these prisoners to reduce or end their sentences. The court's decision was rooted in the finding that Turkey's absence of such a system infringes upon the absolute prohibition of torture, cruel, inhuman, or degrading treatment or punishment, as stipulated in Article 3 of the European Convention on Human Rights.²⁶

²⁴ The dire plight of ill prisoners in Turkey. (2023, October 28). Gercek News.

<https://www.gerceknews.com/special-reports/the-dire-plight-of-ill-prisoners-in-turkey-222475h>

²⁵ HDP. (2022, March 17). More ill prisoners have died in Turkey's prisons. HDP Europe.

<https://hdpeurope.eu/2022/03/more-ill-prisoners-have-died-in-turkeys-prisons/>

²⁶ Turkey: COVID-19 Puts Sick Prisoners at Grave Risk | Human Rights Watch. (2020, April 3).

<https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>

3. Pregnant Women in Turkish Prisons

The detention and arrest of pregnant women have become disturbing facets of the unprecedented crackdown initiated by the Justice and Development Party (AKP) government in Turkey, particularly following the July 15, 2016, coup attempt. Despite the existence of Article 5275 of the Turkish Penal Code, which mandates the postponement of imprisonment sentences for pregnant women or those within six months of delivery, many find themselves behind bars under adverse conditions.²⁷

Turkey should endeavour to enhance its efforts in adhering to the Bangkok, which dictates that all incoming prisoners, especially pregnant women, must undergo medical examinations before imprisonment.²⁸ Unfortunately, medical screenings occur post-detention in Turkey before preliminary hearings with prosecutors. This discrepancy often results in malpractice and mishandling of the medical screening process with an official record of such subpar treatment.

Pregnant women in Turkish prisons face significant challenges. They are frequently denied prenatal medical care, leading to heightened health risks for both the mother and the unborn child.²⁹ The unsanitary conditions within prisons contribute to the contraction of infections, further jeopardising the well-being of these vulnerable individuals.

Moreover, pregnant women in detention have been subjected to ill-treatment, part of the government's systematic campaign of intimidation against critics and opponents since the coup attempt. In 2021, AKP deputy group chairperson Özlem Zengin even went so far as to make baseless claims that women intentionally conceive in prison to manipulate public perception. Pro-government media has further stigmatised pregnant women, releasing news articles with headlines such as "They get pregnant on order" and "Sisters give birth to conspiracy," mainly targeting those linked to the Gülen movement.³⁰

The European Court of Human Rights emphasises that pregnant women and people with young children should be detained only as a last resort.³¹ In some instances, necessary medical controls and conditions were provided for pregnant women deprived of liberty. However, these interventions are not consistent, leaving a concerning gap in the protection of pregnant women's rights in Turkish prisons. Turkey should consider drawing upon cases advocated within

²⁷ Stockholm Centre for Freedom. At least 80 pregnant women detained or arrested in Turkey's post-coup crackdown. (2022) [At least 80 pregnant women detained or arrested in Turkey's post-coup crackdown - Stockholm Center for Freedom \(stockholmcf.org\)](https://www.stockholmcf.org/)

²⁸ United Nations General Assembly. Resolution (A/65/457) Rules for the Treatment of Women Prisoners and Noncustodial Measures for Women Offenders (Bangkok Rules). (2010)

²⁹ Human Rights Watch. 2018. World Report, 2018. New York: Human Rights Watch. <https://www.hrw.org/world-report/2018>.

³⁰ Duvar English. Ozlem Zengin claims Women get pregnant upon orders of illegal groups.(2021) <https://www.duvarenglish.com/akp-mp-ozlem-zengin-claims-women-get-pregnant-upon-orders-of-illegal-groups-in-face-of-criticism-on-babies-in-prisons-news-56339>

³¹ European Court of Human Rights. *Korneykova and Korneykov v. Ukraine*, 2016, par.112-115.

the European Court of Human Rights (ECH) and incorporating these principles into domestic implementation.

In the population of female prisoners, pregnant women are recognised as a particularly vulnerable and high-risk group.³² The implications of pregnancy within prison settings underscore the importance of these women optimising and closely attending to their living conditions while incarcerated. Some individuals within prison or hospital staff have subjected these pregnant women to varying forms of verbal, psychological, or physical violence during their time in jail or even during childbirth. Many of these women, lacking proper family or social support networks, needed assistance.³³ The challenges extended to being restrained during labour and delivery, further compounding their difficulties. Upon returning to prison after giving birth, these women often did not receive the necessary postpartum care, and notably, they were frequently separated from their infants soon after childbirth.³⁴

The World Health Organization, in its "Recommendations on antenatal care for a positive pregnancy experience," has emphasised that the specific needs of incarcerated pregnant women are not adequately addressed in prisoner care programs.³⁵ Turkey, despite the presence of health guidelines within the prison system, has given insufficient attention to the health and well-being of pregnant women.

Addressing the specific needs of pregnant women in prison is crucial. According to the European Court of Human Rights, adequate medical attention during birth is essential for both the mother and child.³⁶ Unfortunately, the lack of access to education on birthing techniques and the absence of proper facilities create additional challenges. In the Turkish context, women are brought to public hospitals to give birth. However, they are taken back into custody even when they are not yet fully recovered from childbirth and receiving the proper post-partum care.³⁷

Furthermore, once born, the child faces additional hurdles, requiring immunisation and regular health checks. Breastfeeding, a critical aspect of infant health, is often discouraged in prisons and is perceived as interfering with daily routines. The lack of proper health checks for mothers

³² Gergerlioğlu, Ö. F. (2021). Imprisoned women and children in Turkey: Human rights violations under the State of Emergency. *Human rights in Turkey: Assaults on human dignity*, 411-434.

³³ Akin, G. (2021). Women Behind the Bars in Turkey. *Women & Criminal Justice*, 31(3), 225-241.

³⁴ Bastick, Megan, and Laurel Townhead. 2008. *Women in Prison: A Commentary on the UN Standard Minimum Rules for the Treatment of Prisoners*. Geneva: Quaker United Nations Office.

³⁵ Alves, J., Maia, Â., & Teixeira, F. (2016). Health conditions prior to imprisonment and the impact of prison on health: Views of detained women. *Qualitative Health Research*, 26(6), 782–792. doi:10.1177/1049732315617217

³⁶ ECHR, note 5

³⁷ Turkish Minute. Pregnant Women and Children subjected to severe rights violations in Turkey's prisons. (2018) <https://www.turkishminute.com/2018/08/17/pregnant-women-children-subjected-to-severe-rights-violations-in-turkeys-prisons/>

post-birth raises concerns about potential infections transmitted to the child through breastfeeding.³⁸

The stress associated with incarceration adds a layer of risk, both medically and psychologically, for pregnant women and their unborn children. The separation of pregnant women from the rest of the prison population may lead to isolation and limited access to facilities. At the same time, integration may expose them to increased risks of disease and violence.³⁹

The challenges faced by pregnant women in Turkish jails demand urgent attention. Adequate medical care, proper facilities, and protection of their rights are imperative to ensure the well-being of both mothers and their children.

The case of Ceyda Nur Eroğlu

In a harrowing episode within the Turkish prison system, the case of Ceyda Nur Eroğlu brings to light the unique challenges faced by pregnant women behind bars. Eroğlu, initially arrested in 2017 on charges of “FETÖ” membership, encountered renewed imprisonment in 2022 while eight months pregnant. Her subsequent journey, marked by human rights violations, underscores the pressing need for systemic reforms to address the specific vulnerabilities of expectant mothers within the Turkish prison landscape⁴⁰.

Summary of the incident

Ceyda Nur Eroğlu was arrested in 2017 on charges of membership in the Fetullah Terrorist Organization (“FETÖ”). She was released after five months. In 2022, she and her husband decided to flee the country when she was eight months pregnant. They managed to cross into Greece, but Greek police stopped them. Eroğlu, her husband, and other people were subjected to human rights violations such as strip searches, ill-treatment, and extortion. They were then returned to Turkey. Eroğlu was arrested despite her pregnancy and sent to Edirne Prison. She contracted scabies due to the poor prison conditions. She gave birth in prison.

The legal dimension of the incident

Article 19 of the Constitution of the Republic of Turkey states, “Everyone has the right to liberty and security of person. This right is guaranteed against any measure restricting the person's liberty.” In its eighth paragraph, the same article states, “Subject to special provisions for women prisoners and prisoners, prisoners are sentenced and imprisoned by the provisions of the third paragraph.”

³⁸ Azad, T.J. 2017. Information Report on the State of Emergency and Violation of Women’s Rights in Prisons.

³⁹ Azad, T.J. 2017. Information Report on the State of Emergency and Violation of Women’s Rights in Prisons.

