

İHD 2021 PRISONS REPORT

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İHD

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This report was drafted by IHD's Central Prisons Committee and IHD staff based on reports and visits by local IHD branches' prisons committees, information collected by IHD's legal team and prisoners' families network, allegations in applications lodged before IHD, and news reports by the media.



1986

Table of Contents

INTRODUCTION	1
OVERALL CONDITIONS IN PRISONS	6
THE RIGHT TO HEALTH AND SICK PRISONERS	9
ACCESS TO FUNDAMENTAL RIGHTS AND RIGHTS VIOLATIONS IN PRISONS	13
I. RIGHT TO LIFE	13
II. ALLEGATIONS OF TORTURE AND ILL-TREATMENT	16
A. STRIP SEARCH	17
B. SOLITARY CONFINEMENT AND ISOLATION	19
C. NEW PRISON TYPES THAT HEIGHTEN ISOLATION: S-TYPE AND MAXIMUM SECURITY PRISONS	21
D. STANDING ROLL-CALLS / ORAL REPORTING ON THE PHONE	21
E. SOCIAL ACTIVITIES	22
III. RIGHT TO COMMUNICATION	22
IV. RIGHT TO INFORMATION	23
V. DISCIPLINARY ACTION AND ENFORCEMENT OF SENTENCES	24
VI. TRANSFER REQUESTS AND ENFORCED TRANSFERS	24
VII. RIGHT TO A FAIR TRIAL	25
VIII. OTHER	26
THE COVID-19 PANDEMIC AND PRISONS	27
AMENDED ENFORCEMENT LAW	29
HUNGER STRIKES	32
WOMEN – LGBTI+ - CHILDREN	34

Tables

Table 1. Prisons Visited and/or Received Applications from in 2021

Table 2. Distribution of Prisons as per Their Status

Table 3. Prisoners as per Their Status of Sentencing and Enforcement

Table 4. Distribution of Prisoners as per Their Age Groups

Table 5. Death in Prisons in 2021

Table 6. Hunger Strikers in Prisons in 2021

Figures

Figure 1. Number of Prisoners by Year

Figure 2. Prison Occupancy Rates by Year %

Abbreviations

AKP	Adalet ve Kalkınma Partisi (Justice and Development Party)
ATC	Anti-Terror Code
BİK	Basın İlan Kurumu (Press and Advertisement Agency)
CCP	Code of Criminal Procedure
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DGPDH	Directorate General of Prisons and Detention Houses
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FMI	Forensic Medicine Institute
GNAT	Grand National Assembly of Turkey
HDP	Halkların Demokratik Partisi (Peoples' Democratic Party)
HRFT	Human Rights Foundation of Turkey
HRJP	Human Rights Joint Platform
ICCPR	International Covenant on Civil and Political Rights
İHD	İnsan Hakları Derneği (Human Rights Association)
MHP	Milliyetçi Hareket Partisi (Nationalist Movement Party)
OHCHR	Office of the High Commissioner for Human Rights
TİHEK	Türkiye İnsan Hakları ve Eşitlik Kurumu (Human Rights and Equality Institution of Turkey)
TMA	Turkish Medical Association
TPC	Turkish Penal Code
TurkStat	Turkish Statistics Institute
UN	United Nations
WHO	World Health Organization
WMA	World Medical Association

INTRODUCTION

Prisons do not disappear social problems, they disappear human beings.
Angela Davis

The Human Rights Association (İHD), which carries out its activities for the creation of conditions for prisoners to lead their lives in conditions worthy of human dignity, endeavors to monitor and report all the problems in prisons and injustice faced by prisoners. While carrying out these activities, it draws on many sources to collect information and data. With its 27 branches and 7 representative offices, İHD is the largest human rights organization working in Turkey. In addition to the rights violations reports it publishes, İHD also issues reports on rights violations in prisons in cooperation with other non-governmental organizations and bar associations working in the field of human rights.

As in other fields of its work, İHD receives many applications regarding prisons. Some of these applications are lodged directly by prisoners, while others are made by prisoners' relatives or their lawyers. Applications can be submitted online through the İHD website or directly to its branches and central office. Prisoners and their relatives also apply to İHD via letters. The association immediately informs the relevant public bodies about the applications it receives. The association writes official letters to the Ministry of Justice, the Directorate General of Prisons and Detention Houses (DGPDH), the Human Rights Inquiry Commission of the Grand National Assembly of Turkey (GNAT), the Ministry of Health, the Ombudsman's Office, the Human Rights and Equality Institution of Turkey (TİHEK), Turkish Medical Association (TMA), the Ministry of Interior Law Enforcement Supervision Commission, the relevant prosecutor's offices, the relevant prison administrations, provincial health directorates, and other institutions specific to the application and provide the necessary information to eliminate the existing rights violations. Following such notification procedure, İHD also closely follows up any developments and, if need be, sends in attorneys to prisons for conferences with prisoners to the extent of the available means. The association holds press conferences and drafts reports to inform the public following these procedures.

Another resource for İHD in this field is its widespread and extensive network of lawyers. Prisoners' lawyers contact and apply to İHD regarding the rights violations faced by their clients, and these applications contribute to the collection of data. Lawyers who are part of İHD's legal and prison commissions also support data collection by interviewing prisoners and preparing reports in line with the applications received by the association.

Another important source of İHD's annual, periodical, or thematic reports is media reviews. İHD regularly conducts media reviews and collects news articles reported by the media or that are on the agenda in the field of prisons. In addition to the reports it publishes and the work it carries out, İHD also holds meetings with public bodies in order to eliminate rights violations in prisons.

Finally, it should also be noted that İHD collaborates with other civil society organizations that are active in the field of prisons and prisoners' rights like Association of Lawyers for Freedom

(Özgürlük İçin Hukukçular Derneği), Progressive Lawyers' Association (Çağdaş Hukukçular Derneği) and MED Prisoners' Families Law and Solidarity Associations Federation (MED TUHAD-FED), the TMA, the Human Rights Foundation of Turkey (HRFT) and other prisoners' families associations. Significant information and data are collected as a result of such collaboration.

This report is a compilation of the data collected from the different sources of information mentioned above. It is based on the regular prison reports prepared by İHD branches and regional representative offices and the data obtained during prison visits. The report was also supported by data obtained from other sources.

According to the data at hand, in 2021, 901 prisoners in prisons in different regions of Turkey applied to İHD's central office alone, either by letter or through their families or lawyers. Considering the applications lodged before İHD's local branches, it is seen that thousands of applications were submitted to the association. Most of these applications were lodged through letters and some of them consist of applications by more than one prisoner through a single letter.

When the applications lodged before the association are classified according to their content, it is seen that the applications are mostly concentrated on allegations of violations of rights such as the right to health, torture and ill-treatment and discrimination. In addition to these, applications for legal support are also common. Further, it is seen that in 2021, similar to 2020, applications were sent in from prisons due to violations of rights arising from the COVID-19 pandemic. İHD also receives many applications from prisoners due to the fact that their applications for transfer to prisons in regions close to their families are not taken into consideration by the prison administrations.

Applications sent to İHD from prisons mostly allege more than one violation of rights and request help from the association in this regard. Particularly the situation of sick prisoners, isolation, strip searches, usurpation of the right to communication, and many other issues have been the subject of a significant number of applications to İHD. Foreign national prisoners in Turkish prisons also face many rights violations, especially due to the language barrier. Foreign prisoners mostly apply to İHD because they cannot benefit from the right to a fair trial and the right to communication because they do not speak Turkish.

When one studies the map below showing the cities where applications were lodged before the İHD, it is seen that applications were lodged before the association from prisons in all of the cities marked in dark color. As can be understood from the map, it is evident that İHD receives applications from prisons in almost all over Turkey. Even from this map alone, it is evident that rights violations in prisons are not limited to one region, but spread all over Turkey and prisoners are subjected to varying levels of rights violations.

Çanakkale	Kayseri
Çanakkale E Type Closed Prison	Bünyan T Type Closed Prison No. 1
Çorum	Bünyan T Type Closed Prison No. 2
Çorum L Type Closed Prison	Bünyan Women's Closed Prison
Denizli	Gültepe Closed Prison
Denizli T Type Closed Prison	Kırıkkale
Denizli D Type Closed Prison	Kırıkkale F Type Closed Prison
Diyarbakır	Keskin T Type Closed Prison
Diyarbakır Maximum Security Closed Prison No. 1	Kırklareli
Diyarbakır T Type Closed Prison No. 4	Kırklareli E Type Closed Prison
Diyarbakır D Type Closed Prison	Kırşehir
Düzce	Kırşehir E Type Closed Prison
Düzce T Type Closed Prison	Kocaeli
Edirne	Kandıra F Type Closed Prison No. 2
Edirne F Type Closed Prison	Gebze Women's Closed Prison
Elazığ	Konya
Elazığ Type Closed Prison No. 1	Ereğli T Type Closed Prison
Elazığ Maximum Security Closed Prison No. 1	Seydişehir T Type Closed Prison
Elazığ Maximum Security Closed Prison No. 2	Kütahya
Erzurum	Kütahya Open Prison
Narman Open Prison	Malatya
Eskişehir	Malatya T Type Closed Prison
Eskişehir H Type Closed Prison	Manisa
Gaziantep	Manisa T Type Closed Prison
Gaziantep L Type Closed Prison	Mardin
Islahiye T Type Closed Prison	Mardin E Type Closed Prison
Giresun	Mersin
Espiye L Type Closed Prison	Tarsus T Type Closed Prison No. 2
Gümüşhane	Tarsus T Type Closed Prison No. 3
Gümüşhane T Type Closed Prison	Tarsus Women's Closed Prison
İstanbul	Nevşehir
Bakırköy Women's Closed Prison	Nevşehir E Type Closed Prison
Metris R Type Closed Prison	Ordu
Silivri L Type Closed Prison No. 3	Ordu E Type Closed Prison
Silivri L Type Closed Prison No. 5	Akkuş Open Prison
Silivri L Type Closed Prison No. 7	Osmaniye
Silivri L Type Closed Prison No. 9	Osmaniye T Type Closed Prison No. 2
İzmir	Rize
İzmir F Type Closed Prison No. 2	Kalkandere L Type Closed Prison
Buca Open Prison	Samsun
Şakran T Type Closed Prison No. 1	Samsun M Type Closed Prison
Şakran T Type Closed Prison No. 2	Bafra T Type Closed Prison
Şakran T Type Closed Prison No. 3	Kütahya Open Prison
Şakran T Type Closed Prison No. 4	Şanlıurfa
Kahramanmaraş	Şanlıurfa T Type Closed Prison No. 1
Türkoğlu L Type Closed Prison No. 1	Şanlıurfa T Type Closed Prison No. 2

Şanlıurfa (cont.)	Tokat
Hilvan T Type Closed Prison	Tokat T Type Closed Prison
Şırnak	Trabzon
Şırnak T Type Closed Prison	Beşikdüzü T Type Closed Prison
Sivas	Van
Sivas E Type Closed Prison	Van F Type Closed Prison
Sivas Semi-Open Prison	Van T Type Closed Prison
Tekirdağ	Van Maximum Security Closed Prison
Tekirdağ T Type Closed Prison No. 1	
Tekirdağ F Type Closed Prison No. 2	

We do know that the problems in Turkish prisons go way beyond those referred to and cited in this report. It is, however, almost impossible to obtain information and data that would crack the whole picture wide open, as is the case with many other rights categories. Therefore data presented in this report is merely a limited one that İHD was able to collect and probably accounts for only the visible part of the iceberg. Despite such limitation, we believe that the applications received by İHD provide us with the opportunity to describe the status quo in prisons and to assess the overall conditions in prisons as these applications reveal the conditions in prisons. We, thus, believe that this report will contribute to both politicians and the activities undertaken by civil society organizations working in the field of prisons.

