



# newsletter

spring 2003

Issue 21

## War in Iraq and the Kurds

KHRP takes no position on the legality of the current war in Iraq; its mandate pertains to the promotion and protection of human rights within Iraq and neighbouring regions. According to information from KHRP sources on the ground in Iraq, large numbers of innocent people have been killed and civilians' rights have been severely violated during clashes since the war began in March 2003.

The international community must urgently ensure that international human rights and humanitarian law is upheld by all parties to the conflict. Despite the many governmental and intergovernmental organisations professing a commitment to human rights, there has been a widespread failure to take effective action against the atrocities committed by Saddam Hussein. It has been fifteen years since 5,000 Kurdish civilians were gassed to death during a chemical weapons attack on Halabja in 1988. This attack was only part of a systematic six-and-a-half month 'Anfal' campaign, in which 180,000 people "disappeared". To this day, their relatives do not know their whereabouts.

Britain, France and the United States undertook a radical act of humanitarian intervention in March 1991, invoking Security Council Resolution 688 to establish a "safe haven" in Northern Iraq. The "safe haven" significantly improved democracy and the protection of human rights, yet was never formally recognised by the international community.

The international community's litany of failures in previous wars affecting the Kurds gives rise to a profound

obligation to support Kurdish interests in post-war Iraq, as decided by Kurds themselves. It is imperative that the international community does not pass over the opportunity to find a lasting solution to the Kurdish situation as a whole following war.

It is not only the Kurds of South Kurdistan who live in uncertainty of their future. KHRP is concerned at reports that neighbouring countries have closed borders; denying refugees the possibility of escaping the war. The impact of the war on refugees and neighbouring countries Turkey, Iran and Syria must not be ignored.

Currently, more than 60,000 Turkish troops and heavy artillery are stationed near to the border of South Kurdistan. The Turkish State intends to prevent Kurds from seizing control of oil capitals Kirkuk and Mosul; to fight with Kurdish rebels; and to deter Kurds from establishing further regional autonomy. KHRP is concerned that the deployment of Turkish troops within the Iraqi borders would result in further extra-judicial killings, mutilations, "disappearances" and village destructions. Turkish troops have already violated international human rights and humanitarian law during cross-border incursions into Northern Iraq. There have been frequent reports of Turkish bombers flying over the "safe haven", and there are documented cases of mutilations and killings committed by Turkish troops in Northern Iraq. One case currently pending at the European Court of Human Rights concerns the killing and mutilation of seven Kurdish shepherds by Turkish troops during cross-border incursions in

1995 (*Issa v. Turkey*). The case, assisted by KHRP, is a legal precedent, affirming that Turkish troops are bound by the European Convention on Human Rights even while operating outside Turkish territory. Turkey has indicated that it wished to reinstate State of Emergency (OHAL) within the Southeast Kurdish regions in the event of war: a fundamental aspect of the human rights violations in the regions over the past 15-years.

The international community must ensure access to Iraq and the Kurdish regions to human rights monitors including NGOs. Concrete measures to address the human rights situation in Iraq must be considered an international priority.

The Kurds must be given the opportunity to decide for themselves how best to achieve democracy and the protection of human rights in post-war Iraq. The international community must respect and support these Kurdish interests, while working to find a lasting solution to conflict in the Middle East.



*Destroyed Saddam picture in South Kurdistan*

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### Director's Letter



Dear Friends,

Throughout the past few months, KHRP has been inundated with requests for information: not only concerning the current Iraq crisis, but also concerning the 5,000 Kurds gassed to death in Halabja in 1988, the 180,000 who "disappeared" without trace during the 'Anfal' campaign, and the crushing of the 1991 uprising. The international community seems finally to have recognised the suffering of the Kurds under Saddam Hussein's brutal regime; whether or not this leads to an improvement in the Kurdish situation as a whole remains to be seen.

Since hearing word that neighbouring countries have closed their borders, KHRP is concerned for the welfare of the refugees and potential internally displaced people of Iraq. The obligation to protect refugees should not be confined to states with appalling records of violating human rights, including Turkey, Iran and Syria. The protection of refugees is an international obligation and the international community must ensure that it is met.

The Kurdish people must be given the opportunity to decide for themselves how best to achieve democracy and the protection of human rights in post-war Iraq. Without a democratic platform for dialogue, a lasting solution to the Middle Eastern crisis is improbable.

These are turbulent times for people throughout the Kurdish regions. We only hope that the water will calm in coming months, and that our friends and colleagues throughout Iraq and the neighbouring regions remain safe.

Kerim Yildiz  
Executive Director  
March 2003

**KHRP Celebrated 10th Anniversary – See Page 3**  
**ECHR Rules Öcalan Death Penalty Unlawful – See Page 14**

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# The Future of the Iraqi Kurds

The outbreak of war in Iraq has been accompanied by a blitz of theories and opinions regarding the intentions, prospects and fate of the Kurds of the region and of Iraq in particular. Expressions of genuine concern for the welfare of Kurdish people have been matched, if not substantially exceeded, by hubris, spin and insincerity. As we write, events are in constant flux; while it is not impossible that things will turn out well, the likelihood remains (as we pointed out in the Autumn 2002 edition of Newsline, p.3) that it is the Kurds of Iraq and elsewhere who will bear the burdens of 'liberation' while reaping few of the benefits.

It is incumbent upon the international community to ensure that it fulfils its obligations to the Kurds of Iraq and the region, not only for their welfare but for the stability of the entire Middle East. Despite the systematic efforts of the Iraqi state to eliminate its Kurdish population in both the Anfal campaign of 1988 and the crushing of the 1991 uprising, and the role of the international community in both arming Saddam Hussein and encouraging Iraqi Kurds to rebel against him, the post-Gulf War "safe haven" of Iraqi Kurdistan was never formally recognised. Many of the problems currently facing the Kurds of Iraq stem from their consequent lack of autonomous political and territorial rights

It is essential, therefore, that the Kurds of post-war Iraq have a genuine opportunity to contribute to the new political settlement and have a legitimate say in their own future. In the present, however, given the incursions of the Turkish military and special forces into Northern Iraq under the well-rehearsed guise of "pursuing KADEK terrorists", it is critical that NGOs and independent observers are permitted entry to northern Iraq to monitor the



*Memorial to father and child, gassed by Saddam's regime, Halabja*

situation on the ground. Amnesty International have already chronicled allegations of human rights violations occurring in Iraqi Kurdistan.

However, there are several crucial questions which cannot be fully answered while the war is underway. These topics will determine the future stability of the Middle East as well as the welfare of tens of millions of people in the region. They include:

*The Impact of Turkey's Intervention in Northern Iraq*  
The recent parliamentary vote in Ankara to send several thousand Turkish troops into Iraqi Kurdistan only supplements the estimated 60,000 plus troops already in the area. Incursions by the Turkish army have been a regular feature of the last few years, and the worry is that the troops will adopt the same policies of village destructions, disappearance and human rights violations which have characterised their presence in the southeast regions of Turkey. Already allegations have been raised that over 2000 villages in Iraqi Kurdistan have been destroyed in recent years.

Moreover, the limbo status in which Iraqi Kurdistan finds itself, neither independent nor under regular scrutiny or governmental monitoring by either the Turkish or Iraqi states, means that there are relatively few methods by which to

scrutinise the actions of the Turkish security forces. There are profound concerns that once installed in northern Iraq, the Turkish military, which still has a dominant role in the Turkish state, will be extremely hard to remove. Turkey's failure to strike a deal with the US means not only an absence of US troops in the area to restrain possible Turkish excesses, but that Turkey will use its presence in the region to extract grant concessions from the US. Already President Bush has proposed what the Economist tactfully termed "unexpected" loans of up to \$8.5 billion to help the Turkish economy during the war.

*Changes in the Power Balance and Oil Distribution in the Region*  
The balance of regional power after the war is as yet unknown, and will have a dramatic effect on the welfare of the Kurds. As well as a variety of possible solutions to the post-war configuration of the Iraqi state, significant changes are likely in the roles and status of Turkey, Iran and Syria, all of which will be directly affected by the conflict and possess large Kurdish populations. There is also the question of the influence of the United States and United Kingdom in the region.

Turkey's policy of intervention is based on its well-known fear of Kurdish separatism, and in

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*War in Iraq and the Kurds*

Kerim Yildiz, KHRP Executive Director, says, "There must be human rights monitors on the ground to observe the military's conduct. Turkish incursions into South Kurdistan would concern Kurds in Iraq, Iran, Turkey and Syria, provoking further instability in the region. History has shown us that there can be no lasting peace in the

Middle East without resolving the Kurdish situation. We hope that the rights of Kurds will be guaranteed and fully recognised within the new Iraq."

*Reports on the human rights situation within Iraq are available from KHRP.*

particular the assumption that if Iraqi Kurds gain control of the oil wealth concentrated in the cities of Mosul and Kirkuk, they would have the wherewithal to establish an independent Kurdish state. While the KHRP hardly concurs with that analysis, the importance of the allocation of northern Iraq's oil wealth is self-evident.

#### *Domestic Implications for the Region's Kurds*

Even if some degree of autonomy is ceded to Kurdish political groups in northern Iraq, there is no guarantee that those entities will represent the desires or interests of Kurdish citizens. It is important to acknowledge that giving powers or rights to Kurdish political parties does not equate to giving them to ordinary Kurdish people.

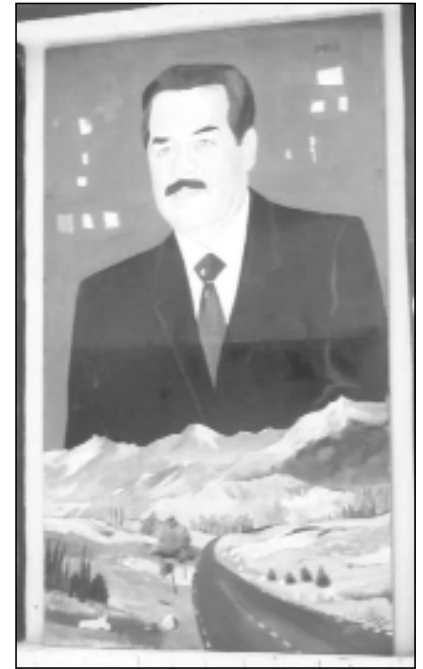
Similarly, in Turkey, the military is using the war as a pretext for the reintroduction of

the OHAL State of Emergency regime, whose harsh legislation was only recently expunged. Much of the tentative progress made in recognising Kurdish rights in Turkey over the last few years would be destroyed by the return of such a regime and its accompanying problems. Moreover, the possible arrival of a tide of Iraqi refugees into the southeast would only worsen the misery of the estimated 3-4 million Kurds internally displaced within the region by the village destruction campaigns of the Nineties.

Likewise, the significant Kurdish populations of Syria and Iran, both of which have been subjected to a well-chronicled array of human rights violations, would surely be detrimentally affected by a destabilisation of the region, particularly if allegations of intended Kurdish separatism

were widely propagated.

The opportunity now exists for a genuine solution to the problems of the region's Kurds to be properly addressed. For the stability of the whole Middle East as well as the welfare of an often abandoned people, the international community must not abdicate its responsibilities on this occasion. Rather, consistent pressure must be applied to the governments of Turkey, Iraq, Iran, Syria and the United States to deal with the Kurdish situation in a genuine and effective manner.



*Iraqi propaganda shows Saddam looming over Iraqi Kurdistan*

## KHRP Celebrates Ten Years

Professor Noam Chomsky delivers public lecture at St. Paul's Cathedral

Since its foundation in December 1992, KHRP has played a pivotal role in documenting and demanding accountability for human rights violations throughout the Kurdish regions of Turkey, Iraq, Iran, Syria and the Caucasus. Its strategic litigation programme has obtained a measure of justice, redress and hope to victims of human rights abuses including extra-judicial killings, "disappearances", torture, sexual violence, unfair trials and village destructions. It has assisted over 400 applicants in bringing cases to the European Court of Human Rights: establishing legal precedents which bring real changes on the ground, in addition to furthering the interpretation of human rights law across the Council of Europe. KHRP has played a crucial role in raising awareness of legal mechanisms throughout the Kurdish regions; as well as in developing public awareness of the Kurdish situation throughout the world. It has established a reputation for fearless independence and

integrity in a region beset by repression.