⁴⁰ Turkish Minute. (2022). 9-month-pregnant woman imprisoned over Gülen links despite regulations. Available at: <https://turkishminute.com/2022/05/07/9-month-pregnant-woman-imprisoned-over-gulen-links-despite-regulations/>

Article 10 of Law No. 5275 on the Execution of Penal and Security Measures states that "Pregnant women, women who have given birth, disabled prisoners and prisoners, and seriously ill prisoners shall serve their sentences in the place and at the times of their execution by the provisions of the third paragraph of this article."

According to the first paragraph of Article 10 of Law No. 5275, which was in force at the time of the incident, it was illegal for Eroğlu to be held in prison due to her pregnancy.

Human rights dimension of the incident

The incident included the following human rights violations:

- Violation of the prohibition of torture and ill-treatment: Eroğlu was subjected to human rights violations such as strip searches, ill-treatment, and extortion by Greek police. This constitutes a violation of the prohibition of torture and ill-treatment.
- Violation of the right to liberty and security of person: Eroğlu was arrested and sent to prison despite being pregnant. This constitutes a violation of a person's right to freedom and security.
- Violation of the right to life: Eroğlu contracted scabies due to the poor prison conditions. This constitutes a violation of the right to life.

Consequences of the incident

The incident has been met with strong public reaction. Some MPs in the Turkish Grand National Assembly have raised the issue of Eroğlu's experiences, emphasising that the situation is illegal. Eroğlu's husband has also drawn public attention to the incident by announcing it on social media. The incident has been brought before the European Court of Human Rights (ECHR). The ECHR has issued a ruling to identify the human rights violations that Eroğlu has experienced.

Recommendations for the incident

The following measures need to be taken to prevent the incident from happening again:

- The Turkish judiciary must be removed from the influence of the political authority, and its independence must be ensured.
- An effective mechanism must be established to prevent human rights violations and punish those responsible.
- Public awareness of human rights must be raised.

4. Deaths Due to COVID in Turkish Prisons

Turkey's prison population stands as one of the high-risk groups during the COVID-19 pandemic. Despite universal principles of human rights ensuring that prisoners should live in a healthy

environment and receive appropriate healthcare without discrimination, prison conditions often make it difficult to uphold these ideals. By the year 2020, overcrowding had become a severe concern, severely hampering the ability to enforce sanitary regulations and limiting the spread of COVID-19 within Turkish prisons.⁴¹ Many prisoners in Turkish jails suffer from various chronic illnesses, including hypertension, asthma, cancer, tuberculosis, hepatitis C, and human immunodeficiency virus (HIV).⁴² These underlying health issues place them at a distinct disadvantage when it comes to COVID-19. Moreover, a noteworthy fact is that approximately 11% of the prison population is aged 55 years or older.⁴³ This age demographic is a direct result of harsh punishment policies, leading to an alarming 400% increase in the incarceration rate of individuals over the age of 55 since 1993.

In light of these stark statistics, it becomes even more critical to address severe overcrowding and the risk of COVID-19 transmission within Turkish prisons. Tragically, reports of deaths attributed to COVID-19 infection among inmates serve as a sombre reminder of the urgency to confront these multifaceted challenges within the Turkish prison system.⁴⁴ The violation of human rights for Turkish prisoners during the COVID-19 pandemic was exacerbated by prison overcrowding and inadequate sanitary conditions. Various human rights organisations highlighted that these circumstances substantially increased the health risks from the pandemic (e.g., Amnesty International, The Human Rights Watch, and many more).⁴⁵ An alarming survey conducted in March 2020 by the NGO Media and Law Studies Association across five prison facilities found that 56% of respondents reported a lack of access to sufficient hygienic supplies during the pandemic.⁴⁶ Such dire conditions not only underscore the urgent need for improved measures within Turkish prisons but also constitute a clear violation of the human rights of those incarcerated.

It is disconcerting to note that, despite the evident need for healthcare within the prison system, the Ministry of Justice's statistics on prison and correctional facilities reveal a glaring inadequacy.⁴⁷ As of September, seven medical doctors, 154 dentists, 81 nurses, 839 psychologists, and 444 other health workers were purportedly served these facilities to cater

⁴¹ Al Monitor. (2020). Coronavirus outbreak in Turkish prisons leaves three inmates dead. Al-Monitor Newsletter. <https://www.al-monitor.com/originals/2020/04/coronavirus-outbreak-turkey-prison-inmates-dead.html>

⁴² Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. Turkish Thoracic Journal, 21(6), pp.433-437. DOI: <https://doi.org/10.5152/TurkThoracJ.2020.20114>

⁴³ US Department of State-Bureau of Democracy, Human Rights, and Labor. (2021). Turkey 2021 Human Rights Report. Country Reports on Human Rights Practices for 2021. Available at: https://www.state.gov/wp-content/uploads/2022/03/313615_TURKEY-2021-HUMAN-RIGHTS-REPORT.pdf

⁴⁴ Stockholm Center for Freedom. (2021). Inmate recovering from COVID-19 imprisoned again despite temporary suspension of sentence. SCF. Available at: <https://stockholmcf.org/inmate-recovering-from-covid-19-imprisoned-again-despite-temporary-suspension-of-sentence/>

⁴⁵ Buyum, N. (2020). Turkey: Prison release law leaves innocent and vulnerable prisoners at risk of COVID-19. Amnesty International. <https://www.amnesty.org/en/latest/news/2020/04/prison-release-law-leaves-prisoners-at-risk-of-covid/>

⁴⁶ Buyum, N. (2020). Turkey: Prison release law leaves innocent and vulnerable prisoners at risk of COVID-19. Amnesty International. Available at: <https://www.amnesty.org/en/latest/news/2020/04/prison-release-law-leaves-prisoners-at-risk-of-covid/>

⁴⁷ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. Jus Cogens,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

to the incarcerated population.⁴⁸ However, human rights associations voiced grave concerns about the woefully insufficient provision of healthcare to prisoners, primarily highlighting the lack of prison doctors. The shortage of medical professionals had severe implications, as reports indicated that decisions on whether a prisoner should be transferred to a hospital were often left in the hands of prison wardens rather than healthcare officials.⁴⁹ This practice not only raised questions about the appropriateness of medical decision-making but also exacerbated the challenges faced by inmates in accessing timely and appropriate medical care, further underscoring the dire state of healthcare within Turkish prisons.

Despite commendable measures to mitigate COVID-19 spread in Turkish prisons, significant challenges impacted their effectiveness. Overcrowding persisted, even with temporary release measures, making distancing and isolation difficult. Resource constraints hindered timely medical care, raising health risks. Transparency concerns were raised regarding COVID-19 data.⁵⁰ It is crucial to recognise that the problems associated with managing illnesses in Turkish prisons are not a new phenomenon. Even before the COVID-19 pandemic, several cases brought before the European Court of Human Rights had underscored Turkey's history of inadequate medical care and conditions for sick prisoners.⁵¹ The Court had ruled that Turkey's failure to offer sufficient medical care or to release terminally ill prisoners had constituted cruel, inhuman, or degrading treatment. Furthermore, such practices violated the right to life.⁵²

The government's draft law, also known as Law No. 7242, was scheduled for parliamentary voting in April 2020 and represented a significant step towards addressing overcrowding in Turkish prisons during the COVID-19 pandemic.⁵³ This legislation aimed to reduce the prison population, with a primary focus on preventing the rapid transmission of the virus among detainees and staff. The proposal for early release on parole and house arrest for specific categories of prisoners was a positive step.⁵⁴ However, it also highlighted the pressing need for more extensive, comprehensive reforms within the prison system to safeguard all inmates' health and human rights, particularly those who are medically vulnerable.⁵⁵ Nonetheless, despite the positive aspects of this law, it fell short in addressing the release of remanded

⁴⁸ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁴⁹ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵⁰ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵¹ US Department of State-Bureau of Democracy, Human Rights, and Labor. (2021). Turkey 2021 Human Rights Report. Country Reports on Human Rights Practices for 2021. Available at: https://www.state.gov/wp-content/uploads/2022/03/313615_TURKEY-2021-HUMAN-RIGHTS-REPORT.pdf

⁵² Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵³ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵⁴ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵⁵ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

prisoners, estimated at around 40,000.⁵⁶ It also raised concerns due to its exclusion of inmates convicted of certain crimes, including terrorism-related offences, which constitute a significant portion of the prison population in Turkey.⁵⁷ This exclusion raised questions about the law's effectiveness and fairness in achieving its goals.