The report covers major rights violations under such categories as the right to life, allegations of torture and ill-treatment, right to health, right to communication, right to information, disciplinary action and enforcement of sentences, transfer requests and enforced transfers, the right to a fair trial, and other repressive policies. The report specifically focuses on the condition of women prisoners, the COVID-19 pandemic, amendments to the Enforcement Law, and sick prisoners. Our data reveal that violations and problems in prisons are much deeper and systematic. The reader will see that applications incorporating multidimensional violation allegations are provided more than once under different categories in some cases.

The cases of foreign national prisoners, LGBTI+ prisoners, women prisoners with children, and children, who are presented in the report in exemplary accounts but not in detail, need to be studied in further special reports.

CSOs working on prisons are usually in touch with prisoners, prisoners' families or official representatives. Yet the public's stand on a certain issue may seriously affect political powers' activities in that field in democratic societies. Particularly the fact that prisons and rights violations in prisons are not reported enough by different media outlets gives way to the ever-increasing cases of torture and ill-treatment of prisoners. Thus, revealing the attitudes, perceptions and expectations of the public about prisons and rights violations in prisons and informing the public about them will only be possible by active monitoring and reporting of these issues. These are also major considerations in the scheduling of İHD's work on prisons.

İHD will keep on making rights violations in prisons more visible and present them to the public through its work on prisons. We sincerely hope that our efforts will contribute to prisoners' access to fundamental rights and freedoms.

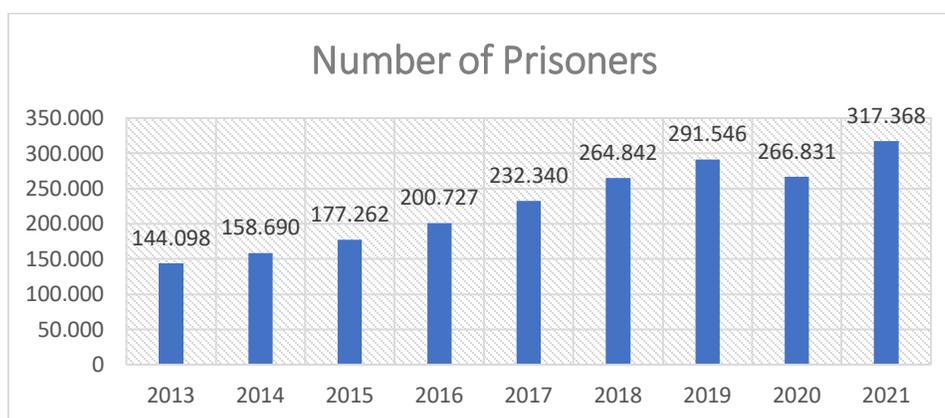
OVERALL CONDITIONS IN PRISONS

It is quite hard to obtain statistical data about the overall conditions of prisons in Turkey. Although the Ministry of Justice and the Directorate General of Prisons and Detention Houses (DGPDH) release some statistical data at varying intervals, it is not possible to test their reliability. Furthermore, no figures are provided on how many LGBTI+ or how many political prisoners are incarcerated. Similarly, no information on prisoners who have died or committed suicide in prisons is shared with the public. As the difference between prison capacity and the current number of prisoners become more pronounced as per the number of prisoners, so do the chances to obtain such data.

Despite the above-mentioned challenges, it should be noted that data was updated more frequently in 2021 than in 2020. According to the data released by the DGPDH, there are 384 prisons in Turkey, including 269 closed, 86 detached open prisons, 4 children's education centers, 10 women's closed, 7 women's open, 8 children's closed prisons as of 5 May 2022.¹ The total capacity of these institutions is 275,843 persons. However, it is worth noting that this number is an increased capacity. Under normal conditions, there should have been 2/3 of the number of prisoners in these prisons. In addition, when compared to the data İHD provided in its 2020 prisons report,² it is seen that 15 new prisons were built in 2021 and the prison capacity was increased by 30,896 people. This shows that Turkey's current understanding of power envisions a future based on imprisoning people in general.

The graphs below show the number of prisoners in Turkish prisons and their occupancy rate. As can be seen from both graphs, the number of prisoners and the occupancy rate of prisons in Turkey show a significant upward trend. The data for the last 9 years including 2021 reveals a serious upward trend in the number of prisoners.

Figure 1. Number of Prisoners by Year



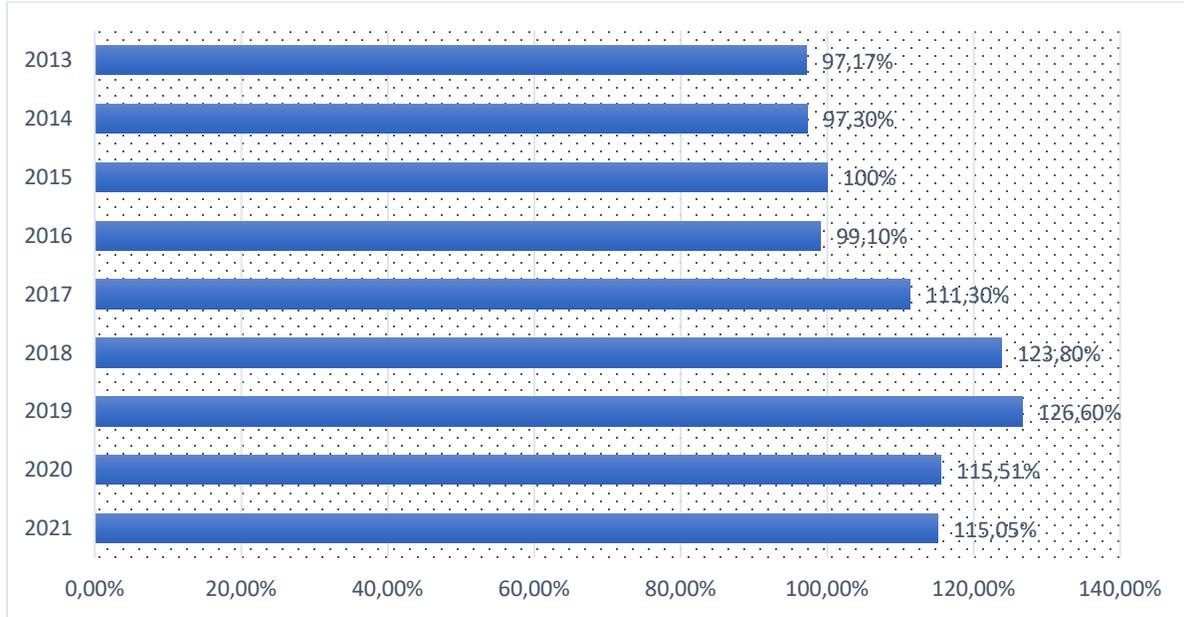
The following chart shows prison occupancy rates. Such increase in prison occupancy rates, in spite of the fact that the government has built many new prisons, is a clear indicator of the fact

¹ <https://cte.adalet.gov.tr/Home/SayfaDetay/cik-genel-bilgi>

² <https://ihd.org.tr/en/ihd-2020-prisoners-rights-monitoring-report/>

that the political power merely disregards the “exceptional” state of incarceration, which according to the European Convention on Human Rights (ECHR) and to the case law of the European Court of Human Rights (ECtHR) must be an exception, and individuals are deprived of their liberty at the hands of the judiciary.

Figure 2. Prison Occupancy Rates by Year %



Data shows that incarceration rates dramatically increased. The European Commission’s *Turkey 2020 Report*³ and *Turkey 2021 Report*⁴, underlined the fact that such state of affairs had led to numerous human rights violations, notably arbitrary restrictions on prisoners and increase in the number of alleged torture and ill-treatment cases. Human Rights Association’s special reports clearly demonstrate violations brought about by the current status quo in prisons.^{5, 6, 7}

According to the official figures released by the Directorate General of Prisons and Detention Houses, the total number of prisoners in Turkey was 317,368 as of 31 May 2022.⁸

³ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf

⁴ https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en

⁵ <https://www.ihd.org.tr/marmara-bolgesi-hapishaneleri-2021-yili-hak-ihlalleri-raporu/>

⁶ <https://www.ihd.org.tr/ic-anadolu-bolgesi-hapishaneleri-2021-yili-hak-ihlalleri-raporu-aciklandi/>

⁷ <https://www.ihd.org.tr/ege-bolgesi-hapishaneleri-2021-yili-hak-ihlalleri-raporu/>

⁸ <https://cte.adalet.gov.tr/Home/BilgiDetay/22>

On 28 February 2021, the number of prisoners, however, was 276,438 according to İHD's 2020 Prisons Report. Thus, this data shows that the figures went up by about 41,000 merely between 2020 and 2021. In short, Turkish prisons have the highest overcapacity numbers in their history and such state of affairs bring along prevalent rights violations in prisons.

Tables below show the distribution of prisoners as per status, gender and age in Turkey at the time of the publishing of this report. The data reveal that there are 2,257 prisoners under the age of 18 while there are 5,216 prisoners above the age of 65 in Turkish prisons.

Table 2. Distribution of Prisons as per Their Status

Date	Prison Status		Grand Total
	Open Prison	Closed Prison	
31 May 2022	108,446	208,922	317,368

Table 3. Prisoners as per Their Status of Sentencing and Enforcement

YEARS	CONVICTED				ON REMAND				GRAND TOTAL
	MALE	FEMALE	MINOR	TOTAL	MALE	FEMALE	MINOR	TOTAL	
31.05.2022	266,331	10,522	737	277,590	36,280	1,978	1,520	39,778	317,368

Note: The figures above include the number of convicted prisoners on COVID-19 leave under Law No. 7242.

