



# newsletter

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## Chomsky Censorship Case Highlights Violations of Free Expression in Turkey

In a welcome albeit exceptional decision on 13 February, Fatih Taş, the Istanbul-based publisher of an anthology of essays by internationally renowned American linguist and political theorist Noam Chomsky, was acquitted of allegations of publishing 'propaganda against the indivisible unity of country, nation and the State Republic of Turkey' at the State Security Court in Istanbul on the first day of his trial after the prosecutor asked for the charges to be dropped. The proprietor and editor of the Aram Publishing Company faced a possible one-year prison sentence under Article 8 of Turkey's Anti-Terrorism Law in respect of the book, *American Interventionism*, published in September 2001. In support and solidarity with both Mr Taş and those fighting for free expression in Turkey, Professor Chomsky flew to Istanbul to attend the trial in person and had petitioned the Court to be named as a co-defendant and tried alongside Mr Taş.

Professor Chomsky said he was "appalled" by the indictment and described it as, "a very severe attack on the most elementary human and civil rights." The indictment referred to the editor's preface to the book and to two passages from Professor Chomsky's essay *Prospects for Peace in the Middle East* which was taken from a lecture given at the University of Toledo in March 2001. In the first passage, Professor Chomsky had written about Turkey and the Kurds: "That's one of the most severe human rights atrocities of the 1990s, continuing in fact." In the second, he stated, "The Kurds have been miserably oppressed throughout the whole history of the modern Turkish state but



Noam Chomsky (centre) with Osman Baydemir from the Diyarbakir branch of the Human Rights Association of Turkey (left) leaves the Istanbul State Security Court following the 13 February hearing in the case of his publisher Fatih Taş.

things changed in 1984. In 1984, the Turkish government launched a major war in the Southeast against the Kurdish population. And that continued. In fact it's still continuing. (...) This had nothing to do with Cold War, transparently. It was because of the counterinsurgency war... The end result was pretty awesome: tens of thousands of people killed, two to three million refugees, massive ethnic cleansing with some 3500 villagers destroyed."

The indictment had attracted the interest of journalists and human rights organisations internationally and helped to focus attention on the continuing repression of free expression in Turkey. Trial observers from the KHRP also attended the trial and three weeks prior to the acquittal, KHRP had alerted the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression about the threats to freedom of expression posed by the indictment.

"The prosecutor clearly made the right decision," Professor Chomsky said, "I hope it will be a step towards establishing the freedom of speech in Turkey we all want to see. I am here to express support for the writers,

journalists and human rights activists who are willing to take serious risks." As he left the court, Professor Chomsky stopped to speak with a journalist who was entering the court to face a trial in just one of a number of court cases against her. Mr Taş also still faces a number of charges over books he has published about Turkey's human rights record. Taş noted that the Court was likely to have been feeling the pressure of the international spotlight Professor Chomsky added to the trial, stating, "If [Professor Chomsky] hadn't been here...we wouldn't have expected such a verdict."

Despite this one acquittal, Mr Taş and fellow editors and journalists throughout Turkey continue to face on-going harassment and court charges under Turkey's Anti-Terror laws which equate discussions of the Kurdish question or criticism of the State with 'propaganda against the unity of the State'. Commenting on the case, KHRP's Executive Director Kerim Yildiz noted, "While the Chomsky decision is a positive step forward, the Turkish authorities hope that this high

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See KHRP's interview with Professor Chomsky on pages 4-5.

### Director's Letter



As we begin our 10th anniversary year, looking back, we are proud of our 10 years of committed work in the struggle for Kurdish human rights. Looking forward, we feel a renewed sense of purpose in our mission to protect and promote the human rights of all those in the Kurdish regions. Already this year, we have continued expanding our litigation training work in Azerbaijan and have also had the opportunity to send fact-finding missions to Syria, Iraq and Turkey.

With urgency however, this spring we turn our attention to Turkey which, despite repeated promises to the international community that it will remove all obstacles to the exercising of basic human rights, continues with its repression, still hiding behind such claims as the need to combat "Kurdish terrorism", or battle "Islamic fundamentalism". Turkey must seriously undertake a thorough overhaul of its legislative system to make good on its many promises. While KHRP welcomes the limited Constitutional reforms Turkey has made, we remain concerned that these reforms fall short of Turkey's international human rights obligations. We repeat our urgent call to Turkey to both thoroughly review its Constitution and anti-democratic laws and to also introduce effective human rights safeguards including measures to combat the persistence of torture in custody and to fully protect free expression.

Kerim Yildiz  
Executive Director

## Editorial

These are worrying times for those involved with highlighting and preventing serious human rights violations in Europe. The European Court is being tested and arguably found wanting. Recent judgments against Turkey reported in this edition – Matyar, Haran and Sabutekin – raise real questions about the Court's willingness to continue to deal sufficiently with serious violations of the Convention. In Haran, a case about the fatal shooting of the applicant's son, the Court has again decided to 'strike out' the case as having been resolved by a Government declaration, despite the applicant's objections. Perhaps of even more concern is the Court's failure to find any Convention violations in the cases of Matyar (concerning an armed attack on the applicant's village) and Sabutekin (concerning the killing of the applicant's husband). In neither case did the Court hold fact-finding hearings, which the applicants had argued were essential. If the Court's new policy is not to hold such hearings, but to rely only on the available documentation, it is going to be increasingly difficult for applicants to establish their cases 'beyond reasonable doubt' as the Court requires them to do. Where the absence of sufficient documentation is due to the failure of the domestic authorities to investigate such serious incidents, there is a real risk that the effect of the Court's approach will be to reward States for failing to investigate these cases in the first place. It seems that the workload pressures faced by the Court (currently more than 19,000 cases) and its apparent desire to become a 'Constitutional Court of Europe' may have significant repercussions for victims of serious human rights abuses across Europe.

## KHRP joint fact-finding mission to Syria and Iraq on downstream impacts of Turkish dam construction

**As part of a joint effort with the Ilisu Dam Campaign, KHRP Executive Director Kerim Yildiz and Deputy Director Fiona McKay along with Nicholas Hildyard from the environmental research group Cornerhouse, took part in a fact-finding mission to Syria and Iraq to investigate the downstream impacts of Turkey's dam construction programme.**

From 29 January to 4 February, the mission traveled to Damascus and Baghdad to hold meetings with government officials in both countries. The delegation has also approached the Turkish government in order to set up a similar visit to Turkey in order to complete the assessment; so far, water authorities at Southeast Anatolia Project (GAP) have responded positively but the Turkish Foreign Ministry has not yet replied to requests.

The rivers of the Tigris and Euphrates are shared by Turkey, Syria and Iraq, and all three countries rely on the waters of the two rivers for their agriculture and future development. However fears have been expressed that Turkish dams could severely disrupt the downstream flow of the Tigris to Syria and Iraq, affecting communities reliant on seasonal agriculture and heightening political tensions between Turkey and its neighbours. These concerns were highlighted by proposals by Turkey to build the Ilisu Dam on the Tigris together with an associated downstream irrigation project at Cizre. The proposed Ilisu Dam forms one part of the giant GAP project. Under the GAP, the Turkish government plans to develop seven major water development projects on the Euphrates basin and six on the Tigris. The \$32 billion project is the largest development project ever undertaken in Turkey, and one of the largest of its kind in the world. When completed, a total of 22 dams and 19 power plants will have been built on the two river basins, regulating 28 per cent of Turkey's total water potential.

The objectives of the mission to Syria and Iraq were: 1) to examine the impacts of dams already constructed or planned in Turkey on the quantity of downstream flows, of upstream irrigation and industry on water quality downstream, and of constructed and planned dams



*The fact-finding mission in Syria. Left to right: KHRP Deputy Director Fiona McKay, Nicholas Hildyard from the Cornerhouse, KHRP Executive Director Kerim Yildiz with Mr Mohammed Radwan Martini and Dr Abdul Aziz Al Masri, Syrian government representatives at the Ministry of Irrigation.*

on downstream agriculture, public health and the environment; 2) to look at the extent to which Turkey is abiding by international law regarding its duty to consult; and 3) to find out more about the positions of the riparian governments regarding future shared use of the Euphrates and Tigris. The detailed findings of the mission will be published in a report, following the planned visit to Turkey to complete the investigation.

Two key preliminary findings from the visits to Syria and Iraq indicate that Turkey's dam building programmes are having a severe impact on downstream flows on the two rivers and that Turkey is in violation of its international law obligations regarding consultation.

As a result of dams already built on the Euphrates, combined with drought in the region, the flow of water to Iraq is estimated to have been reduced by 20 per cent. It is even possible that with full implementation of the Ilisu/Cizre projects, during dry periods the entire summer flow could be diverted before it crossed the border. Only last year Turkey announced unilaterally that it was going to reduce the flow of the Euphrates to Syria to one third of the previously agreed amount due to severe drought in the region.

According to general international law, a river that flows through more than one country is known as an international river or watercourse. International law places obligations on riparian states of shared rivers to notify, consult and negotiate regarding planned projects. Syrian and Iraqi officials asserted that Turkey had failed to inform them of its plans regarding every GAP project. One said: "The Turkish government only announces its dams when the decision had

been made. We hear through the press." As regards the duty to consult, Turkey insists that it has consulted fully with its downstream neighbours on its proposed dams and that it is ensuring adequate downstream flow of good quality water. However it was abundantly clear to the mission that while both Syria and Iraq had communicated to Turkey on many occasions their concerns that Turkey's dam building projects would cause them significant harm, no real consultation had taken place. In the case of the Ilisu Dam, even though consultation between Turkey and its downstream neighbours was made a condition of any export credit being made by the UK government and others, both governments asserted that they had not been consulted. So far as negotiations are concerned, since the breaking off of tripartite talks in 1992, no talks have taken place between Turkey and either Syria or Iraq. There is also the question of how far Turkey has complied with the bilateral and tripartite agreements that it has concluded over the years with Syria and Iraq.

One of the obstacles to agreement is that Turkey does not accept that the Euphrates and Tigris can be defined as "international" rivers, and insists that they are Turkish national, or "transboundary", rivers. Turkey views it as significant that 88.7% of the waters of the Euphrates, and 51.9% of the waters of the Tigris originate within its territory, and appears to believe that this is relevant to the share of the waters of the rivers to which it is entitled.

Despite the difficulties regarding water, both Syrian and Iraqi government representatives stressed that in general, relations between Turkey on the one hand and Syria and Iraq on the other were

good, that economic ties were expanding, and that water was the only disputed issue between them. Dr. Fahmy AL-Qaysi, Director of the legal department of the Ministry of Foreign Affairs in Iraq, told the mission: "We have mutual interests with Turkey. We have good trade relations with them, and a long history. In particular, as two Muslim countries, we should be cooperating with each other, not causing each other harm."

Turkey is already known for its aggressive water policies and for using water as a political weapon in order to exert pressure on its downstream neighbours. In the past Turkey has already threatened to block downstream water flows: indeed, in the late 1980s, Turkey blocked the flow of the Euphrates for nine days whilst filling the reservoir of the Ataturk Dam. Although Syria and Iraq have both sought to negotiate a tripartite agreement on the sharing of the Euphrates and Tigris waters, Turkey has refused to come to the table, insisting on linking any negotiation to other issues such as Syria's alleged support during

the 1980s for the Kurdistan Workers' Party (PKK), and more recently the ongoing border dispute over Iskenderun.