The Case of Ahmet Türkmen

Ahmet Türkmen, a 68-year-old inmate, epitomises the dire consequences of inadequate medical care in Turkish prisons.⁵⁸ With a history of chronic heart disease and other critical health issues, Türkmen underwent a major heart bypass operation. He has been incarcerated in Kayseri T-type prison no. 1 for three years after a 2018 conviction for alleged ties to a designated terrorist organisation, resulting in a 14-year sentence.⁵⁹ His case gained prominence due to his association with the Gülen movement, referred to as the Fethullahist Terrorist Organization (FETÖ) by Turkey, which was accused of orchestrating the 2016 coup attempt.⁶⁰ Despite recommendations by the Forensic Medicine Institute for medical examinations every six months, Türkmen had only one such test during his three-year imprisonment.⁶¹ The overcrowded conditions in his ward, initially designed for three inmates but now housing ten, significantly increased the risk of contracting COVID-19 and could be life-threatening.

Recognising the severity of the situation, Türkmen's legal representation applied to the Court of Cassation on March 18, 2020, seeking his release on health grounds and emphasising the imminent COVID-19 risk.⁶² This real-life case underscores a broader issue: inadequate medical care constitutes a clear violation of human rights, even for individuals facing serious accusations and convictions related to terrorism.⁶³ Regardless of the charges, individuals have the right to proper healthcare, aligning with universally recognised human rights standards.

⁵⁶ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵⁷ Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*,1(4), pp.263-284. Doi: <https://doi.org/10.1007/s42439-022-00064-7>

⁵⁸ Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.20114>

⁵⁹ Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.201143>

⁶⁰ Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.20114>

⁶¹ Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.20114>

⁶² Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.20114>

⁶³ Elbek, O. (2020). Covid-19 Pandemic Threatening Prison Population. *Turkish Thoracic Journal*, 21(6), pp.433-437. DOI: <https://doi.org/10.5152%2FTurkThoracJ.2020.20114>

5. Deaths Due to Sickness in Turkish Prisons

The healthcare system within Turkish prisons has given rise to several pressing issues that underscore human rights violations, impacting various categories of inmates. These issues extend beyond the general prison population and demonstrate the magnitude of the challenges.

First and foremost, the overall healthcare infrastructure within correctional facilities is a matter of concern.⁶⁴ Many prisons lack sufficient medical professionals and frequently suffer from shortages of essential medications. This creates a situation where inmates do not receive necessary medical attention and denies their fundamental right to access adequate healthcare. Overcrowding within these facilities exacerbates the issue, making it challenging to maintain proper hygiene and increasing the risk of disease transmission. For instance, overcrowded wards often force inmates to eat in poorly ventilated common areas, making social distancing nearly impossible. Reports have indicated that prisoners are sometimes provided with dirty bedding, compounding the unsanitary conditions they endure⁶⁵.

Inmates with chronic illnesses, such as diabetes, heart disease, and respiratory disorders, are particularly vulnerable.⁶⁶ A lack of essential medications and proper treatment compromises their health and constitutes a grave human rights violation. For example, some prisoners with diabetes may not receive their required insulin or blood sugar monitoring, endangering their lives. In other cases, prisoners with heart conditions may not have access to the necessary medications and medical monitoring they require, putting them at heightened risk. Similarly, inmates with mental health conditions often face neglect in terms of their unique healthcare needs.⁶⁷ Failure to provide proper psychiatric care not only stigmatises this vulnerable group but also hampers their ability to rehabilitate and reintegrate into society. Statistics reveal that a significant proportion of the inmate population suffers from mental health issues, emphasising the importance of providing adequate care.

Accessing hospital care is often an ordeal for inmates, leading to delayed or denied treatment.⁶⁸ Administrative roadblocks cancelled appointments, and inadequate prison healthcare personnel contribute to this issue. Inmates who require timely hospitalisation, regardless of their initial category, may suffer delays in receiving critical medical attention. Financial barriers,

⁶⁴ Sonmez, B. M., Yilmaz, F., Iscanli, M. D., Yel, C., Demir, A., Ozdemir, M., Erdem, A. B. (2020). Prisoners seeking healthcare in the emergency department. *J Pakistan Med Assoc*, pp.1-15. doi: <https://doi.org/10.47391/jpma.1072>

⁶⁵ Pont, J., Enggist, S., Stöver, H., Williams, B., Greifinger, R., Wolff, H. (2018). Prison health care governance: guaranteeing clinical independence. *American Journal of Public Health*, 108(4), pp.472-476. doi: <https://doi.org/10.2105/ajph.2017.304248>

⁶⁶ Sonmez, B. M., Yilmaz, F., Iscanli, M. D., Yel, C., Demir, A., Ozdemir, M., Erdem, A. B. (2020). Prisoners seeking healthcare in the emergency department. *J Pakistan Med Assoc*, pp.1-15. doi: <https://doi.org/10.47391/jpma.1072>

⁶⁷ Penal Reform International. (2022). Deaths in Prison. University of Nottingham. Available at: [Deaths-in-prison-briefing.pdf \(penalreform.org\)](https://penalreform.org/deaths-in-prison-briefing.pdf)

⁶⁸ The Arrested Lawyer Initiative. (2023). Turkey / Dire prison conditions: Overcrowding and lack of healthcare. Situation in Turkey. Available at: [Turkey / Dire prison conditions: Overcrowding and lack of healthcare - The Arrested Lawyers Initiative](https://arrestedlawyerinitiative.org/turkey-dire-prison-conditions-overcrowding-and-lack-of-healthcare)

including selling essential hygiene products and disinfectants in some prisons, place undue strain on inmates with limited resources.⁶⁹ For instance, low-income inmates may struggle to afford essential hygiene items, creating disparities in their access to primary sanitary products. Some inmates' financial burdens raise significant concerns about their health and well-being. Furthermore, prisoners' dietary needs are frequently unfulfilled, affecting their health and ethical requirements.⁷⁰ Inadequate nutrition and a lack of access to proper dietary supplements and vitamins can lead to potential nutritional deficiencies and other health issues.

The gravity of these issues becomes even more pronounced when considering the specific instances of overcrowding in facilities like Urfa T. Type No.1 and Urfa T. Type No.2 Prisons, which far exceed their official capacities, further challenging the ability to deliver proper healthcare.⁷¹ Astonishingly, the report found that 59% of prisoners struggle to access health services during emergencies, underscoring the troubling lack of immediate medical attention.⁷² Moreover, 92% of prisoners reported that their treatment routines were not being followed appropriately, pointing to a systematic failure to provide consistent healthcare to inmates. Dental care, an integral aspect of healthcare, has been neglected due to institutional inadequacies. Furthermore, the report reveals that some inmates have waited over a year for dental care despite requesting referrals. The prolonged waiting period for dental treatment is a grave concern that can lead to severe discomfort and health issues among the incarcerated population.

Additionally, prisoners view hospital referrals as forms of torture, which deters them from seeking medical help even when they urgently need it.⁷³ This distorted view of healthcare services within the prison system hinders access to proper care and raises questions about the quality of care provided.

These distressing findings underscore the pressing need for comprehensive reforms in the Turkish prison healthcare system to address overcrowding, improve the accessibility of healthcare services, and ensure that inmates receive the timely and appropriate medical attention they require. Failure to do so not only perpetuates the violation of human rights but also compromises the health and well-being of those within the prison system.

⁶⁹ The Arrested Lawyer Initiative. (2023). Turkey / Dire prison conditions: Overcrowding and lack of healthcare. Situation in Turkey. Available at: [Turkey / Dire prison conditions: Overcrowding and lack of healthcare - The Arrested Lawyers Initiative](#)

⁷⁰ Penal Reform International. (2022). Deaths in Prison. University of Nottingham. Available at: [Deaths-in-prison-briefing.pdf \(penalreform.org\)](#)

⁷¹ The Arrested Lawyer Initiative. (2023). Turkey / Dire prison conditions: Overcrowding and lack of healthcare. Situation in Turkey. Available at: [Turkey / Dire prison conditions: Overcrowding and lack of healthcare - The Arrested Lawyers Initiative](#)

⁷² Bişkin, H. (2021). Inmates complain about the lack of access to healthcare in Turkish prisons. DuvaR. Available at: <https://www.duvarenglish.com/inmates>

⁷³ Bişkin, H. (2021). Inmates complain about the lack of access to healthcare in Turkish prisons. DuvaR. Available at: <https://www.duvarenglish.com/inmates>

Situation in Silivri Prison - Istanbul:

The dire situation in Istanbul's Silivri Prison, which primarily holds political prisoners, exemplifies the urgent need for healthcare reform in Turkish prisons.⁷⁴ Inmates report a severe lack of primary medical and dental care. The medical system is in disarray, with sick prisoners unable to access the infirmary. Prisoners are left to decide who is the most critically ill, and those with chronic conditions receive no treatment. Unsanitary living conditions, including rusty water and inadequate food, further endanger inmates' health. Requests for addressing these issues are routinely ignored. When a Member of Parliament raised concerns, the prison's management denied the problems, asserting that healthcare staff, including dentists, are available 24/7. However, prisoners dispute this, claiming they have not seen a dentist in over a year. Even if healthcare staff is present, it is insufficient for the overcrowded prison, forcing inmates to make difficult choices about who receives medical care. These conditions are believed to be a result of their political prisoner status, which limits their rights and access to essential services. Inmates who speak out are punished, further emphasising the need for healthcare reform in Turkish prisons.