To commemorate its tenth-year anniversary, KHRP hosted a public lecture at St Paul's Cathedral by internationally renowned academic and prominent political dissident, Professor Noam Chomsky. On 9 December 2002, Canon Edmund Newell welcomed over 2000 people who had gathered together in the cathedral to celebrate KHRP's decade of achievements.

Following the Canon's greeting, Mark Muller, Bar Human Rights Committee (BHRC) Vice President and KHRP Board Chair, recalled first meeting KHRP Executive Director Kerim Yildiz, and only two days later finding himself in Southeast Turkey. "I saw the burning Kurdish villages, a 12-year old paper boy whose arm had been severed off, paper distributors whose stalls had been doused in petrol and set alight, and the families of young journalists who had disappeared while reporting on the conflict." Within a year, he recalled, KHRP had built a powerful legal team which



*continued on page 4* Professor Noam Chomsky at St. Paul's Cathedral, 9 December 2002

flooded the European Court of Human Rights with petitions regarding village destructions, extra-judicial killings, torture, rape and cultural and political persecution. KHRP is unique, he said, because it is both Western and Kurdish in inspiration and outlook: for the first time, a democratic platform for dialogue between Kurds and their Governments seems possible.



Professor Noam Chomsky at St. Paul's Cathedral

Kerim Yildiz, KHRP's Executive Director, then recalled how KHRP was founded, "with no staff, and no money, but with a single idea: the need to create a democratic platform for the discussion of the possible solution of the Kurdish question and to explore how justice could be brought about in the Kurdish region." Mr Yildiz continued that, despite his pride in KHRP's achievements over the last decade, he remained concerned at the continuing human rights violations in the Kurdish regions. "In the 21st Century, it is no longer acceptable that the use of the Kurdish language is a criminal offence," he added. Mr. Yildiz concluded with a declaration of profound thanks to all those who have contributed to KHRP over the past decade and to all those who continue to aid the organisation in its vital work.

Eminent play-write and long-time KHRP patron, Harold Pinter then introduced Professor Chomsky. Recalling the Professor's distinguished reputation as a redoubtable proponent of human rights, Pinter eloquently described Chomsky as one who "will not be bullied. He will not be intimidated. He is a fearless, formidable, totally independent voice. He does something which is really quite simple but highly unusual. He tells the truth."

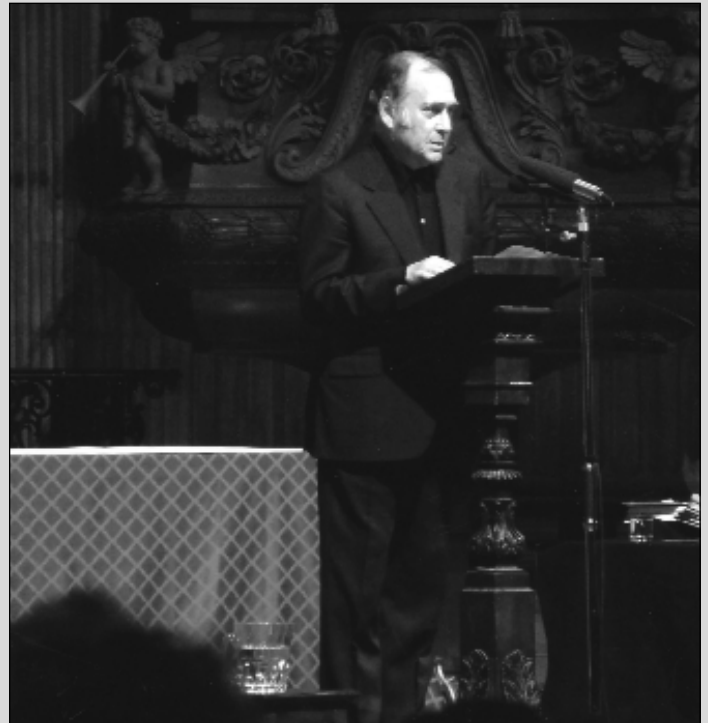


St Paul's Cathedral before the lecture

Professor Noam Chomsky then began his lecture with a commendation of the KHRP, describing it as an organisation that has carried out, "outstanding work on some of the most serious human rights issues of the decade". He outlined some of the major human rights problems in the Kurdish regions since the 1980s, before considering the immediate threats to Kurds posed by the prospect of a war in Iraq. He expressed concern at the intensified domestic repression which is likely to occur in the neighbouring countries around Iraq, including Turkey and Iran, in the event of war. He congratulated the unusual progress in democracy and human rights established in Northern Iraq under the uneasy alliance of Masoud Barzani and Jalal Talabani. He continued, "The UN High Commissioner for Refugees is planning for the possible flight of hundreds of thousands to neighbouring countries, where they are not likely to receive a warm welcome, and where the prospects for the indigenous Kurdish populations are sufficiently grim even without what might lie ahead – or perhaps to camps in northern Iraq that are being constructed by the Turkish army there, according to Turkish sources, a development with threatening portent."

Further expanding on human rights abuses in Turkey, Professor Chomsky commended KHRP's extensive work in battling the atrocities of the Turkish government against its Kurdish population which, he stated, "rank among the most terrible crimes of the grisly 1990s, leaving tens of thousands dead and millions driven from the devastated countryside, with every imaginable form of barbaric torture."

Following an eloquent thank you from renowned barrister Michael Mansfield QC, Professor Chomsky received a standing ovation.



Harold Pinter

Among notable guests who came to support KHRP at the event were, actress Vanessa Redgrave, Lord and Lady Hylton, Lady Antonia Fraser and Harold Pinter, Felekna Uca MEP, Stephen Solley QC, Michael Birnbaum QC, author David McDowell, comedian Mark Thomas, solicitor Gareth Pierce, journalist Can Dündar, solicitor Louise Christian, Kurdish politicians in exile Remzi Kartal and Erdal Ergun, director of Human Rights Watch UK Jonathan Sugden, members of Parliament, representatives of embassies and governments, NGOs and Kurdish organisations from both the UK and Europe, and other distinguished members of the academic and legal communities.

*KHRP warmly appreciates the work of all those who made this important evening possible, including St Paul's Cathedral, Charalambous, Culshaw & Law Solicitors, How & Coe Solicitors, Pluto Press, Chris Dandredge and the Chambers of Mark Muller, 10-11 Gray's Inn Square.*

*Special thanks are extended to Mark Thomas, Professor Noam Chomsky, Harold Pinter and Michael Mansfield for their continuing support.*

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 KHRP Celebrates Ten Years

*KHRP also wishes to extend its deepest gratitude to all who have supported the organisation throughout the past decade in its continuing struggle for fundamental human rights in the Kurdish regions, including the board of directors, advisory board, legal team, past and current members of staff and our partners such as IHD, CJA and others in the Kurdish regions. In particular, we thank our funders the Community Fund (UK), Netherlands Ministry of Foreign Affairs, Open Society Institute, Ruben and Elisabeth Raising Charitable Trust, World Organisation Against Torture, Bishop's Subcommission for Miseroer, the John Merck Fund, Cornerhouse Research (the Charles Mott Foundation), UN Voluntary Fund, Finnish Ministry of Foreign Affairs, AB Charitable Trust and other individual supporters.*



Chris Dandredge, Hikmet Tabak and Kerim Yildiz



Tanja Suvilaakso and Pertti Ikonen from Finland



Lord Rea, Vanessa Redgrave and Michael Mansfield QC



Michael Mansfield QC with Stephen Solley QC



Fazil Kawani of the British Refugee Council with author David McDowell



Journalist Ann Treneman, comedians Robert Newman and Mark Thomas and Barrister Ajanta Kaza



Kerim Yildiz, Professor Noam Chomsky and KHRP Chairman Mark Muller



Mustafa Gundogdu with Jonathon Sugden, Director of Human Rights Watch UK



Barristers Tim Otty and Mark Muller



Barrister Fiona Darroch with journalist Ann Treneman and Kerim Yildiz

# Tributes to KHRP on its 10th Anniversary

In commemoration of KHRP's tenth anniversary, the *Guardian* newspaper ran a feature celebrating the work and successes of the organisation to date. Describing KHRP's "growing influence" and its commitment to promoting and protecting human rights of all people in the Kurdish regions, author Owen Bowcott acknowledged that KHRP has taken over 150 cases to the European Court of Human Rights and that its "well-targeted" campaigns have helped to enlarge the liberties of Kurds in the Middle East. KHRP's environmental work was also applauded, with special tribute to its involvement in the successful Ilisu Dam Campaign, described as the organisation's "most celebrated victory".

The article was a fitting recognition of the hard work carried out by the KHRP and its achievements over the last decade.

The KHRP was proud to receive tributes and congratulations from many of its numerous supporters on its anniversary, including:

Jonathon Sugden – Director, Human Rights Watch UK

*"For more than a decade after the military coup, governments in Turkey committed to the gravest of human rights while blandly denying that the violations were taking place. By pioneering the use of the personal petition to the European Court of Human Rights in Turkey KHRP helped to make those violations a matter of record in the form of court judgments. This has added valuable leverage*

*in the continuing struggle to bring abuses such as 'disappearance', forced displacement, torture and repression of free speech to an end."*

Jane Winter

*"As someone who had the privilege of playing a small part in the setting up of the Kurdish Human Rights Project, I have watched with admiration the way in which it has gained in stature and authority over the years. KHRP has made a real difference to the lives of many individuals and through its ground-breaking work in the European Court of Human Rights and elsewhere it has brought about policy change in some of the most intractable situations on earth. I congratulate them on their tenth anniversary and hope that their important work promoting human rights will continue for as long as needed."*



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Ursala Owen – Index on Censorship

*"Index congratulates the Kurdish Human Rights Project for the sterling work they have done for the Kurdish people of Iran, Iraq, Syria, Turkey and the former Soviet Union over the past ten years. With their promotion and protection of the human rights of the Kurdish people in these regions, KHRP has significantly raised public awareness and given visibility to people who have been too often marginalised."*

Akin Birdal – Honorary President of Human Rights Association of Turkey (IHD) and Vice President of the Fédération Internationale des Ligues de Droit de l'Homme

*"The Kurdish Human Rights Project has played a significant role in the utilisation of international human rights mechanisms and in the creation of an idea of justice that they have worked so diligently to spread. The determined and courageous work of the Kurdish Human Rights Project in its quest for justice has shown the way to defenders of human rights."*

Nick Hildyard – Founder, The Corner House

*"KHRP's work on civil and political rights has been groundbreaking. It has enriched the work and understanding of many movements."*

President Stephen Solly QC – Bar Human Rights Committee

*"Over the past decade the BHRC has had great pleasure in working with the KHRP. No organisation has had more impact both in Strasbourg at the European Court of Human Rights, and in Turkey's political-legal configuration. The BHRC is proud of its close association with the KHRP."*

Malcolm Smart – Director, Medical Foundation for the Care of Victims of Torture

*"KHRP can count many achievements since its foundation ten years ago, but among these its contribution to the fight against torture and organised violence has been one of the most important. Through its litigation strategies, notably at the European Court of Human Rights, its reports and public advocacy, KHRP has helped expose continuing abuses against both Kurds and others, particularly in Turkey, and to raise hopes that victims and survivors of torture and other state violence may obtain recognition of their ordeal, compensation and justice."*

Kate Allen – Director, Amnesty International UK

*"KHRP's work in bringing cases to the European Court of Human Rights, seeking justice for the victims of human rights violations including torture and extra-judicial killings, has been ground-breaking. In many of these cases the European Court of Human Rights has concluded that the Turkish authorities have violated individual's rights under the European Convention on Human Rights. Amnesty International salutes the work of this organisation over the last 10 years in defending human rights."*

Andrew Puddephatt – Executive Director, Article 19

*"KHRP's work has been an important element in the continuing struggle for freedom of expression in Turkey over the past ten years. In 1994, Kerim Yildiz, KHRP's director, was one of a core of international experts who helped elaborate Article 19's groundbreaking Johannesburg Principles on National Security, Freedom of Expression and Access to Information, and in 1998 Article 19 and KHRP collaborated to research and publish State Before Freedom, a major analysis of Turkey's failure to respect international standards on freedom of expression, and to convene with the Contemporary Journalists' Association, an important public seminar on the issue in Istanbul."*

Professor Noam Chomsky

*"The Kurdish regions have been the scene of terrible crimes. Information has been sparse, and reaction far too limited. Throughout these years, the careful and judicious work of the KHRP has been an invaluable resource for understanding the events that have been taking place, their backgrounds and roots, and the opportunities for constructive action. These have outstanding contributions. They will be all the more important in the difficult days that surely lie ahead."*

Bruce Kent

*"The work of KHRP is invaluable. The information it provides is both regular and reliable. Without it the task of campaigning for human rights would be much more difficult."*

Can Dündar – Journalist and Author

*"In my opinion, for a view on the KHRP one should ask the ancient cities it has saved from submersion, the villagers it has represented whose houses had been burnt and destroyed, prisoners of conscience and those who had been tortured, for they know the KHRP better."*

Koray Düzgören – Journalist, author and applicant to the ECtHR accused of publishing material which allegedly discouraged citizens from performing their military service

*"I believe that the role played by KHRP is not confined solely towards convicting Turkey for violations of human rights, but that their work is also an important and useful tool as far as the improvement of legislation and human rights practice in Turkey."*

Mark Thomas – Comedian

*"KHRP is a remarkable project that has broken the ground in the way that human rights abuses are challenged. Its work has resulted in landmark decisions at the European Court of Human Rights. It has genuinely improved life for ordinary Kurdish people, and helped to shore up their sometimes precarious grasp on their own civil liberties."*

## KHRP Website Wins Award

Medaille d'Or, one of the world's top awards for websites, has been awarded to the KHRP website (www.khrp.org). Medaille d'Or announced, "This beautifully designed and extremely impressive site promotes the work of the Kurdish Human Rights Project, a independent, non-political project founded and based in Britain. Anyone with any interest in the subject should ensure they visit this site."