Syria and Iraq assert that their desire to reach a tripartite agreement on future use of the rivers is based on hard evidence of the severe damage that has already been done by Turkey's dam building project and the prospect of further severe damage should the dam project be completed without any agreement on Turkey's use of the water being reached. Syria's Deputy Foreign Minister told the mission: "Water is life. Many analysts believe disputes over water will be a major cause of military conflict in the region. We want water to be a source of cooperation. We want to resolve this peacefully and in accordance with international law. But if the GAP project goes ahead as planned and without an agreement, within five years more than seven million Syrians would suffer from salt water pollution and damage to agriculture and drinking water. We are doing our best to attract Turkey to the table to negotiate and to prevent military conflict."

It seems likely that any future GAP projects in the Turkish parts of the Euphrates and Tigris will only be built with export credit support from rich industrialised countries or with loans from the World Bank and multilateral development banks. The World Bank has made it a condition of any future loans that an international agreement should be reached between the three states that share the Tigris and the Euphrates. As a condition for export credit support for Ilisu, the participating ECAs also stipulated that Turkey must at a minimum consult with its downstream neighbours. The World Commission on Dams recommends that "where a government agency plans or facilitates the construction of a dam on a shared river in contravention of the principle of good faith negotiations between riparians, external financing bodies withdraw their support for projects and programmes promoted by that agency". Although several members of the consortium have withdrawn from the Ilisu Dam project, export credits are still being sought from a number of countries, and

export credits are also potentially being sought for other dams in Turkey, notably Hakkari and Munzur, on the rivers Zab and Munzur rivers, both of which flow into the Tigris.

The Ilisu Dam Campaign and KHRP do not oppose development in Turkey, nor indeed in Syria or Iraq. On the contrary, KHRP and the Campaign strongly support the right of all peoples in the region to pursue their own development, stemming inter alia from the right of all peoples to self-determination, and from the right to development. However, the KHRP and the Campaign also urge that development projects must be planned and carried out in accordance with international law, including human rights and environmental standards and international law concerning shared water resources. In addition, as the waters of both the Tigris and the Euphrates flow through the Kurdish regions, it is imperative too that the Kurds be properly consulted and also party to international shared water discussions in the region.

## KHRP Holds European Convention Training and Litigation Support Programme in Azerbaijan

by KHRP Legal Director Philip Leach

**With Azerbaijan's ratification of the European Convention on Human Rights imminent, KHRP held its first human rights training seminar in Azerbaijan on 5 December 2001 in Baku. The seminar was organised in conjunction with the Azerbaijan National Committee of the Helsinki Citizens' Assembly (HCA) and the Bar Human Rights Committee of England and Wales.**

The twenty-eight participants at the seminar comprised representatives from a wide range of human rights NGOs, lawyers in private practice, academics, journalists and judges. NGOs participation included representatives from the Human Rights Resource Centre, the League on Protection of Labour Rights, the Association of Young Lawyers, the Kurdish Cultural Centre, the Centre for the Rule of Applying to the European Court, the YUVA Centre, Legal Education on Human Rights, the Women's Rights Protection Society, the Human Rights Bureau and the Society on Protection of Prisoners.

The seminar was chaired by Arzu Abdullayeva of the Helsinki Citizens' Assembly. KHRP Executive Director Kerim Yildiz and Legal Director Philip Leach spoke about the Council of Europe, the European Convention on Human Rights and the practicalities of taking a case to the European Court of Human Rights. Saida Gojamanli of the Human Rights Bureau in Azerbaijan spoke about the current human rights problems in Azerbaijan, referring to the problems of refugees, political prisoners, ill-treatment in custody, restrictions on the press, and restrictions on the registration of NGOs. Erkin Gadirov, an academic from the Baku State University, spoke about Azeri legislation in comparison with international standards and about the European Convention on Human Rights. Gadirov referred to the universities' failure to educate lawyers on human rights and the need for further training for lawyers. He discussed the creation of the institution of the Ombudsman, which he said had been imposed by the Council of Europe and which he considered would be inundated



KHRP Legal Director Philip Leach (second from left) and Executive Director Kerim Yildiz (third from left) at KHRP's legal training seminar in Azerbaijan.

with issues, but would be unable to issue binding decisions. Gadirov referred also to the proposed changes to the Constitutional Court to allow individual complaints and further mentioned the need to promote third party interventions at the European Court.

The participants showed a genuine interest in the European Convention and what its ratification would mean for Azerbaijan. There was also particular interest in the European Court of Human Rights (ECHR) system and procedure. Participants were given KHRP's paper on the ECHR system and practice which had been translated into Azeri, as well as the European Convention in Azeri, and various other materials provided by the HCA.

Some specific issues which were discussed during the course of the seminar included whether pre-ratification cases could be taken to Strasbourg; what constituted exhaustion of domestic remedies; how the six-months rule works; how the European Convention would apply in relation to Karabakh; issues of refugees and citizenship; remedies available from the Court; and to what extent State officials would be brought to account following an ECHR judgment.

KHRP and the Bar Human Rights Committee of England and Wales, along with partner group, the Azerbaijan National Committee of the Helsinki Citizens' Assembly, plan to continue similar European Convention training programmes in Azerbaijan through the coming year.

# KHRP Interview with Noam Chomsky

**On 4 January 2002, KHRP Public Relations Officer Sally Eberhardt interviewed renowned American linguist and one of the most prominent political dissidents in the United States, Noam Chomsky, in Boston, Massachusetts. Professor Chomsky is Institute Professor in the Department of Linguistics and Philosophy at the Massachusetts Institute of Technology and has authored over 30 books on US foreign policy and interventionism in the developing world, the political economy of human rights, and the propaganda role of corporate media. Much of his writing has involved discussion of the human rights abuses suffered by the Kurds. Since 1997, KHRP has been fortunate to have Professor Chomsky as a member of our International Board of Patrons.**

**During our meeting with Professor Chomsky in January, KHRP was able to discuss in greater detail the role the US has played in the current state of Kurdish affairs and the prospects of war that loom in the Kurdish regions. What follows is an edited version of KHRP's interview with Professor Chomsky.**

**Sally Eberhardt:** *What kind of responsibility does the United States have to the Kurds?*

**Noam Chomsky:** There has been horrible treatment of the Kurds in Iraq, Iran, and elsewhere, but if we look just at the Kurds in Turkey, the clearest measure of responsibility is simply given by the military dimension, providing weapons, training, and so on. Turkey was a front line state during the Cold War and in a strategically good position in regard to the Middle East, so of course it was always a major recipient of US arms, military training, bases and the like. That remained fairly stable from about 1950 up until 1983. In 1984, it increased sharply, stayed very high and peaked in 1997. In fact in the year 1997 alone, arms transfers were greater than the entire period 1950 to 1983. Then it trailed off a bit in 1998. Turkey at that point in the 1990s was the leading recipient of US arms, excluding Israel and Egypt which are a separate category. In 1999, Turkey was replaced by Colombia. Well, what does this mean? It certainly had nothing to do with the Cold War – nothing was happening. It had nothing to do with things happening in the Middle East. It had to do precisely with the fact that in 1984, Turkey had launched its major counter-insurgency operations against the Kurds. They continued very harshly through the 1980s and they got worse in the 1990s. And if you trace the atrocities and trace the arms transfers, they follow pretty parallel lines. Turkey was relying on the US for about 80 percent of its arms plus diplomatic and ideological support also. Diplomatic support in that the US was protecting Turkey from criticism. Ideological support in that this whole story was suppressed, not by the US government – in the US the government doesn't do anything – but if you look at the media coverage of these issues, it barely exists.

**SE:** *Who was the main US journalist covering – or not covering – the situation?*

**NC:** Stephen Kinzer was the *New York Times* journalist in Turkey. He obviously knew what was happening, but it was very modulated. He kept away from the issues, very much as he had done earlier in Nicaragua where he had kept away from the issues. It was pretty striking in the late 1990s because there was enormous hysteria in the West altogether about humanitarian intervention and about how we cannot tolerate atrocities near the borders of NATO and therefore we must, because of our magnificence, bomb Serbia. At that very same time the US and Britain were not only tolerating atrocities across the border from NATO, they were implementing comparable or worse atrocities right within NATO. In April 1999, at the anniversary meeting of NATO in Washington, there was huge talk about the "shadow of ethnic cleansing" across the borders of NATO but not inside the borders of NATO because it's much worse, and worse precisely because the US overwhelmingly – and other countries to a lesser extent – were strongly supporting massive ethnic cleansing, destruction, torture and other atrocities. We knew all about it – it's all happening in areas where there are US air bases all over the place carrying out close surveillance. This idea that "we didn't know" is ludicrous. Incidentally, why in 1999 was Turkey replaced by Colombia as the largest recipient of US arms transfers? By 1999, Turkey's counter-insurgency had basically succeeded. Colombia had the worst human rights record in the [Western] hemisphere in the 1990s and was the leading recipient of US arms and military training in the hemisphere. But it had not put down its internal insurgency. Counter-insurgency was extremely brutal with all kinds of atrocities taking place but in 1999 it still had not succeeded as Turkey had. So it had to replace Turkey as the leading recipient of US

arms. Furthermore, this is characteristic. It takes a really good education to miss these patterns. If you look at Turkey and the Kurds, the obvious measures run through everything from arms transfers to ideological support. So for example, in 1999 when the State Department's Annual Report on terrorism came out, there was a front page story in the *New York Times* by their expert on the topic, Judith Miller, who reviewed the report and highlighted one of its major parts – namely the praise for Turkey for its "positive experiences" in combating terrorism. This is something you'd have to go back to *Pravda* to find! You're left speechless but it passes without any comment and no educated person would know that there was anything wrong with it. Why should they know? They've never read about it.

**SE:** *At the moment when the Gulf War was happening, when the US was "friends" with one area of Kurdish life, was there any obvious contradiction in the way people were reporting about this?*

**NC:** It was extremely ugly. Now we're talking about the Kurds in Iraq and with Iraq's history back to the 1970s, it was monstrous. I don't have to remind anyone about Henry Kissinger's famous comment about how "foreign policy shouldn't be confused with missionary work" when it was pointed out to him that he had just sold out the Kurds to Saddam Hussein who was going to slaughter them. But that happened through the 1980s when Iraq was a close friend and ally of the US, Britain, France and others. When Saddam Hussein carried out his major massacres against the Kurds in Halabja, there was some fuss about it, but basically it wasn't allowed to interfere with the foreign relations between the US, Britain and Iraq. When Tony Blair, George Bush and others talk about how Saddam Hussein is this monster who even sank to the level of gassing his own people, it's all true except that they're missing a couple of words and every single report that I've seen of these thousands of them is also missing these words: yes, Saddam Hussein sank to the level of gassing his own people with your support which then continued. And those words are not irrelevant. Their support continued, including dual use technology, which they knew could be used for weapons of mass destruction. There was literal government and media suppression of evidence of Saddam's developing biological weapons capacities. This continued right up to the Gulf War – in fact a couple of months before the Gulf War, George Bush (Senior) sent a delegation of senior Senators including Robert Dole, later Republican presidential candidate, and Alan Simpson, now of the Harvard Center, to present Hussein with Bush's greetings and friendship and to assure him that critics in the US media were just irresponsible people and that we were really great friends and allies. Meanwhile, more aid was going in. I don't want to talk about what Saddam was like – what they now say about him, having turned against him, is in fact true. But of course, they are up to their necks in the same atrocities. Then came the Gulf War and at that point, Saddam made his first mistake – he disobeyed orders. That's not allowed. You want to gas Kurds and torture dissidents – that's not a big problem. But you don't disobey orders or maybe "misunderstand" orders. He had received an indication that the US didn't mind much if he rectified borders or shook his fist at the Arab states, but he interpreted that to mean it would be okay to take over Kuwait and that's not okay. So instantly the major concern of the US was that he was going to withdraw and leave a puppet regime in place. And they acted at once to try to ensure that this wouldn't happen and that there would be no mediation in the Middle East and that it would go to a military conflict. So it did go to a military conflict in January and February 1991 and by the end of it – it was over in the first days of March – the Iraqi army was totally crushed and the US had total command of the area. Immediately after that, there was a Shiite rebellion in the south which included rebelling Iraqi generals who didn't ask for US aid. What they did ask for was access to captured Iraqi equipment and they asked the US to ensure that Iraq would not use air power against them. The US refused – refused to grant them access to Iraqi equipment and refused to prevent Saddam's air force from attacking them, which it did. So military helicopters and the remaining main Iraqi forces from the Republican Guards carried out a huge massacre against Shiites in the south. They probably killed more people than died in the war. Meanwhile the US is watching, has total control of the region, and pretends not to notice what's happening. When he was asked about it, General Schwartzkopf said, well, we were "snookered" by the Iraqis. We didn't realise that when we authorised them to use military helicopters to attack Shiites they'd actually do it. We thought they were going to be nice guys and actually keep them in the hangars. So this huge massacre