In summary, the dire conditions within Turkish prisons, as exemplified by the situation in Silivri Prison, underscore a severe violation of human rights for inmates. These conditions include a lack of access to primary healthcare, overcrowding, unsanitary living conditions, and neglect of inmates with chronic illnesses and mental health issues. The urgent need for comprehensive healthcare reforms within the Turkish prison system is evident, as these issues not only perpetuate human rights violations but also endanger the well-being of those incarcerated.

⁷⁴ Ahval. (2021). Turkey's prisoners lack access to health care. Available at: https://ahvalnews.com/turkey-prisons/turkeys-prisoners-lack-access-healthcare-report?_cf_chl_tk=tQuw5iL5eQBkKy6wLwljBN4wvyirDumdExWhsq3B5ck-1700167103-0-gaNycGzNDWU#

6. Parole Right Violations in Turkish Prisons

When Turkey changed their governance system from parliamentary to presidential democracy in 2017, President Erdogan was given immense powers over any decision concerning the country.⁷⁵ The number of political and terrorist imprisonments has increased dramatically since then. The parole rights of prisoners are constantly violated, as the prisons exercise illegitimate judicial power on deciding whether prisoners get parole, which in most cases leads to their parole rights being wholly revoked. As an attempt to legitimise this type of power, prisons suspend prisoners' parole based on bad or terrorist behaviour.⁷⁶ However, prisoners are usually denied parole based on very discretionary claims, which are employed to prevent political prisoners, activists, and journalists from getting released. These imprisonments are generally based on terrorist claims against the individuals who, in Turkey, become eligible for parole after two-thirds of their sentence. However, most prisoners end up spending far longer time incarcerated than what the law says, and prisons constantly prevent them with lousy behaviour claims. In some instances, the Council of Europe has been involved in exposing Turkey's unlawful and illegitimate prison practices but was unsuccessful in initiating infringement proceedings due to an inadequate claim.⁷⁷

In any prisoner's case, the judge who carries out the decision forms it based on prison reports given to them. Prisoners have claimed that bad behaviour reports have been given to them for the acts of drinking too much water, attending the open university in prison, reading too many books, and meeting with the prison's imam.⁷⁸ When arrested and during parole hearings, prisoners are extensively questioned about their political ideologies and personal matters. If they were arrested on political grounds (e.g., political opposition member), they were asked if they had repented their beliefs and spoke on their current ones.⁷⁹ The interviewers responsible for the behaviour reports employ their own (illegitimate) standards for writing a good essay. Able to make their standards, the interviewers tend to hand out primarily pieces of poor conduct, violating inmates' parole rights and leaving them imprisoned and reducing their hopes of seeing justice in their case.⁸⁰ In other cases, many prisoners who have served the required sentence until parole have seen little or no progress towards it. They were still not granted

⁷⁵ Scf. (2021). Gross human rights violations continue in Turkish prisons, says report. Stockholm Center for Freedom. <https://stockholmcf.org/gross-human-rights-violations-continue-in-turkish-prisons-says-report/>

⁷⁶ Minute, T. (2023). Turkish authorities have arbitrarily revoked parole rights of 313 inmates since 2021. Turkish Minute. <https://www.turkishminute.com/2023/08/29/turkish-authorities-have-arbitrarily-revoke-parole-right-of-313-inmate-since-2021/amp/>

⁷⁷ Scf. (2021). Turkey fails to propose a plan to release Demirtaş to CoE committee. Stockholm Center for Freedom. <https://stockholmcf.org/turkey-fails-to-propose-a-plan-to-release-demirtas-to-coe-committee/>

⁷⁸ Minute, T. (2023). Turkish authorities have arbitrarily revoked parole rights of 313 inmates since 2021. Turkish Minute. <https://www.turkishminute.com/2023/08/29/turkish-authorities-have-arbitrarily-revoke-parole-right-of-313-inmate-since-2021/amp/>

⁷⁹ Scf. (2021, May 18). Political prisoners arbitrarily denied parole in Van Prison. Stockholm Center for Freedom. <https://stockholmcf.org/political-prisoners-arbitrarily-denied-parole-in-van-prison/>

⁸⁰ Scf. (2021, April 24). Prison parole boards discriminate against political prisoners, says HDP deputy. Stockholm Center for Freedom. <https://stockholmcf.org/prison-parole-boards-discriminate-against-political-prisoners-says-hdp-deputy/>

parole even when agreeing with the courts' indigent verdict. A violation of prisoners' parole rights is a direct violation of their human rights. This has been protested and called out in Turkey by prisoners and activists but has changed nothing in the prison and government practices.⁸¹

Effects on mental health and rehabilitation

As a result of those practices, inmates' motivation and capacity for rehabilitation are lessening, as well as creating mental health issues. By losing hope of getting released, they are less likely to attend rehabilitation programs or maintain "model behaviour" in an attempt to be granted parole. With the surging number of new prisoners and the old ones denied parole or awaiting, Turkish prisons are also facing problems of overcrowding.⁸² Human rights violations occur daily to the prisoners, with illegitimate violence, unlawful strip-searches, and even torture. Ongoing physical and psychological violence mentally affects prisoners, as they are constantly degraded and abused. They are more likely to develop a mindset according to the rules and punishments in prison and lose touch with the real world. Even if they are granted parole, their rehabilitation with society is going to be much more challenging due to the trauma they have developed. During the peak of COVID-19, all prisoners faced severe health risks due to prison overpopulation and the lack of space and medical care.⁸³ Some claim that if Turkey had improved their prison system, granting parole and probation when deserved, COVID-19 would not have plagued Turkey as severely as it did. Due to overcrowdedness, unsanitary conditions, and lack of medical attention, prisoners with chronic illnesses were unable to receive hospital care, which is a human right.⁸⁴ Furthermore, overcrowdedness tends to lead to poorer living conditions and a higher chance of violence. While not being able to appeal for parole, those prisoners are at risk of their lives the longer they stay in there.

The case of Bazi Bor

A more concrete example of how discretionary prison reports tend to be can be seen in the case of Bazi Bor.⁸⁵ Bazi, 60 years old, had served 10 out of his 15-year sentence but has been waiting for more than a year to get an appeal, although he is eligible for parole. His report mentioned that he was seen chanting slogans of "terrorist" organisations and that he had a

⁸¹ Minute, T. (2023). Turkish authorities have arbitrarily revoked parole rights of 313 inmates since 2021. Turkish Minute. <https://www.turkishminute.com/2023/08/29/turkish-authorities-have-arbitrarily-revoke-parole-right-of-313-inmate-since-2021/amp/>

⁸² Scf. (2021, January 7). Gross human rights violations continue in Turkish prisons, says report. Stockholm Center for Freedom. <https://stockholmcf.org/gross-human-rights-violations-continue-in-turkish-prisons-says-report/>

⁸³ Human Rights Watch. (2020). <https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>
English, D. (2020, December 29). Turkey in 2020: A year marred by chilling human rights violations. Duvar English. <https://www.duvarenglish.com/turkey-in-2020-a-year-marred-by-chilling-human-rights-violations-news-55655>

⁸⁴ Scf. (2021). Gross human rights violations continue in Turkish prisons, says report. Stockholm Center for Freedom. <https://stockholmcf.org/gross-human-rights-violations-continue-in-turkish-prisons-says-report/>

⁸⁵ Turkish prison administration prevent parole for Kurdish prisoners. (2022, April 8). Ahval. <https://ahvalnews-com.cdn.ampproject.org/c/s/ahvalnews.com/turkey-prisons/turkish-prison-administration-prevent-parole-kurdish-prisoners?amp>

negative attitude when interviewed, as well as struggling with cooperation. Every time he attempted to appeal, the prison claimed insufficient evidence of remorse and goodwill.⁸⁶

The case of Selahattin Demirtaş

Selahattin Demirtaş is a unique case in which the European Court of Human Rights (ECtHR) failed to get him released successfully⁸⁷. Selahattin was eligible for parole from November 3rd, 2021, and was arrested on “political” and “legal” reasons while also on “terrorism-related” charges. The Council of Europe attempted to set off infringement claims against Turkey’s arrest of Selahattin by setting a deadline for the exact plan (step-by-step) of releasing him. However, neither the Council of Europe nor the ECtHR filed the infringement claims on his second arrest (political and legal reasons), which resulted in the extension of his sentence.⁸⁸