The KHRP continues to put much effort in ensuring that the KHRP website provides an exceptional level of information in a user-friendly format. Considered a crucial element of our public awareness strategy, the KHRP site has helped contribute both to the circulation of objective information about Kurdish human rights issues.

In 2002, the site was given a dynamic new look and expanded to include a section detailing the work of KHRP's new Environmental Unit with fully downloadable copies of all of KHRP's environment publications. Moreover, the Turkish website was launched in 2002 which will be continually developed to incorporate all of KHRP's translated publications. The aim of establishing a Turkish language website was to ensure that people in the Kurdish regions have access to all of KHRP's resources and materials. The Kurdish language website is being further considered in 2003.

The KHRP has received several applauds regarding its website, and seeks to develop it further in 2003.

*"When human rights are violated, the whole world watches like never before thanks to the Web. The Kurdish Human Rights Project is the latest organisation to take advantage of online communication to protect oppressed people. An easy-to-navigate site that educates us about this troubled region."*

USA Today



# Turkey Breaks EU Promises: HADEP is Banned DEHAP under threat

Turkey flouted its promises to the EU on 13 March 2003, by permanently banning HADEP, the pro-Kurdish People's Democracy Party, and pushing to ban its successor DEHAP, the Democratic People's Party.

The Constitutional Court ruled that HADEP should be closed permanently for aiding the outlawed Kurdistan Worker's Party (PKK) and carrying out activities challenging the state. Over forty HADEP members including its founders have been banned from becoming a member, founder, administrator or inspector of any political party for five years. The Court of Appeal's Chief Prosecutor then asked the Constitutional Court to ban its successor party, DEHAP, which largely mirrors HADEP's views.

Turkey is required to achieve the "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities" in order to meet EU accession requirements. In May 2002, a European Parliament delegation warned that, "if HADEP is closed down, this would be a serious setback in relations between the European Union and Turkey".

Turkey has a longstanding record of banning a succession of pro-Kurdish political parties. The European Court of Human Rights has condemned Turkey's practice on numerous occasions, in cases brought by, among others, the United Communist Party of Turkey (TBKP), the Socialist Party, the Freedom and Democracy Party (ÖZDEP), the People's Labour



Party (HEP) and the Democracy Party (DEP). A further challenge was brought to the Court by the Welfare Party, Refah Partisi. Last year, the Court ruled that such closures not only violated the rights of the party members to freedom of expression and association, but also the rights of voters to fair and free elections (Sadak v Turkey).

There are persistent reports of the harassment of HADEP members and supporters. The Human Rights Association of Turkey (IHD) reports that 41 HADEP offices were raided and 393 formal arrests of HADEP members were made in 2002. The European Commission has also noted the "continuing harassment" of HADEP members by the authorities.

Due to its expected closure, HADEP campaigned under DEHAP in the 2002 general election. The party obtained nearly 2-million votes, achieving 6.2 per cent of the national vote. It was the leading party in 12 provinces in the Kurdish regions, scoring an average of 47 per cent of votes in Diyarbakir, Batman, Sirmak, Hakkari and Van. However, the Turkish electoral system denies parties with under 10 per cent of the vote nationwide from securing parliamentary seats.

The decision to close HADEP effectively denies the Kurdish minority from taking part meaningfully in the democratic process, and is in clear violation of Turkey's human rights obligations and of its promises to guarantee democracy in order to join the EU.



# Two Syrian Kurdish Leaders on Trial

Two Syrian Kurdish leaders stood trial on 1 February 2003 before the state security court for staging a rally for Kurdish rights.

Marwan 'Uthman and Hassan Saleh, both leaders of the Yakiti Party, a Kurdish opposition party banned in Syria, face charges of provoking inter-confessional strife for staging a sit-in outside the nation's parliament in Damascus on 10 December 2002. According to reports received by KHRP, the demonstration was the first of its kind in 40-years since the Ba'ath Party's rise to power in Syria, and was planned to coincide with International Human Rights Day.

An estimated 150 demonstrators waved signs reading, inter alia, "Down with the Ban on Kurdish Language and Culture", "Let Syria be the homeland of all its sons: Arabs, Kurds and other minorities" and "Citizenship for Kurds".

The trial before the state security court, under the country's emergency laws imposed by the ruling Ba'ath Party, precludes the defendants from the chance to appeal. Their lawyers have called for their deferral to a normal court. The court case is ongoing and there is no confirmed date for the next hearing.

Two months before their protest, the Kurdish Democratic Alliance (KDA), which groups five Kurdish political parties, urged Syrian President Bashar al-Assad to restore citizenship to almost 200,000 of their people left stateless four decades ago. Under the 1962 Hassaka census, Kurds living in Northeast Syria were denied the right to hold Syrian citizenship. To this day, Kurdish culture is not recognised and Kurds are consistently denied access to rights enjoyed by other national and ethnic minorities within Syria.

KHRP is concerned at reports that the men have been moved to solitary confinement in the political wing of 'Adra prison, and are being denied access to lawyers or medical treatment.

# Iran Executes Two Members of Kurdish Opposition Group

According to information received by KHRP, the Iranian authorities have executed two members of an outlawed leftist Kurdish group.

Sasan Alekanan, was executed on 22 February 2003 in the province's capital Sanandaj. His alleged collaborator, Mohammad Gholabi, was executed on 2 March in Saghez in Iran's North-western province of Kurdistan. The men were alleged to be members of the Revolutionary Organisation of Kurdish Toilers ('the Komala') and to have participated in terrorist acts.

Founded in 1969, the Komala is one of the two main Kurdish opposition groups active in the Islamic Republic, alongside the Kurdistan Democratic Party of Iran (KDPI). The Komala's main area of operation has long been the Sanandaj region, but most of the group's members are now based in Iraqi Kurdistan. There are eight-million Kurds living in Iran.

In 2002, the UN Human Rights Commission failed to adopt a resolution condemning human rights violations in Iran, and monitoring by a UN Special Representative was terminated in April. The KHRP reiterates its concern that the lack of a resolution and the removal of monitoring mechanisms in Iran will result in the continued increase of human rights violations.

(For further background information, see 'Iran Executes Kurdish Political Prisoner', *Newsline Issue 20*, Winter 2002)

# 'Disappearances' Continue in Iraq

There is concern for the safety of a man who forced his way into a United Nations (UN) weapons inspector's vehicle and was thereafter detained by Iraqi security personnel in Baghdad.

In November 2002, UN weapons inspectors resumed work in Iraq after the Iraqi Government had accepted UN Resolution 1441, on weapons of mass destruction and long range ballistic missiles. 'Adnan 'Abdul Karim Enad, who served two years in Basra in 1994 or 1995 for refusing to complete his military service and is not known to have any political affiliation, forced his way into a UN weapon's inspector's vehicle in an attempt to hand over documents

to the inspectors. There is no information on what the documents contained.

On 25 January 2003, 'Adnan 'Abdul Karim Enad was taken away by Iraqi security personnel and has since disappeared. To date, the fate and whereabouts of hundreds of thousands of people who have been detained by Iraqi security personnel remains unknown.

KHRP is concerned for the safety of Mr Enad, who has not been seen since 25 January 2003, and requests the authorities to provide guarantees for his safety if he is in detention, including assurances that he is not subjected to torture or other human rights violations.

# Armenia: Election Irregularities

The International Elections Observations Mission and Council of Europe Parliamentary Assembly (PACE) have both expressed concerns that the Armenian presidential elections, held between 19 February and 5 March 2003, fell short of international standards for democratic elections.

In the first round of election results, the Central Election Commission (CEC) was criticised for failing to publish a prompt and detailed breakdown of the preliminary results. International observers noted 15 cases of ballot box stuffing. Significant discrepancies and implausible figures were also noted. The CEC attributed the discrepancies to data entry

errors by inexperienced computer operators; but international observers concluded that the scale of the errors could not be explained in this way. Observers, instead, claimed that many voters arrived with special marks on their passports: marks to indicate that they were in support of the President and should be granted two votes. The names of dead people or people who had emigrated from Armenia long ago also featured on the list of potential voters and could have been open to abuse.

On 20 February, the CEC issued its conclusion that elections were, "free, transparent, democratic, just and legitimate". It made no further statements in the

following days. The CEC did not uphold any of the 106 complaints it received following the first round of elections.

According to reliable information received by KHRP, between 80,000 and 100,000 people participated in a protest against the flawed electoral system on 22 February 2003. Between 100 and 200 protestors were detained; 77 were sentenced to imprisonment for up to fifteen days; 65 received fines; the rest were released without sanction. Many defendants received closed hearings, without access to legal counsel.

Before the second round of elections, the public television station failed to meet its obligations to provide impartial

coverage of the elections. Some journalists reported that they received pressure, coercion and editorial interference akin to censorship following their reporting of opposition gatherings and subsequent detentions.

During the second round of voting, more than 50 per cent of polling stations visited contained international observers; however many reported that they were restricted from observing all aspects of the counting process.

The KHRP is concerned that the Armenian authorities may not respect their obligation to provide fair and free elections under the European Convention on Human Rights.

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## Police Ill-treatment Continues in Azerbaijan

According to information received by KHRP, incidences of police ill-treatment against civilians in the village of Nardaran, which commenced in May 2002, have continued into March 2003.

Concerned by allegations that police had arbitrarily arrested and shot various persons who had engaged in a demonstration on 7 May 2002, KHRP, in conjunction with the Bar Human Rights Committee (BHRC) and the Helsinki Citizens' Assembly (HCA), travelled to Nardaran in October to investigate the incident. According to the information provided, police had shot dead one man and beaten several on 3 June 2002, in retaliation for their participation in the demonstration, and fifteen people remained in detention.

Since the 3 June 2002 police operation, local community representatives seeking the release of detained citizens have met with further brutal attacks by the authorities. According to reports received by KHRP, Dzhabrail Alizade, the Chairman of 'Union of Baku and Villages', was arrested and detained following an ambush by men in civilian clothing in February. On 6 February 2003, eyewitness accounts state that police opened fire during a police raid, several people were seriously injured, and police made several arbitrary arrests. The Azerbaijani Interior Ministry and the Prosecutor-General's office later released a joint statement claiming that police had been faced with "armed resistance" and had only then resorted to the use of truncheons, tear gas and rubber bullets.

As a result of continuing pressure from local leaders and NGOs operating in area, government officials have engaged in talks with local elders who represent the people of Nardaran. On 11 February 2003 it was reported that a form of agreement had been reached between the two parties, in response to which a member of the Azerbaijan Elders Association commented that steps taken by both the Government and local representatives "must be praised".

On 22 February 2003, the Baku Court ruled that four of those detained after clashes on 5 February should be released. KHRP has also received information that the other four have been released. However, all eight of these civilians are due to stand trial and KHRP is concerned that such proceedings may not reach the standards of a fair trial required by the European Convention on Human Rights (Article 6). Moreover, fifteen people arrested in June 2002 remain in detention, raising concern as to their physical and psychological integrity.