took place, they crushed [the rebellion]. But they gave reasons and the reasons were reported accurately in the press. Thomas Friedman, the Chief Diplomatic correspondent at the *New York Times* explained forthrightly that the “best of all worlds” for the US would be an “iron-fisted military junta without Saddam Hussein”, but with a counterpart to his “iron fist,” a regime like Saddam’s before his first mistake. But the US can’t allow a rebellion to succeed because that would undermine stability. Stability means the country has to be kept together. Turkey would be upset if the Kurds are independent so we have to maintain stability. Others said the same thing, so that as unhappy as we are that Hussein is still there, it’s better than allowing democracy and freedom, unless we can find another iron-fisted junta that wants to replace this one. And there was very little protest about that. Right after that, Saddam turned to the Kurds in the north where the same thing was happening and he moved to crush them in the same fashion. Well, in this case, the public response and the media response was different. The media coverage of his massacres of Shiites in the south was pretty mild. But when he went after the Kurds, media coverage was much more angry. And it had a racist tone to it. It was hard to miss. You had reporters saying, “These little [Kurdish] children with blonde hair and blue eyes just like ours.” As long as it was “dirty Shiites” in the south, it was not important. Anyhow, a lot of publicity built up. Britain took a somewhat different role. John Major insisted on doing something. Finally, Bush was pressed to the point where he had to reverse course and institute a No Fly Zone to curb the Iraqi attack and after that comes a long and complicated and ugly story.

**SE :** *In the New York Times today [4 January 2002], a Washington advisor arguing about whether or not the US should go into Iraq claims the US should “help the Kurds while making sure that they know that we are not interested in helping them set up a Kurdish state”. Is it that we’re on the verge of yet another case of the US’s cynical manipulation of the Kurds?*

**NC :** Yes, of course. What has changed that makes them stop their cynical manipulation? The record of the West and the Kurds is a disgrace from the beginning. You have to recognise that there’s a convention in Western intellectual life called “change of course” – that’s not its official name, that’s what I call it. It’s very striking in the US but true quite generally. It happens every year or two. The way it works is some monstrosity comes along, some crisis, and if anyone points out, “Look, there’s a history here and you have a record of doing things which we ought to look at” – the answer is, “Oh, yes, that was all in the past but now we’re undergoing a change of course. We’ve had a moral revolution. It’s true that we did all sorts of things in the past that weren’t very pretty but that’s all ancient history and anyone who brings that up is just anti-American or hates the West. So let’s wipe all of history clean and forget about it and because this time we’re going to be magnificent.” This happens over and over again. I, myself, have recorded this at least 20 times in the last 30 years and it’s a very effective technique of justifying whatever atrocities come along next.

**SE :** *And September 11th isn’t going to make any difference on this?*

**NC :** No difference at all. In fact, look at the response. The British Chief of Defence Admiral Michael Boyce was very straight – I have to admire him – he said, “Look, you know we just have to bomb the people of Afghanistan until they turn against the Taliban and get rid of them.” In other words, why don’t you set up a Nuremberg trial for us right now because that’s what it means. And that’s in fact what was done. September 11th was a huge atrocity – there’s no question about it – and it should be treated like a major crime. Go after the criminals, try them, and sentence them. But that’s not what was done. What was done was to go after the population. We don’t know how many people died but just the number killed from bombing mistakes is probably on the order of 5,000 or so. What is the cost of having withheld desperately needed aid from millions of people facing starvation? What’s happening in the Maslahk camp? I read an article yesterday that they’re dying at a rate of 100 per day – right there in that one camp. There’s plenty of food around, it’s just not being distributed. And it’s undoubtedly true that it’s been withheld or sharply curtailed for three and a half months. That’s not debatable. What the effect is for people who are at the edge of starvation, we’ll never know for a simple reason: the powerful do not investigate their own crimes. That is a principle. So nobody knows how many Vietnamese died during the Vietnam war or how many Nicaraguans died during the Nicaraguan war or how many Cubans died as a result of the embargo or how many Sudanese died as a result of one cruise missile destroying half of their pharmaceutical supplies. These are things that the US just doesn’t investigate. They’re our crimes and we investigate other people’s crimes.

**SE :** *So what do you think will happen in Iraq? Will the US use the Kurds and do what they want and pretend to have an “alliance force”?*

**NC :** I doubt it very much. First of all, I don’t think Turkey would



KHRP Public Relations Officer Sally Eberhardt with Professor Noam Chomsky in Boston, January 2002.

tolerate it. Also, I think what Thomas Friedman and others say is correct. The US *does* want something like an iron-fisted military junta that will rule Iraq like Saddam did but more stably without breaking the rules. After all, they had nothing against him until he broke the rules. In fact, Iraq received dispensations which are pretty remarkable. Saddam is the only leader outside of Israel who has been given authorisation to attack US ships and kill dozens of US servicemen. That’s pretty rare. Nobody’s allowed to get away with that. Israel did in their attack on the USS *Liberty* back in 1967 but Iraq did in 1987 when they attacked the USS *Stark* with missiles. They didn’t sink it but they killed about 37 sailors. It was passed over pretty quietly because Saddam was a good friend and we needed him. We wanted to make sure he wanted a war against Iran so that was kept quiet. You have to be pretty high on the list of good friends to get away with that sort of thing.

**SE :** *So your message to northern Iraqi Kurds would be?*

**NC :** Watch it. Nothing’s going to change. You have a rich history – look at it. Remember what happened in the 1970s and the 1980s and the 1990s. The people doing it are the same people with the same institutional background behind them. Try to make your way as best you can in these minefields but without illusions.

**SE :** *Right after September 11th, Turkey’s Prime Minister was all too happy to talk about his support of the War against Terrorism and this new fight against terrorism, despite the fact the Turkey’s Kurdish guerrillas have had a ceasefire for three years....*

**NC :** Prime Minister Ecevit was frank and open about it. Not that it was reported in the US, but it was in the UK. He was the first leader of any country to offer troops to the US-run coalition against terrorism. And he said very honestly why he was doing it. He said he was doing it in gratitude for Clinton’s support for Turkey in its war against the Kurds – he didn’t call it that of course, he said “in Turkey’s defence against Kurdish terror”. And he pointed out correctly that the US was alone among countries in offering very strong support for this. I don’t know if irony is the right word but Jonathan Swift would be speechless listening to this. And virtually every other state that’s joining the coalition is doing it for exactly the same reason. There’s a lot of talk about how wonderful it is that the US and Russia are now getting along so brilliantly on the war against terrorism and George Bush looks at Putin and his soul melts and so forth. But we all know why Russia is so enthusiastic about this. They want US authorisation for their own massive terrorist atrocities in Chechnya. Algeria is delighted to go along. China wants support for its atrocities in western China. Turkey wants support for its war against the Kurds. Israel saw it as a window of opportunity and instantly tightened up repression and atrocities. And in fact it’s even happening in the Western countries.

**SE :** *Is it safe to say the American media and public believe the “good Kurds in Iraq, bad Kurds in Turkey” formula?*

**NC :** If you were to do a survey of the American public about the Kurds, they’d probably think they were a tribe in Africa. I’m afraid that’s true. I mean, take Nicaragua. The biggest issue in the US in the 1980s was the war in Nicaragua. I mean it was the lead issue. About two-thirds of the population was opposed to it. On the other hand, if you look a little more carefully, a good part of the population didn’t even know which side we were on. I mean a lot of the population thought we must be on the side of the government because we were always working with governments against guerrillas! I know college graduates who thought that. If US citizens are asked where France is, a lot of them just don’t know. About the Kurds, even educated people know very little, because little is reported.

# Human Rights Association of Turkey (IHD) Reports on Human Rights Violations in Turkey for the Year 2001

## Killings, 'Disappearances' and Torture

Unpunished killings: **124**

Arrested people who have "disappeared": **4**

Cases of torture and known and/or alleged inhuman treatment: **832**

Explosions of landmines: **16** deaths, **21** injured

Extra-judicial killings and killings as a result of refusals to stop at road blocks: **37**

Deaths in conflict: **86**

## Arbitrary Detention and State Security Force Violence

Operations against the civil population: **42** deaths, **68** injured

People arrested for political reasons: **55,389**

People imprisoned for political reasons: **3,224**

People injured as a result of attacks against demonstrations: **269**

People killed or injured as a result of security forces' attacks: **17** deaths and **21** injured

People forced, through threats, to collaborate with security forces: **44**

Cases of physical damage caused by assaults of the security forces: **129**

## Destruction of Villages and Forced Evacuations

Outcomes of bombings or burning of settlements: **64** settlements bombed, **11** deaths, **21** injured

Villages and settlements forcibly evacuated: **2**

## Violations of Freedom of Expression, Organisation and Opinion

Closures of associations, branches of political parties, cultural centres and publications: **114**

Raids on associations, branches of political parties, cultural centres and publications: **196**

Publications seized and/or closed down: **245**

Banned initiatives or activities: **38**

Public officials removed or subjected to restrictions for expressing their opinions: **162**

Sentences demanded for crimes of opinion: **1, 921** cases totalling **3,758** years and **2** months of imprisonment

Sentences imposed for crimes of opinion: **66** cases totalling **132** years and **6** months of imprisonment and fines of **42,500,000,000** Turkish lire

"Prisoners of conscience" imprisoned for crimes of opinion: **93**

Halting of television transmissions (from 1 day to 180 days): in total **94** months (**2, 836** days)

Theatrical spectacles and films banned: **6**

Political parties banned: **1** (Virtue party)

Provincial and district presidents of HADEP (democratically elected pro-Kurdish political party) arrested: **30**

Provincial and district Presidents of HADEP imprisoned: **9**

Provincial, district and city organisers of HADEP arrested: **182**

Provincial, district and city organisers of HADEP imprisoned: **93**

Members of HADEP arrested: **1,303**

Members of HADEP imprisoned: **28**

Provincial organisers of HADEP 'disappeared': **2**

Provincial organisers of HADEP attacked: **1**

Provincial organisers of HADEP threatened: **3**

Elected HADEP Mayors removed from office: **2**

Members of SIP (political party) arrested because of their activities: c.**50**

Members and organisers of EMEP arrested because of their activities: **40**

## Prison System

Prisoners injured or subjected to sexual violence during attacks of the security forces: **55**

Prisoners who have been denied medical treatment: **275**

Prisoners who have died as a result of the hunger strike: **40**

Prisoners who have died as a result of setting themselves on fire: **6**

Prisoners who have died as a result of the refusal to provide them with medical treatment: **2**

Other prisoners who have died as a result of alleged suicide: **7**

## Violations of Workers' Rights

Unlawful dismissals for political or economic reasons: **58,669**

Workers forcibly transferred to other workplaces, suspended, dislocated and subjected to administrative sanctions: **1,944**

Judicial appeals against unlawful measures: **9,757**

Accidents at work: **45** deaths, **41** injured

## Exiled People and Refugees

According to official statistics in the year 2001 alone, **12,800** Turkish citizens have been forced to escape abroad.

