
UNIVERSAL PERIODIC REVIEW 49TH SESSION OF THE UPR WORKING GROUP COUNTRY UNDER REVIEW: TURKEY

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Human Rights Association – İHD / Turkey

Human Rights Association (*İnsan Hakları Derneği* - İHD) is a non-governmental, independent, and voluntary body. The association, which was founded in 1986 by 98 human rights defenders, today has 26 branches, 10 representative offices, and around 8,000 members. İHD is the oldest and largest human rights organization in Turkey and its sole and specific goal is to promote “human rights and freedoms.” İHD is a member of the International Federation of Human Rights (FIDH) based in Paris and of EuroMed Rights based in Copenhagen. İHD founded and is a member of the Human Rights Joint Platform (İHOP) in Turkey, while it founded the Turkish Coalition for the International Criminal Court and still serves as its speaker. İHD also founded the Human Rights Foundation of Turkey (HRFT) with a group of physicians in 1990. İHD issues special reports on various human rights issues including annual reports on human rights violations in Turkey. These include but are not limited to freedom of speech, the legal system, impunity, enforced disappearances, murders by unknown assailants, extrajudicial executions, torture and ill-treatment, and notably gross human rights violations in places where curfews were declared. İHD is an organization that submits shadow reports before committees at the United Nations and the Council of Europe that Turkey is a party to. İHD works in cooperation with the UN High Commissioner for Human Rights and the CoE Commissioner for Human Rights and special rapporteurs. Furthermore, İHD is an organization that is engaged in exchange of views with the diplomatic missions of countries emphasizing the protection of human rights in their foreign policies. İHD cooperates with bodies and institutions working for democracy in Turkey as well.

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Introduction

1. There has been a significant increase in rights violations since 2015, including the period covering the third cycle in which Turkey was last assessed. Rights violations and recommendations for Turkey have been addressed in other joint submissions in which İHD has been involved. This report focuses on the Kurdish Question and the rights violations arising from it. İHD also presents coalition reports in the fourth cycle.
2. İHD aims to make violations of rights visible to international human rights mechanisms and invites Turkey to implement the recommendations to be submitted to it fully in a way that will enable the protection and promotion of human rights, with the participation of human rights organisations and with the support of international human rights mechanisms, in particular UN mechanisms, including the UN High Commissioner for Human Rights, and recommends Turkey to carry out voluntary mid-term reporting. Urges the UN High Commissioner for Human Rights to encourage Turkey to undertake mid-term reporting in this cycle as it did in the previous cycle.
3. Turkey received a total of 307 recommendations during the previous cycle of UPR. The recommendations “45.270 Take concrete measures to protect the rights of ethnic minorities” (China); “45.152 Allow democratically elected representatives to exercise their mandates and stop their replacement by arbitrarily appointed trustees” (Czechia) and “45.15 Withdraw the reservation to article 27 of the International Covenant on Civil and Political Rights” (Solomon Islands) are the ones among recommendations closely related to the Kurdish Question.

Current Situation of the Kurdish Question between 2019-2024

Trustee Appointments

4. The Kurdish question remains one of the main obstacles to the democratisation of Turkey. The failure of the government to take holistic steps towards a peaceful, democratic and just solution of the problem, and the developments in the Middle East lead to violations of fundamental rights and freedoms.
5. There has been no progress in removing the reservation to Article 27 of the International Covenant on Civil and Political Rights. The lifting of the reservation will ensure that Kurdish citizens, together with members of other linguistic, ethnic or religious minority groups, will not be deprived of the right to enjoy their own culture, to believe in their own religion and worship according to that religion, or to use their own language.
6. The policy of appointing trustees to the municipalities in Kurdish cities with a large Kurdish population and ignoring the will of the people in local governments has eliminated even the minimum of local democracy.
7. In 2016, during the State of Emergency, trustees were appointed to a total of 95 municipalities, including 3 metropolises, 7 provinces, 63 districts and 22 towns. Co-mayors of 93 municipalities were also arrested. Following the 31 March 2019 local elections, trustees were appointed to a total of 48 HDP municipalities, including 3 metropolitan, 5 provincial, 33 district and 7 town municipalities, by the decision of the Ministry of Interior as of 19 August 2019. The appointment of trustees to 48 HDP municipalities has shown that the will of more than 4.5 million citizens is not recognised by the government.
8. During the course of local elections held on 31 March 2024, the decision on the return of the rights of Abdullah Zeydan, who was elected Co-Mayor of Van Metropolitan Municipality with 55.48 per cent of the votes of the people of Van in the local elections held on 31 March 2024, was unlawfully abolished and an attempt was made to appoint a trustee by ignoring the will of the people of Van.
9. On 03 June 2024, Mehmet Sıddık Akış, Co-Mayor of Hakkari Municipality, was suspended from duty by the decision of the Ministry of Interior. Two days after the suspension, Hakkari 1st High Criminal Court sentenced Mehmet Sıddık Akış to 19 years and 6 months in prison for being a leading member of an illegal organisation. As a result of a 10-year-long prosecution, Mehmet Sıddık Akış was sentenced just 2 days after he was suspended from duty, which shows that the independence and impartiality of the judiciary is not in question. The Ministry of Interior has acted on abstract facts in the justification of the

decision to suspend Mehmet Siddik Akış from duty, has established a judgement by substituting the judicial power, and has cited files that are being tried and investigated.