Both the domestic judicial proceedings and the talks between government officials and local elders are ongoing, and whilst both processes have produced some alleviation for the Nardarani's, the situation remains grave.

Although domestic proceedings have not yet been exhausted, KHRP is investigating the possibility of making an application to the European Court of Human Rights on behalf of the detainees.

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## Kurdish Organisation on Trial for "Multiculturalism"

On 26 February 2003, the Migration and Humanitarian Assistance Foundation of Turkey (GIYAV) faced the second hearing in its trial on charges of "abetting and harbouring an outlawed organisation" for its use of terms including "multiculturalism", "State of Emergency practices" and "forced migration".

GIYAV aims to provide voluntary humanitarian

assistance to people who have subject to forced evictions. It runs migration projects including a project for children working on the streets and to develop working skills of women in order to help them secure a profession.

The public prosecutor specified the use of terms including: "mother tongue Kurdish", "mother tongue Turkish", "multiculturalism", "forced migration", "State of Emergency practices" and

"arbitrary practices concerning village guards". A case has been filed to the Mersin Court of First Instance in order to have the foundation closed permanently.

KHRP reminds the Turkish authorities of the UN Guiding Principles on Internal Displacement, which provide that international humanitarian organisations and other appropriate actors have the right to offer their services in support of internally displaced

persons (IDPs) and that such organisations should have unimpeded access to internally displaced persons. Far from providing "appropriate actors" access, however, the Turkish authorities have harassed civil society organisations that seek to work with internally displaced people. KHRP will continue to monitor the case to ensure that the organisation's rights to freedom of expression and to a fair trial are upheld.



## Intimidation of NGOs Critical of Baku-Ceyhan Pipeline

The KHRP, in conjunction with Friends of the Earth (England, Wales and Northern Ireland), Platform, the Cornerhouse and Baku-Ceyhan campaign, has written to the UK Government of human rights threats over BP's Caspian oil project.

The organisations have written to Clare Short, Secretary of State for International Development, and Baroness Symons, Minister for International Trade and Investment, urging them to refuse UK backing for the controversial project.

KHRP is concerned about recent threats made by a senior figure in the Azeri government. On 24 February 2003, Ilham Aliyev, First Vice-President of the State Oil Company and son of President Heydar Aliyev of the Azerbaijan Republic, made a statement on national television threatening opponents of the project.

There is continuous pressure on people who have expressed views that are not in line with the government's official position or the State Oil Company. The KHRP has received information about people whose families have been persecuted and about NGOs that are receiving intense monitoring by the Ministry of Internal Affairs in relation to statements they have made about the BTC pipeline.

KHRP, in conjunction with the Baku-Ceyhan Campaign international coalition of NGOs, undertook a fact-finding mission travelling from Sivas to Posof, the length of the Turkish section of the pipeline, between 16 and 25 February 2003.

The delegation, including a member of the KHRP, was itself detained twice in eastern Turkey and subjected to constant military harassment and intimidation. The delegation was constantly followed by several vehicles, making its task of interviewing local people affected by the BTC pipeline impossible. During a visit to a village near Ardahan, the delegation was stopped by the gendarmerie, the Turkish military police. Its passports were taken and it was detained for over an hour. No explanation was given for the detention, nor was any indication made of its likely duration.

Due to constant surveillance by up to fifteen plainclothes security men and uniformed gendarmes, the delegation was unable to undertake further interviews. KHRP now has serious concerns as to the subsequent treatment of several of its interviewees, and will continue making regular enquiries to check on their welfare.

KHRP has urged Clare Short and Baroness Symons not to make available public monies for the BTC project at this time, in a climate where free and fair consultation cannot take place. A report into the findings of the fact-finding mission will be available in April 2003.

## World Bank Says No to Koykent Project

The KHRP is pleased to announce the Turkish state's apparent retraction of one of the infrastructure projects about which we have raised questions. In 2002, we made contact with the World Bank to express concerns about a proposed \$300 million loan to Turkey to fund the Koykent (or 'Village Return') project. According to the Bank's own rubric, Koykent was ostensibly intended to "(i) improve infrastructure services (ii) improve social services and (iii) support income generation activities." It aimed to bring disparate rural communities in Turkey together to pool educational and medical facilities and supplies of raw materials and labour.

However, KHRP was concerned that the project resembled now discredited schemes such as the Centralised Villages Project and the Return to the Village Project, which were motivated less by the desire to enrich the Kurdish regions of Turkey and more by an ongoing attempt to establish hegemony over them, collating separate settlements into homogeneous blocs with gendarmerie posts and easy road access for the military. These early return to village projects were often used in an attempt to deny the more than 3 million Kurds displaced by the war the opportunity to go back to their homes, instead placing them in unfamiliar and

disruptive new surroundings.

Although its trial stages were largely concentrated elsewhere, certain facets of the Koykent project bore a worrying resemblance to its predecessors, for instance the proposed concentration of 50% of the funds on road building. Moreover, the Turkish state has a history of using funds for which it has legitimately applied to direct or indirectly subsidise projects damaging to the Kurdish population. The lack of acknowledgement of the political situation in Turkey in the World Bank's project documents, for example of the scale of displacement and the Turkish state's agenda of fostering Kurdish assimilation, also raised flags.

Having raised many of these concerns with the World Bank, the KHRP was pleased to receive the announcement of Sudipto Sarker, Koykent Project Co-ordinator, that, "Based on inputs from the government, the Koykent project is no longer in the lending program of the Bank." We regard this as a correct decision by the Bank, and applaud it for showing common sense in dealing with Turkey's continuing refusal to solve the problems of internal displacement and the fragmentation of Kurdish society in a legitimate and acceptable manner.

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## International Criminal Court Inaugurates Judges

### *One Step Further to its First Case*

With acts of international terrorism and threats of war all around us, the expectations for the new International Criminal Court (ICC) are enormous. Having entered into effect in July 2002, 18 judges have now been successfully elected at the resumed first session of the Assembly of State Parties (ASP) in February 2003.

The eighteen judges will oversee the formation of the ICC and were sworn-in at the Peace Palace in The Hague, the Netherlands, on 11 March 2003. The ASP now moves one step closer to electing the Prosecutor, which is likely to take place between 21 and 23 April. It is expected that with the election of the Registrar shortly thereafter, the Court should be ready by mid-year to begin addressing the more than 200 referrals it has reportedly received.

Meanwhile, US government representatives are continuing their efforts to seek so-called "Article 98" agreements in an effort to shield US citizens from prosecution by the ICC. These bilateral

agreements, if signed, would provide that neither party to the accord would bring the other's current or former government officials, military or other personnel before the jurisdiction of the Court. Leading legal experts have already dubbed these "impunity agreements", contending that such agreements are contrary to the overall purpose of the ICC, to the intention of the drafters, and to the language of Article 98. As of 7 March 2003, 24 countries have signed the agreements.

Moreover, only two states have ratified the Agreement on Privileges and Immunities of the Court (APIC) as of February 2003. The Agreement ensures that State Parties are required to respect the immunity and privileges of officials, staff, victims, witnesses and other persons involved in the work of the Court, as foreseen in the Rome Statute. The KHRP and its colleagues in the NGO Coalition for the ICC urges all States to sign, ratify and implement the Agreement at the earliest possible opportunity and thereby guarantee the effective and independent functioning of the Court.

# UPDATE ON KHRP LITIGATION AND ADVOCACY PROJECT

## *NGOs Respond to ECHR Reform Proposals*

KHRP and other partner NGOs met on 27 March 2003 to draft an update to the Joint Response to Proposals for Reform of the European Convention of Human Rights, which was first published in January 2002.<sup>1</sup>

The final discussions of the Committee of Ministers on proposals for reform of the European Convention of Human Rights are due to take place on 14-15 May 2003. Subsequent to these discussions the Committee of Ministers will be determining the most effective means of reforming the Convention in order to reduce the number of applications and backlog of cases currently burdening the European Court of Human Rights and its Registry.

On 17-18 February 2003, some of our colleagues in the Joint Response Group took part in a Consultation meeting at Strasbourg. This was an opportunity to express some of the concerns detailed in the original Joint Response and to open a dialogue on those reforms, which KHRP and its partner NGOs collectively advocate.

With the process of reform entering its final critical stage, we would be very grateful if all existing signatories and new NGOs were able to signal their support for the new response as expeditiously as possible, so that we may continue to demonstrate the strength and depth of objection to those proposals that would have the effect of eroding the right of individuals to access the Court. In order to sign the updated Joint Response please send an email to [astock@khrp.demon.co.uk](mailto:astock@khrp.demon.co.uk) and [DChriste@amnesty.org](mailto:DChriste@amnesty.org).

NGO Response to Proposals to Ensure the Future Effectiveness of the European Court of Human Rights

To the Committee of Ministers:

*We, the undersigned NGOs, submit the following response to proposals to ensure the future effectiveness of the European Court of Human Rights put forward by the Evaluation Group on the European Court of Human Rights<sup>2</sup> and the Committee of Ministers' Steering Committee on Human Rights (CDDH).*

1. We recognise that the increasing number of individual applications which are being lodged with the European Court of Human Rights (the Court) has been detrimental to its effectiveness and that, accordingly, reforms are needed.
2. We consider that the measures taken to ensure the long-term effectiveness of the Court should aim to improve the implementation of the European Convention for the Protection

of Human Rights and Fundamental Freedoms (the European Convention) in member states, and to strengthen the right of individual application by ensuring the speedier resolution of applications. We urge you to ensure that the right of individual application – which lies at the heart of the European Convention system – is not prejudiced, restricted or weakened.

3. We believe that better implementation of the European Convention in member states would reduce the number of people who need to seek redress before the Court, and hence its workload. For this reason, we believe the main objective of reform should be to improve the implementation of the European Convention in the member states of the Council of Europe. We therefore particularly welcome the proposals that aim at preventing violations at the national level and improving domestic remedies, including by asking states to ensure continuous screening of draft and existing legislation and practice in the light of the European Convention and the Court's case law; and by asking states to increase information, awareness-raising, training and education in the field of human rights.
4. We consider that new measures are required to screen quickly and effectively the high numbers of applications received by the Court, 90% or more of which are inadmissible or struck out under the current criteria. We also acknowledge the need for the Court to be able to handle in an efficient manner the 65% or more of admissible cases which raise repetitive issues about which its case law is clear.
5. In this respect, we urge the Committee of Ministers to ensure that the Registry receives adequate human and financial resources, including sufficient paralegal, secretarial and clerical support for the Registry lawyers.
6. We welcome proposals to empower committees of three judges to rule on the admissibility and merits of cases which raise repetitive issues, about which there is well-established case law, by amending Article 28 of the European Convention. Given that such a large proportion of the cases now considered substantively by the Court are repetitive cases, we consider that this proposal would have a significant impact on reducing the work-load of the court and expediting the rendering of judgments, while maintaining the essence of the right of individual petition.

*continued on page 11*

## *European Court Orders Turkey to Grant Retrial for Leyla Zana and Others*



*DEP MP Leyla Zana received a 15-year sentence for her expression of Kurdish political identity*

Leyla Zana and three other imprisoned Democracy Party (DEP) parliamentarians were retried in Turkish courts on 28 March 2003, following the European Court of Human Rights ruling that their original trial was unfair.

A KHRP delegation attended the first hearing in the retrial at the Ankara State Security Court. The court denied requests from defence lawyers that the jailed parliamentarians be released

pending the conclusion of the retrial; and that a member of the judiciary be removed due to his previous involvement in the case, raising concerns about his impartiality.

On 3 February 2003, Turkey's President Ahmet Necdet Sezer ratified the most recent 'Harmonisation Law' aimed at bringing the country in line with EU accession standards. The law grants a right to defendants to have a retrial where the ECtHR has ruled that the original trial was unfair, in violation of the European Convention on Human Rights.

KHRP has assisted the DEP parliamentarians in taking a series of cases to the ECtHR, which ruled in July 2001 that the DEP parliamentarians had not received a fair trial; and in June 2002, that the dissolution of the DEP Party itself had violated the right to fair and free elections. The Court's decision became final on 6 November 2002, when Turkey's request that it be referred to the Grand Chamber was rejected.