⁸⁶ Turkish prison administration prevent parole for Kurdish prisoners. (2022, April 8). Ahval. <https://ahvalnews-com.cdn.ampproject.org/c/s/ahvalnews.com/turkey-prisons/turkish-prison-administration-prevent-parole-kurdish-prisoners?amp>

⁸⁷ Scf. (2021, October 8). Turkey fails to propose a plan to release Demirtaş to CoE committee. Stockholm Center for Freedom. <https://stockholmcf.org/turkey-fails-to-propose-a-plan-to-release-demirtas-to-coe-committee/>

⁸⁸ Scf. (2021, October 8). Turkey fails to propose a plan to release Demirtaş to CoE committee. Stockholm Center for Freedom. <https://stockholmcf.org/turkey-fails-to-propose-a-plan-to-release-demirtas-to-coe-committee/>

7. Allegations of Torture and Ill-Treatment in Turkish Prisons

Turkey has been facing torture allegations since the '90s. However, recently, it has experienced a resurgence in the number of claims of torture and ill-treatment in prisons following the coup attempt on July 15, 2016.⁸⁹ In this context, the Turkish government targeted followers of the Gülen movement⁹⁰, resulting in over 540,000 detentions, 80,000 arrests, and 150,000 public civil servants removed from their jobs under the premise of affiliation with a terrorist organisation.⁹¹ Strip searches have been declared to fall under the scope of Article 3 ECHR,⁹² and it is a practice that has become almost a required step during detention, with an example as recent as 2020 when 30 university students were detained for affiliation with the Gülen movement and strip-searched before being imprisoned.⁹³

In 2021, a group of 5 international organisations released a Joint Statement where they recalled the visit by the UN Special Rapporteur on Torture to Turkey 5 years before.⁹⁴ They condemn the government's commitment to implementing several regressive measures. The lack of independent monitoring – a benchmark for torture prevention⁹⁵ – can be observed in impediments to publishing specific reports and the inability of civil society organisations to access places of detention. In the Council of Europe Report from 2017,⁹⁶ the delegation confirmed having received “a considerable number of allegations from detained persons [...] of recent physical ill-treatment by police and gendarmerie officers, [...] to extract a confession or obtain information or as a punishment”. The report also confirmed that medical controls during police custody were flawed, as significantly, they were often carried out without any physical examination. In terms of foreign nationals detained in Turkey, they spoke – in general – positively about how they were treated by staff. The government's response to this report simply stated that despite the terrorist threats that Turkey has been facing, they still uphold a policy of zero tolerance against torture and ill-treatment. In the 2019 report,⁹⁷ the CPT described the same findings in the previous report. Although the severity of alleged police ill-

⁸⁹ Rudaw. (2016). UN rep found evidence of torture in Turkish prisons. Rudaw website. Available at: <https://www.rudaw.net/english/middleeast/turkey/02122016>

⁹⁰ Levent Kenez. (2022). *Torture in Turkey continuedly goes unpunished*. Nordic Monitor website. Available at: <https://nordicmonitor.com/2022/12/torture-in-turkey-continuously-goes-unpunished-report/>

⁹¹ Stockholm Center for Freedom. (2020). *Female students strip-searched, denied right to consult lawyer*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/female-students-strip-searched-denied-right-to-consult-lawyer/>

⁹² Case No. 80765/17 *Affaire Kaya v. Turkey* (18 January 2022). Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-215167%22%7D%7B%22itemid%22:%5B%22001-196612%22%5D%7D>; Case No. 4633/15 *G.B. and others v Turkey* (17 October 2019). Available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-196612%22%5D%7D>

⁹³ Stockholm Center for Freedom (2020) *Female students strip-searched, denied right to consult lawyer*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/female-students-strip-searched-denied-right-to-consult-lawyer/>

⁹⁴ Joint Press Release (2021). *Joint Statement: Five Years into visit by UN Special Rapporteur, torture remains widespread*. Human Rights association (HRA) website. Available at: <https://ihd.org.tr/en/joint-statement-five-years-into-visit-by-un-special-rapporteur-torture-remains-widespread/>

⁹⁵ World Organization Against Torture (OMCT) (2020) *Pushing the re-set button: Ten benchmarks for a zero tolerance policy on torture in Turkey*. OMCT website. Available at: <https://www.omct.org/en/resources/statements/pushing-the-re-set-button-ten-benchmarks-for-a-zero-tolerance-policy-on-torture-in-turkey>

⁹⁶ Executive Summary CPT/Inf (2020) 22 <https://rm.coe.int/16809f209f>

⁹⁷ Executive Summary CPT/Inf (2020) 24 <https://rm.coe.int/16809f20a2>

treatment was deemed to have diminished, the frequency of allegations was still concerning. In the government response,⁹⁸ the Ministry of Interior shared that the complaints from 2017 and 2018 are based on false claims made by “FETÖ” members to slander and defame the State. Most recently, in a report dated 2022, the Human Rights Association (IHD)⁹⁹ suggested that “the documented number of violations only covers 153 out of the 400-plus prisons in Turkey”. In particular, 308 violations related to torture, ill-treatment, and degrading practices were documented in 2022 – in which the majority comprised cases of physical assault and verbal abuse. Further reports confirm that many Turkish prisoners seek support from organisations that offer help to torture survivors, with alarming numbers – 2823 between 2015 and 2019.¹⁰⁰

There are many concrete examples that, despite the efforts from the Turkish government to silence, have been sufficiently proven to state that the use of torture in Turkish prisons continues to be very much a reality and remains a top priority in human rights violations.¹⁰¹ In a case dated back to 1999, two teenage girls were forced to give false confessions using torture while detained, being victims of the so-called “virginity test”. Psychiatric reports certify that the girls were victims of these practices, which caused them trauma and PTSD.¹⁰² In the immediate aftermath of the 2016 coup, former military cadets were detained at the well-known Silivri Prison, where they were severely beaten by prison guards and had searches conducted where their belongings were damaged intentionally.¹⁰³ In 2018, a Kurdish man named Ulas Yurdakul was beaten up regularly by prison guards who eventually beat him to death. There are alleged to have been audio recordings of the responsible prison guards bragging about killing “a terrorist”¹⁰⁴. More recently, in 2022, Savas Çelik was arrested due to his alleged membership in the Kurdistan Workers’ Party (PKK), which is listed as a terrorist group. He spent almost three months in detention, suffering from torture and ill-treatment before the media coverage started. There was no information about the conditions in which his arrest occurred and how or when he was transported to Turkey, and none of this information was included on the record

⁹⁸ Response of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey from 6 to 17 May 2019

<https://rm.coe.int/16809f20a3>

⁹⁹ İnsan Hakları Derneği (IHD) (2022) *Türkiye Hapishanelerinde Hak İzleme Raporu*. Human Rights Association (IHD) website. Available at: <https://www.ihd.org.tr/wp-content/uploads/2023/07/2022-Hapishane-Raporu.pdf>

¹⁰⁰ International Rehabilitation Council for Torture Victims (IRCT) (2019) *UPR Briefing Note. Torture and ill-treatment in Turkey*. IRCT website. Available at: https://irct.org/wp-content/uploads/2022/08/Briefing-Note_Turkey_2019.pdf

¹⁰¹ Uzeyir Bulut (2022) *Torture in Turkish Prisons: Systematic and Widespread*. Gatestone Institute International Policy Council. Available at: <https://www.gatestoneinstitute.org/18111/turkey-prisons-torture>

¹⁰² Amnesty International (2000) *Concerns in Europe. January – June 2000*. AI Index EUR 01/03/2000. Available at: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR010032000ENGLISH.pdf>

¹⁰³ Stockholm Center for Freedom (2022) *Former military cadets severely beaten by guards in Turkey’s Silivri Prison*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/former-military-cadets-severely-beaten-by-guards-in-turkeys-silivri-prison/>

¹⁰⁴ Ari Khalidi (2018) *HDP calls Turkish prisons ‘torture centers’, urges UN to take action*. Kurdistan24 website. Available at: <https://www.kurdistan24.net/en/story/14947-HDP-calls-Turkish-prisons-%27torture-centers,%27-urges-UN-to-take-action>

by the prosecutor.¹⁰⁵ In the same year, a group of inmates was also exposed to torture practices from prison guards, mostly physical but also – as one of the inmates explained – psychological, where they “make prison life unbearable for us”, adding that “we do not feel safe”.¹⁰⁶

One of the main obstacles to eradicating these practices is that they are institutional. There is a lack of condemnation from higher officials and a readiness to cover up allegations rather than investigate them.¹⁰⁷ In many instances, the inmate showed signs of severe mistreatment, yet their death was ruled unrelated to these circumstances. In 2021, Garibe Gezer allegedly committed suicide while in prison. Despite having video and phone evidence of these abuses, the Istanbul Chief Public Prosecutor’s Office declined to pursue a case against police officers accused of mistreatment and torture – despite a Constitutional Court ruling requesting a thorough investigation into the accusations.¹⁰⁸ In the same way, the death of prisoner Ferhat Yilmaz in the same year was attributed to a cardiac arrest despite clear visible signs of mistreatment after his detention at Silivri Prison. There have been cases where, despite medical reports confirming specific torture techniques, the Prosecutor has declined to uphold those and order a thorough investigation.¹⁰⁹ In this context, the UN special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, on his mission to Turkey from November 27 to December 2, 2016, harshly stated that “torture and other forms of ill-treatment were widespread” in Turkey.