10. Immediately after the decision to appoint trustees to the Hakkâri Municipality, the governorates in Hakkari and Diyarbakır issued a ban on all kinds of protests, events, demonstrations, etc., and these bans were extended by the governorates.ⁱ

Recommendations

11. The appointments of trustees, which eliminate the Kurds' right to vote, to be elected and to representation, must be ended.
12. In order to resolve the Kurdish Question through democratic methods, the obstacles preventing Kurdish and opposition politicians from engaging in politics must be removed and the way for civilian politics must be paved.

Implementation of ECtHR Judgements and the Kobane Case

13. In the last hearing of the Kobani trial, known as the Kobani Conspiracy Case, in which HDP co-chairs, elected politicians from HDP, members and executives, were tried, heavy sentences were given unlawfully with the verdict given in the last hearing on 16 May 2024. Many rights of the politicians on trial, such as the right to a fair trial, the right to liberty and security, freedom of expression, the right to effective remedy, the prohibition of discrimination, the right to vote, to be elected and to engage in political activities have been violated.
14. In the Kobani Case, while the court found some of the politicians on trial not guilty in relation to the violent incidents that took place in many provinces during the demonstrations in 2014, known as the "6-8 October Events", the court ruled that the politicians, who were HDP MYK members, committed "the crime of disrupting the unity and integrity of the state by incitement to crime". Despite the ECtHR's findings of violation in the Demirtaş and Yüksekdağ judgements that the HDP cannot be held responsible for "acts of violence" and therefore the arrests of the co-chairs and politicians were politically motivated, the relevant judgements were not implemented. Despite recommendation 45.121 in the previous cycle, the ECtHR's Demirtaş and Yüksekdağ judgements continue not to be implemented.

Recommendations

15. The judgements of the ECtHR must be implemented.
16. In order to resolve the Kurdish issue through democratic methods, the obstacles preventing Kurdish and opposition politicians from engaging in politics must be removed and the way for civilian politics must be paved.

İmralı F Type High Security Closed Prison

17. A special and discriminatory form of isolation is being experienced in İmralı Prison, where lawyers' requests to meet with their client Abdullah Öcalan have not been responded positively since 7 August 2019. Veysi Aktaş, Hamili Yıldırım and Ömer Hayri Konar have not had a chance to see their lawyers even once since 2015 when they were transferred to İmralı Prison. The last face-to-face meeting with the families was held on 3 March 2020 and the last phone call was made on 25 March 2021.

Recommendations

18. The isolation policies that prevent Abdullah Öcalan, an important actor in the resolution of the Kurdish question, from participating in the process must be ended.

Armed Clashes

19. The Kurdish question remains unresolved and armed conflicts continue. Turkey's military operations have continued uninterruptedly within the country and have been extended to the north of Syria and Iraq, and its military presence has become permanent in certain areas in the north of Iraq after Syria,

and the field of conflict has widened.ⁱⁱ

20. According to the findings of the İHD Documentation Centre, in the 8-year period between 2015 and 2022, at least 6426 people lost their lives and 8676 people were wounded due to armed conflicts (the majority of those who lost their lives in the conflicts in Syria and KRG are not included). At least 207 people, including 59 security personnel (49 soldiers, 4 police officers, 6 village guards), 147 militants and 1 civilian, lost their lives as a result of armed conflicts in Syria and the Kurdistan Regional Government of Northern Iraq (KRG). In the same period, at least 51 people, including 36 soldiers, 14 police officers and 1 village guard, were wounded.ⁱⁱⁱ
21. In October 2022, the Ministry of National Defence filed a criminal complaint against Şebnem Korur Fincancı, Chair of the Central Council of the Turkish Medical Association, for being targeted by government officials and high-level politicians due to her statement that “the region should be effectively investigated by independent delegations”, after expressing her scientific opinion as a preliminary diagnosis in a TV broadcast on the allegations that the Turkish Armed Forces (TSK) used chemical weapons within the borders of the Iraqi Kurdistan Regional Government.^{iv} Human rights defenders who demand investigations into chemical weapons allegations face reprisals.^v Even discussing the possible implementation of the recommendation 45.19 to ensure full compliance of (armed) forces with international humanitarian law and human rights law exposes human rights defenders to reprisals.

Recommendations

22. The insistence on the use of military methods and security approaches in the Kurdish question must end.
23. Ensure that its armed forces fully comply with international humanitarian law and human rights law and that allegations in this regard are effectively investigated.
24. Turkey should end its military presence in northern Iraq and northern Syria and withdraw from the occupied territories in Syria.