The Ankara State Security Court consented to retry the former DEP parliamentarians on 28 February 2003, however it has rejected requests to acquit the parliamentarians in the light of the 9-years they have already served in prison. The court maintained that an acquittal could not be granted on the basis of the "case dossier and evidence".

The DEP parliamentarians, Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan have been imprisoned since 1994. A delegation from the European Parliament's Women's Rights and Equal Affairs Committee was refused permission by Turkish authorities to visit Leyla Zana in prison in March 2003.

While the right of retrial under the new Harmonisation Law is to be welcomed, KHRP will continue to monitor the case to ensure the trial focuses on the substantive, as well as procedural, aspects of the original trial.

7. We oppose proposals to invest judicial status on members of the Registry who have not been elected as judges, as – in accordance with the principle reflected in the Court’s own jurisprudence – applicants are entitled to expect their cases to be determined by a court, not by administrative officers. If such proposal is adopted, the system could be subject to criticism that it lacks the appropriate appearance of independence and transparency. We are of the view that no decision on the admissibility and/or merits of an application should be made by less than three judges. We would therefore oppose any proposal that such decisions be made by a single judge.
8. We share concern expressed by some judges of the Court, members of the Registry, representatives of the European National Human Rights Institutions and experts about proposals to change the current admissibility criteria in a manner which would restrict the right of an individual to have currently admissible cases determined on their merits. The right of individual petition is a vital element of the protection of human rights in the Council of Europe system. We consider that curtailing this right would be wrong in principle. Unlike other proposals, curtailing this right would have little impact on the main source of the Court’s overburdening, which is disposing of the high number of cases that are inadmissible under the current criteria. Such a measure would be seen as an erosion of the protection of human rights by Council of Europe member states, an erosion which will have an adverse impact on efforts to promote the protection of the rights of people in countries where systems are significantly weaker. Particularly at a time when human rights – including the right to fair trial and the absolute prohibition of torture and inhuman or degrading treatment or punishment – are under great pressure around the world, we urge the Council of Europe to maintain the integrity of the system it has established.
9. Accordingly, we *vigorously* oppose the proposal which would empower the Court to decline to issue judgments on the merits of applications which are admissible under current criteria but which the Court deems raise “no substantial issue” under the European Convention.
10. We are concerned about the proposal to extend the inadmissibility criteria by amending Article 35 of the European Convention to allow the Court to declare inadmissible cases if the applicant has not suffered a significant disadvantage and if the case does not either raise a serious question affecting the interpretation or application of the Convention or the protocols thereto or any other issue of general importance. We are unconvinced of the necessity or effectiveness of this proposal, particularly as the President of the Court and the Registry have recently indicated their anticipation that this proposal will do little to reduce the Court’s caseload.<sup>3</sup> Instead, we believe that by adding additional admissibility criteria, it will make the admissibility process significantly more time-consuming and complex.
11. With a view to improving the quality of applications and reducing the number of inadmissible applications to the Court, we urge the Committee of Ministers to recommend that member states provide resources to lawyers and non-governmental organisations in order for them to provide initial advice to individuals in respect of potential Convention applications. This should include the provision of legal aid by the national authorities. Our experience is that the provision of such advice has dissuaded people from making misconceived applications.
12. We are concerned that an expansion of the existing friendly settlement process must not be to the detriment of the individual right of application. 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 out an application 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. It should never be invoked in cases of arguable violations of those Articles that are non-derogable under Article 15.2.
13. Although we acknowledge that the Court’s fact-finding hearings may be time-consuming and expensive, we believe that in exceptional cases 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. 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-findings hearings.
14. We do not support the creation of regional human rights tribunals throughout Europe – with the Court becoming a tribunal of last instance – or the use of preliminary rulings on Convention issues at the request of national courts. We agree with the Evaluation Group, which said about this solution that “it carries the risk of diverging standards and case-law, whereas the essence of the Convention system is that uniform and coherent standards, collectively set and enforced, should obtain throughout the Contracting States”.<sup>4</sup>
15. We support proposals to improve and accelerate the execution of judgments of the Court. In particular, we would welcome the Court identifying underlying systemic problems in its judgements, and the Committee of Minister further developing procedures to give priority to the rapid execution such judgments. We would welcome the Committee of Ministers being enabled to supervise the execution of decisions taken by the Court with respect to friendly settlements. We would encourage the Committee of Ministers to further explore the idea that it be enabled to petition the Court after a persistent failure of a state to execute a Court judgment, and the Court be empowered to impose a financial sanction on the state if it finds an continuous violation by the state of its obligation under Article 46 to abide by judgments against it. We would welcome optimum use being made of other existing institutions, mechanisms and activities, and the Court making more frequent use of the possibility to invite other states to intervene in cases of principle.
16. We consider that adequate financial and human resourcing of the Court is vital for its continued credibility and effectiveness. It is noted that the total budget of the Court of Human Rights is only a quarter of the budget of the Court of Justice. It is essential that Contracting States show greater commitment to the Court system, by providing the Court with sufficient resources to carry out its tasks.
17. Finally, we are concerned that the majority of member states have yet to inform or consult with the legal community and civil society within their jurisdictions about the proposals being considered for ensuring the long-term effectiveness of the Court. According to information available to us, fewer than 12 of the 44 member states have held such consultations. In view of the significant impact the proposed reforms may have on the protection of human rights, we urge the Committee of Ministers to immediately request all states to consult with legal and other appropriate associations and inform it of the outcome of such consultations, before decisions on proposals for reform are taken.

28 May 2003

1 ‘NGO Response to the Report of the Evaluation of the European Court of Human Rights’, p.8, *Newsline 17*, Spring 2002

2 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. Its report, published on 27 September 2001, EG (Court) 2001, is available on the Council of Europe’s web site at <http://cm.coe.int/stat/E/Public/2001/rapporteur/clcedh/2001egcourt1.htm>

3 As mentioned by Mr Luzius Wildhaber, President of the European Court of Human Rights in a speech to the Liaison Committee on 4 March 2003, and by the Registry in an impact assessment produced for the Committee of Ministers’ Steering Committee for Human Right (Document reference CDDH-GDR(2003)017). The Registry estimated that this proposal would affect only 4.7 % of current Chamber cases.

4 See the report of the Evaluation Group on the European Court of Human Rights, paragraph 83, available at <http://cm.coe.int/stat/E/Public/2001/rapporteur/clcedh/2001egcourt1.htm>

# ECHR: KHRP Submits Counterproposals



European Court of Human Rights, Strasbourg

As reported previously in *Newsline 14 (Summer/Autumn 2001)*, cases before the European Court are now working in a changing political context. Faced with spiralling costs and a backlog of cases, the Evaluation Group on the European Court of Human Rights published proposals for reforming the European Court in September 2001.

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. 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, the Turkish Government requested that the case be struck out. It offered to pay £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".

Since then, requests to strike out (Article 37 requests)

emanating from the Turkish Government have escalated. With the possibility that the cases would otherwise be struck out, KHRP has submitted replies to Article 37 requests of the Turkish Government in three cases in recent months.

In December 2002 and February 2003 KHRP submitted replies to Article 37 requests of the Turkish Government in the cases of *Binbay v Turkey* (no. 24922/94), *Kişmir v Turkey* (no. 27306/95) and *Tekdağ v Turkey* (no. 27699/95).

The case *Binbay v Turkey* concerns the applicant's ill-treatment and torture, his detention and the destruction of his property in 1992, 1993 and 1994. He complains about violations of Articles 2, 3, 5, 6, 8, 10, 13, 14, 18 and 1 of Protocol No.1 to the Convention.

The essence of the facts submitted by the applicant in *Kişmir v Turkey* concerns the torture and killing of her son Aydın Kişmir by police officers at

the Diyarbakır Police Academy between 6 and 11 or 12 October 1994. On 14 December 1999 the Court declared admissible the applicant's complaints under Article 2, 3, 6, 13 and 14 of the Convention.

In *Tekdağ v Turkey* the applicant complains about the abduction of her husband Ali Tekdağ in Diyarbakır on 13 November 1994. The applicant claims violations of Articles 2, 3, 5, 13, 14 and 18 of the Convention.

KHRP submitted that the Court should reject the Government's applications pursuant to Article 37 of the Convention and that it should proceed to pursue the examination of the cases pursuant to Article 38 (1) of the Convention because of the allegations of serious breaches of fundamental human rights.

The forthcoming Grand Chamber judgment regarding the strike out decision in *Acar v Turkey* (no. 26307/95) will give direction to the decisions in these cases.

## Struck-out Disappearance Case Referred to Grand Chamber

*Acar v Turkey* (no. 26307/95) Grand Chamber Hearing

On KHRP's request, the case of *Acar v. Turkey* (no. 26307/95), which was struck out by a Chamber of the European Court on 9 April 2002, was referred to the Grand Chamber on 4 September 2002.

KHRP's Legal Team attended the Grand Chamber Hearing in Strasbourg on 29 January 2003. The case concerns the disappearance of the applicant's brother, Mehmet Salim Acar, a farmer from south-east Turkey in August 1994. The applicant complained of the unlawfulness and excessive length of Mehmet Salim's detention, of his ill-treatment and torture and of the failure to provide him with the necessary medical care (cf. *Newsline*, Winter 2002, p.8).

A Chamber of the Court struck out the case (*T.A. v Turkey*) on 9 April 2002 (by six votes to one) stating that further examination of the application was "no longer justified", following the applicants' refusal to accept the Government's offer of friendly settlement, which they considered was not sufficient to resolve their cases. On request of the applicant's representatives the case was referred to the Grand Chamber on 4 September 2002. In November 2002 Amnesty International intervened as a third party and lodged supporting submissions ("amicus"), but was not allowed to address the Court at the oral hearing.

(1) During the hearing in Strasbourg the applicant's representative Keir Starmer QC concentrated on two main questions: (i) What is the proper interpretation of Article 37 (1) (c) and (ii) whether it is legitimate to strike out a case, such as this, where a continuing and unresolved breach of the Convention is alleged and the Respondent State is not undertaking to provide the applicant with an effective domestic remedy. The judgment of the Grand Chamber is now awaited with great interest since this might change the Court's recent approach to strike many cases out of the list under Article 37 (1) (c) of the Convention.

## Final ECHR Judgment in DEP Party Right to Free Elections Case

*Selim SADAK and others v Turkey* (25144/94, 26149-54/95, 27100-1/95) (right to free elections)

On 6 November 2002, the Grand Chamber refused the request of Turkey to reconsider the case of *Sadak v. Turkey*, concerning the dissolution of the pro-Kurdish Democracy Party (DEP). The Court's judgment of 18 June 2002, that Turkey has violated the right to free elections, is therefore final.

This case concerns the pro-Kurdish Democracy Party (DEP), which was founded in May 1993 and survived just one year before being ordered to shut down by the Turkish Constitutional Court on 16 June 1994. Prior to that, in November 1993, a case, calling for the closure of DEP, was opened in the Court of Appeal. On 2 March 1994, DEP MPs Mehmet Hatip Dicle and Orhan Dogan were taken into police custody followed by the arrests of DEP MPs Sirri Sakik, Ahmet Turk and Leyla Zana two days later. Fearing similar prosecution, DEP MPs Nizamettin Toğuc, Mahmut Kilinc, Remzi Kartal, Zubeyir Aydar and Naif Gunes fled to Brussels on 16 June 1994, the same day that the Constitutional Court ordered the closure of DEP on the grounds that the party sought to undermine the "territorial integrity of the state". Selim Sadak and Sedat Yurttas, the last two MPs to be arrested, were taken into police custody on 1 July 1994. The Ankara State Security Court delivered its verdict for the imprisoned MPs on 8 December 1994. Applying Article 8 of the Anti-Terror Law no 3713, the Court sentenced Sakik to three years' imprisonment for "separatist propaganda." In accordance with Article 168 of the Turkish Penal Code, Turk, Dicle, Dogan, Sadak and Zana were sentenced to fifteen years imprisonment for "membership in an armed gang." The Court sentenced Yurttas to seven years imprisonment for "assisting an armed gang" under Article 169 of the Turkish Penal Code. An appeal on 26 October 1995 saw the overturning of the sentences of Turk and Yurttas.

*continued on page 13*

# First Applications Against Armenia at ECHR

The KHRP, the Bar Human Rights Committee (BHRC) of England and Wales, and the International Bar Association of Armenia have assisted a number of applicants in bringing their cases to the ECtHR, representing some of the first applications against Armenia ever brought to the Court.