# KHRP Carries Out Fact-finding Mission to Turkey on Kurdish Language Rights

**In February, KHRP sent a fact-finding delegation to Turkey to investigate the current status of Kurdish language rights. This mission, triggered by recent campaigns for education in Kurdish being waged by Kurdish university and school students in Turkey, comprised minority language rights expert Robert Dunbar from Glasgow University Law School; long-time Kurdish human rights defender from Turkey, Nazmi Gur; and KHRP Deputy Director Fiona McKay.**

The education campaigns first started on 20 November 2001 when a group of students at Istanbul University signed a petition demanding the introduction of optional Kurdish lessons at the university, and announced their action at a press conference. This action prompted the presentation of thousands of similar petitions at other universities and high schools which caused serious reverberations around the country that included serious clampdowns by Turkish authorities. By 14 February, students at 24 universities across Turkey had attempted to hand in a total of 11,837 petitions and they had been joined by thousands of school pupils and their families who had presented their own petitions. The response of the authorities was swift and harsh: by 14 February, 1,359 had been taken into custody, 143 had been remanded in custody, and 46 had been suspended from their school or university. In addition, a growing number of teachers have been suspended or placed under investigation.

The student campaign comes at a time when Turkey is being pushed, in the context of the EU pre-accession process, to give greater recognition to the rights of minorities, including language rights. The EU has focused particularly on urging Turkey to permit broadcasting in Kurdish.

The student campaign raised the issue of optional lessons in Kurdish, but this is just one aspect of the question of language rights in Turkey. KHRP decided to investigate the wider issues it raises regarding the status of the Kurdish language in Turkey, setting out to look at use of the Kurdish language in Turkish law and practice, not only in education but also in other areas of life including broadcasting, political discourse, civil society institutions, the justice system, cultural life, private and commercial life and the naming of children and places. The delegation also aimed to analyse the findings from the point of view of applicable international legal standards, including the Copenhagen Criteria that Turkey will have to comply with before being accepted for entry into the EU, and explore the basis for potential litigation under the European Convention on Human Rights along with challenges under other international mechanisms. KHRP will be publishing the findings of this mission in an upcoming report which will include recommendations for reform.

In order to learn about the reality and impact of restrictions on the Kurdish language to the fullest extent possible, the delegation visited Istanbul in western Turkey, a city with a large Kurdish population including some one and a half million internally displaced by the conflict during the last two decades, and two places in the predominantly Kurdish Southeast of Turkey – Diyarbakir, the largest Kurdish city, and Van, a smaller town. They met with human rights organisations, representatives of bar associations and other legal professional associations, Kurdish cultural institutions and broadcasters, political parties, university students, parents, grassroots organisations representing the internally displaced, teachers and trade unionists and local government officials.

Despite efforts of successive Turkish governments to assimilate the Kurds and repress their language, Kurdish remains the first language of many Kurds in Turkey. According to a 1995 survey carried out by the Turkish Chamber of Commerce in six provinces in the Southeast, over 65% of those surveyed spoke Kurdish at home, and outside the home 52% spoke a combination of Kurdish and Turkish while 21% spoke exclusively Kurdish. Kurdish children commonly learn Kurdish at home and start to learn Turkish only when they go to school at the age of seven. Kurdish is particularly predominant among older people, women and Kurds from rural areas, and although no statistics are available, many Kurds in these

groups would not also speak Turkish. Problems faced by those who have been internally displaced and move to the cities are particularly acute, and one organisation working with this community told the delegation that some 75% of mothers and children who moved to Istanbul do not speak Turkish when they arrive.

Many people with whom the delegation met explained the reasons why being able to speak and use Kurdish was important to them. One student said: "Kurdish is my mother tongue. I grew up with it, and first came to recognise the world through it." Another said: "I want to dream in Kurdish!" and "I believe it is our human right to use our own language".

Until 1991, the use of Kurdish was totally prohibited in Turkey, even in private. Legislation from 1983 proclaimed that the mother tongue of Turkish citizens is Turkish, and prohibited any activity that involved the use of another language as a mother tongue, as well as all records, tapes and audio or visual materials in any other language than Turkish. The aim of the Law was stated to be "to protect the indivisible integrity of the State, its country and people, national sovereignty, the Republic, national security and public order." Although the Law was annulled in 1991, Turkish remains the only official language, and there are many restrictions still in place on the use of other languages in education, the media, political life and many other spheres. Many of these restrictions appear to be aimed at preventing the use of Kurdish specifically.

Under pressure from the EU to comply with pre-accession criteria, Turkey is slowly introducing reforms. One of the short term criteria included in the pre-accession document is that Turkey must: "Remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting." In the medium term, Turkey is required by the EU to "ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin. Any legal provision preventing the enjoyment of these rights should be abolished, including in the field of education." The period for the implementation of short-term criteria elapsed in March 2002. In its National Programme, developed in response to the EU accession document, Turkey made no commitments to make changes: "The official language and the formal education language of the Republic of Turkey is Turkish. This, however, does not prohibit the free usage of different languages, dialects and tongues by Turkish citizens in their daily lives. This freedom may not be abused for the purposes of separatism and division." Two articles of the Constitution were amended in October 2001 as part of a package of reforms, removing the basis for prohibiting the use of languages in the media and other channels of expression. However, changes to legislation that are needed to implement those amendments have not yet been introduced, and other key articles of the Constitution that restrict Kurdish language rights remain.

Meanwhile, Kurds continue to be denied their right to speak their

*continued on page 14*



Members of KHRP's Kurdish language rights fact-finding mission in Van, Southeast Turkey, February 2002. From left to right: Robert Dunbar, KHRP Deputy Director Fiona McKay and Nazmi Gur.

# ***KHRP and Fellow NGOs Develop Sign-On Response to the European Court Evaluation Group***

**As reported previously in *Newsline* (see Issue 15/16 – Winter 2001), 2001 saw the establishment of an Evaluation Group on the European Court of Human Rights set up to propose reforms to the Court. In September 2001, the Evaluation Group published its Evaluation Group Report to the Committee of Ministers, with proposals for streamlining the Court in view of the rising volume of applications submitted to the Court and its limited available resources. In the ensuing months, KHRP has been instrumental in bringing together non-governmental organisations (NGOs) in the UK to lobby on the proposed reforms.**

KHRP is concerned that certain of the recommended reforms would deprive some victims of a remedy under the Convention. The 26 June 2001 judgment in the KHRP case of *Akman v Turkey* gave the first signal of a marked change in the European Court's approach (see *Newsline* 14 – Summer/Autumn 2001 and *Newsline* 15/16 – Winter 2001). The case concerned the fatal shooting of the applicant's 22-year old son by Turkish security forces. Following unsuccessful attempts to reach a friendly settlement, Turkey requested that the case be struck out. Turkey offered to give £85,000 in compensation and to make a declaration making limited admissions of wrongdoing and promising to improve in future. The Court agreed to strike out the case without the applicant's consent on the basis that continued examination was 'no longer justified'. KHRP is concerned that the Court's judgment in *Akman* failed to resolve the dispute as to what happened to the applicant's son, and that it failed to refer either to the obligation

under Article 2 to provide an effective investigation into the incident or the obligation under Article 13 to provide an effective remedy. KHRP considers that the striking out of such a case in those circumstances fails to ensure respect for human rights and risks damaging the Court's credibility. It is particularly worrying that the Court has chosen this path in cases involving one of the most important human rights of all – the right to life.

Along with other leading human rights organisations including Amnesty International, Liberty, the AIRE (Advice on Individual Rights in Europe) Centre, Nottingham University Human Rights Law Centre and Interights, KHRP has developed an NGO sign-on response to the Evaluation Group which is printed in its entirety below. In addition to these groups, other signatories to date include Human Rights Watch, The Law Society, Fédération Internationale des Ligues des Droits de l'Homme (FIDH), the Medical Foundation for the Care of Victims of Torture, the Bar Human Rights Committee of England and Wales, the Pat Finucane Centre, and the International Helsinki Federation for Human Rights. This document will be formally submitted to the Council of Europe in May.

In February, representatives from KHRP and fellow concerned human rights groups met with the UK Foreign Office to present this NGO response. This meeting, held prior to the Foreign Office's formulation of its own response to the suggested proposals, initiated a useful dialogue and it is hoped that NGO concerns will influence the UK's official policy on the Evaluation Group report.

## **NGOs' Response to the Report of the Evaluation Group on the European Court of Human Rights**

We, the undersigned NGO's, submit the following response to proposals to reform the European Court of Human Rights by the Evaluation Group on the European Court of Human Rights, in its report published on 27 September 2001.

We consider that in assessing proposals to reform the European Court of Human Rights, the overriding principle should be that the Court must provide applicants with an effective and accessible remedy in respect of violations of the European Convention. In order to do so, the Court, including the Registry, must be adequately resourced. The Court must be in a position to provide binding determinations of the merits of individual cases where it is alleged that a Contracting State has failed to comply with its obligation to secure the rights and freedoms established by the Convention. This also requires transparency both of the process and the outcome, and that there should not be unlimited judicial discretion.

1. It is recognised that the increasing number of individual applications which are being lodged with the European Court of Human Rights (European Court) has already been detrimental to the effectiveness of the Court and that accordingly further reforms to the system are needed. In reforming the European Court mechanisms, the right of individual application, which the Court has acknowledged to be at the heart of the European Convention system, must not be restricted or weakened. Indeed, it should be strengthened, *inter alia*, by the speedier resolution of applications. We therefore welcome the Evaluation Group's basic premises that (a) there should be no reduction in the substantive Convention rights; (b) the right of individual petition must be preserved in its essence; and (c) the Court should dispose of applications within a reasonable time, whilst maintaining the quality and authority of its judgments.

2. The proposals by the Evaluation Group for making additional amendments to the European Convention on Human Rights itself are predicated on the need to reduce the workload of the Court. We consider it to be imperative that the essential right of individual application should not be impaired by the pressures created by an increasing number of (alleged) human rights violations across the 41 Convention states. The solution to this problem is to reduce the

number of human rights violations in the Convention states, rather than to weaken the Court's mechanism for providing remedies to applicants. Accordingly, we are concerned about proposals that the Court be empowered to decline to examine in detail "applications which raise no substantial issue under the Convention" and proposals for the expedition of "applications that do not warrant detailed treatment". We consider that applicants must not be denied effective access to justice at the European Court. In the majority of cases declared admissible this will require a binding determination by the Court of the substantive merits of the application, together with an adjudication on reparation (including compensation and costs).