Table 4. Distribution of Prisoners as per Their Age Groups

Distribution as per Age Groups	Convicted			On Remand			GRAND TOTAL		
	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL
12-18 Years of Age	711	26	737	1,468	52	1,406	2,179	78	2,257
18-40 Years of Age	170,347	6,299	176,646	27,483	1,460	28,943	197,830	7,759	205,589
40-65 Years of Age	91,289	4,031	95,320	8,476	510	8,986	99,765	4,541	104,306
65 and 65+ Years of Age	4,695	192	4,887	321	8	329	5,016	200	5,216
GRAND TOTAL	267,042	10,548	277,590	37,748	2,030	39,778	304,790	12,578	317,368

THE RIGHT TO HEALTH AND SICK PRISONERS

It is observed that the main health problems in prisons in terms of the right to health are multidimensional and diverse as revealed by applications received by İHD and the conferences with prisoners. First and foremost, overcrowded wards constitute an important problem in terms of the right to health. Moreover, during the COVID-19 pandemic with ongoing impact in 2021 as well, the population in overcrowded wards was not reduced, but in many cases, the populations in cells and wards was increased.

The single-seater transport vehicles used in transfers to hospitals, which go against human dignity, also bring about serious problems in terms of the right to health. In addition to the fact that even the basic needs of prisoners are not met during these transfers, even sick prisoners who have serious problems in using these single-seater transportation vehicles continue to be transported in these vehicles. Forcing prisoners to be transferred in single-cell vehicles, which especially negatively affects lung diseases, especially asthma, and epilepsy stands out as one of the most important violations of rights. It is also necessary to note that prisoners are subjected to forced searches during transfers. Similarly, prisoners who are at risk of having an attack and/or cannot meet their own needs are kept in solitary confinement.

Sick prisoners are not taken to the infirmary on time when they need to see a physician and when they get sick. They are kept waiting in line for months for referrals from infirmaries to outpatient clinics and from outpatient clinics to tertiary health services. Moreover, health care conditions in prisons are not of a quality and capacity to handle the overcrowding. While these conditions are not sufficient even for the normal capacities of prisons, they lead to more violations in the current situation where the prison population is far above capacity.

Another issue expressed by prisoners is that sick prisoners are dismissed with palliative medication such as painkillers that prevent or eliminate the symptoms of the disease instead of being treated in prison infirmaries and hospitals. In addition, the fact that there is not always a physician in prison infirmaries is another important complaint. It is also on our records that some prison doctors impose handcuffed examinations and do not even extend the minimum care.

Other problematic areas include insufficient heating and ventilation of wards and cells, inadequate access to daylight, inadequate subsistence allowances, restricted access to clean water and hot water, and lack of dietary meals.

Prisoners in critical condition are not released even though they are in the last stages of their illnesses. The fact that the Forensic Medicine Institution (FMI) delivers politically motivated release decisions, hospital reports are not recognized by the FMI, and the medical reports or decisions are not implemented on the grounds of "security" put such prisoners even more at risk.

We once again demand that prisoners in critical condition be released and the enforcement of their sentences be postponed as they are in the serious risk group in case of a pandemic, and that those on remand be released immediately.

The problem of failure to release sick prisoners, which has been on Turkey's agenda for a long time and has not been solved, has made itself more visible. The "Prisoners in Critical Condition

and Sick Prisoners List” compiled by İHD’s Central Prisons Committee was updated and shared with the public on 29 April 2022.⁹

According to information covered in this report too, there are currently 1,517 sick prisoners in Turkish prisons, 651 of whom are in critical condition. These cases are only the ones that İHD was able to identify. Therefore, we would like to emphasize that the real number is much higher. We are concerned that especially the increase in the number of prisoners in critical condition has reached alarming levels and the state’s policy of releasing prisoners in coffins has been consolidated. We believe that all sick prisoners, especially those in critical condition, should be released by postponing the enforcement of their sentences until they recover, and we would also like to emphasize that we will be a persistent follower of this issue.

İHD’s findings on violations of the right to health in prisons can be summarized as follows:

- Overcrowded wards due to the increase in the number of prisoners,
- Delayed visits to infirmaries, even more delayed referrals from infirmaries to outpatient clinics and from outpatient clinics to tertiary health services,
- Lack of quality health care services with the capacity to handle overcapacity,
- Absence round-the-clock doctors in the infirmaries,
- The fact that, in some prisons, security guards do not open the handcuffs and physicians do not demand them to be taken off,
- Delayed or no hospital referrals,
- Forced search before referrals and forced transfers in single-cell vehicles (which particularly affects asthmatic patients)
- Failure to release prisoners in critical conditions even though they are in the last stages of their illnesses,
- The fact that sick prisoners are not really treated both in prison infirmaries and hospitals, and are dismissed with palliative medication (such as painkillers),
- The FMI’s politically motivated failure to issue release decisions, and its rejection of medical reports drafted by hospitals,
- Keeping prisoners who are at risk of having attacks and/or unable to meet their own needs in solitary confinement,
- Inadequate ration allowances,
- Unheated and unventilated wards,
- Not allowing prisoners to benefit from sufficient daylight,
- Failure to provide diet meals,
- Problems in access to clean water.

We have insistently demanded,^{10,11} and once again demand, that prisoners in critical condition be released and the enforcement of their sentences be postponed in the event of a pandemic as they are in the risk group, and that those on remand be released immediately.

⁹ <https://ihd.org.tr/en/ihd-calls-for-the-release-of-sick-prisoners/>

¹⁰ <https://www.ihd.org.tr/dunya-hasta-haklari-gunu-hasta-haklari-mahpuslar-icin-de-gecerlidir/>

¹¹ <https://ihd.org.tr/en/ihd-statement-on-the-covid-19-pandemic-and-sick-prisoners/>

The “Bylaw on the Administration of Penal Institutions and the Enforcement of Sentences and Security Measures”¹² published by the Presidency in the *Official Gazette* of 29 March 2020 has carried the aspects of the current enforcement law that go against prisoners’ rights and will bring about new problems in practice. İHD voiced its criticism on this issue together with other organizations within the Alliance against Impunity,¹³ shared its recommendations with the public¹⁴ and took the necessary legal initiatives.¹⁵

International legislation imposes positive obligations on states regarding the right to life of persons deprived of their liberty. States are obliged to ensure that persons deprived of their liberty are on equal footing with free individuals in terms of the right to access to health. Law No. 5275 on the Enforcement of Sentences and the related regulations are in serious non-compliance with the UN Mandela Rules. We will continue to express our criticism and suggestions on this issue.

The amendment to the Enforcement Law, which has been on the political power’s agenda for a long time, should be made in accordance with the principle of equality of conditional release periods in enforcement, taking into account the COVID-19 outbreak. It should include provisions to ensure the release of disadvantaged groups, especially sick prisoners, in a short time.

Other than the above-mentioned points:

1. All prisoners in critical condition currently in prisons should be released immediately based on a full-fledged hospital report, their treatment should be continued with their families present and their health insurance should be covered by the state;
2. The Forensic Medicine Institution should no longer be the final and sole authority for reports on postponement of enforcement for health reasons. The FMI should deliver decisions in line with medical science and ethics, not under the pressure of the political power;
3. The discretionary power of public prosecutors should be abolished in decisions on postponement of enforcement due to health reasons, and the enforcement of sentences should be postponed based on medical reports drawn up by hospitals;
4. The criterion of “danger to public safety” for the enforcement postponement of sick prisoners should be removed from the law;
5. The regulation in Article 25 of the Law on the Enforcement of Sentences, stating that “enforcement cannot be suspended” and the regulation in paragraph 16 of Article 107, which raise obstacles to the postponement of enforcement of sick prisoners, should be abolished;
6. In accordance with the ECtHR’s *Kaytan v. Turkey* judgment, prisoners should be given an appropriate date for their release, taking into account their age and state of health;
7. The ECtHR’s judgment in *Gülay Çetin v. Turkey* should be complied with and it should be kept in mind that not releasing sick prisoners is a violation of Article 3 of the ECHR;

¹² <https://www.mevzuat.gov.tr/MevzuatMetin/21.5.2324.pdf>

¹³ <https://ihd.org.tr/en/alliance-against-impunity-joint-statement-on-the-enforcement-law/>

¹⁴ <https://ihd.org.tr/en/special-report-on-the-bill-to-amend-the-enforcement-law/>

¹⁵ <https://ihd.org.tr/en/ihds-amicus-curiae-submission-on-law-no-7242/>

8. The circular regulating the president's authority to pardon prisoners on health grounds should be amended; the FMI should cease to be the sole determinant; and the president should exercise his authority regarding prisoners in critical condition without discrimination.

ACCESS TO FUNDAMENTAL RIGHTS AND RIGHTS VIOLATIONS IN PRISONS

I. Right to Life

The right to life is sacred and the most fundamental right. Protection of human life requires the protection of a human being's both physical and psychological integrity. The right to life, therefore, is under absolute protection. Article 17 § 1 of the Turkish Constitution, Article 2 of the ECHR and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) enshrine protection of life. All the rights pertaining to maintaining a person's existence in healthy physical and psychological integrity are absolutely valid for each individual deprived of their liberty. Yet, prisoners face biological and psychological decay, along with the fact that incarceration is itself oppressive, through subjection to numerous rights violations while their right to life is not protected.

Moreover, problems faced by sick prisoners gradually deteriorate and no healthy solutions can be put forth. Unfortunately, the Ministry of Justice has not been sharing any data about sick prisoners despite the increase particularly in the number of sick prisoners. There are numerous obstacles before sick prisoners' access to healthcare. These include but are not limited to: overcrowded wards, delayed transfer to infirmaries, delayed transfer to hospitals or none at all, examination in handcuffs in hospitals and infirmaries, prevention of the exercise of the right to open air, delayed opening and premature closure of ventilation doors, non-hygienic rooms, transfers by single-seater compartmental transfer vehicles that impair a person's physical and mental health, non-heated and humid rooms, malnutrition, no access to diet food, problems in access to clean and hot water, insufficient number of medical doctors and other healthcare staff in prisons, holding prisoners who cannot maintain their lives on their own in solitary confinement and the like. The conditions of prisoners who have to deal with such problems become more critical each day and their diseases become chronic and multiple. A great majority of sick prisoners cannot go to hospitals because they do not want to be held in quarantine wards. Along with the fact that they cannot survive on their own, it has been reported that in some prisons such quarantine wards were repurposed from cell-sized rooms by prison administrations, they were not hygienic, and too cramped to breathe with low ceilings. It is clear that such quarantine wards, where sick prisoners are held for 14 days after their return from hospitals, pose a great risk. These all lead to deaths in prisons.