## *Petros MAKEYAN v Armenia (unfair trial, freedom of assembly)*

On 31 January 2003, the applicant submitted an application to the Court concerning his assault, arrest and detention following his attendance at a public meeting.

At the meeting, members of the public expressed concerns about the monopolisation of the Armenian communications industry by the company Armentel Communications. Although State authorities had granted permission for the meeting, he was subsequently arrested and detained for 10-days.

The applicant relies on Articles 3, 5, 6, 9, 10 and 11 of the Convention. Under Articles 3, 5 and 6 he argues that the prohibition of inhuman and degrading treatment and the right to liberty and security and to a fair trial were subsequently violated. He complains that he was forcibly arrested; that he was denied a legal representative; and that the State refused to investigate the applicant's case or to provide reasons for this refusal.

He also complains under Articles 9, 10 and 11 of the Convention to argue that he has been denied his rights to freedom of thought, expression and assembly. The applicant argues that the ransacking of his apartment on the night that he was arrested violates his right to property under Article 1 of Protocol No.1 to the Convention. The applicant has exhausted all domestic remedies and lodged his application within six months in accordance with Article 35 (1) of the Convention.

## *Noyan TAPAN Ltd v Armenia (freedom of expression)*

On 31 January 2003, the applicant, a television company, submitted its application to the Court concerning the closure of its television channel.

The applicant is an independent Armenian news agency and television company. As the applicant itself had never been awarded a broadcasting license, it reached a broadcasting agreement with the Lotus television company in 1997. Lotus subsequently terminated its agreement, resulting in the closure of the television channel.

The applicant relies on Article 10 of the Convention to complain that the unilateral breach of the agreement by Lotus occurred as a result of government pressure, constituting a violation of the applicant's right to freedom of expression.

The applicant contends that it is common practice for the State to attempt to suppress independent and dissenting voices, constitution discrimination on political grounds in violation of Article 14.

The applicant complains under Article 6 of the Convention that its right to a fair trial was breached when the Court dismissed its legal representative. Under Article 1 of Protocol 1, the applicant also complains of a breach of its right to property.

## *MELTEX Ltd v Armenia (freedom of expression)*

On 31 January 2003, the applicant, a television company, submitted an application to the Court concerning the denial of its broadcasting license.

The applicant is an independent Armenian Television company. In 1995 it established its own network and in 1999 it established a member network of nine independent television companies. The Minister of Transport and Communication requested that the state-owned Television Network of Armenia (TNA) stop the broadcast of Meltex's channel A1+. TNA cut the electricity supply of the applicant's transmitter without prior notification. The applicant submits that it was denied its broadcasting licence due to Government concerns that it was airing opposition parties in the run-up to the Presidential election, thus constituting a breach of its right to freedom of expression under Article 10 of the Convention.

The applicant complains that this constituted discrimination on political grounds, in violation of Article 14 in conjunction with Article 10.

The applicant complains under Article 6 that its right to a fair trial was breached during domestic proceedings.

The applicant complains under Article 1 of Protocol 1 that the destruction of the applicant's electrical equipment constitutes a breach of its right to property.

*continued from page 12*  
Final ECHR Judgment ...

Dicle, Dogan, Sakik, Turk, Zana, Sadak and Yurttas placed an application (no. 27100-1/95) before the European Commission of Human Rights in August and December 1994. This application was subsequently joined with the applications of *Toguc and others v Turkey* at the European Court. The applicants complained of a violation of Articles 5, 6, 7, 9, 10, 11 and 14, and Articles 1 and 3 of Protocol 1.

In its decision handed down on 11 June 2002, the European Court of Human Rights ruled that Turkey had violated the right to free elections (Article 3 of Protocol 1) declaring that Turkey had violated "the very essence of the right to stand for election and to hold parliamentary office" and "had infringed the unfettered discretion of the electorate which had elected the applicants."

## *ECHR Judgments in Kurdish Disappearance and Village Destruction Case Becomes Final*

### *Orhan v Turkey (25656/94) ('Disappearance'/ Village Destruction)*

On 6 November 2002, the Grand Chamber refused the request of the respondent State Turkey to reconsider the case of *Orhan v. Turkey*, concerning the destruction of the applicant Salih Orhan's village and the subsequent 'disappearance' of his two brothers and son. The Court's judgment of 28 June 2002, that Turkey was in violation of Articles 2, 3, 5, 8 and Article 1 of Protocol No.1, Article 13 and Article 34 of the Convention, is therefore final.

The application was brought to the Court on behalf of the applicant by KHRP in 1994. The applicant described how a large military convoy had gathered villagers in the village of Deveboyu (also known as Adrok) in Southeast Turkey on 6 May

1994. They were given one hour to clear their homes, after which soldiers began burning the houses in the village including his home and those of Hasan and Selim Orhan. On 7 May 1994, Selim Orhan and other villagers went to Kulp and complained about the incident to the Kulp District Gendarme Commander who gave the villagers permission to stay in their village in order to harvest crops. On 24 May 1994 the soldiers returned to the village and forced Selim, Hasan and Cezayir Orhan to accompany them as guides. The three men were last seen alive in Gümüş Suyu hamlet in the custody of the soldiers.

In its decision of 18 June 2002, the Court noted that the Orhans were last seen being taken away to an unidentified place of detention by Turkish security forces. There was also some direct evidence that the Orhans

were wanted by the authorities, and in the general context of the criminal law protection situation in Southeast Turkey in 1994, it could not therefore be denied that detention of such people would be life-threatening. As no information had come to light concerning the whereabouts of the Orhans for almost eight years, the Court was satisfied that they must be presumed dead following an unacknowledged detention by the security forces. Therefore, the Turkish Government was found to be liable for the deaths.

Additionally, the Court found several deficiencies in the investigations into the Orhans' disappearance, among which included the failure to investigate the situation when it occurred, failure to take key witness statements, and failure

*continued on page 14*

to obtain information concerning security force activities operative in the region at the time.

The Court also noted that the Orhans' detention was not logged in the relevant custody records and that there existed no official trace of their subsequent whereabouts or fate. This fact enabled those responsible to conceal their involvement in a crime, to cover their tracks and to escape accountability for the fate of the detainees. Given the deficiencies in the investigations into the applicant's early, consistent and serious assertions about the apprehension and detention of the Orhans by the security forces and their subsequent disappearance, the Court concluded that the Orhans had been held in unacknowledged detention in the complete absence of the most fundamental of safeguards.

Moreover, the Court found that the homes and certain possessions of the Orhans were deliberately destroyed by the

security forces in their unlawful attempt to evacuate the village after the harvest. There was no doubt that these acts constituted particularly grave and unjustified interferences with the applicant's and the Orhans' right to respect for their private and family lives and homes.

The Court also noted that the applicant had been summoned before Diyarbakır Chief Public Prosecutor in relation to his application to the former European Commission of Human Rights, which could have been an intimidating experience. The Court emphasised that it was inappropriate for State authorities to enter into direct contact with an applicant in this way. In addition, an attempt was made by the authorities to cast doubt on the validity of the application and thereby on the credibility of the applicant, actions which could not but be interpreted as a bid to try to frustrate the applicant's successful pursuance of his claims.

## ECHR RULES ÖCALAN DEATH PENALTY UNLAWFUL

Abdullah Öcalan's death penalty violated the prohibition on inhuman and degrading treatment under the European Convention on Human Rights, the European Court has ruled in one of the most significant cases to be decided for many years.

It held that the capital sentence imposed on Mr Öcalan must be considered, in itself, to amount to inhuman treatment and that capital punishment has now come to be regarded as "an unacceptable form of punishment" which can "no longer be seen as having any legitimate place in a democratic society".

The Court also found that Mr Öcalan's rights under Article 6 of the Convention had been violated in several respects. It ruled that he was not tried before an independent and impartial tribunal, that he was not allowed access to his lawyers while being questioned in police custody and that neither he nor his lawyers were able to obtain adequate access to the 17,000 page case file. The Court found that the overall effect of his treatment "so restricted the rights of the defence that the principle of a fair trial was contravened".

Finally, the Court ruled that Mr Öcalan's rights under Article 5 of the Convention had been violated, holding that the length of his detention before being brought before a judge and the inability to challenge his detention at the domestic level violated both Article 5(3) and Article 5(4) of the Convention.

Abdullah Öcalan was abducted from Kenya in 1999 and sentenced to the death penalty. It was clear from the outset that if condemned by the European Court, Turkey would be forced to make a humiliating climb-down in the treatment of its longstanding opposition in order to accede to the EU. It is widely believed that this concern played a part in prompting Turkey to commute Mr Öcalan's death sentence to life imprisonment with no chance of parole or amnesty in 2002; but in the event, the original imposition of the death penalty was still held to have violated Mr Öcalan's rights under Article 3 and the Court made its strongest statements yet in condemning recourse to the death penalty.

Mark Muller, Mr Öcalan's lawyer and Vice President of the Bar Human Rights Committee, said, "This is one of the most significant judgments ever to have come out of the European Court. In a landmark judgment the Court has confirmed that the death penalty is no longer acceptable in the 21st Century. It has upheld the universal applicability of basic fundamental freedoms and the right

of all detainees to have a fair trial and not be subject to inhuman treatment irrespective of their ethnic or political status. Abdullah Öcalan was unlawfully abducted, vilified and subjected to a humiliating and unfair trial. His lawyers were continually threatened and harassed throughout these proceedings. The European Court has upheld the violations alleged by Mr Öcalan against Turkey. We now call upon the state of Turkey to recognise and fully implement the terms and effects of this judgment."

Tim Otty, co-legal representative and the KHRP Legal Consultant, said, "This decision represents a major landmark in the progress towards worldwide abolition of the death penalty. As far as Mr Öcalan's own position is concerned it safeguards him against any risk of execution and, we believe, should lead to the Turkish authorities granting him a complete retrial before an independent and impartial tribunal with full defence rights."

Meanwhile, the persistent reports that relatives and lawyers of Mr Öcalan were experiencing considerable difficulties in gaining access to Imrali Island in order to visit him prompted the Council of Europe's Committee for the Prevention of Torture (CPT) to send a delegation in February 2003. The delegation visited the prison and interviewed Mr Öcalan. In the light of recommendations made after its previous visits to the prison, the CPT also reviewed his conditions of detention in respect of the solitary confinement regime; access for Mr Öcalan to radio, television, to the telephone and to the room adjoining his cell; and the instigation of thorough medical consultations with the same doctor to occur on a fortnightly basis.

(1) Mr Öcalan's legal team includes, from Britain, Sir Sydney Kentridge QC (formerly Nelson Mandela's lawyer), Mark Muller, Tim Otty, Gareth Peirce, Louis Charalambous, Kerim Yildiz, Philip Leach and from Turkey, Hasip Kaplan, İrfan Dündar and Doğan Erbaş. KHRP was asked to assist the case due to its experience before the European Court of Human Rights.



Final submissions in the Öcalan v Turkey case being delivered to the ECHR in Strasbourg

## New Admissibility Decision in Censorship Case

*Ayşenur Zarakolu and Others v Turkey (26971/95, 37933/97)*  
(freedom of expression)

On 10 December 2002, the European Court of Human Rights declared admissible the case of *Ayşenur Zarakolu and Others v Turkey*.

Ayşenur Zarakolu, the owner and director of the Belge Uluslararası Yayıncılık (BUY) Publishing House published a book in 1994, entitled "Our Ferhat, Anatomy of a Murder". The book dealt with the killing of Ferhat Tepe. On 12 October 1994 the Istanbul State Security Court ordered the prohibition and confiscation of this book under Article 8 of the Anti-Terror Law No. 3713 and Article 36 of the Turkish Penal Code. On 29 December 1995 the State Security Court sentenced the

applicant to 5-months imprisonment and a fine.

The applicant died in January 2002 and the applicant's husband and her two sons continued with the application.

The applicant complains under Article 10 of the Convention, that she had been denied her right to freedom of expression.

Under Articles 6 and 13 of the Convention, she complains that she was denied her right to a fair and swift trial and an effective remedy.

The applicant also complains under Articles 14, 18 and Article 1 of Protocol No.1 to the Convention.

The Court declared admissible the case under Articles 6, 10 and 13 of the Convention and Protocol No 1.