3. We support the proposition that various measures be taken at national level in order to improve the domestic implementation of the Convention. However, we do not support cases being remitted back to national authorities in the manner suggested by the Evaluation Group Report. The Evaluation Group's proposals that (i) applications not accepted for detailed treatment by the European Court be remitted back to national authorities for reconsideration and (ii) that applications certified as being admissible and manifestly well-founded could be redressed by national authorities, would require the prior creation in each Convention state of effective systems to provide such redress. It is suggested that this will create difficulties for most Convention States, not least where the highest domestic court has already made a decision that the Convention has not been violated. Such procedures are likely to create conflict between the roles of the executive and the judiciary. Moreover, in view of the number and nature of previous adverse Court judgments against certain States, we have serious doubts that some States would be willing and able to establish such systems. The obvious danger arising from these proposals is that applications could be held in limbo and that applicants would be unable to obtain an effective remedy for human rights violations either from the national authorities or the European Court (see also paragraph 2 above).

4. An expansion of the existing friendly settlement process, as envisaged by the Evaluation Group, which could be seen as a



convenient means of reducing the Court's caseload, must not be to the detriment of the individual right of application (including determinations of the merits of most cases). We consider that the striking out of applications under Article 37 of the Convention should be regarded as a wholly exceptional procedure. The suggestion that an applicant's consent could be dispensed with in striking an application out of the list should be rarely, if ever, invoked. This would require a clear admission of liability by the respondent Government in the particular circumstances of the applicant's case, and could only apply where the applicant's position is manifestly unreasonable. There would have to be a rigorous consideration by the Court of the respondent Government's settlement offer and a careful assessment as to whether the offer provides as full a remedy as is appropriate in the circumstances. This must include a detailed consideration of the nature of the application and the substance of the alleged Convention violation(s), as well as the extent of any admission of responsibility and undertakings by the respondent Government. It is suggested that the Court must also ensure that any such undertaking is sufficiently specific (in relation to both the measure which the State has agreed to adopt and the timetable for its implementation) to enable the Committee of Ministers effectively to supervise its enforcement. Finally, the Court should set out its reasons in full for any such decision. We note with concern the use of the striking out procedure without the applicant's consent in *Akman v Turkey*, Judgment of June 26, 2001, in the context of a right to life case concerning the fatal shooting of the applicant's son by the Turkish security forces. We are concerned that the Court's judgment in *Akman* failed to resolve the dispute as to what happened to the applicant's son, and that it failed to refer either to the obligation under Article 2 to provide an effective investigation into the incident or the obligation under Article 13 to provide an effective remedy. It is also of concern that the respondent Government in the *Akman* case gave no undertaking to attempt to investigate the circumstances of the case or to consider whether criminal or disciplinary proceedings should be brought. We consider that the striking out of such a case in those circumstances fails to ensure "respect for human rights" as required by Article 37 and risks damaging the Court's credibility.

5. It is acknowledged that the Court's fact-finding hearings may be time-consuming and expensive, however, in exceptional cases, we consider that such procedures are essential to the Convention system and must be continued. Such hearings have been conducted in complex and serious cases where there has been no or inadequate investigations by the national authorities, accordingly it is the very failure of the national authorities to provide an effective remedy in respect of violations of the Convention which creates the need for the Court to hold fact-finding hearings. There are particular situations, such as allegations concerning torture or death in custody raising issues under Articles 2 and/or 3 of the Convention, where it is the state, rather than the applicant, which has the capability to obtain and/or preserve essential evidence. Where the state fails in its duties in this respect, the case may only be capable of authoritative resolution by the hearing of oral evidence. Where the national authorities fail to conduct such independent, impartial and thorough hearings, the European Court should do so. Given that the burden of proof falls essentially on the applicant to establish her/his case, to deny an applicant an oral hearing in some circumstances would be significantly to disadvantage the applicant.

6. For the reasons set out in the Report of the Evaluation Group, we do not support the creation of regional human rights tribunals throughout Europe (with the Strasbourg court becoming a tribunal of last instance) or the use of preliminary rulings on Convention issues at the request of national courts. However, we consider that the use of both advisory opinions on Convention issues, provided by the Court at the request of national courts (under Article 47) and the inquiry process (under Article 52) could make significant contributions (in the long term) to the process of establishing the extent of certain Convention violations by particular States, and having them remedied by the national authorities, thereby reducing the number of applications being made to the Court. We suggest that consideration should be given to using these mechanisms more frequently and systematically.

7. In accordance with the principle reflected in the European Court's own jurisprudence, applicants are entitled to expect their cases to be determined by a court, and not by administrative officers. Therefore, we are opposed to the investing of judicial status on members of the Registry who have not been elected as judges, such

that the system could be subject to criticism that it lacks the appropriate appearance of independence and transparency.

8. We consider that human rights training and the provision of technical assistance are fundamental elements in improving the implementation of the Convention at national level. We recommend that a more systematic human rights training programme be devised and implemented by the Council of Europe, in conjunction with national authorities, international agencies and NGOs (both pre- and post-ratification of the Convention). Training programmes aimed at public authorities (including law enforcement authorities) would achieve a reduction in the number of Convention applications, and training programmes for those who represent potential European Court applicants would be likely to reduce the number of applications submitted which are declared inadmissible. We also consider that the domestic implementation of the European Convention is impeded by judgments not being available in both official Council of Europe languages, and that further consideration should be given to making judgments available in a wider range of languages used in Contracting States.

9. Allowing applicants to communicate with the Court in the early stages of an application in their own language, and without an obligation of being legally represented, are both important elements in ensuring effective access to justice, particularly as legal aid may not be available from domestic authorities for the preparation of applications to the European Court. Thus the Evaluation Group's rejection of the proposal that legal representation of applicants should be compulsory at all stages of Convention proceedings is welcomed, as is the rejection of any alteration of the current practice of permitting the use of any of the 37 national official languages in proceedings prior to admissibility.

10. We consider that the national authorities should be urged to provide adequate resources to lawyers and non-governmental organizations in order for them to assess and provide initial advice in respect of potential Convention applications. This should include the provision of legal aid by the national authorities. In addition to improving access to justice to the European Court (see paragraph 2 above) this would have the effect of weeding out more misconceived applications. National authorities should also be urged to establish national human rights institutions, such as Human Rights Commissions, in accordance with the Paris Principles, to promote an awareness and understanding of the importance of adhering to Convention rights and to support and bring court proceedings where appropriate.

11. The adequate financial resourcing of the Court is vital for its continued credibility and effectiveness. It is in particular necessary to ensure that there is an adequate number of Registry officials, who should be given reasonable security of tenure. It is noted that the total budget of the European Court of Human Rights is only a quarter of the budget of the European Court of Justice. It is essential that Contracting States show greater commitment to the European Court system, not only by following the Council of Europe's substantive recommendations, for example that there should be improvements in the provision of effective domestic remedies, but also by providing the Court with sufficient resources and ensuring prompt implementation of its judgments.

1 The Evaluation Group on the European Court of Human Rights was established by the Council of Europe's Committee of Ministers on 7 February 2001. It is composed of the President of the European Court of Human Rights, Luzius Wildhaber; Deputy Secretary General Krüger, and is Chaired by Ambassador Justin Harman of Ireland. Its report, published on 27 September 2001, EG (Court) 2001, available on the Council of Europe's web site at <http://www.coe.int/stat/E/Public/2001/rapporteur/clcedh/2001legcourt1.htm> contains a number of recommendations for reform of the European Court of Human Rights, in view of the rising volume of applications submitted to the court and its current relatively limited available resources.

## ***Please sign on!***

**For all those groups interested in signing on, please fill out and return the enclosed NGO Sign-On Form, before 15 May if possible, to the KHRP office. If the Sign-On Form is missing and you'd like a copy, please contact us.**

# New European Court Judgments in KHRP Cases

## **Izzet MATYAR v Turkey (23423/94)** **(village destruction)**

The case concerns the alleged destruction of the applicant Izzet Matyar's home and property by security forces operating in Southeast Turkey and the ensuing intimidation-including alleged torture-that Mr Matyar was subjected to by State authorities after he lodged his case at the European Court in 1994.

The applicant alleged a breach of Articles 3, 6, 8, 13, 14 and 18 of the European Convention and Article 1 of Protocol No.1. He also alleged that he had been intimidated in respect of his application, invoking former Article 25 of the Convention.

The applicant alleged that on 23 July 1993 his village was subject to an armed attack by State-paid Village Guards. During the operation in question, a seven-year-old boy and seventy-year old woman were killed. Mr Matyar alleged that the Village Guards burned his home and his crops, forcing him to flee. He submitted that he had then been detained several times by gendarmes, intimidated into signing false statements and that whilst in detention he was repeatedly questioned about his application to the European Court. Fearing increased intimidation, he later made a statement to the Public Prosecutor in which he denied any misconduct by the Village Guards.

A year after the incident, the applicant was summoned to the gendarme station where he was detained for 14 days, tortured and ill treated. He also alleged that security forces forced his son to burn down their home in order to secure his release.

Although the facts of the case were disputed by the parties, the Court decided that a fact-finding investigation, involving the hearing of witnesses, would not effectively assist in resolving the issues. In its 21 February 2002 judgment, the Court found that there was insufficient evidence to corroborate the allegations made by the applicant that his home and family had been attacked in the manner alleged or at all. As stated in the judgment, the Court claimed it was "in no better position, more than eight years after the event, to resolve the inconsistencies in the [parties'] accounts" and found no violation of Articles 3, 6, 8, 14, 18 or Article 1 of Protocol no.1. The Court held that Article 13 was inapplicable to this case and therefore no violation could be found.

With regard to Article 34 of the Convention (formerly Article 25), the Court found – by four votes to three – that the applicant had not substantiated his complaints about detention and ill treatment, thereby leading them to hold that they were unable to conclude that the applicant had been threatened or pressured by the authorities to withdraw or modify his complaint to the Court. Accordingly the Court concluded that the Respondent State had not failed to comply with its obligations under Article 34 of the Convention.

Three judges of the judges found that Turkey had hindered Mr Matyar's right to petition the Court. Of these, Judge Hedigan and Judge Kuris submitted dissenting opinions on this point. They argued that the frequent questioning of the applicant about his application to the European Court gave rise to the assumption that these interviews were intended to discourage the applicant from proceeding with his case. The Government's failure to rebut this assumption and the coincidence of the dates of interview provided the factual basis upon which the judges concluded that the State had in fact failed to comply with its obligation under Article 34 of the Convention.

## **Sultan SABUTEKIN v Turkey (27243/95)** **(extra-judicial killing)**

This case concerns the killing of Salih Sabuktekin, a regional delegate of HADEP (the pro-Kurdish People's Democracy Party) in Adana on 28 September 1994. The applicant, the wife of Salih Sabuktekin, alleged that her husband, a building contractor, was killed by or with the connivance of State security forces as a result of his political activities. He was shot in front of his house as he was getting into his car. Eye-witnesses say he was attacked and fired upon by two men in plain clothes.

Salih Sabuktekin's brother, Halil, attempted to give chase but was stopped by plain clothes police and was himself arrested. After being interrogated, Halil was taken to hospital where he saw Salih

Sabuktekin lying on a bench. Halil was then taken for further interrogation, and when he was released an hour later, returned to the hospital, where he was informed that his brother had died.

Investigations were carried out into the incident, first by the Prosecutor of Adana, then by the Prosecutor of the Konya State Security Court, and finally by the Adana State Security Court. In each case it was assumed that the responsibility for the killing lay with the Hizbullah or the Kurdistan Workers' Party (PKK), but no one was prosecuted for the crime.