Curfews and Freedom of Assembly in the Context of the Kurdish Question

25. The continuous/day-long blanket curfews, which were intensively imposed in 2015-2016, violated the most fundamental rights to life and health of at least 1.8 million people known to live in the provinces and districts where they were imposed, and which were clearly stated in the reports of the European Commission for Democracy through Law (Venice Commission) and the Council of Europe Commissioner for Human Rights that they have no legal basis in terms of both domestic and international law, continued in 2021 with all their negative effects, albeit for shorter periods and on a smaller scale. Between 1 January 2021 and 18 November 2021, curfews were declared in 32 neighbourhoods (3 times for 21 days in total) and 103 villages (3 times for 9 days in total) in Bitlis. Between 1 January 2021 and 8 November 2021, curfews were declared in 66 neighbourhoods (9 times for a total of 10 days) and 1 hamlet (1 time for a total of 1 day) in Mardin 17 times.
26. The ban on protests and events in Van, which started on 21 November 2016 and renewed every 15 days, has been in effect for more than 7 years. As of 24 July 2022, when Van Governor Ozan Balcı took office, this ban was partially eased, but the ban, which was eased on paper, continued to be applied in practice in protests and events. Subsequently, demonstration marches, open-air meetings and closed-door meetings were banned again for 15 days within the geographical borders of Van province, effective from 03/04/2024 until 17/04/2024.
27. In other words, approximately 1 million 136 thousand citizens living in Van have been unable to exercise for 5 years without interruption these freedoms guaranteed by the Constitution.

Recommendations

28. Blanket curfews must be ended.
29. The power granted to governors by the amendment to the Provincial Administration Law to postpone or ban meetings and demonstrations should be cancelled and the constitutional right to freedom of assembly

should be implemented without exception.

On the Implementation of Recommendations on Discrimination and Hate Crimes

30. Hate crimes and hate speech against Kurds persist. There have been numerous incidents of hate crimes against Kurdish citizens living in Turkey for speaking Kurdish or listening to Kurdish music. In early 2024, young people who shouted slogans while dancing the halay in Mersin were detained, subsequently arrested and forced to listen to racist music while being taken to prison, followed by similar detentions and arrests in Siirt, Ağrı and Istanbul. A video taken at a wedding in Kurtalan district of Siirt and shared on social media showing women dancing halay was targeted by racist accounts.
31. As Article 122 of the Turkish Penal Code does not define the offence of discrimination based on ethnic group membership, perpetrators cannot be prosecuted for these offences and the courts acquit them.
32. According to the data of the HRFT Documentation Centre, 13 people were killed and 71 people were wounded in racist and hate-motivated attacks against Kurds between 2020 and 2023. There are no statistics published by the Ministry of Justice on the number of people killed and injured as a result of racist and hate-motivated attacks.
33. A number of attacks on HDP/DEM Party buildings and election offices were reported, including during the 2023 election campaign period. The attacks on the graves of Kurdish militants clearly constitute a violation of Article 153 of the Penal Code. Despite attacks on the graves of Kurdish militants, this article of the law is not enforced.

Recommendations

34. Turkey's anti-discrimination legislation should be harmonised with international standards, cover hate crimes based on sexual orientation, ethnic origin, age or gender identity and be duly implemented in practice.
35. Turkey signed Protocol No. 12 to the European Convention on Human Rights (ECHR) on non-discrimination on 18 April 2001, but it has not yet been ratified by the parliament and therefore has not been implemented. This protocol should be ratified by the parliament and put into practice as soon as possible.

ⁱ <https://bianet.org/haber/hakkariye-kayyim-atanmasin-ardindan-11-ilde-eylem-yasagi-296111>

ⁱⁱ For more information on rights violations and allegations of impunity in Turkish-controlled areas of northern Syria, see the following report by Human Rights Watch: <https://www.hrw.org/tr/report/2024/02/29/387395>

ⁱⁱⁱ Human Rights Association Annual Human Rights Violations Report <https://www.ihd.org.tr/2023-yili-hak-ihlalleri-raporu/>

^{iv} <https://www.evrensel.net/haber/473000/erdogan-ttb-baskani-sebnem-korur-fincanci-yi-hedef-aldi>

^v Subsequently, Ankara Chief Public Prosecutor's Office Terrorism Crimes Investigation Bureau opened an investigation against him on the allegation of 'making propaganda for a terrorist organisation'. He was detained on 26 October 2022 at his home in Istanbul, brought to Ankara under custody conditions, and arrested by Ankara 3rd Criminal Judgeship of Peace on 27 October 2022. His lawyers' appeal was rejected by the Ankara 49th Criminal Court of First Instance. The prosecutor's office filed an indictment on the grounds for the referral to arrest and opened a case for punishment under Article 7/2 of the Anti-Terror Law on 10 November 2022. Ankara 4th High Criminal Court accepted the indictment against Fincancı on the charge of 'making propaganda for a terrorist organisation' with a prison sentence of up to 7 years and 6 months.