# KHRP Sends Mission to Investigate Munzur Dam

The Turkish state is in the process of completing feasibility studies and engineering surveys for two massive new sets of dam projects which would inundate a national park and displace tens of thousands of people. The projects, in the Munzur Valley near Tunceli, and in Hakkari, in the far south-east of Turkey near the Iraqi border, appear to be more about strategic control of the region than the need for electricity. Construction is officially scheduled to begin this spring, although NGO scrutiny and practical difficulties may force a temporary delay.

A total of eight dams are planned for the Munzur Valley, Turkey's first and foremost National Park, where the construction consortium includes the US company Stone and Webster, the Austrian engineering groups VA Tech and Strabag and the Turkish companies Soyak and Ata. The Hakkari Dam, the first of three planned for the Zap River, is to be built by a Turkish-American consortium including the giant arms manufacturer Raytheon.

The Kurdish Human Rights Project undertook a fact-finding mission to the region from November 12-18 2003 to investigate the

potential impacts and implications of the Munzur and Hakkari dams. A report of their findings will be published in April 2003 and is available from KHRP.



*Members of the fact-finding delegation by the Uzunçayir Dam, February 2003*

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## *How Global Economic Policies Create Refugees and Asylum Seekers*

In late 2002, the KHRP and partner organisations initiated a 'Refugees Project' which aims to place besieged refugee communities from around the world at the centre of its work. Since 1999, KHRP and its partner organisations, including Friends of the Earth (England, Wales and Northern Ireland), and the Cornerhouse, have worked diligently to research, document and publicise the disastrous human rights, environmental and cultural impacts that large-scale infrastructure projects can have. Central to this work is the need to redress the imbalance between large companies, backed by governments, and the local communities who stand to be displaced or dispossessed.

Drawing from its experience from the Kurdish regions, the Refugees Project seeks to reach out to other communities to share perspectives on why people are forced to leave their countries, and the responsibility of host countries to accept refugees and asylum seekers. The Project also aims to link the work of non-governmental

organisations, working in related areas of human rights, environment, development or refugee policy, with the experiences of besieged asylum communities.

The Project was launched on 8 December 2002, and provided a platform for refugees and asylum seekers from Colombia, Afghanistan, Northern Cyprus, Iraq, Sri Lanka and Uganda to speak of their experiences. Other speakers then introduced their work in areas of human rights, environment or refugees and provided perspectives on future policy actions. The speakers included Jean Lambert MEP, Bruce Kent, the veteran peace activist, Ann Feltham from Campaign Against the Arms Trade, Nick Hildyard of the Cornerhouse, Hannah Griffiths from Friends of Earth, Teresa Hayter from Barbed Wire Britain, Dr Robert Biel from University College London and Dr Siddiqui from Moslem Parliament.

The initiative has been widely acclaimed and is receiving interesting responses from refugees and individuals from a range of organisations.

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## *Ilisu Dam Lawyer on Trial for "Insulting the Government"*

On 18 March 2003, a leading lawyer in Turkey stood trial for "insulting the Turkish state" for his criticism of the Ilisu Dam project.

The KHRP, in conjunction with Friends of the Earth (England, Wales and Northern Ireland), the Cornerhouse and Platform, sent a delegation to observe the trial and to ensure that Turkey complies with its obligations to provide a fair trial and to protect freedom of expression. The trial has been deferred until 2 July 2003.

Mr. Mahmut Vefa, former General Secretary of the Diyarbakir Bar Association, is accused of "overtly insulting the moral personality of the Government and the military and security forces" for his article, published in the Diyarbakir Bar Association Journal in January 2002. If convicted, Mr. Vefa could face between one and three-years imprisonment.

The article reproduces Mr Vefa's formal submission to the UK Government of a critique of the project's Environmental Impact Assessment in September 2001. The UK Government invited comments on the Ilisu dam project from 'concerned stakeholders', to inform its decision whether to provide £160-million backing for the dam. The KHRP and other organisations including Article 19 are urging the UK Government to seek assurances that Mr Vefa's rights be respected.

In his article, Mr Vefa states that the Ilisu dam, if built, would deny local people of their property rights and exacerbate the problems of resettlement for the thousands of people who have been displaced by the Turkish authorities' practice of "village destruction" over the last decade. The dam, which would have displaced over 78,000 people, is effectively 'on hold', after international backing was withdrawn in 2001 following widespread public criticism.

On 18 March 2003, John Austin MP tabled an Early Day Motion (EDM 915) calling on the Government, the EU Commission, the European Parliament and the Council of Europe to ensure that international observers are sent to observe the trial and to ensure that Turkey complies with its obligation to provide a fair trial and to protect free expression under the European Convention on Human Rights. The EDM remains open and has been supported by 37 MPs.

The Kurdish Human Rights Project will publish a report on its trial observation findings next month.



*Mahmut Vefa, former General Secretary of the Diyarbakir Bar Association*

# KHRP Attends Series of Official Events in Austria

On March 6-7 2003, KHRP was invited to Vienna to participate in a series of events relating to the prospective Munzur Valley dam projects in Tunceli. The visit culminated in a discussion seminar with officials from the Austrian Ministry of Finance, the Austrian export credit agency Oesterreichische Kontrollbank (OeKB) and the Chamber of Commerce, as well as NGOs, Kurdish community groups and journalists. The series of events was arranged by Corinna Milborn of ECA Watch Austria and Didar Can of the Association of Kurdish Students in Austria.

On 6 March 2003, KHRP participated in a press conference attended by all the major Austrian press and was widely reported. KHRP Environmental Officer Anders Lustgarten also gave a public speech to National University in Vienna.

On 7 March 2003, KHRP reiterated the environmental, social and cultural damage that the Munzur dams would cause to the Tunceli region at a formal seminar on ECA reform at the OeKB, involving NGOs, Austrian government officials and civil servants.

The visit was extremely successful, establishing cordial relations between the government and NGOs, and illuminating some of the problems associated with the Munzur dams. The KHRP would like to thank those involved in organising, translating and chairing the meetings, in particular Corinna Milborn.

## Seminar on Linking Investment and Human Rights

The KHRP, in conjunction with the Cornerhouse, the Campaign to Reform the World Bank (CRBM) and Fern, collaborated with the NGO Working Group on the EDC, a working group of the Halifax Initiative, to host a conference, *Linking Human Rights and Investment*, on 6-7 December 2002 in London.

Export credit agencies (ECAs) are one of the central government vehicles for promoting increased trade and investment. Recently, they have come under increasing scrutiny by civil society and policy-makers due to their support for investments that have had negative environmental, social and human rights impacts. Whereas efforts have been made internationally to develop policies to address the environmental impacts *and*, to a lesser extent, the social impacts of ECA-backed investments, human rights impacts have been largely outside reform discourse of ECAs. In addition, the particular impact of investment in areas of conflict has also largely been ignored.

The seminar was intended to introduce NGOs to existing work in the areas of human rights and peace and conflict assessment and to facilitate discussion on their appropriateness for ECAs. Different existing human rights accountability mechanisms were presented to foster discussion on their applicability to ECAs and the different key components of a human rights impact assessment (HRIA) were discussed. Finally, the NGOs discussed strategies by which the work of ECAs could be linked to human rights.

*Linking Investment and Human Rights: the Case for Export Credit Agencies* report is available:

[http://www.halifaxinitiative.org/updir/4\\_pam\\_rights.pdf](http://www.halifaxinitiative.org/updir/4_pam_rights.pdf)

## Focus on Kurdish Women's Rights

KHRP's Legal Officer held meetings with the Action Group on the Kurdish Women's Charter in the beginning of this year. Joint missions and research into various areas of the rights of Kurdish women will establish the basis for a Kurdish Women's Charter which shall raise awareness for the problems that are faced by women in these regions.

Furthermore, KHRP's Legal Officer met with the FrauenRechtsBüro gegen sexuelle Folter e.V. in Berlin. The project supports women who suffered sexual torture by state agents in Turkey. The possibilities of Turkish and Kurdish women in Germany to pursue legal claims against perpetrators in Turkey were discussed.

KHRP is planning to carry out a number of projects focusing on the rights of women throughout the Kurdish regions in 2003.

## Human Rights Association of Turkey (IHD) Reports on Human Rights Violations in Turkey for the Year 2002

The Human Rights Association of Turkey (IHD) has published its annual report, providing a breakdown of the human rights violations in Turkey for the year 2002. Its findings include:

|  |                       |
|--|-----------------------|
| Unknown perpetrator killings:  | 75                    |
| Deaths in custody:   | 5                     |
| Disappearances:  | 2                     |
| Fatalities due to hunger strike/ death fast in prison:                   | 21                    |
| Victims of torture or ill-treatment in custody:                          | 632                   |
| Attacks on political party administrators and members:                   | 3 deaths, 79 injuries |
| Attacks on journalists:  | 28                    |
| Asylum seekers and migrants detained upon return to Turkey:              | 9,605                 |
| Formal arrests of HADEP members:   | 393                   |
| Raids of political organisations (all HADEP):                            | 41                    |
| Formal arrests of petitioners for Kurdish language rights:               | 202                   |
| Formal arrests of journalists:   | 229                   |
| University students suspended for requesting Kurdish language education: | 980                   |
| University students expelled for requesting Kurdish language education:  | 104                   |
| Prosecutions of people wishing to give their children Kurdish names:-    |                       |
| prosecutions initiated   | 36                    |
| applications to Registration Office denied                               | at least 9            |
| Television and radio stations permanently closed:                        | 2                     |
| Number of newspapers and magazines permanently closed:                   | 10                    |
| Number of publications confiscated and banned:                           | 169                   |
| Number of events banned:   | 69                    |

# KHRP Launches New Environmental Report in Ireland

On 31 January 2003, the National University of Ireland in Galway hosted a reception to launch the publication of 'The Ilisu Dam: Displacement of Communities and Destruction of Culture'.

Up to 78,000 people could face further displacement if the Ilisu dam is constructed. The report discusses the devastating effects that such displacement has on a region, its people and its culture: mass infant mortality, lack of food and sanitation, trauma, severe poverty, health, language and culture problems. If a million refugees flee from the war in Iraq, large numbers would come to this area adding further to the severe economic distress in the shanty area of many towns and cities in the region. The report focuses on the often-ignored costs of such dams and displacement on women and children.

The report was published jointly by the KHRP, Cornerhouse, Ilisu Dam Campaign and National University of Ireland (NUI).



Author Maggie Ronayne of NUI Archaeology Department, Kerim Yildiz and President of the NUI, Professor Iognaid O Muircheartaigh at the launch in Galway, Ireland



## KHRP Sends Fact-Finding Delegation to Turkey

While the recent political agenda has appropriately focused on war in Iraq, significant political developments in other countries have received less attention. The Kurdish situation in Turkey, for example, has undergone a series of developments: including the possibility of a Turkish incursion into Northern Iraq and its implications; the banning of the pro-Kurdish People's Democracy Party (HADEP) and moves to ban its successor, DEHAP; the European Court judgment that Abdullah Öcalan did not receive a fair trial and could be retried in domestic courts; and the retrial of the Democracy Party (DEP) parliamentarians including Leyla Zana.

Meetings were held with the Minister of Justice in Ankara, representatives of the United States and United Kingdom embassies, the Human Rights Association of Turkey (IHD), banned pro-Kurdish political party HADEP, the Association of Human Rights and Solidarity for the Oppressed People of Turkey (Mazlum-Der), the Diyarbakir Bar Association and the legal representatives of Mr. Öcalan. The delegation also attended the trial of DEP Parliamentarians including Leyla Zana, demonstrating international concern about the conduct of the trial (see page 10).

Although the delegation aimed to visit the border regions between Turkey and Iraq in order to assess the movement of Turkish troops, the area was inaccessible due to the frequency of checkpoints.

The KHRP is producing a report into its findings in May 2003.



*KHRP chairman with the First Secretary of the Ministry of Justice, Ankara, March 2003*



*KHRP delegation outside Ankara State Security Court for retrial of DEP parliamentarians, March 2003*



*Mark Muller with Nazmi Gur*



*Members of the KHRP delegation at HADEP office, Ankara, March 2003*

## Panel on Iraq

KHRP Executive Director Kerim Yildiz was invited to participate in a panel discussion concerning the current war in Iraq on 13 March 2003. The panel was chaired by Anthony Barnett, editor of 'openDemocracy', and also featured Tony Benn, Professor Sir Lawrence Freedman (Department of War Studies, King's College), Haifa Zangana (Iraqi exile) and Yasser Alaskary (Iraqi Prospect organisation). The panel was held in commemoration of the 30th Anniversary of the *New Internationalist* magazine.