The report published by London Advocacy and Human Rights Solidarity in December 2022 sheds some light on the victims.¹¹⁰ When analysing the victims, the report stated that 40% are teachers, followed by academicians and far from other professions. Interviewee 6, a female teacher, recalls her arrest, transportation, and the physical and psychological abuse she was exposed to during informal interrogations to obtain information. Interviewee 10, also a teacher, corroborates her testimony. He further states that the prosecutor and the doctors are on the

¹⁰⁵ Stockholm Center for Freedom (2022) *Man captured by MIT abroad over terrorists links claims he was tortured in Turkey for 87 days*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/man-captured-by-mit-abroad-over-terrorist-links-claims-he-was-tortured-in-turkey-for-87-days/>

¹⁰⁶ Stockholm Center for Freedom (2022) *Images of inmate who died in Silivri Prison show signs of severe beating and mistreatment*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/images-of-inmate-who-died-in-silivri-prison-show-signs-of-severe-beating-and-mistreatment/>

¹⁰⁷ In 2017 the government issued a decree removing responsibility for those who attempted to quash the July 15 coup attempt. Available at: <https://www.hrw.org/world-report/2017/country-chapters/turkey>

¹⁰⁸ Stockholm Center for Freedom (2022) *Turkish prosecutor declines to pursue a case of inmate who was tortured and found dead in prison*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/turkish-prosecutor-declines-to-pursue-case-of-inmate-who-was-tortured-and-found-dead-in-priso/>

¹⁰⁹ Stockholm Center for Freedom (2022) *Istanbul prosecutor declines to pursue case against police officers who allegedly tortured detainee*. Stockholm Center for Freedom website. Available at: <https://stockholmcf.org/istanbul-prosecutor-declines-to-pursue-case-against-police-officers-who-allegedly-tortured-detainee/>

¹¹⁰ London Advocacy In-House Research and Legal Team (2022) *Politically motivated systematic torture in Turkey and its survivors: Interviews with UK-based torture survivors*. ISBN 978-1-7391700-2-8. Available at: https://www.londonadvocacy.org/wp-content/uploads/2022/12/Report-on-Systematic-Torture-in-Turkey_December2022.pdf

side of the torturers. Interviewee 7 even shares that another inmate – a teacher – was taken to a dark room, tortured, and then pronounced dead due to a heart attack.

The case of Ismet Özçelik

The case of Ismet Özçelik in 2016 epitomises a disturbing narrative within the Turkish prison system. While not explicitly falling under a singular category, it echoes the broader issues of human rights violations and legal transgressions. Özçelik's ordeal, marked by an unlawful abduction attempt, secret extradition, and subsequent allegations of By-lock usage and propaganda, signifies a grave infringement on fundamental legal principles. This case embodies concerns beyond the individual, touching upon the systematic challenges those detained in Turkey face. As we delve into the details, we find resonance with various critical points, including the denial of probation and release rights, the violation of the right to a fair trial, and the denial of necessary health services. Ismet Özçelik's experience sheds light on the multifaceted nature of human rights concerns within the Turkish prison system, transcending conventional categorisations and demanding a comprehensive examination.

Details of the Incident:

In 2016, an abduction attempt occurred in Malaysia, during which I Ozcelik, despite being equipped with a card provided by the UN, was unlawfully detained in Malaysia for 51 days after his passport was confiscated. Subsequently, approximately three months later, while preparing to attend a Malaysian court, he was apprehended by a police force of around 30 individuals and extradited to Turkey within a week. This process involves a series of violations of fundamental legal principles and human rights, including allegations of By-lock usage, association with Bank Asya, and engaging in propaganda for an organisation.

Violated Rights:

- **Forcible Detainment and Abduction:** The right to remain unharmed and not be secretly brought to Turkey from abroad was violated.
- **Non-disclosure to Family:** No information was provided to his family during the apprehension.
- **Right to Fair Trial:** Allegations of By-lock usage, association with Bank Asya, and propaganda for an organisation violate the right to a fair trial.
- **Probation and Release Rights:** The right to probation was denied, and despite the expiration of the term, release was not granted.
- **Right to Health:** Necessary medications were not provided due to health issues.

Entities Responsible for the Violations:

The incident is believed to have been orchestrated by the National Intelligence Organization.

Potential Factors Behind the Violations:

Government policies such as discriminatory practices and the use of hate speech may have contributed to such violations of human rights.

Steps Toward Resolution:

Some support has been obtained by appealing to the United Nations.

Legal action has been taken by applying to the European Court of Human Rights through legal representation.

News about Ismet Özçelik:

- <https://kronos36.news/tr/kalp-ve-seker-hastasi-mahpus-ismet-ozcelike-20-gundur-ilaclari-verilmiyor-dilekceleri-cevapsiz-birakiliyor/>
- <https://kronos36.news/tr/mitin-kacirdigi-ozcelike-tahliye-engeli-tespilh-yapmaktan-ceza/>
- <https://kronos36.news/tr/kacirilan-ozcelike-iddianamede-yer-almayan-gerekcelerle-10-yil/>

8. Exceeding Capacity in Prisons

The issue of exceeding capacity in Turkish prisons stands as a stark reminder of the persistent challenges plaguing the nation's penal system, with profound implications for the human rights of incarcerated individuals. This section delves into the multifaceted dimensions of this dilemma, examining its impact on sanitation, healthcare, and overall living conditions within prison walls.

At the heart of the matter lies the undeniable strain placed on the well-being and dignity of prisoners when facilities exceed their designed capacity. Overcrowded conditions lead to cramped living spaces, limited access to amenities, and compromised personal space, all of which contribute to a dehumanising environment. Stories from within Turkish prisons recount instances where inmates find themselves sharing cells designed for a few with a significantly higher number of fellow detainees.¹¹¹

Overcrowding amplifies challenges in maintaining basic sanitation standards, posing a direct threat to the health of incarcerated individuals. In some instances, prisoners are forced to eat in poorly ventilated common areas due to the lack of adequate dining space, making social distancing nearly impossible—a particularly critical concern in the context of the COVID-19 pandemic. Reports indicate instances where prisoners are provided with dirty bedding, exacerbating the unsanitary conditions they endure.¹¹²

One of the most pressing concerns arising from overcrowded prisons is the compromised state of healthcare. The insufficient number of medical professionals and limited access to essential medications place a heavy burden on the already strained healthcare infrastructure. Real-life examples, such as those documented in Urfa T. Type No.1 and Urfa T. Type No.2 Prisons, where inmates struggle to access health services during emergencies, underscore the troubling lack of immediate medical attention.

International human rights standards enshrined the right to humane treatment and dignity. However, the conditions prevailing in overcrowded Turkish prisons raise questions about compliance with these standards. Article 19 of the Constitution of the Republic of Turkey emphasises the right to liberty and security of person, a freedom that is compromised when prisons operate beyond their capacity. Law No. 5275 on the Execution of Penal and Security Measures further highlights the need for pregnant women, women who have given birth,

¹¹¹ Penal Reform International. Imprisonment and Prison Overcrowding in Turkey. Available at: <https://www.penalreform.org/global-prison-trends-2022/imprisonment-and-overcrowding/#:~:text=In%20Turkey%2C%20over%20the%20past,at%20the%20end%20of%202021.>

¹¹² Quelle, K. (2021). Political Incarceration in Turkey: Human Rights Abuses against Prisoners and Detainees among the COVID-19 Pandemic. *Transnat'l L. & Contemp. Probs.*, 1(31), pp.395-417. Available on request.

disabled prisoners, and seriously ill prisoners to serve their sentences following specific provisions. This requirement is challenging to uphold in overcrowded conditions.¹¹³

To humanise the issue, it is essential to highlight the personal narratives of those directly affected. Take, for instance, the story of a prisoner in Silivri Prison, where overcrowded conditions have led to unsanitary living conditions, rusty water, and inadequate food. Such narratives underscore the urgency of addressing the dire needs within Turkish prisons, emphasising the toll overcrowding takes on the daily lives and well-being of inmates. Despite constitutional and legal provisions, the persisting issue of overcrowding calls into question the efficacy of the legal response.¹¹⁴ The Turkish judiciary must grapple with the challenges posed by the political authority's influence and strive to ensure its independence. Accountability mechanisms must be strengthened to address the systemic failures contributing to overcrowded prisons.