The case was submitted to the European Commission on 24 March 1995. Without holding a fact-finding hearing, the Commission issued an Article 31 Report on 21 October 1999, in which it found that while it had not been established beyond reasonable doubt that Salih Sabuktekin had been killed by or with the connivance of State security forces, there had nevertheless been a violation of Article 2 of the Convention (right to life) in that the State investigation into the killing had not been prompt, adequate and effective. The Commission was also of the opinion that there had been a violation of Article 13. The case was then referred to the European Court.

In its 19 March 2002 judgment, the Court disagreed with the findings of the Commission and held that there had been no violations of the Convention. As regards Article 2, like the Commission, the Court found that the evidence did not lead it to conclude that Salih Sabuktekin had been killed by or with the connivance of State security forces, but unlike the Commission, the majority of the Court reviewed the steps taken by the state and found that the authorities had not remained passive in response to the killing, and that the steps taken did satisfy the requirements of Article 2. On a similar basis, it did not find a violation of Article 13. In a dissenting opinion, Judge Casadevall disagreed with the majority as regards the effectiveness of the investigation carried out by the Turkish authorities, and on this basis found that this constituted a violation both of Article 2 and of Article 13 of the Convention.

## **Mehmet HARAN v Turkey (25754/94)** **(extra-judicial killing)**

This case concerns the killing of the applicant's son, Vahdettin Haran, by security forces in May 1994. The case has been 'struck out' by the Court following the Turkish Government's declaration about the case and its agreement to pay £80,000 to the applicant. The applicant claims that on the 12 May 1994, Vahdettin had come to help him in his vineyard in the village of Arikli. On that day, gendarmes and soldiers arrived in the village, convened everyone in the schoolyard and started burning houses. At 11am the applicant heard the sound of gunfire coming from his vineyard where his son had remained. Villagers later said that they had seen gendarmes take someone away with them and go towards Lice. The applicant feared that this might have been his son. The following morning Vahdettin's corpse was found in the vineyard.

The applicant went to Lice and reported the killing of his son to the Public Prosecutor. The Prosecutor said he would not go to the village because he feared for his life and asked the applicant to bring the body to Lice for an autopsy, which the applicant did. The applicant was not given any information or any document regarding the autopsy but he was allowed to take his son's body home to be buried.

The autopsy report later revealed that the death was caused by shattering of internal organs by bullets. In June 1994, the Public Prosecutor initiated a preliminary investigation into the circumstances surrounding the death. However, the European Court was not informed of the outcome of this investigation.

The European Commission held fact-finding hearings about the case in Ankara in June 1997 and June 1998, but failed to issue an Article 31 Report detailing the findings of these hearings prior to November 1999 when the Commission ceased to function. The case was therefore referred to the Court without an accompanying Article 31 Report.

On 9 March 2002, the Court received a letter from the Deputy Permanent representative of Turkey to the Council of Europe which included a declaration that, "The Government regrets the occurrence

of individual cases of death resulting from the use of unjustified force as in the circumstances of the present case notwithstanding existing Turkish legislation and the resolve of the Government to prevent such actions. It is accepted that the use of unjustified force resulting in death constitutes a violation of Article 2 of the Convention and the Government undertakes to issue appropriate instructions and adopt all necessary measures to ensure that the right to life-including the obligation to carry out effective investigations-is respected in the future..." The Government further agreed to pay the applicant a sum of £80,000 for a final settlement of the case.

The applicant rejected a friendly settlement and asked the Court to reject the Government's request to strike out the case.

In its 26 March 2002 judgment, the Court decided to 'strike out' the case stating that, "having regard to the nature of the admissions contained in the declarations as well as the scope and the extent of the various undertakings referred therein, together with the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the application."

**There will be a full analysis of these judgments in the next issue of *Newsline* which will cover two issues of particular concern: 'striking out' and the failure to hold fact-finding hearings.**

## New European Court Admissibility Decision in KHRP Case

**Talat TEPE v Turkey (31247/96)**  
*(torture/inhuman or degrading treatment)*

The applicant is a lawyer at the Istanbul Bar whose clients have included those accused of terrorist offences. He was also the president of TOHAV (the Foundation for Social and Jurisprudence Studies) at the time of the incident.

On 9 July 1995, the applicant was arrested at the Istanbul Atatürk Airport on the grounds that he was prohibited from leaving the country. He was detained in the Gayrettepe Office of Enforcement of Judgments in Istanbul until 11 July, then in the Istanbul Directorate, for another seven days.

On 18 July, he was handed over to officers from the Political Branch of the Bitlis Security Directorate. He alleges he was blindfolded and taken to an interrogation room where he was accused of aiding and abetting the Kurdistan Workers' Party (PKK). He was assaulted and punched by four to six people when he rejected the accusation. He was told to strip and then subjected to electric shocks, severe beatings and being hosed with cold water. The applicant then agreed to sign and accept the charges against him. Following this, he was again forced to strip, was hosed with cold water and then interrogated through the night whilst naked.

On 20 July the applicant was taken to a doctor at the Bitlis State Hospital, who neither examined nor spoke to the applicant. Later that day, the judge at the Diyarbakir State Security Court ordered his release.

On 23 July 1995 the applicant was seen by a doctor, who certified that he was suffering from various medical problems as a result of trauma being applied to the cervical [neck] region.

On 24 November 1995 the Public Prosecutor at the Diyarbakir State Security Court filed an indictment with the same court against the applicant accusing him of aiding and abetting the armed organisation. On 6 June 1996 the Diyarbakir State Security Court acquitted the applicant.

The Bitlis Provincial Administrative Council decided on 18 April 1996 that no prosecution should be brought against the five police officers from Bitlis Police Headquarters who the applicant alleged

## Relevant Articles of the European Convention on Human Rights

**(Note the changes made following the coming into force of Protocol 11).**

### Convention

- Article 2:** Right to life.
- Article 3:** Prohibition of torture.
- Article 4:** Prohibition of slavery and forced labour.
- Article 5:** Right to liberty and security.
- Article 6:** Right to a fair trial.
- Article 7:** No punishment without law.
- Article 8:** Right to respect for private and family life.
- Article 9:** Freedom of thought, conscience and religion.
- Article 10:** Freedom of expression.
- Article 11:** Freedom of assembly and association.
- Article 12:** Right to marry.
- Article 13:** Right to an effective remedy.
- Article 14:** Prohibition of discrimination.
- Article 18:** Restrictions under Convention shall only be applied for prescribed purpose.
- Article 34:** Application by person, non-governmental organisations or groups of individuals. (*Formerly Article 25*).
- Article 38:** Examination of the case and friendly settlement proceedings (*Formerly Article 28*).
- Article 41:** Just satisfaction to injured party in event of breach of Convention. (*Formerly Article 50*).

### Protocol No. 1

- Article 1:** Protection of property.
- Article 2:** Right to education.
- Article 3:** Right to free elections.

### Protocol No. 2

- Article 1:** Prohibition of imprisonment for debt.
- Article 2:** Freedom of movement.
- Article 3:** Prohibition of expulsion of nationals.
- Article 4:** Prohibition of collective expulsion of aliens.

### Protocol No. 6

- Article 1:** Abolition of the death penalty.

### Protocol No. 7

- Article 1:** Procedural safeguards relating to expulsion of aliens.
- Article 2:** Right to appeal in criminal matters.
- Article 3:** Compensation for wrongful conviction.
- Article 4:** Right not to be tried or punished twice.
- Article 5:** Equality between spouses.

had tortured him.

The Turkish Government submits that the applicant failed to exhaust domestic remedies and points to inaccuracies in the medical report relied on by the applicant.

The applicant complains under Article 3 (prohibition of torture) of the Convention that he was the victim of inhuman and degrading treatment or torture while in police custody. He also complains under Article 5 (right to liberty and security) that his detention was not in accordance with a procedure prescribed by law. He claims under Article 6 (right to a fair trial) that there exists no independent and impartial tribunal before which he could initiate proceedings in relation to his allegation of torture. He also claims under Article 13 (right to an effective remedy) that he had no effective remedies as regards the violations of his Convention rights. Lastly, he complains under Article 14 (prohibition of discrimination) that he was subjected to discrimination due to his Kurdish origin.

On 22 January 2002 the European Court declared all of the applicant's complaints admissible.

# Urgent Medical Aid Appeal for Hunger Strike Survivors in Turkey

**In February, KHRP received an urgent appeal for donations from the Human Rights Foundation of Turkey (HRFT) who are trying to provide desperately needed medical treatment and rehabilitation for survivors of the long-running "F-Type" prison hunger strikes in Turkey (see Newsline 14 cover story). To date, the Foundation has been approached by over 300 hunger strikers who are suffering severe mental and physical problems brought on by months – and in some cases over a year – of prolonged "death fasting". Many of these hunger strikers are very young people – often in their late teens and early twenties – who have suffered serious central nervous system damage, including loss of memory, sight, hearing and ability to walk. Some have been left with the minds of children. Many are unable to speak even the most simple of sentences.**

The hunger strikes first began in October 2000 when over 1000 political prisoners started to refuse food in protest against

Turkey's newly proposed 'F-type' prison system. Unlike Turkey's traditional "dormitory style" prisons, "F-Type" prisons are distinguished by their 1- and 3-person cells which bring an increased risk of isolation and torture in custody. Although the Justice Minister had promised not to move prisoners to the new prisons until Turkey's Anti-Terrorism Law was amended to protect against isolation, the forced transfer of more than 1000 prisoners went ahead on 19 December 2000. During this violent four-day military operation, 30 prisoners and 2 gendarmes were killed. To date, Turkey has failed to carry out an effective investigation into this disaster and has provided no redress to victims. In turn, following the December operation, the hunger strikes began to escalate with friends and family members of prisoners beginning "death fasts" as well on the other side of the prison walls. To date, more than 45 fasting prisoners and sympathisers have died.

After surviving for months on water, sugar, salt and vitamin

B1, a number of hunger strikers have now been released to their families because of their serious health problems. Over 340 hunger strikers have appealed to the Human Rights Foundation (HRFT) for treatment from HRFT-affiliated doctors. According to the doctors, if specialised medical and psychiatric intervention reaches these survivors soon enough, many could still be restored to health. But the cost of caring for them is way beyond the resources of the Foundation, with long-term treatment for one survivor costing \$1000 USD.

Since it first opened in 1990, HRFT has provided treatment and rehabilitation for torture survivors and their families in Turkey. Their new appeal on behalf of hunger strike survivors urges people to send donations and to spread the word about this desperate situation.

Please help if you can by sending a donation directly to the Foundation. Cheques (in US \$, Euros or Turkish Lira) should be payable to: *Türkiye İnsan Hakları Vakfı* (Human Rights Foundation of Turkey) and posted to *Türkiye*



*Zehra Kulaksiz was a 22-year old death faster who died on 29 June 2001. Death fasters who survive face daunting mental and physical health problems.*

Insan Hakları Vakfı, Menekşe 2 sok., 16/7 Kızılay-Ankara, Turkey. Alternatively, international bank transfer details are: *Türkiye Vakıflar Bankası, Yenisehir Subesi, Demirtepe, Ankara, Turkey – US\$ Account No 008-4000310; Euro Account No 4005329; Turkish Lira Account No 1047.*

For further information, contact *Metin Bakkalci*, Coordinator of the Treatment and Rehabilitation Centres at the Human Rights Foundation of Turkey, at [tihv@tr-net.net.tr](mailto:tihv@tr-net.net.tr).