52 prisoners lost their lives in 2021 in Turkish prisons. We do, however, have to note that the actual figure is estimated to be well above this number because there is no sufficient information/data on this subject as is the case with all rights violations in prisons.

It was claimed that 13 prisoners died by suicide in 2021. States are also responsible to take the necessary measures to protect life against self-imposed risks under certain circumstances. Therefore, suicide cases in prisons should be addressed fundamentally as one of the violations of the right to life. The increase in the number of recent suicide cases in prisons is also closely associated with rights violations in prisons. In 2021, 15 prisoners lost their lives due to COVID-19. 18 prisoners lost their lives because of their critical conditions. 5 prisoners lost their lives because

of heart attacks. While 5 prisoners lost their lives under suspicious circumstances, cause of death of one prisoner was not disclosed.

The high prevalence of suicide cases, particularly among non-political prisoners, reveal the prevalence of rights violations they are subjected to and the fact that conditions in prisons infringe the inherent dignity of the human person. Authorities need to take preventive measures in such suicide cases, improve the conditions that drive people to suicide, initiate investigations into those involved in acts of violence, and to eliminate the reasons thereof. Driving a person to suicide is a criminal offense that is proscribed under Article 84 § 1 of the Turkish Penal Code (TPC). Moreover, third parties cannot commit an act that would damage the interest of a person by violating their bodily integrity; this is a criminal offense under Articles 81, 82, 84, and 87 of the TPC.

All these mortality cases were in fact preventable. Authorities should take necessary measures to prevent such cases in prisons, which are on the rise and became prevalent, grant the right to access to healthcare, and thoroughly provide all conditions in line with the inherent dignity of the human person to protect physical and psychological integrity of persons. The Human Rights Association urges authorities to protect the right to life without exceptions that is guaranteed under both domestic law and international conventions and covenants, and to take all necessary measures to this end. Moreover, prisons should be made available for the monitoring of civil society organizations. İHD also calls on the Human Rights and Equality Institution of Turkey, the Ombudsman, and the Human Rights Inquiry Committee of the Grand National Assembly of Turkey to operate their monitoring mechanisms more effectively, and on political parties to take on more initiative about this matter.

Table 5. Death in Prisons in 2021 (52 Prisoners)

1. Ercan Dağhan: He was released from prison on 05.11.2020 due to cancer, he died on 4 January 2021 in the hospital where he was being treated.
2. Hadi Yalçın: Edirne F Type Closed Prison. He was in critical condition and was being treated for cancer, died on 08.01.2021.
3. Shayan Kheyrian: Denizli D Type Closed Prison. He allegedly died by suicide on 13.01.2021.
4. Metin Yücel: Düzce T Type Closed Prison. Died on 18.01.2021 due to Covid-19.
5. E.B.: Sakarya/Ferizli L Type Closed Prison. Died on 28.01.2021 due to heart attack.
6. Kahraman Sezer: İskenderun T Type Closed Prison. Died on 30.01.2021 due to Covid-19.
7. Abdurrahman Atay: İskenderun T Type Closed Prison. He died on 30.01.2021 in hospital due to gastric bleeding.
8. Murat Şenpınar: Ordu E Type Closed Prison. Died on 31.01.2021 due to a heart attack.
9. Ersoy Karamustafa: Manisa T Type Closed Prison. Died due to Covid-19 on 13.02.2021.
10. M.E.: Osmaniye Closed Prison, allegedly died by suicide on 17.02.2021.
11. Kadir Aktar: Maltepe Closed Prison. 17 years old child, was detained again 2 days after his release and was found dead in prison on 02.17.2021. His cause of death, who allegedly died by suicide, remains suspicious.

12. Ramazan Akbaşı: Van F Type Closed Prison, allegedly attempted suicide on February 23. He was taken to an intensive care unit and died on 24 February 2021.
13. Ö.D. : Kayseri/Bünyan T Type Prison No 1, allegedly died by suicide on 24 February 2021.
14. Önder Ateş: Samsun E Type Closed Prison, died in hospital due to Covid-19 on 04.03.2021. A release decision was delivered 1 hour before his death.
15. Osman Safa: Sakarya/Ferizli L Type Closed Prison, allegedly died by suicide on 05.03.2021.
16. Hayrettin Yılmaz: Hayrettin Yılmaz: Afyonkarahisar Type Closed Prison No 1. He was not released although he should have benefited from conditional release, died because of his critical condition on 03.14.2021.
17. Macit Demir: Hakkari Closed Prison, allegedly died by suicide on 17 March 2021.
18. Oğuzhan Gürbüzer: Samsun Closed Prison, was found dead in his cell on 29.03.2021, he was imprisoned despite being 93% disabled.
19. Mehmet Şükrü Eken: Bafra T Type Closed Prison, died on April 20, 2021 in hospital due to Covid-19.
20. Mehmet G.: Denizli T Type Closed Prison, allegedly died by suicide.
21. İsa Gültekin: Tarsus T Type Closed Prison No 3, died on April 22, 2021 due to cancer.
22. Name Unknown: Çorum L Type Closed Prison, allegedly died by suicide on April 24, 2021.
23. Abdulvahit Tuncay: Tekirdağ T Type Closed Prison No 1, died on 01.05.2021 due to stage 4 cancer and cirrhosis.
24. Engin Öksüzöğlü: Alanya L Type Closed Prison, died due to Covid-19 on 02.05.2021.
25. Ali Orhan: Afyon Bolvadin Closed Prison, died on 05.05.2021 due to Covid-19.
26. Halil Şimşek: Çanakkale Closed Prison, died due to Covid-19 on 05.05.2021.
27. Suat Berkay: Eskişehir T Type Closed Prison, died due to Covid-19 on 07.05.2021.
28. Erdal Kılınç: Silivri L Type Closed Prison No 5, died due to Covid-19 on 12.05.2021.
29. Zafer Aşık: Sakarya/Ferizli L Type Closed Prison, died due to Covid-19 on 15.05.2021.
30. Şerif Vatansever: Kocaeli T Type Closed Prison No 2, died due to Covid-19 on 16.05.2021.
31. Hüseyin Kılınçer: Adana Kürkçüler F Type Prison, allegedly died by suicide on 12.06.2021.
32. Recep Alpak: Trabzon E Type Closed Prison, allegedly died by suicide on 06.18.2021.
33. Adem Taşdemir: Patnos L Type Closed Prison, died under suspicious circumstances on 05.07.2021.
34. Şaban Dilbilen: Hakkari Closed Prison, allegedly died by suicide on 06.07.2021.
35. Mustafa Güven: Erciş A Type Prison, died due to Covid-19 on July 19, 2021.
36. Mehmet Özen: Burdur E Type Closed Prison, suffered cerebral hemorrhage in prison 25.07.2021, died five days after his release.
37. Cenk Sarı: Antalya E Type Closed Prison, died of a heart attack on 05.08.2021.
38. Mustafa Karslı: İstanbul Kartal Prison, died due to Covid-19 on 12.08.2021.
39. Mustafa Okşen: Konya E Type Closed Prison, died due to heart attack on 18.08.2021.
40. Mehmet Ali Çelebi: Sincan Prison, died in the intensive care unit 10 days after his release on September 4, 2021. He had stage 4 cancer.
41. Merve Cemiloğlu: Prison Unknown, died due to complications on 19 September 2021.
42. Kenan Özcan: Afyon/Bolvadin Prison; died on 20.08.2021. He was hospitalized 4 days before his death, but cause of death was not disclosed.
43. M.B.: Kayseri/Gültepe Closed Prison; allegedly died by suicide on 28.09.2021.

44. Bangin Muhammed: İskenderun T Type Closed Prison, was in critical condition and died on 12.11.2021 due to delayed treatment.
45. Garibe Gezer: Kandıra F Type Closed Prison, died under suspicious circumstances on 09.12.2021.
46. Abdülrezzak Şuyur: Şakran Type Closed Prison, was in critical condition and died on 14.12.2021.
47. Halil Güneş: Diyarbakır High Security Closed Prison No 2, was in critical condition and died on 15.12.2021.
48. İlyas Demir: Bolu T Type Prison, died under suspicious circumstances on 17.12.2021.
49. Mustafa Gaffar: Antalya E Type Closed Prison, was found hanging in his cell on 18.12.2021.
50. Vedat Erkmen: Tekirdağ F Type Prison No 2, died under suspicious circumstances on 19.12.2021.
51. Uğur Demirbay: Silivri Open Prison, died due to heart attack on 28.12.2021.
52. Süleyman Karataş: Hatay T Type Closed Prison, died under suspicious circumstances on 30.12.2021.

II. Allegations of Torture and Ill-treatment

International legislation encumbers the states with certain duties and obligations about the rights of persons deprived of their liberty. Turkish legislation, too, enshrines the obligation that prisoners should be treated respectful of their human rights.

Article 10 of the ICCPR clearly states: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” Article 1 of UN’s Basic Principles for the Treatment of Prisoners puts forth: “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.”

The ECtHR’s Grand Chamber underlined in its judgment in the case of *Kudla v. Poland* that, under Article 3 of the ECHR, states should “ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance.”¹⁶

Article 72 § 1 in the Recommendation on the European Prison Rules [Rec(2006)2]¹⁷ Council of Europe Committee of Ministers thusly prescribes: “Prisons shall be managed within an ethical

¹⁶ ECtHR Grand Chamber. *Case of Kudla v. Poland*. Application No. 30210/96. 26 October 2000. <[https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-58920\"\]}](https://hudoc.echr.coe.int/eng#{\)> (para. 94.)

¹⁷ CoE Committee of Ministers. “Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules.” 1 July 2020.

“<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016809ee581>

context which recognizes the obligation to treat all prisoners with humanity and with respect for the inherent dignity of the human person.”

Further, the Preamble to the Constitution sets forth “That every Turkish citizen has an innate right and power, to lead an honorable life and to improve his/her material and spiritual wellbeing” while Article 17 of the Constitution enshrines that “No one shall be subjected to penalties or treatment incompatible with human dignity.”

Within national legislation, Article 2 of Law on the Enforcement of Sentences and Security Measures includes the provision prescribing “In the execution of penalties and security measures, there shall be no cruel, inhuman, degrading or humiliating treatment” while Article 46 § 9 of the Statute on the Administration of Penitentiary Institutions and the Enforcement of Sentences and Security Measures states that “respect for human dignity during searches and roll-calls is a must.”