The *New Internationalist* has provided a thought-provoking alternative to the mass media over the past 30-years, and we extend our congratulations to its success.



*Veteran Labour politician Tony Benn, Haifa Zangana (Iraqi exile), Anthony Barnett of 'openDemocracy', Kerim Yildiz (KHRP Executive Director), Sir Lawrence Freedman (Department of War Studies, Kings College London) and Yasser Alaskary (Iraqi Prospect organisation) participate in a panel on Iraq*

## Raising Awareness About Baku-Ceyhan Pipeline

On 25 March 2003, Friends of the Earth (England, Wales and Northern Ireland) and its partner organisations in the Baku-Ceyhan Campaign built a giant, 150-metre pipeline outside the London-based European Bank for Reconstruction and Development (EBRD) to generate awareness of the proposed Baku-Ceyhan pipeline which it plans to help fund. The pipeline was painted with slogans opposing the project in English, Kurdish and Georgian. KHRP Executive Director spoke to the assembled supporters to raise public awareness about the human rights and environmental impacts of the pipeline. A parallel event took place outside the EBRD's office in Georgia, one of the locations on the route of the pipeline.



*Kerim Yildiz addresses supporters and media about the social and environmental impacts of the Baku-Ceyhan pipeline*

# New KHRP Reports

## *Trial Observation Report: The State and Sexual Violence – Turkish Court Silences Female Advocate*



This report concerns the September 2002 fact-finding delegation to Turkey conducted by the KHRP in conjunction with the Bar Human Rights Committee (BHRC). The delegation observed the trial of the advocate Ms Eren Keskin, Chair of the Istanbul branch of the Human Rights Association (IHD) and the founder of the Legal Aid Project Against Sexual Harassment and Rape in Custody. Ms Keskin was charged, inter alia, for “insulting the military” following her work to highlight the prevalence of sexual violence by state

actors endured by women in Turkey. By attending the trial, KHRP and BHRC sought to continue the essential monitoring of this issue undertaken previously by the KHRP delegation visit in December 2001. Furthermore, the report expands on the issues brought to the forefront by the trial, including women’s rights, Kurdish rights, sexual violence and the independence of human rights lawyers in the context of the present political climate in Turkey.

(ISBN Number: 1 900175568)

## *Annual Report 2002 – 10th Anniversary Edition*



This report offers a comprehensive overview of the organisation’s work in the year 2002. It includes detailed updates on each of KHRP’s four core project areas: Human Rights Advocacy & Training, Trial Observations and Fact-Finding Missions, Research & Publications, Public Awareness Initiatives. In 2002, the KHRP also established a new Environmental Unit which considers the human rights ramifications of infrastructural projects including dams and pipelines in the Kurdish regions. The Annual Report 2002

also appraises the successful 10th Anniversary Celebration Event, where guest speaker Professor Noam Chomsky delivered a lecture at St. Paul’s Cathedral.

## *The KHRP Legal Review 2*

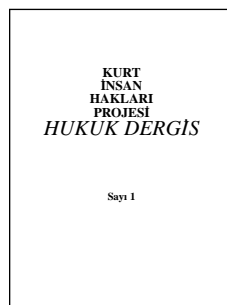


The second issue of KHRP’s Legal Review considers significant legal developments that have occurred in the Kurdish regions of Turkey, Iraq, Iran, Syria and the Caucasus in 2002. The Review thus examines, amongst other issues, the human rights situation of Armenia and Azerbaijan following their recent accession to the Council of Europe; Turkey’s August 2002 reform package aimed at helping its accession to the EU, including the abolition of the death penalty (except in times of war or

imminent threat of war), the granting of certain cultural rights to Kurds, the lifting of the state of emergency rule in Turkey’s southeast; the principles of the European Convention on Human Rights and the response of states to terrorism; and the recent coming into force of the Rome Statute which established the International Criminal Court. This edition covers European Court admissibility decisions and judgments from January 2002 to November 2002.

(ISBN Number: 1 90017555 X)

## *The KHRP Legal Review 1 (KHRP Hukuk Bülteni 1)*

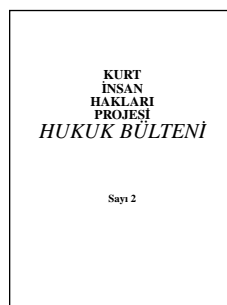


This is the first Turkish-language edition of KHRP’s new Legal Review, to be published bi-annually, which consolidates individual case reports, with the addition of summaries and commentaries on cases taken by KHRP to the ECtHR and other legal mechanisms.

The Review includes reports on cases not only at the admissibility and judgment stages, but also discusses, when possible, the case when it is first “communicated” by the Court to the Respondent Government. The Review is

intended to incorporate a practical focus, providing lawyers in the region with clear guidance on how to be most effective in taking human rights cases. This new format of documenting cases allows for a wide-ranging scope, including legal human rights developments that KHRP operates in, including Turkey, Armenia, Azerbaijan, Iran, Iraq and Syria. The journal will also incorporate important Court judgments against other Council of Europe states which have relevance to the ‘KHRP region’, in addition to significant human rights developments within other regional and international human rights systems. This edition covers Court admissibility decisions and judgments from May 2000 to December 2001.

## *The KHRP Legal Review 2 (KHRP Hukuk Bülteni 2)*



The Turkish-language translation of KHRP Legal Review 2 is intended to be used by lawyers within the Kurdish regions. The Review provides analysis of the human rights situation of Armenia and Azerbaijan following their recent accession to the Council of Europe, Turkey’s August 2002 reform package aimed at helping its accession to the EU, including the abolition of the death penalty (except in times of war or imminent threat of war), the granting of certain cultural rights to Kurds, the lifting of the state of emergency

rule in South-east Turkey; the principles of the European Convention on Human Rights and the response of states to terrorism; and the recent coming into force of the Rome Statute which established the International Criminal Court. The Review also provides case summaries of European Court admissibility decisions and judgments from January 2002 to November 2002.

## *Türkiye’de Kürtçe Hakkı (Kurdish Language Rights in Turkey)*



This Turkish-language fact-finding and research-based report investigates the wider status of the Kurdish language both within Turkish law and practice, education, broadcasting, political discourse, civil society institutions, the justice system, cultural life, private and commercial life and in the use of names.

This publication reports on the Kurdish education campaigns which began at the end of last year when a group of students at Istanbul University signed a petition demanding the introduction of optional

Kurdish lessons. It prompted the presentation of similar petitions at other universities and schools around the country resulting in widespread clamp downs by the authorities.

The report argues that Turkey has violated a number of international principles and standards, and that a wide range of changes are needed in the Turkish Constitution, from legislation to policy and practice, before Turkey can be considered to have seriously complied with international standards.

(ISBN Number: 975 92861 6 5 [Turkey])

## Ülke İçinde Göç Ettirilen İnsanlar Kürt Göçü (Internally Displaced Persons: The Kurds in Turkey)



This Turkish-language report concerns the Internally Displaced Kurds in Turkey. The inhabitants of more than 3,000 villages and hamlets that were evacuated in the Kurdish regions have not been allowed to return to their villages. Most were forced into cities without the capacity to receive them, leaving the expelled villagers to create homes in ghettoised communities on the margins of society. Displacement has been one of the harshest aspects of Turkish policy towards the Kurds in Southeast Turkey over the past 20 years

and remains one of the most significant issues for the community today. It stems not only from the long term discrimination against the Kurds in Turkey, the policy of Turkification and the armed conflict with the PKK, but also from large scale infrastructure projects such as the Ilisu Dam that are pursued without regard to the interests and the wishes of the local population. The question of return or resettlement of the displaced is still not resolved and remains one of the burning issues for the Kurds.

The report aims to update previous KHRP reports on village destruction and internal displacement in Southeast Turkey, to evaluate Turkey's current programmes for return and resettlement of the displaced, and to view Turkish practice against international standards. Recent years have seen a growing realisation that internally displaced persons can require as much protection and assistance as refugees and that the international community needs to do more to address this issue.

(ISBN Number: 975 92861 8 1 [Turkey])

## Dicle-Fırat ve Su Sorunu (Euphrates and Tigris: The Water Problem)



In response to the growing need for in-depth campaign materials in the Turkish language concerning the Ilisu Dam, the KHRP translated and published this translation of the August 2001 report 'Downstream Impacts of Turkish Dam Construction in Syria and Iraq: Joint Report of Fact-Finding Mission to Syria and Iraq'.

From 29 January to 4 February 2002, a fact-finding delegation from KHRP, the Ilisu Dam Campaign and The Corner House travelled to Syria and Iraq to conduct research and interviews on the potential

downstream impacts of the proposed Ilisu Dam, scheduled for construction near the ancient town of Hasankeyf in southeast Turkey.

In order to provide an in depth assessment of the potential downstream impacts which such projects may have on Syria and Iraq, the mission report analyses the extent to which international financial backing for dams in Turkey has destabilised water politics in the region, the extent to which Turkey is abiding by international law governing shared rivers and the known impacts of dams already constructed and of those proposed in Turkey, on the downstream agriculture, public health and environment of the relevant regions among other observations. The delegation concluded that the threat to future water supplies in Syria and Iraq is very real. The report goes on to list a series of recommendations urging the international community to pressurise Turkey into halting further GAP projects until international standards related to dam construction have been met.

(ISBN Number: 975 92861 7 3 [Turkey])

## Upcoming Publications

- European Court of Human Rights Manual – Armenian language
- Social and environmental report into the Munzur Dam
- Reports on Iraqi Kurds
- Report of fact-finding mission to Turkish section of Baku-Ceyhan Pipeline
- Trial observation report of Ilisu Dam lawyer, Mahmut Vefa
- KHRP Legal Review 3
- Report of Fact-finding mission to Turkey, March 2003

## In Memoriam: Kurdish Press Loses Two Journalists in Exile

In March 2003, two Kurdish journalists died in exile. Burhan Karadeniz died at the age of 30 in the German city of Bochum. Mr Karadeniz worked in 1991 and 1992 with many journalists who were targeted by state-sponsored forces and lost their lives. In August 1992, Mr Karadeniz was shot by unidentified armed men in the street in Diyarbakir. His severe wounds left him partially paralysed and he spent the rest of his life in a wheelchair. Since 1993, Mr Karadeniz had lived in Europe for his security and in order to receive medical treatment. He was laid to rest alongside other Kurds, most of whom were murdered by state-sponsored forces, by a large gathering in his home town of Diyarbakir.

Mehmet Kara, who left Turkey due to the oppression he had faced there, had lived in London since 1990 and for 4 years was the London representative of *Özgür Politika* newspaper, which continued the tradition of the Kurdish press. Mehmet Kara died at the age of 34 after a long struggle against cancer. A religious ceremony at the Kurdish community centre in London was attended by hundreds of people, including Kerim Yıldız, Executive Director of KHRP. The body has been sent to Turkey for burial.

Both journalists were founder members of the Journalists' Union of Kurdistan, which was founded by Kurdish journalists in exile. Kerim Yıldız and all at KHRP extend their deepest sympathies to both families at this difficult time.



Burhan Karadeniz, died age 30, Bochum



Mehmet Kara, died age 34, London

Photos from Özgür Politika

## Calendar of Events

- 17 March – 24 April Commission on Human Rights, 59th session, Geneva
- 17 March – 4 April Human Rights Committee, 77th session, New York
- 22 March World Water Day
- 31 March – 3 April Political, Economic and Social Reform in the Arab World – conference organised by an Executive Agency of the British Foreign and Commonwealth Office, Wilton Park, West Sussex
- 21 – 24 April Commission on Human Rights, Working Group on Enforced and Involuntary Disappearances, 69th session, New York
- April 2003 Organisation for the Prohibition of Chemical Weapons, Executive Council, The Hague
- April/ May ECOSOC/ General Assembly Committee on Non-Governmental Organisations, New York
- 19 May – 6 June 2003 Committee on the Rights of the Child, 33rd session, Geneva
- 29 September – 2 October 2003 Negotiating Peace in the Middle East – conference organised by an Executive Agency of the British Foreign and Commonwealth Office, Wilton Park, West Sussex UK

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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.