For those who would like to receive more detailed background information about the ongoing prison crisis in Turkey and the hunger strikes, KHRP published a report on the situation in October 2001. If you are interested in receiving a copy, please contact us.

## We have lost our "brave mother": Human rights activist, publisher and KHRP applicant to the European Court Ayşenur Zarakolu Dies in Turkey

by KHRP Kurdish Intern *Mustafa Gundogdu*

Ayşenur Zarakolu, one of KHRP's applicants to the European Court of Human Rights and one of the most courageous defenders of human rights in Turkey, particularly the rights of the Kurds, was finally defeated by cancer on 28 February 2002. Turks, Kurds, Armenians, Arabs and members of other ethnic groups in Turkey used to call Ayşenur Zarakolu "brave mother". I recall a plump woman with a permanent smile on her face, ensconced in a damp basement in *Sultanahmet* in Istanbul surrounded by books, most of which had been banned and confiscated by the Turkish authorities. This publishing house, *Belge Publishing*, which she set up in 1977 with her husband *Ragip*, was more like a home for Ayşenur and *Ragip*. After the military coup of 1980 they published hundreds of books that no one else would have dared to – books on the Kurds, Armenians and Greeks of Asia Minor in particular. Ayşenur Zarakolu served several prison terms, sentenced for publishing books by the same State Security Courts she struggled for so long to have abolished. Ayşenur asked KHRP to take her case to the European Court of Human Rights. Two cases were submitted, in 1995 and 1997, which are ongoing.

In addition to being adopted by *Amnesty International* as a Prisoner of Conscience, Ayşenur received many human rights awards including those of *Human Rights Watch*, the *Turkish Publishers' Association* and *PEN*. In 1998 Ayşenur won an award at the *Frankfurt Book Fair*, but she was prevented from attending by the Turkish authorities who, between the years 1993 and 1998, refused to issue her a passport. Human rights activists in Turkey had already known for years how courageous Ayşenur was. She played a major role in the founding of the *Human Rights Association of Turkey (IHD)* in 1986 and was on the management committee of the *Istanbul branch* from 1990 to 1994. Because of her support for the Kurdish national

struggle, she was also involved in the pro-Kurdish political party *HADEP* (*People's Democracy Party*).

As a student, Ayşenur Zarakolu left the *Faculty of Law at Istanbul University* after the controversy over *Articles 141 and 142 of the Turkish Penal Code* dealing with "communist propaganda against the state" in the early 1980s (both of these Articles no longer exist, having been effectively replaced by *Articles 168 and 169 of the Anti-terrorism Law*). Later, she resumed her studies in the *Department of Sociology at Istanbul University* from which she graduated.

Even on her deathbed she was being prosecuted for publishing Kurdish writer *Hüseyin Turhallı* and *Ömer Asan's* book on the culture of the Greeks of Asia Minor. I was unable to see her before she died or to attend her funeral but my friends told me she was smiling and her eyes shone as she said: "This country needs honourable people. We mustn't give in. I will survive and rejoin the human rights struggle with the same determination". I would have expected nothing less.

The most poignant indication of the regard in which she was held by Kurdish people was the fact that her coffin was carried to her grave by Kurdish women. I remember her at her happiest amongst Kurdish women. I also recall this courageous human being and friend of all oppressed people packing books to send to political prisoners. I remember her telling us we didn't have to pay for the books we had chosen if we didn't have the money. I know that there are millions of Kurds, Greeks, Armenians and people of other nations who will never forget her. With them, I bow in respect to Ayşenur Zarakolu, who lived an honourable and inspiring life – our "brave mother".



*Ayşenur Zarakolu (1946–2002)*

## Despite two new major victories, the fight against dams in Turkey continues

**In February and March, two new victories were won in KHRP and the Ilisu Dam Campaign's on-going campaign against dam projects in Turkey which threaten human rights and the environment. Following the withdrawal of British construction company Balfour Beatty from the Ilisu Dam project in November 2001 (see *Newsline 15/16* cover story), Switzerland's largest bank, UBS, ended its financial backing for the project in February.**

In making their decision, UBS, which stood as the main financiers of the project, said that the critical factor behind the termination was the unsatisfactory progress of the project stating, "Until now there has been no definitive decision on what accompanying measures are to be taken to minimise the social and environmental impact of the project".

Noting that the withdrawal marked a significant albeit incomplete victory, KHRP Executive Director Kerim Yildiz, commented, "After years of campaigning, this pull-out confirms what we have been saying all along – that the social and environmental impact of the Ilisu dam would be disastrous. Both the main financiers and the main contractors now agree with us; yet the British and other governments would still be willing to consider using public money to support it. Even now, British and French governments are considering supporting the Yusufeli Dam in Turkey, raising identical concerns to the Ilisu Dam. We have had more success in persuading corporations and banks not to act unethically than we have had with governments."

In a second victory only two weeks later, British construction company AMEC announced that it was withdrawing from the controversial Yusufeli Dam in Northeast Turkey. This decision was announced just 24 hours before KHRP and the Ilisu Dam Campaign were about to launch a new campaign against international financial backing for the Yusufeli Dam. AMEC had applied to the UK Government for £68 million of public funds to underwrite the project.

If built, the Yusufeli Dam would flood the homes of 15,000 people and displace a further 15,000. Reports from the region suggest that affected communities have not been properly consulted and that adequate plans for resettlement have not been drawn up. Much archaeological heritage would also be lost. Yusufeli's history includes the Barhal church, Ishan fortress and church, Demirkent fortress and church, Cevreli-Meydan citadel and Kilickaya fortress. The Yusufeli dam would also have negative impacts on the Coruh river and its surrounding environment which currently remains undisturbed. The area surrounding the river is rich in wildlife, including the threatened red vulture, brown bear, wild boar, wolf, jackal, and pine marten.

Despite these two major victories, the fight against both dams is not over. The Anglo-French construction firm, Alstom, and Austria's VA Tech still remain involved in the Ilisu project. And despite AMEC's "withdrawal" from the Yusufeli project, they still hold a 46% share in Spie Batignolles, the French company which is leading the consortium that would build the dam, thereby indicating their continued and active interest in the Yusufeli dam. Spie is seeking export credit support for the dam from COFACE, the French export credit agency – and a campaign against the Spie's involvement is now starting in France, led by Amis de la Terre.

In the UK, the Ilisu Dam Campaign and KHRP will be attending AMEC's Annual General Meeting on 8 May. KHRP plans to highlight the human rights and environmental concerns surrounding the dam. KHRP is also organising a fact-finding mission to the region of the Yusufeli dam for late April which will comprise representatives from KHRP, Amis de la Terre, Friends of the Earth of England and Wales, and the Cornerhouse.

## KHRP at "Lessons of Ilisu" Meeting at the House of Commons

On 22 January, KHRP Executive Director Kerim Yildiz, along with KHRP Chairman Mark Muller, spoke at the House of Commons Grand Committee Room as part of the "After Ilisu – Lessons for Export Credit Agency Reform, Corporate Governance and Regional Stability" meeting hosted by Dr Jenny Tonge MP and Alan Simpson MP. When Balfour Beatty pulled out of the Ilisu dam project in November 2001, the company stressed that the four conditions laid down by export credit agencies in order for the Ilisu project to be given export credit financing were far from being met. At the 22 January meeting, speakers posed the question of whether international human rights and environmental standards can ever be met whilst the Kurdish region of Southeast Turkey remains under military rule and also issued urgent calls for a political solution to the Kurdish question in light of the desperate need for investment in the region. Focusing on some of the positive gains the Ilisu Dam Campaign had achieved in Turkey itself, Kerim Yildiz drew attention to the fact that the Campaign has helped to carve out new political space in Turkey and has boosted the morale and conviction of those brave activists who are fighting on the ground there. Mark Muller also discussed how the Campaign, by forging such a broad international coalition of groups including human rights organisations, environmentalists, trade unions, archaeologists, and refugee communities, stands out as one of the most successful international campaigns in recent years and has offered invaluable new lessons for campaigning and public policy in the future.



From left to right: KHRP Chairman Mark Muller, Tony Juniper from Friends of the Earth, KHRP Executive Director Kerim Yildiz and Jean Lambert MEP speaking at the House of Commons Grand Committee Room

## KHRP Attends Berlin Conference on Export Credit Agencies

In March, KHRP Public Relations Officer Sally Eberhardt travelled to Berlin to participate in a week of panel discussions, strategy sessions and workshops on international Export Credit Agencies (ECAs) organised by the German environmental group Urgewald. At the conference, Sally Eberhardt co-presented a session on "Lessons from Ilisu" – detailing the successes and strategies of the Ilisu Dam Campaign – with Nicholas Hildyard from the Cornerhouse. Attended by more than 70 panellists from 30 different countries, the conference offered an ideal forum in which human rights and environmental groups were able to develop new strategies for international solidarity work on ECA-related projects.

# KHRP Fundraising Update

## Friends of KHRP

As a small but highly effective charity, KHRP is always trying to raise much-needed funds for our vital projects. In December 2001, KHRP launched a new scheme for supporters, "Friends of KHRP", which has already proven to be a great success. In the 14 weeks it has been running, Friends of KHRP has attracted 63 new members. Some new members were introduced to KHRP's work at comedian Mark Thomas' winter UK tour. Others read KHRP's new membership leaflet and were horrified at the stories of rape, torture and persecution from the Kurdish regions.

KHRP is grateful to all of these new members who have shown their overwhelming support for KHRP and the plight of the Kurds. Importantly, KHRP is trying to recruit new members as we attempt to bring our work to the attention of a wider audience in the most cost-effective way possible. If you would like to help us by distributing our new 'Friends of KHRP' leaflets to friends, family and colleagues, please contact Victoria Steward at the KHRP office on 020 7287 2772.

It may be of interest to US citizens to know that KHRP has now been accepted to receive grants from CAF America. This means that all US tax-payers can make tax-effective gifts to CAF America and suggest KHRP as the recipient of the donation. We hope that this will encourage more individuals in the US to make contributions to KHRP's work. If you would like a copy of the CAF America Gift Form, please email [khrp@khrp.demon.co.uk](mailto:khrp@khrp.demon.co.uk) or fax + 44 (0)20 7734 4927 and we will be very happy to send as many forms as you require.

## Upcoming Benefit Gig for KHRP 8 May

The following gig is being held to raise funds for KHRP:

**"The Wild Angels Farewell/Comeback Show – plus special guests"**

Date: Wednesday 8th May 2002

Venue: The 100 Club, Oxford Street, London

Time: Doors open 7.30pm with Wild Angels performing from 8.45pm

Featuring Special Guest performances by:

- Mark Thomas
- Mark Steel
- Boothby Graffoe
- Darryl Higham (Eddie Cochrane Tribute)
- Mel Gray
- Ronnie Golden
- Martin Soan

**Please contact Mitch Mitchell on 020 8325 7832 or Victoria Steward on 020 7287 2772 for tickets or further information.**

## Affiliation Scheme

**Other recent fundraising developments include a new Affiliation scheme for trade unions. KHRP has always enjoyed strong relationships with unions in the UK including UNISON and the Fire Brigades Union. We are now offering local, regional and national union branches the opportunity to become affiliated with KHRP and feature in our publications while supporting our vital work.**

**We are pleased to announce our affiliation with Unison ACTS 1-372 Branch and the Fire Brigades Union – Scottish Region.**

.....  
*continued from page 1*

profile acquittal will divert attention away from the daily violations of freedom of expression which have become commonplace. In addition to the ongoing repression of journalists and publishers, education in the Kurdish language remains banned in Turkey. In the past month alone, 59 members of pro-Kurdish People's Democracy Party (HADEP) have been arrested for backing a campaign to introduce Kurdish language education. Turkey continues to have the worst record for violating free expression at the European Court of Human Rights."