We see that attempts were made to destroy human rights and democratic achievements in the period following the failed coup d’état of 15 July 2016 in spite of international and national legislation. After the lifting of the state of emergency on 19 July 2018 not only no steps were taken for democracy despite all claims by the government but also the goal was to render the state of emergency perpetual. Such state of affairs had its gravest repercussions in prisons.

It should be noted that there has been no decrease in the number of rights violations in prisons, which had peaked during the state of emergency. Within this framework, prisoners’ rights to health (ranging from access to healthcare services to adequate and balanced nutrition), to communication with other prisoners and loved ones, to reading/writing books are systematically disregarded. Prisoners are subjected to violence, insults and ill-treatment; deprived of their rights; sick prisoners’ treatments are disrupted, their rights to communication and information are obstructed.

Perpetual and intensive rights violations in prisons, utilization of almost everything that pertains to prisoners’ lives (like communication bans, hospital referrals, restrictions on their right to conversation/sports, failure to provide clean drinking water and healthy/adequate food) as tools for torture and oppression make it impossible for us to come up with an accurate number of “prisoners subjected to torture.”

a. Strip Search

Torture remained the major human rights problem in Turkey in 2021 although it is prohibited by the Constitution and universal law, of which Turkey is also a part, and despite the fact that it is a crime against humanity. In a joint statement issued on 10 December 2021 on the occasion of Human Rights Day, İHD and HRFT had underlined that torture maintained its place as a serious problem in 2021 as well while acts of torture and other forms of ill-treatment had assumed a novel dimension and intensity.¹⁸ There has been a significant increase in the number of acts of torture and other ill-treatment cases in official custodial centers because of the violation of procedural guarantees due to such reasons as avoidance of law, rule and norm control, arbitrariness, conscious negligence, long-term custody periods, rendering of monitoring and

¹⁸ <https://ihd.org.tr/en/ihd-hrft-statement-on-human-rights-day/>

prevention mechanisms dysfunctional or the sheer absence of independent monitoring and prevention, etc. State officials, on the other hand, either deny the existence of acts of torture and other forms of ill-treatment that have been rendered as routine practices or defend acts of torture resorting to pro-security strategies and excuses like terrorist threat.

Although acts of torture assume gradually varying and increasingly novel practices, torture maintains its nature as is and is being committed in the form of cruel, painful, derogatory, and degrading acts that target human dignity and individual integrity. Even exceptional practices like strip search, mentioned in legal regulations to be allowed only under very special circumstances, have been made widespread having been justified by provisions in legislation in recent years. Acts of strip search and forced stripping are committed as acts of torture that violate persons' privacy, target their moral values and social identity, upset their psychological integrity which amount to sexual violence. Yet the facts that "searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity" (Rule 50) while "searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy" (Rule 51) are clearly expressed in the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).¹⁹

The World Medical Association (WMA), too, clearly underscores that "forced examinations are not ethically acceptable" in its Statement on Body Searches of Prisoners²⁰ last revised in 2016. The WMA urged all governments and public officials with responsibility for public safety to recognize that invasive searches were serious assaults on a person's privacy and dignity, and they also carried some risk of physical and psychological injury while recommending that alternate methods be used for routine screening of prisoners, including ultrasound and other scans, and body cavity searches be used only as a last resort and warned that physician participation to this end would upset the trust in patient/physician relationship.

Although state officials have been trying to refute strip search claims, it is observed that "strip search and internal body examination" have become widespread as a method of torture both in custodial places and in prisons within the last decade based on the accounts of individuals who applied to the HRFT. The gravity of the situation becomes even more clear when one considers the fact that the applications before the HRFT merely cover a very limited number of persons who were subjected to torture and other forms of ill-treatment all over the country along with the fact that acts of sexual violence are harder to confide/share.

Acts of strip search and forced stripping qualify as torture and ill-treatment that amount to sexual violence, violate a person's privacy, target their moral values and social identity, harm their psychological integrity. The law enforcement and prison officials can naturally conduct searches when necessary and compulsory, but these practices should be carried out in respect for human dignity and the privacy of the person searched and at the same time with regard to the principles

¹⁹ UN GA Resolution. (A/RES/70/175) "United Nations Standard Minimum Rules for the Treatment of Prisoners." 17 December 2015. <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/443/41/PDF/N1544341.pdf?OpenElement>>

²⁰ WMA. "Statement on Body Searches of Prisoners." October 2016. <<https://www.wma.net/policies-post/wma-statement-on-body-searches-of-prisoners/>>

proportionality, legality and necessity. Acts of strip search and forced stripping are alarming facets of systematic torture in Turkey. Today officials should abide by prohibition of torture, which is *jus cogens* in terms of universal law that happens to be binding for them too, instead of disregarding this fact by taking refuge behind some political assessments and charges. We would like to reiterate for ears that do not want to hear: Torture is absolutely prohibited under all circumstances without any exceptions; neither war nor state of emergency etc. can be put forth as grounds for torture.

We observe that strip search has almost become a routine practice on admission to and release from prisons. Especially the number of instances where prison administrations use it as a tool to exert their own authority over new transfers is quite high. Similar practices are quite common on transfers to and from courthouses and hospitals. Another important factor in imposing strip search on prisoners is that they face certain sanctions when they object to it. Prisoners who resist or object to strip search not only are subjected to forced search but also to battery and violence. The main issue, however, is that they are not allowed to exercise their rights to transfer and conditional release in the Enforcement Law because disciplinary action is taken, and investigations are initiated into them ending in certain punishments.

b. Solitary Confinement and Isolation

In Turkish prisons isolation is imposed in various forms. Isolation exists as a punitive method in many prisons, most notably the grave form of isolation that has long been in place in İmralı Prison. Specifically through the amendment to Law No. 7242, which introduced using the COVID-19 pandemic as an excuse, the enforcement conditions for prisoners under the Anti-Terror Code (ATC) were aggravated to their detriment. With the addition of pandemic conditions, violations have gradually increased.

Prisoners had gone on hunger strikes for the prisoners held in İmralı Maximum Security F-Type Prison and isolation had been temporarily lifted with the impact of these strikes. Yet, visitation bans have been reinstated since 7 August 2019. These bans are against the UN's Mandela Rules, CPT recommendations and Law No. 5275 on the Enforcement of Sentences. Lawyers of the prisoners held in İmralı Prison lodged an application before the İHD via email on 22 January 2021 stating the following:

Our client Mr. Abdullah Öcalan has been incarcerated as an aggravated life prisoner in İmralı Prison since 15 February 1999. Our three other clients Mr. Hamili Yıldırım, Mr. Ömer Hayri Konar and Mr. Veysi Aktaş were transferred to İmralı Prison from various other prisons in March 2015. İmralı Prison not only is the only island prison in the country, but it is located within a second-degree land, air, and sea military prohibited zone. Our clients' exercise of their right to visitation guaranteed by law is subjected to the permission of the prison administration and is only possible when the administration provides the necessary opportunities. Thus, their family members and lawyers are required to submit a written request before the Bursa Chief Public Prosecutor's Office in order to exercise their visitation rights. Our clients' contact with the outside world is cut off because of this de facto situation that enables the administration to unlawfully enjoy an arbitrary elbow room. Our clients are not allowed to enjoy their family and lawyer visitation rights, which are among the most fundamental rights of prisoners, along with their rights to communication other than in exceptional

cases. Under domestic legislation, our clients are entitled to have family visitation twice a month every fortnight and similarly have the rights to access to telephone, correspondence, and conferences with their lawyers. Although legal regulations are thusly put forth, Mr. Öcalan has been able to confer with his lawyers only 5 times since 27 July 2011. He was also able to have family visitation only 6 times within a long period on 6 October 2014, 11 September 2016, 12 January 2019, 5 June 2019, 12 August 2019 and 3 March 2020. While his right to written correspondence has been prevented in practice, his access to telephone was only permitted once on 27 April 2020 due to the pandemic within the 22 years he has been held in İmralı Prison.

Since his transfer to İmralı Prison in March 2015, despite all attempts and requests, Mr. Konar has not been able to have any meetings with his lawyers and has only been able to have 3 family visits on 5 June 2019, 12 August 2019 and 3 March 2020. While his right to correspondence was denied in practice, his access to telephone was limited to a one-off conversation on 27 April 2020 due to the pandemic.

Since March 2015, when Mr. Aktaş was transferred to İmralı Prison, he has not been able to have any meetings with his lawyers despite all attempts and requests and has only been able to have 3 family visits on 5 June 2019, 12 August 2019 and 3 March 2020. While his right to communication was denied in practice, he was granted access to telephone only once on 27 April 2020 due to the pandemic. Our clients are systematically prevented from contact with the outside world on various grounds. As a requirement of this policy decision, our clients were banned from phone calls on 7 September 2020, banned from lawyer visits on 23 September 2020 and banned from family visits on 30 September 2020 on the grounds of disciplinary sanctions. In order to develop an effective defense and appeal procedures, requests to provide us with copies of files and decisions were rejected and the relevant decisions were made final by withholding them from the lawyers. In addition, due to the coronavirus epidemic, which caused many losses of life and destruction, the request of the clients to talk with their close relatives by phone in accordance with the provision of Article 66/3 of the Enforcement Law No. 5275 that states: "In case of an epidemic/pandemic or natural disaster, convicts shall immediately use the telephone and fax device belonging to the institution" was not accepted. In violation of the law, the clients are denied a minimum channel of communication that would keep them in touch with the outside world. An exceptional phone call with the clients on April 27 April 2020 was the last contact with them. After this date, it has not been possible to access information about the conditions of detention and the state of health of our clients. This situation, which constitutes a violation of the prohibition of ill-treatment in accordance with domestic legislation, international conventions, and universal values, raises serious concerns for us. We submit for your information the attached comprehensive report on the conditions of detention of our clients, the legal procedures they have been subjected to and the initiatives taken in this regard, in addition to the above-mentioned issues. We believe that you will show the necessary sensitivity to overcome this situation that violates human rights and freedoms.

Applications lodged before the İHD show various forms of isolation in other prisons as well. We see that prison administrators arbitrarily discriminate prisoners on similar grounds while some prisoners are held long-term in isolation rooms or solitary confinement. These prisoners are rarely allowed to have joint activities and usually with a single person without almost any chances of communication or they are left on their own. In some cases prisoners are held in solitary confinement for almost a year without ever participating in any social, sportive and cultural activities.