Steep increases in prison populations have been observed in various countries. In Turkey, the prison population has surged by 130% over the past decade, escalating from 128,000 in 2010 to 295,000 by the end of 2021. The report exposes a grim reality at the Urfa T Type No 1 Prison, revealing its capacity of 680 inmates, but the current population exceeds 1400. Similarly, the situation at Urfa T Type No 2 Prison is disheartening, with an official total of 680 and a population of 1395.¹¹⁵ As a consequence of overcrowding and scarce control in 2022, Turkish prisons witnessed the tragic loss of at least 81 lives. The report reveals that 36 prisoners succumbed to illnesses, with six dying shortly after their release. Additionally, there were 25 deaths under suspicious circumstances, 19 alleged suicides, and 10 cases of attempted suicide or declared intent to commit suicide.

In conclusion, the issue of exceeding capacity in Turkish prisons constitutes a complex and pervasive violation of human rights. Real-life examples, stories, and legal frameworks vividly depict incarcerated individuals' challenges. Urgent reforms are needed to address the systemic deficiencies contributing to overcrowding and to uphold the rights and dignity of those within the penal system. Only through concerted efforts to realign the prison system with international human rights standards can Turkey hope to navigate a path toward a more just and humane incarceration system.

¹¹³ Skyline International For Human Rights. (2023). Skyline International Condemns Rampant Human Rights Violations in Human Rights. Press Release. Available at: <https://skylineforhuman.org/en/news/details/712/skyline-international-condemns-rampant-human-rights-violations-in-Turkish-prisons>

¹¹⁴ Buyuk, H.F. (2023). Council of Europe: Turkey's Prison Population Rises Beyond 300,000. Balkan Insights. Available at: <https://balkaninsight.com/2023/06/27/council-of-Europe-turkeys-prison-population-rises-beyond-300000/>

¹¹⁵ The Arrested Lawyer Initiative. (2023). Turkey / Dire prison conditions: Overcrowding and lack of healthcare. Situation in Turkey. Available at: <https://arrestedlawyers.org/2023/08/13/turkey-dire-prison-conditions-overcrowding-and-lack-of-healthcare/>

9. Denial of the Right to Defense

Since the alleged coup d'état in 2016, Turkey has been using terrorist offences to prosecute lawyers, teachers, and any dissenting voices of the regime. This situation is further exacerbated by the systematic violations of fair trial rights, reflected in the many cases brought against Turkey before the European Court of Human Rights alleging freedom of expression and fair trial violations.¹¹⁶ Because of that, many instances can be chosen to describe how these fair trial rights violations occur in practice.

Despite being imperative, prisoners' right to appear before courts during their trials is limited. Prisoners are transferred to distant prisons from the courts, where they stand the test, making attending difficult. Despite being allowed to appear via a videoconference system in some cases, this solution still violates fair trial rights as it infringes the directness principle and effective defence that requires the accused to be present.¹¹⁷ Although in other instances, these appearances do occur, they account for little, as the legal basis for the trial is based on an incorrect offence – terrorist offences used to limit freedom of expression – and if there was no proof of such crime, as it happened to Cansu Piskin. In other instances, neither the accused nor his legal representative is notified of the sittings and thus cannot attend, endangering the defence.¹¹⁸ Bilal Yildiz, a member of the Migration Monitoring Association, was arrested under the same premises and was brought to court along with 22 others. However, only a few of them could give a statement, interrupted by the judges requesting a change in the location or any other reason, effectively preventing him from giving his statement overall. Moreover, the accusation did not include any direct link between Yildiz and the activities of the association he was an alleged member of¹¹⁹.

Moreover, access to a lawyer remains one of the most problematic rights in Turkey, as it is never prompt.¹²⁰ The Arrested Lawyers Initiative documented that since 2016, 529 lawyers have been sentenced to 3242 years under Article 314 of the Penal Code, which stipulates membership in an “armed terrorist organisation”.¹²¹ Several lawyers have been targeted by the Turkish government, alleging affiliation with a terrorist organisation (“FETÖ”), preventing them from offering their services if they have proceedings of these kinds pending. On the other hand,

¹¹⁶ Stephen J. Rapp (2019). *Trial Watch Fairness Report People v. Cansu Piskin*. Clooney Foundation for Justice website. Available: <https://cfj.org/wp-content/uploads/2023/07/Turkey-Piskin-Fairness-Report.pdf>

¹¹⁷ IHD – Central Prisons Committee (2020). *Rights Violations in Turkish Prisons: 2020 Monitoring Report*. Access to Fundamental Rights and Freedoms. Human Rights Association (IHD) website. Available at: https://ihd.org.tr/en/wp-content/uploads/2021/04/sr20210401_prisons-report.pdf

¹¹⁸ *Altay v. Turkey* (no. 2), 2019, §§ 79-82

¹¹⁹ Human Rights Defenders (2022) *Turkey: Violations of the right to fair trial and due process guarantees of Bilal Yildiz*. International Federation for Human Rights (fidh). Available at: <https://www.fidh.org/en/issues/human-rights-defenders/turkey-violations-of-the-right-to-a-fair-trial-and-due-process>

¹²⁰ *Salduz v. Turkey* [GC], 2008, §§ 53-54;

¹²¹ The Arrested Lawyers Initiative (2022) *Turkey forces political prisoners to the admission of guilt in order to benefit from parole*. The Arrested Lawyers Initiative website. Available at: <https://arrestedlawyers.org/2022/08/09/turkey-forces-political-prisoners-to-the-admission-of-guilt-in-order-to-benefit-from-parole/>

lawyers were also concerned about being involved in “FETÖ” cases since they ended up at risk of a conviction due to the general feeling of apathy towards them.¹²² They are also prevented from conducting an inherent part of their job, which is to be present at the hearings to ensure the principles of equality of arms and adversarial proceedings, furthered by excessive discretion to decide the value of a witness and the conditions in which they hear them – sometimes without having verified their identity. Another core principle of the profession, the client-attorney privilege, is also not respected, as the duration of their meetings is limited, they are recorded in total, and public officials tend to be present.

The case of Şahin Söğüt

To illustrate this risk, in 2018, lawyer Sabina Nur Gümüş visited a “FETÖ” suspect client, Şahin Söğüt, in police custody and filed a complaint alleging torture. Their next visit was strictly monitored, and after it, he was detained for hours and taken before the court, alleging that he attempted to secretly communicate with her client by sliding him a note when the security guard was not around, which had been recorded on camera.

The case of Mr. Canpolat

Another notorious violation of fair trial rights is achieving convictions with no evidence. A clear example of the consequences and reliability of these claims can be observed in the case of Mr. Canpolat.¹²³ His detention in remand was based on M.T.'s statement; however, it was not incriminating enough for an indictment. A new statement was obtained 12 days after Mr. Canpolat's detention. This allowed accusing the latter and three clerks under his responsibility of forming a terror cell, yet they were tried separately. All three clerks were acquitted of all charges, and since they were accused of being accomplices of Mr Canpolat, there were no grounds left to continue the detention. Nevertheless, the prosecution presented new accusations, yet detention on these new grounds was declared unlawful by the UN HRC and WGAD. Given the high involvement of the government in the judiciary, it is not far-fetched to highlight the violation of judicial impartiality, which is closely connected to the presumption of innocence.

The case of Veysel Ok

The trial of Veysel Ok was concluded on September 12, 2019, and it depicted a flagrant violation of the right to judicial impartiality. While the prosecution was present in the trial, the judge undertook its role instead and dismissed the defence's arguments. This, as backed by the UN Human Rights Committee and the ECtHR, implies a breach of the right to an impartial tribunal

¹²² Human Rights Watch (2019) *Lawyers on Trial. Abusive Prosecutions and Erosion of Fair Trial Rights in Turkey*. Human Rights Watch website. Available at: <https://www.hrw.org/report/2019/04/10/lawyers-trial/abusive-prosecutions-and-erosion-fair-trial-rights-turkey>

¹²³ The Arrested Lawyers (2020) *Call for action: The case of lawyer Turan Canpolat*. The Arrested Lawyers Initiative website. Available at: <https://arrestedlawyers.org/2020/05/03/call-for-action-the-case-of-lawyer-turan-canpolat/>

and the presumption of innocence, as the judge is manifesting his position. Moreover, the message is that freedom of expression is limited since a professional lawyer is convicted on an inherently unfair trial for criticising the judicial system. Elaborating further on the lack of evidence and legal basis, Mr Ok's accusation was based on Article 301 – which has been condemned internationally as a tool to silence independent voices.¹²⁴

The case of Ahmet Tuna Atinel

The case of Ahmet Tuna Atinel serves the purpose of illustrating the erosion of the presumption of innocence. Although there was no reasonable factual basis, under Turkish law, for his indictment, he was accused of membership in a terrorist organisation and for terrorist propaganda. His presumption of innocence was breached as Governor Balikesir Province gave a speech in which he treated Altinel's guilt as a given fact. Given the political status and consideration of a public figure of the Governor, such a breach even carries much more weight¹²⁵.