In a further show of support for human rights in Turkey, Professor Chomsky travelled on to Diyarbakir in Southeast Turkey following the trial. While there, he addressed large crowds of Kurds during a conference in which he celebrated the on-going work of human rights activists on the ground stating, "It is a very moving experience for me to be here. I have followed as best I can the noble and tragic history of the Kurds in Turkey in past years...particularly in the last ten years. But is it quite different to see the actual faces of the people who are resisting and who continue to struggle for freedom and justice."

*continued from page 7*

language and face many difficulties as a result of this situation. One student at Istanbul University told the mission delegates: "My mother does not speak Turkish and I learnt it from the age of six; I do not speak good Kurdish now, so cannot communicate with my mother effectively. There are many in this situation." Three mothers with children of school age confirmed that they did not speak much Turkish and that they found it hard to communicate with their children once they went to school and were allowed to speak only Turkish.

The mission found an extraordinary level of official paranoia about what might be the consequences of lifting the prohibition on use of Kurdish. Simply put, the view appeared to be that to allow use of the Kurdish language beyond purely private use would be to give in to terrorism and represent a step towards break-up of the state and separatism for the Kurds. In this atmosphere, even the really rather limited demand for optional Kurdish lessons for university students is viewed as dangerous and unacceptable. Why would the prospect of some optional Kurdish lessons in university be so sensitive a matter as to trigger mass arrests and accusations of terrorism and separatism? The Government is taking the view that those who take part in or express support for the student campaign have the aim of bringing about a separate Kurdish state and that the entire campaign is orchestrated by the PKK (Kurdistan Workers' Party). In other words, to campaign for optional Kurdish classes is to support terrorism and separatism. This message has been emanating clearly and strongly from the National Security Council, the Prime Minister and other members of the Government.

The delegation concluded that Turkey was violating a number of international principles and standards, and that wide-ranging changes need to be made to the Constitution, to legislation and to policy and practice, before Turkey can be considered to have complied with international standards. KHRP plans to publish the mission's report in the late spring. For copies, please contact the KHRP office.

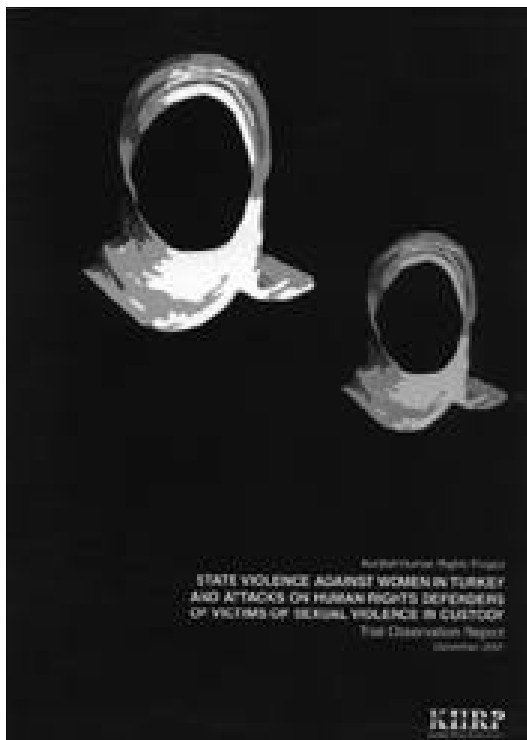
# New KHRP Reports

## ***State Violence Against Women in Turkey and Attacks on Human Rights defenders of Victims of Sexual Violence in Custody***

Between 27 and 30 June 2001, KHRP sent a delegation to Istanbul to observe the trial of five women charged under Article 312(2) of the Turkish Penal Code and Article 8(1) of the Anti-Terror Law before the State Security Court (DGM) for speeches they had made at the June 2000 conference in Turkey 'Against Sexual Violence in Custody' which were deemed to have contained "propaganda against the State's indivisibility". Participants of the June 2000 conference, including NGO representatives and lawyers working against sexual violence, and the victims themselves, had given testimony and had spoken about their experience of sexual violence. Following the conference, the State commenced two investigations against nineteen of the speakers.

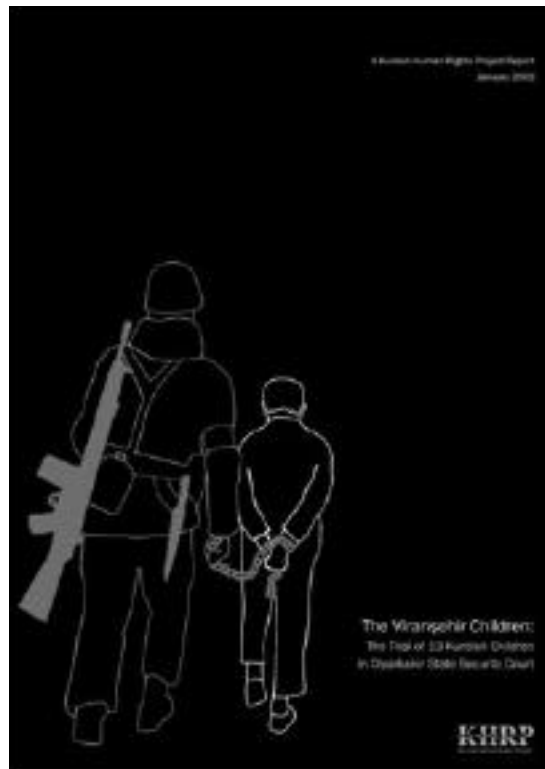
This report examines the wider context of the case and Turkey's international obligations, and lays out the findings of the trial observation delegation including information taken from the delegation's interviews with the Chief Public Prosecutor in the case, as well as representatives from several NGOs including those working with women and the displaced and human rights organisations. What is clear from this report is that sexual violence against Kurdish women is perpetrated by the Turkish State and that, despite its commitments under international conventions and treaties, those who speak up for these women, whether activists, journalists or lawyers, do so at great risk to themselves, as the State continues to make every effort to silence them.

(ISBN 1 900175 41 X)



## **Upcoming Reports**

- **Internal Displacement in Turkey**
- **Turkey and the EU (a Turkish language report)**
- **Language Rights in Turkey: A KHRP Fact-Finding Mission Report**
- **International waters mission report from Syria and Iraq**



## ***The Viranşehir Children: The Trial of 13 Kurdish children in Diyarbakir State Security Court, Southeast Turkey***

This report is about the arrest, detention and prosecution of a group of children in the Kurdish town of Viranşehir in Southeast Turkey, following a street demonstration in January 2001. The demonstration was to protest against prison conditions in the context of Turkey's continuing "F-Type" prison crisis. Twenty-eight children were initially detained, some for over a month, and 13 eventually charged with supporting an illegal organisation, the Kurdistan Workers' Party (PKK). Two of those charged were only 12 years old, the others were aged between 14 and 17. Their trial proceeded in the State Security Court in Diyarbakir, and in April 2001, KHRP sent a delegation to observe one of the ongoing hearings against the children.

The Viranşehir Children report outlines the applicable international human rights standards and highlights the many ways in which Turkey has contravened the rights of the Viranşehir children. What emerges is that Turkey has fallen short both of human rights safeguards guaranteed to all, and of the particular protections pertaining to children contained in the Convention on the Rights of the Child and other international instruments that bind Turkey. Among the protections that the Viranşehir children should have been, but were not, afforded are: separate detention of adults from children; the duty to deal with the cases speedily; privacy and the need to consider the "best interests" of the children; and being dealt with by separate systems of juvenile justice.

KHRP is particularly concerned about the possible psychological problems caused when children are detained in the circumstances described in this report. In addition to being questioned without the presence of lawyers and signing confessions in a language some of them did not understand, they also allege ill-treatment and threats of ill-treatment, and six of them were kept in custody for more than a month before being released on bail. Another main concern is that children as young as 11 can be, and are, prosecuted for exercising their right to freedom of speech and association, under laws that criminalise forms of non-violent protest, and in State Security Courts that fail to provide basic safeguards for adults as well as children.

The report details other major concerns relating to this particular case as well as KHRP's recommendations addressed to the Government of Turkey.

(ISBN 1 900175 42 8)

YES I/We would like to support the work of KHRP

Please find enclosed a donation for

£500 \_\_\_\_\_ £250 \_\_\_\_\_ £100 \_\_\_\_\_ £50 \_\_\_\_\_

£20 \_\_\_\_\_ £10 \_\_\_\_\_ £ \_\_\_\_\_ Other

NB Please note that certain gifts may be eligible for tax relief

ALL DONATIONS ARE WELCOME

Cheques should be made payable to:

Kurdish Human Rights Project

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Address .....

.....

..... Postcode .....

Tel ..... Fax .....

Please return to:

KHRP

Suite 319 Linen Hall

162-168 Regent Street

LONDON W1B 5TG

Tel: 020 7287 2772

Fax: 020 7734 4927

Email: [khrp@khrp.demon.co.uk](mailto:khrp@khrp.demon.co.uk)

## Calendar of events

### 18 March – 26 April

UN Commission on Human Rights – 58th Session, Geneva

### 20 March

Newroz, Kurdish New Year

### 29 April – 17 May

UN Committee Against Torture, 28th Session, Geneva

### 3 May

World Press Freedom Day

### 8 May

KHRP Benefit Gig at the 100 Club, London (see details inside)

### 13–17 May

UN Working Group on Arbitrary Detention, New York

### 3–21 June

UN Committee on the Elimination of Discrimination Against Women, 27th session, New York

### 5 June

World Environment Day

### 20 June

World Refugee Day

### 26 June

International Day in Support of Victims of Torture

### 26–28 June

UN Inter-Committee Meeting of Human Rights Treaty Bodies, 1st session, Geneva

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## Project information

### The organisation

The KHRP is a non-political, independent human rights organisation, founded in December 1992 and based in London. Its founding members include human rights lawyers, barristers, academics and doctors.

The Project is registered as a company limited by guarantee (company number 2922108) and is also a registered charity (charity number 1037236).

The KHRP is committed to the protection of the human rights of all persons within the Kurdish regions of Turkey, Iran, Iraq, Syria and the Caucasus, irrespective of race, religion, sex, political persuasion or other belief or opinion.

### Aims

■ To promote awareness of the situation of Kurds in Turkey, Iran, Iraq, Syria and the Caucasus.

- To bring an end to the violation of the rights of the Kurds in these countries.
- To promote the protection of the human rights of the Kurdish people everywhere.

### Methods

- Monitoring legislation, including emergency legislation, and its application.
- Conducting investigations and producing reports on the human rights situation of the Kurds in Turkey, Iran, Iraq, Syria and the Caucasus by sending trial observers and fact-finding missions.
- Using reports to promote awareness of the plight of the Kurds on the part of the committees established under human rights treaties to monitor the compliance of states.
- Using the reports to promote awareness of the plight of the Kurds on the part of the European Parliament, the Parliamentary Assembly of the Council of Europe, the national parliamentary bodies and inter-governmental organisations including the United Nations.
- Liaising with other independent human rights organisations working in the same field, and co-operating with lawyers, journalists and others concerned with human rights.
- Offering assistance to indigenous human rights groups and lawyers in the form of advice, training and seminars in international human rights mechanisms.
- Assisting individuals in the bringing of human rights cases before the European Commission of Human Rights.