There are also applications alleging that many prisoners against whom disciplinary actions were taken were being held in isolation during the investigation period. Further, convicted prisoners sentenced to life and aggravated life in prison face similar practices. Disciplinary investigations also end up in solitary confinement punishment.

c. New Prison Types That Heighten Isolation: S-Type and Maximum-Security Prisons

According to the Ministry of Justice General Directorate of Prisons and Detention Houses, there are currently 14 F-type prisons, 13 maximum-security prisons and 5 S-type prisons in Turkey. What these prisons have in common is that prisoners are forced to live in single or three-person spaces. Following the implementation of F-type and maximum-security prisons, warnings by experts and rights defenders to political powers have turned out to be justified, and the right to life, the right to health, the right to respect for family and private life, the right to confer with a lawyer and the right to communication have been violated continuously and practices contrary to the Enforcement Law have emerged.

While the negative effects of these types of prisons on the physiological and psychological wellbeing of prisoners were being discussed after the building of F-type prisons, which isolated prisoners and were opened as a reflection of isolation in İmrâli, the isolation system was further aggravated with the newly opened maximum security closed prisons and S-type closed prisons. Prisoners transferred from prisons where they were previously incarcerated in crowded wards are kept alone in these prisons and since the wards they are held in do not have ventilation, they are taken to ventilation sections in a separate place for merely 1 hour a day. This practice adversely affects the mental and physical health of prisoners. Violations of the right to life also occur in S-type prisons under severe isolation conditions. For instance, a prisoner named H. B. applied to our association alleging that he was subjected to torture and ill-treatment and violations of rights such as standing roll-calls and strip searches after being transferred to Iğdır S-Type Closed Prison. The families of prisoners, Sezer Alan and Sinan Kaya, who died suspiciously in the same prison, have also applied to the local branches of our association alleging that prison administrations and corrections officers were responsible for the deaths of their children.

As human rights defenders, we demand the closure of F-type, S-type and maximum-security prisons, which are the result of the practice of isolation that violates human dignity, and the elimination of rights violations caused by the practice of isolation and the effective and fair trial of those responsible.

d. Standing Roll-Calls / Oral Reporting on the Phone

The imposition of standing roll-calls and oral reporting not only proves to be one of the tools used by administrations to exert their own power over the prisoners, it also stands out as one of the starting points of acts of torture and ill-treatment in prisons. Imposition of standing roll-calls and forcing prisoners to give an oral report without any grounds most of the time while serving no need or purpose are maintained systematically and routinely in prisons. Roll-calls are in fact done

to ascertain cell and ward populations. There is no reasonable ground for it to be enforced today where security measures are quite high, and chances of absconding are virtually nonexistent.

Standing roll-calls are forced on prisoners even when the number of prisoners in a cell is quite low. These include prisoners held in single-person cells. They are used as an apparatus for some form of psychological pressure. There are instances where prison officials enter cells and wards for roll-calls even during the pandemic. Prisoners are also forced to stand at attention, button up their clothes, and show a military salute. Even prisoners who are known to be sick or have difficulty in physically standing up or standing are forced to standing roll-calls.

Prisoners who object to or resist standing roll-calls and oral reporting are threatened with and even subjected to torture and ill-treatment and face disciplinary action. These most of the time lead to solitary confinement and prison officials take measures that would make them ineligible for any possible reductions in their sentences.

e. Social Activities

There are various practices for social activities in Turkish prisons. Prisoners' right to engage in social activities though are granted having their legal rights limited or restricted in many prisons. There are many applications that indicate that the activity periods were shortened, the number of prisoners to be involved in activities were limited, and prisoners were forced to engage in activities with the same persons all the time.

Problems brought about by the COVID-19 pandemic in terms of social activities were still in effect in 2021 as well. We observe that tightening policies introduced during the pandemic tend to become routine and permanent with the normalization process. According to prisoners' accounts, they are not allowed to have activities for hobbies, courses, and sports or only able to use such rights in shortened periods. According to the applications we received, there are prisons where social activities are suspended long-term or entirely canceled with prisoners not allowed to exercise such rights in any way.

III. Right to Communication

Free (contact) or non-contact visitations, which have already been problematic in prisons, are either cancelled entirely or very much curtailed during the COVID-19 pandemic. In 2021, despite the relative improvements in responses to the pandemic, serious problems emerged in the exercise of the right to communication. For instance; *Yeni Yaşam*, *Evrensel*, *Birgün* newspapers were not delivered to prisoners on the pretext of their "not receiving official announcements and advertisements from the Press and Advertisements Agency (Basın İlan Kurumu -BİK)," and only TV channels determined by the prison administration are allowed. Also, in some prisons, radios that prisoners bought from the commissary were confiscated. Further, when prisoners want to send their drafts of novels, stories, etc. to be published, these publications were confiscated and not sent by the administration on the grounds that they contain propaganda. Kurdish books sent to prisoners were not delivered, and when prisoners petitioned the administration about this issue, they were told that there was no officer to check books in Kurdish, if prisoners paid for a

translator, they would be sent to a translator, and if the books were found appropriate, they would be handed to them.”

Another problem is that prisoners are not delivered the packages sent in by their families. There are many allegations indicating that packages were delivered quite late or not delivered at all to prisoners even if there were only clothes in these packages. Prisoners also claimed that they were referred to the commissary for numerous supplies, most notably those to be used for writing activities, and this was the reason why administrations were unwilling to deliver their packages.

We also see that the means of “internal mail,” which the prisoners held in the same penitentiary normally use to communicate with one another, have also been restricted. Prisoners stated in their accounts that it took a long time to send and receive letters via this method adding, for instance, that a letter sent to a ward on another hall reached its destination 60 days later.

Letters and petitions intended to be sent out are refused on such grounds as “discrediting prison conditions and prison administration” and “containing misinformation and defamation.”

Moreover, prisoners are perpetually subjected to disciplinary action leading to deprivation of their rights to communication and correspondence because of reasons like the letters and petitions they write and raising objections to repression and violations. Letters written in Kurdish are either not delivered to the prisoners or those written by prisoners are not mailed out. In addition, foreign national prisoners,’ notably Syrian prisoners,’ rights to communication are restricted because they do not speak Turkish. There are again many applications on this matter.

IV. Right to Information

Law on the Enforcement of Sentences and Security Measures, which went into effect on 15 April 2020 having been published in the *Official Gazette*, limits publications to be allowed in prisons:

Article 32 – Article 62 § 3 of Law No. 5275 was amended in the following way and the following paragraph was added to the article.

(3) No publication that disrupts or threatens the discipline, order or security of the institution, makes it harder to achieve goal of rehabilitation of convicts or those that contain obscene reports, articles, photographs and comments shall be delivered to convicts.

(4) Newspapers that do not have the right to print official announcements and advertisements through the Press and Advertisements Agency shall not be allowed in the penitentiary institution. But this provision does not cover temporary suspension of publishing announcements and advertisements. The Ministry of Justice decides whether newspapers and journals in a foreign language can be allowed in the penitentiary or not.

We see that periodicals requested by prisoners are not allowed in prisons following these amendments. This attempt at obstruction in fact works at two levels: Firstly the opposition media is prevented from taking official announcements and advertisements from the Press and Advertisements Agency (Basın İlan Kurumu -BİK), the state ad agency, then prisoners’ access to such periodicals, which were subjected to this kind of prevention, are restricted.

A similar situation also holds true for books in prisons. Yet practice is based solely upon arbitrary grounds in this case. Prison administrations do not deliver books to prisoners sent in by their families if they think that the books are undesirable or should be banned. Questions addressing this situation are often answered by statements like “those are banned publications,” “their contents are banned,” or “they disrupt the institution’s security.”

Publications in languages other than Turkish, specifically Kurdish publications, are not allowed in prisons with administrations stating that “There are no Kurdish speaking staff here; only if you pay the translator’s fees we can deliver them.”

Prisoners, who wrote petitions to learn about their cases or want to know the fates of their previous letters or petitions, also face problems. In some cases, their paper and pen supply requests to communicate their appeals and gather information are not met. Generally prison administrations do not meet prisoners’ requests for writing material.

The number of books allowed in wards or cells vary according to the prison. In some prisons, prisoners are allowed to keep up to eight books but in some this figure goes down to three. Prison administrations do not replace these books for long as well. Requested books may be kept for a long time on the ground of review.

V. Disciplinary Action and Enforcement of Sentences

Prison administrations respond to all kinds of rights requests or reactions to violations with taking statements down and initiating disciplinary investigations. Further, these practices may well be based on extremely arbitrary grounds like prisoners’ greeting one another or inquiring after one another’s health. Notifying the outside world about the rights violations and oppressive practices in prisons may also be regarded as grounds for disciplinary action.

Prisoners indicate that prison staff batter or insult prisoners during social activities, transfers to and from the prisons, roll-calls and searches while they sometimes provoke prisoners acting outside the general procedure in order to launch disciplinary proceedings into prisoners. According to prisoners’ accounts, all those who do not comply with arbitrary and non-procedural practices face investigations and punished with solitary confinement.

Disciplinary action taken as a result of these proceedings include prohibition of the right to communication and solitary confinement. Yet, what is more important is that prisoners’ right to reduction in their sentences is cancelled under the disguise of these disciplinary actions. Rights based on the Enforcement Law have already been implemented according to what the prison administrations prefer. Even critically sick prisoners serving the last year of their sentences, those in good conduct are not released. Supervised release for good conduct has already been made unavailable for prisoners due to disciplinary actions.

VI. Transfer Requests and Enforced Transfers

It is observed that one of the most common rights violations is enforced transfers when one studies the recent rights violations reports on prisons. According to the reports drafted by İHD’s

local branches, the number of enforced transfers are quite high while many rights violations are committed during transfers.

Prisoners are notified of transfers a short while before and sometimes they are taken out of wards and cells on other grounds having been not notified at all. There are many prisoners whose belongings are not delivered to them or a part of their belongings was left at their former prisons although they were transferred to another one. Sick prisoners are also subjected to such transfers and their treatments are interrupted to a great extent.

The fact that prisoners are usually transferred to far away prisons from where their families live is another violation. We observe that this fact gives way to serious economic problems for prisoners' families and communication is completely severed between prisoners and their families.

Council of Europe, Committee of Ministers' Recommendation on the Management by Prison Administrations of Life Sentence and Other Long-Term Prisoners (Rec(2003)23) thusly states: "Special efforts should be made to prevent the breakdown of family ties. To this end, prisoners should be allocated, to the greatest extent possible, to prisons situated in proximity to their families or close relatives."²¹

The ECtHR delivered an important judgment on this issue as well. Prisoners Abdülkerim Avşar and Abdülkerim Tekin lodged an application before the court upon their enforced transfer to a detention facility in Kırıkkale which was far away from where their families lived. The Court ruled in its judgment in the case of *Avşar and Tekin v. Turkey* that Turkey violated its "obligation to respect family life." Turkey is obliged to transfer prisoners taking into account health, distance, visitation problems, etc. under this judgment.