Lastly, emphasising the same case, the significant time lapse between detention and trial is worth noting. Indeed, Mr. Ok was only heard on the merits of his case 952 days after he was first indicted. This blatantly violates the principles set in international and European law, which sets the time limit to “without undue delay” or “within a reasonable time.”

¹²⁴ Professor Martin Scheinin (2020). *Trial Watch Fairness Report Turkey v Veysel Ok*. Clooney Foundation for Justice website. Available at: <https://cfj.org/wp-content/uploads/2023/07/01272020-Turkey-Veyssel-Ok-Fairness-Report.pdf>

¹²⁵ René Provost Ad.E (2020) *Trial Watch Fairness Report Turkey v. Ahmet Tina Altinel*. Clooney Foundation for Justice website. Available at: <https://cfj.org/wp-content/uploads/2023/07/Fairness-Report-on-the-Trial-of-Tuna-Altinel-in-Turkey.pdf>

10. Access to Health Services

Turkey's Human Rights Association (İHD) has published an extensive report containing information regarding the state of prisons in the country. Some of the main challenges were a shortage of medical staff, postponed hospital referrals and access to the infirmary, and inadequate provisions of nutritious food, clean water, and suitable opportunities for exercise.¹²⁶ In addition, the Turkish prison system has been found to not adequately offer fundamental healthcare for prisoners with chronic illnesses, disabilities, and those diagnosed with COVID-19 during the pandemic.¹²⁷

In 2020, the COVID-19 pandemic worsened the access to health services. Prisoners with pre-existing illnesses, especially those of older age, were already considered risk patients for a possible COVID-19 infection. However, additional challenges surfaced in maintaining consistent access to treatment and tracking the evolution of existing medical conditions. As stated by Hugh Williamson, Europe and Central Asia director at Human Rights Watch, "For vulnerable prisoners, the COVID-19 pandemic risks turning a prison sentence into a death sentence".¹²⁸

Furthermore, an investigation conducted by the Şanlıurfa Bar Association Human Rights Centre, in collaboration with the Urfa Branch of the Association of Lawyers for Freedom and the Urfa Branch of the Human Rights Association, has found that 59% of inmates in the Urfa province have expressed their inability to reach healthcare in urgent situations. Additionally, a striking 92% of prisoners indicated that their treatment plans were not being adhered to properly.¹²⁹

According to this investigation, dental care is among the sectors experiencing the most significant impact. Certain inmates are reported to have waited more than a year for dental treatment, even after requesting referrals.¹³⁰ In the Silivri prison in Istanbul, inmates have said no dentists or official doctors are available.¹³¹

There are also reports of the lack of essential medications in infirmaries and of necessary prescriptions for prisoners. Moreover, prisoners have reported difficulties in getting hospital

¹²⁶ SCF. (2022, December 28). Turkish prisons host 1,517 sick inmates: Report. *Stockholm Center for Freedom*. <https://stockholmcf.org/turkish-prisons-host-1517-sick-inmates-report/>

¹²⁷ Turkey: COVID-19 Puts Sick Prisoners at Grave Risk | Human Rights Watch. (2020, April 3). <https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>

¹²⁸ Turkey: COVID-19 Puts Sick Prisoners at Grave Risk | Human Rights Watch. (2020, April 3). <https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>

¹²⁹ Initiative, T. A. L. (2023, August 12). Turkey / Dire prison conditions: Overcrowding and lack of healthcare - The Arrested Lawyers Initiative. <https://arrestedlawyers.org/2023/08/13/turkey-dire-prison-conditions-overcrowding-and-lack-of-healthcare/>

¹³⁰ Initiative, T. A. L. (2023, August 12). Turkey / Dire prison conditions: Overcrowding and lack of healthcare - The Arrested Lawyers Initiative. <https://arrestedlawyers.org/2023/08/13/turkey-dire-prison-conditions-overcrowding-and-lack-of-healthcare/>

¹³¹ English, D. (2021, October 29). Inmates complain about lack of access to healthcare in Turkish prison [Text]. <https://www.duvarenglish.com/inmates-complain-about-lack-of-access-to-healthcare-in-turkish-prison-news-59351>; Duvar English.

referrals, with instances where the prison administration cancelled appointments.¹³² Even when prisoners are given access to health services, their rights are said to have been violated. There are reports of guards and officials entering examination rooms during medical check-ups, infringing upon these individuals' right to privacy.¹³³ The conditions of the prisons further exacerbate the health problems of inmates. Significant challenges in accessing clean and hot water have been reported. Hygiene facilities and clean water are often insufficient for the whole inmate population, resulting in unsanitary conditions.¹³⁴

The case of Murat Güntürk

A clear example of the consequences of denying health services to prisoners is that of Murat Güntürk. Although he had experienced fevers, tremors, and chills on the left side of his body, Güntürk was denied access to the infirmary for eighteen months. Later, he was taken to a medical facility, given antibiotics, and returned to his ward. His condition deteriorated, and he was eventually admitted to the hospital, where a brain tumour was found.¹³⁵

The case of Mehmet Sevinç

Another inmate called Mehmet Sevinç, who had spent 28 years incarcerated, passed away due to a cerebral haemorrhage. Before his passing, he was in solitary confinement and was experiencing high blood pressure.¹³⁶

The case of Fatma Ozbay

Another example is that of a prisoner named Fatma Ozbay, who is fighting cancer. Her pleas for medical assistance were consistently ignored, leading to a delayed diagnosis and treatment. Because of the late diagnosis and refusal of access to doctor consultations during the pandemic, her situation profoundly deteriorated.¹³⁷

¹³² Turkey's prisoners lack access to healthcare—Report. (2021, October 3). *Ahval*. <https://ahvalnews.com/turkey-prisons/turkeys-prisoners-lack-access-healthcare-report>

¹³³ Initiative, T. A. L. (2023, August 1). *New report rings alarms about Turkish prisons—The Arrested Lawyers Initiative*. <https://arrestedlawyers.org/2023/08/01/new-report-rings-alarms-about-turkish-prisons/>

¹³⁴ Initiative, T. A. L. (2023, August 1). *New report rings alarms about Turkish prisons—The Arrested Lawyers Initiative*. <https://arrestedlawyers.org/2023/08/01/new-report-rings-alarms-about-turkish-prisons/>

¹³⁵ English, D. (2021, October 29). *Inmates complain about lack of access to healthcare in Turkish prison* [Text]. <https://www.duvarenglish.com/inmates-complain-about-lack-of-access-to-healthcare-in-turkish-prison-news-59351>; Duvar English.

¹³⁶ hdp. (2022, May 3). *Turkey's prisons continue to be centres of ill-treatment and torture*. *HDP Europe*. <https://hdpeurope.eu/2022/05/turkeys-prisons-continue-to-be-centres-of-ill-treatment-and-torture/>

¹³⁷ The dire plight of ill prisoners in Turkey. (2023, October 28). *Gercek News*. <https://www.gerceknews.com/special-reports/the-dire-plight-of-ill-prisoners-in-turkey-222475h>

Conclusion

In summary, this report by "Broken Chalk" offers a thorough exploration of critical facets within the Turkish prison system, aligned with the overarching objectives of the Office of the United Nations High Commissioner for Human Rights. Examining ten key focus areas, from the rights of babies in Turkish prisons to the denial of the right to defence, the report aims to highlight challenges and commendable practices in prison management.

The findings underscore the significance of addressing unique concerns such as the well-being of infants, healthcare provision for sick prisoners, and the repercussions of external factors like the COVID-19 pandemic on incarcerated populations. By delving into these areas, the report strives to contribute meaningful insights and recommendations to enhance the dignity and welfare of detainees in Turkey's prisons.

In alignment with global human rights standards, this document calls for urgent attention to issues like overcrowding, allegations of torture, and the denial of parole rights, emphasising the need for systemic improvements within the Turkish prison system. The hope is that the insights and recommendations presented herein will catalyse positive changes within the Turkish context and contribute to the broader international dialogue on human rights and prison conditions.

As "Broken Chalk" concludes this report, it does so with a commitment to fostering a more just and humane approach to incarceration, grounded in respect for human rights and the dignity of every individual within the corrections system. Through disseminating these findings, we aspire to advance the cause of human rights on a global scale, acknowledging that the pursuit of justice within prison management is an essential facet of the broader endeavour to build a more equitable and compassionate world.



Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31685639758 | info@brokenchalk.org | www.brokenchalk.org

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