VII. Right to a Fair Trial

There are numerous prisoners in Turkey who are not allowed to exercise their right to a fair trial. These prisoners' right to a fair trial not only is prevented during their detention but also their efforts are forestalled subsequently. Particularly prisoners, whose mother tongue is not Turkish, face serious challenges. This barrier cannot be surpassed in practice during the whole process from their defenses to rulings delivered by courts.

There are also major problems in issues like DNA tests, witness testimonies, review of new evidence that may change the course of trials during or after prosecution.

Long-term detention and delayed indictments, too, bring about serious rights violations for prisoners. Ineligibility for reduction in sentences due to arbitrary disciplinary action needs to be noted here as well.

Another important issue is that prisoners are not able to appear before courts during trials. Prisoners, who are already transferred to distant prisons from the places they stand trial, do not

²¹ CoE Committee of Ministers. "Recommendation of the Committee of Ministers to Member States on the Management by Prison Administrations of life Sentence and Other Long-Term Prisoners." Rec(2003)23. 9 October 2003. <https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805dec7a> para. 22.

have the chance to be present at their hearings. Yet, in other cases, there emerged a disposition on part of the authorities to enable prisoners to appear before courts via SEGBIS, an audio-visual information or videoconference system. Such state of affairs infringes the directness principle and violates individuals' rights to a fair trial and defense.

VIII. Other

Problems in prisons are not solely limited to the above-mentioned ones. We do know that points made by IHD and other organizations working in the field of prisons can merely account for the visible part of the iceberg. We would, however, like to summarize other repressive policies to the best of our knowledge.

We know that prisoners have problems in access to clean and hot water. Prisoners' accounts indicate that tap water is not of high quality, not clean and smelly. Hot water is insufficiently provided without taking into account the number of prisoners to use it.

There are many complaints that state that supplies sold at commissaries are of extremely low quality, while they are sold at unconscionable prices. Further, products demanded by prisoners are not supplied at the commissaries. Prisoners state that they are pressured into purchasing all their needs from these commissaries. It is clear that this situation financially compels prisoners.

Prisoners also allege that the food served in prisons is insufficient and in many cases virtually inedible. In some accounts, prisoners indicate that the tap water is muddy, while they find hair, worm bugs and flies in the food. They state that this was the reason for their malnutrition and were even forced to shop at the commissary.

There are cases in which prisoners were taken out from their wards to talk to the police and even forced to collaborate with them from time to time. According to prisoners' accounts, prison administrations attempt to disturb prisoners by practices like leaving the lights on at night in wards, not heating the wards adequately, and placing limitations on their clothing.

Overcrowding in wards, insufficient cleaning and failure to provide hygienic conditions are among the common complaints of almost all prisoners.

THE COVID-19 PANDEMIC AND PRISONS

2021 was also overshadowed by the COVID-19 pandemic like 2020. While priority should have been given to risky groups in programs that should have been implemented with a public approach and with the participation of the whole society, unfortunately this was not the case. Especially prisons where people deprived of their liberty are held should have been prioritized as they are risky areas. Prisons, which should have been given special attention due to the dense and mobile population, the characteristics and organization of prisons, were not given the attention they should have been given in the light of scientific and legal methods during the pandemic.

While the authorities should have rapidly taken measures at all levels in prisons during the pandemic, measures referred to by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its “Statement of Principles relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic”²² were not taken. Yet, what is more important is to reduce prison population rapidly, when the current conditions in prisons in our country are taken into account, by releasing most notably critically sick prisoners, children and women as has been recommended by all international organs Turkey is a member of. UN High Commissioner for Human Rights, Michelle Bachelet, stressed in a statement on 25 March 2020 that “Now, more than ever, governments should release every person detained without sufficient legal basis including political prisoners and others detained simply for expressing critical or dissenting views.”²³ The authorities did not act in line with the High Commissioner’s recommendation either.

At least 175 prisoners died due to COVID-19-related conditions in 2021. Unfortunately, we do not have any precise data on how many people have contracted the virus. On the other hand, we understand from many applications lodged before the İHD that prison conditions are not suitable for the pandemic, and hygienic and healthy conditions cannot be created for prisoners. In addition, we observe that the measures taken in response to the COVID-19 pandemic have turned into deprivation of rights. We observe that regular check-ups and treatments of sick prisoners including those in critical condition have been seriously disrupted during this period. Prisoners who need to see a doctor at regular intervals or who have regular medication are facing serious problems.

We witness that many rights of prisoners such as social activities, sports and ventilation were usurped under the name of fighting COVID-19. Unfortunately, we have received applications that such restrictions were in place in 2021 as well.

²² CPT. “Statement of Principles Relating to the Treatment of Persons Deprived of Their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic.” 20 March 2020. <<https://ihd.org.tr/en/statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty-in-the-context-of-the-coronavirus-disease-covid-19-pandemic/>>

²³ OHCHR. “Urgent Action Needed to Prevent COVID-19 Rampaging through Places of Detention.” 25 March 2020. <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745>>

Finally, within the scope of the pandemic measures, we see that many prisoners have been relocated, and even wards have been merged in order to distance the wards, forcing prisoners to stay above capacity. We have also received applications that many prisoners have been transferred to other prisons against their will under the pretext of these measures.

AMENDED ENFORCEMENT LAW

İHD drafted a special report presenting its assessment and recommendations on the “Bill to Amend the Law on the Enforcement of Sentences and Security Measures and Some Other Laws” tabled on 31 March 2020 before the GNAT Speaker’s Office by deputy group chairpersons and a group of deputies from the ruling Justice and Development Party (Adalet ve Kalkınma Partisi - AKP) and Nationalist Movement Party (Milliyetçi Hareket Partisi -MHP), and shared it with the chairperson and members of the GNAT’s Justice Committee along with the public.²⁴ The amnesty bill, which was drafted merely on certain motives, was passed into law and enacted in the fastest way possible without being debated with the public with the participation of concerned parties. The government implements recommendations and warnings about a specific problematic area in a way so as to materialize its own agenda, as it also had done so in the past, and primarily opted for enacting a partial and special amnesty law, for which it had been bidding its time for years, rather than curbing the effects of the pandemic in enclosed spaces like prisons.

There were certain urgent measures that should have been taken in prisons because of the COVID-19 pandemic. It was expected that necessary hygiene and healthcare services should have been provided for prisoners, both convicted and non-convicted, due to this deadly pandemic until their release could be secured. We believe that every person detained without sufficient legal basis including political prisoners and others detained simply for expressing critical or dissenting view should be released.

Other than the release of prisoners, one notable measure that should have been taken was about non-convicted prisoners, or prisoners on remand, whose cases were still pending before courts with no finalized sentences delivered for them. The bill merely put forth provisions about convicted prisoners disregarding non-convicted prisoners.

The proposed law set forth that there would be no changes in the conditional release ratio of 3/4 for terrorist offenses and organized offenses, yet the 3/4 conditional release ratio for repeat offenders and the related sexual offenses and drug trafficking offenses would be reduced to 2/3. Moreover, the legislators should have, first of all, clearly revealed what they implied by “terrorist offenses.” The Turkish Penal Code (TPC) does not have any type of offense entitled “terrorist offenses.”

Following the enactment of the law, on 24 June 2020, İHD submitted an amicus curiae brief²⁵ incorporating its legal opinion on two separate lawsuits (Merits No. 2020/44 E & 2020/53 E) lodged before the Constitutional Court by Republican People’s Party’s (Cumhuriyet Halk Partisi - CHP) Group Deputy Chairpersons signed by 135 deputies who had applied for the annulment of Law No. 7242 regarding both its merits and form that introduced amendments to the Law on the Enforcement of Sentences and Security Measures and Some Other Laws.

Within the scope of the annulment case, İHD underlined that not only did provisional Article 6 but also the provisional Article 9 § 6 of Law No. 7242 qualified as special amnesty, such a law

²⁴ <https://ihd.org.tr/en/special-report-on-the-bill-to-amend-the-enforcement-law/>

²⁵ <https://ihd.org.tr/en/ihds-amicus-curiae-submission-on-law-no-7242/>

adopted in this way was at the same time a violation of the GNAT's internal regulations by the deed, the court could also treat the articles İHD referred to in its legal opinion as subjects for annulment as per the rule "not being affixed by justification" since annulment was requested for the law in its entirety.

The General Secretariat of the Constitutional Court convened on 17 July 2020 and delivered a judgment about the application to annul the Enforcement Law deliberating its merits. The General Secretariat found the application inadmissible as per "form" by a majority of nine votes against seven dissenting votes. It was later reported that seven members of the Constitutional Court argued that the regulation fell under the "scope of amnesty," while the majority nine held that the legislation was "not amnesty but an enforcement regulation."

We saw that many regulations were put in place in Europe within the same timeframe as part of countries' responses to COVID-19. 20 out of 43 European countries submitting their statistics to the Council of Europe, which Turkey is also a member of, indicated that prisoners were released by amnesty, conditional release or through alternative methods to curb the spread of the pandemic. It was reported that 118,000 prisoners were released in these countries as of April 2020.²⁶

According to Council of Europe Annual Penal Statistics,²⁷ among the countries that provided data for the study a total of at least 143,000 prisoners were released with Turkey releasing almost 40% of its prison population, i.e. 114,460 prisoners, which was the second largest in Europe, via the amnesty it granted. This figure, however, includes about 50,000 prisoners whose sentences were suspended within the scope of COVID-19 measures. Although we do not have the official data collected by the Ministry of Justice, it is clear that this number is not sufficient enough when one takes into account the total number of prisoners. However, it is seen that the decrease in the number of prisoners in 2020 was due to compulsory conditions while the number of prisoners increased significantly in 2021. Therefore, the current legal regulations are far from solving the problem and have not served any function other than postponing and magnifying the problem.

Finally, we think it is essential to make an assessment about the decisions of administration and monitoring boards. The "Regulation on Monitoring and Classification Centers and Evaluation of Convicted Prisoners, which entered into force after being published in the *Official Gazette* No. 31349 on 29 December 2020, evaluates whether a prisoner is in good conduct in 6-month periods. As İHD, we believe that these boards are unconstitutional and are against the European Convention on Human Rights. İHD applied to the Council of State on 12 December 2020 to this end asking for an issue of stay order on the "Regulation on Monitoring and Classification Centers and Evaluation of Convicted Prisoners." This application is still pending.

The boards established in line with this regulation regard themselves as a court and evaluate prisoners on their good conduct and decide whether they will benefit from conditional release and supervised release rights. In addition, these boards, in their evaluations on prisoners, decide on the prisoners' good conduct by citing the disciplinary actions that the prisoners faced before

²⁶ <https://www.dw.com/tr/ avrupa-cezaevleri-covid-19-i%C3%A7in-bo%C5%9Fald%C4%B1/a-53853849>

²⁷ <https://wp.unil.ch/space/publications/2199-2/>

the effective date of the regulation, which violates the principle of “prohibition of retroactivity” and prevents the release of prisoners.

Observation boards make abstract and subjective interpretations while deciding whether prisoners are in good behavior or not, and ask political prisoners to declare their regrets. As a result of these decisions, hundreds of political prisoners are deprived of their rights to supervised and conditional release. IHD receives many applications from prisoners whose release was prevented by the decisions of these boards.

HUNGER STRIKES

Individuals have long been going on hunger strikes, indefinite and non-alternate or otherwise, or on death fasts in order to protest the practices or problems in Turkish prisons, irregularities within the penal system or the misuse of problems in this system. People are involved in such acts as the last resort to fight injustice which need to be addressed with utmost gravity as per their possible consequences. The deterioration of repression on prisoners due to the methods they resort to while trying to find solutions to their problems, the fact that they are forced to adopt or opt for such acts more often which threaten their lives thinking that there is no other way than going on a hunger strike in order to find solutions to their problems and make officials hear their voices, along with the gradual spread of hunger strikes among common prisoners make us concerned more than ever. Prisoners have been staging such protests from time to time against these sorts of problems in Turkish prisons. Not only the instances specifically addressed below, but also prisoners in numerous singular protests in various prisons go on hunger strikes.

The indefinite hunger strike which was initiated on 27 November 2020 to demand an end to rights violations in Turkish prisons, to improve deteriorating conditions of enforcement and to end the grave isolation in İmralı Prison and to ensure meetings with families and lawyers ended on 12 September 2021, on the 290th day of the hunger strike.

In 2021, prisoners went on hunger strikes in many prisons in Turkey due to problems in the penal system. We do not have clear information about in which prisons the prisoners went on hunger strikes. However, as shown in the table below, we have information revealing that prisoners went on hunger strikes in at least 19 prisons, mostly by more than one prisoner and/or more than once. Therefore, we can easily state that there are many more hunger strikes than our association has access to and is aware of.

Table 6. Hunger Strikers in Prisons in 2021

Şırnak T Type Closed Prison
Mersin Tarsus T Type Closed Prison
Kocaeli Kandıra F Type No 1 High Security Prison
İstanbul Bakırköy Women's Closed Prison
İstanbul Silivri F Type Closed Prison No. 9
İğdır S Type Closed Prison
İzmir Buca Kırıklar F Type Closed Prison No 2
Mersin Tarsus Women's Closed Prison
Ankara Sincan Women's Closed Prison

Kayseri Bünyan Women Closed Prison
Konya Ereğli T Type Closed Prison
Aydın E Type Closed Prison
Adana Kürkçüler F Type Closed Prison
Denizli T Type Closed Prison
Antalya L Type Closed Prison
Alanya L Type Closed Prison
Tekirdağ F Type Closed Prison No. 1
Tekirdağ T Type Closed Prison No. 2
Balıkesir Burhaniye T Type Closed Prison

In 2021, hunger strikers in prisons demanded solutions to different problems that can be addressed in the context of human rights which is an indication of how unbearable the problems have become for prisoners. Those who govern the country are mainly responsible for the fact that people are forced to put their lives on the line by going on hunger strikes. While it is quite possible to find a solution to hunger strikes based on the value of human beings and life, the fact that people lose their lives as a result of the insensitivity of the political power, to put it mildly, causes irreparable wounds in collective conscience.

WOMEN – LGBTI+ - CHILDREN

According to data provided by the Directorate General of Prisons and Detention Houses, there are a total of 12,500 women prisoners in Turkey, including 10,522 convicted and 1,978 non-convicted, as of 31 May 2022. These prisoners are held in 10 closed and seven open prisons for women along with wards allocated for women in many other prisons.

Further, a total of 2,076 children between the ages of 12 and 18, including 670 convicted and 1,406 non-convicted, are incarcerated in 4 reformatory houses for children and 8 closed penitentiary institutions for children in Turkey. Further, the directorate general indicated in its press statement of 9 March 2021 that the number of children in prisons between the ages of 0 and 6 was 345.²⁸ İHD's stand on this issue has been crystal clear for years and is for the closure of juvenile prisons with its slogan "Close Juvenile Prisons."

Turkey signed international conventions on the rights of the child, notably UN Convention on the Rights of the Child, and pledged to implement the rights mentioned in these texts in domestic law. The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) regulate practices about children in conflict with laws. A great majority of children in conflict with laws are subjected to negligent practices that are hard to remedy when they are arrested, stand trial and in subsequent stages of incarceration, enforcement of their sentences and post-enforcement. Each incarcerated child not only is deprived of their liberty but also of the right to a childhood. The future of such children, who face challenges in access to education and health while they have less opportunity to express themselves socially and culturally, is threatened by serious psychological problems as well. The fact that allegations of torture and ill-treatment in children's prisons are often reported reveals the ineffectiveness of prisons in the "reintegration" of children to society along with the reinforcement of negative memories in their lives.

İHD has been receiving many applications from women prisoners. Prisons stand out as one of the places where women are subjected to violence, torture and ill-treatment. There are women prisoners who were battered having been subjected to physical torture both in prisons by officers and during their transfers to hospitals and courthouses by the law enforcement. No investigations, however, are launched into these officers and the problems keep snowballing due to impunity.

Complaints commonly mentioned in the applications lodged before the İHD include numerous allegations of torture and ill-treatment, violation of the right to health, prevention of the right to communication, obstruction of the right to access information, and violation of the right to a fair trial. The applicants also indicated problems about disciplinary actions and enforcement of sentences, failure to meet transfer requests or enforced transfers, overcrowded wards, and problems during searches.

²⁸ <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708>

Strip search is one of the leading problems in allegations of torture and ill-treatment. Applicants state that enforced strip search sometimes amount to physical examination, while prisoners who object to or resist strip search were battered, subjected to torture or face disciplinary action. Another facet of acts of torture and ill-treatment consist of incidents that happen on the way between prisons or during referrals to hospitals or courthouses. It is observed that along with violence such practices as continuous handcuffing, failure to meet prisoners' needs, failure to provide prisoners with their prescribed medication are common. Swearing and rude treatment are regarded as common occurrences in prisons.

All sorts of objections against restrictions and violations in prisons end up in disciplinary action and punishment. The most important consequence of this is depriving prisoners of their right to early release. Arbitrary rejection of transfer requests and enforced or involuntary transfers in many cases are also among the important problems.

In conclusion, we can say that the problems faced by women prisoners and the violations of rights they are subjected to are mainly similar to those faced by other prisoners. However, as İHD, we think that the "UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders"²⁹ can be taken as a reference on how to treat women whose special needs are ignored. We also believe that the "Handbook for Prison Managers and Policymakers on Women and Imprisonment"³⁰ drafted by the UN would be an appropriate guide for training programs to be prepared for prison administrators, staff and correctional officers.

We do not know the number of LGBTI+ prisoners in Turkish prisons. The Directorate General of Prisons and Detention Houses does not disclose such data. İHD receives only a limited number of applications from LGBTI+ prisoners because a great majority of them do not seem to know about rights mechanisms or due to challenges in accessing such mechanisms. Nonetheless, we know that they face serious discrimination, transphobic and homophobic conduct in the light of cases followed-up by our network of lawyers, applications we receive, and other information we collect.

It would not be an overstatement to say that LGBTI+ prisoners face the most severe discrimination in prisons. There are no conditions to meet the special needs of these prisoners and there is no policy to this end. The prison staff are not trained on this issue either. Based on the current government's hate speech against LGBTI+s, it is not difficult to guess what kind of treatment LGBTI+s are subjected to in prisons. The problems experienced by the LGBTI+ in prisons can be summarized as follows:

- The LGBTI+ are subjected to discrimination, humiliation, isolation, abuse, sexual harassment and rape, insults, ill-treatment and torture in prisons.
- Trans women are not incarcerated in women's wards until they complete their gender transition period and receive a female identity card. Trans women and gays who are incarcerated in prisons for men are held in solitary confinement if there is few of them.

²⁹ https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

³⁰ <https://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>

- Lesbian, bisexual women and trans men, who have completed their gender transition process but have not received a male identity, are also held in single cells in women's prisons.
- Since trans women are held in prisons for men, they are subjected to prison practices specific to men from clothing purchases to haircuts, searches and transfers. Such state of affairs brings along many abuses.
- LGBTI+ prisoners are also subjected to severe isolation conditions when they are held in solitary confinement. These prisoners are not allowed to socialize, talk to others and participate in sports activities. This situation becomes both physical and mental torture.
- Since LGBTI+ prisoners are held in solitary confinement, they risk harassment, rape and ill-treatment by correctional officers in prisons and the gendarmerie in charge of external security. Not only do complaints prove to be futile but they also lead to more violence.
- LGBTI+ prisoners are subjected to arbitrary and strip searches. During the search, a male officer in a men's prison and a female officer in a women's prison conduct the searches regardless of the prisoners' gender identity.
- Since LGBTI+ prisoners are held in solitary confinement, they are vulnerable to all kinds of verbal and physical attacks. Since they are also prevented from expressing their experiences through letters, they can only convey their problems to the outside world through their lawyers or families.
- LGBTI+ prisoners are also isolated by their exclusion and ostracization by a large part of the society and the state itself. They are deprived of financial means both to meet their needs within prisons and to access justice. LGBTI+ prisoners are unfortunately the last prisoners to be taken into account.
- LGBTI+ prisoners do not have the right to a fair trial in access to justice. They are subjected to discrimination by the courts. They are also denied support in accessing justice and are subjected to homophobic and transphobic discourse.
- LGBTI+ prisoners may also be subjected to discrimination by their defenders and judges.
- Apart from their criminal files, merely being LGBTI+ is seen as a crime. Again, these prisoners do not have enough information about their rights and application mechanisms.
- The biggest problem that trans women and men experience in prisons is the disruptions in gender transition processes. The initiation of the gender transition process and its continuation are interrupted in prisons and often not even accepted. Since the supply of hormone medication is a problem, there are often complaints in this regard as well.
- Prisoners who need uninterrupted access to psychological health services and support during the gender transition process are almost never met. Prison psychologists do not have expertise in this field and it is impossible to provide support from outside.