

THE SITUATION OF KURDISH CHILDREN IN TURKEY

FACT-FINDING MISSION & RESEARCH REPORT

[DRAFT VERSION]

**SEPTEMBER 2008
KURDISH HUMAN RIGHTS PROJECT
BAR HUMAN RIGHTS COMMITTEE**

Acknowledgements

This report was written by Julianne Stevenson. It was edited by Rachel Bernu, Michael Farquhar and Mustafa Gündođdu. KHRP is also grateful to Josee Fillion, who took part in the fact-finding mission, Abdulcelil Kaya, who provided interpretation in Diyarbakır and Şırnak, Kawa Nemir, who provided interpretation in İstanbul, and KHRP interns Çiçek Ergönül and Leyla Ok, who assisted with translation.

KHRP would also like to thank the following individuals and organisations who agreed to meet with mission members or otherwise cooperate in research towards this report:

Diyarbakır

Yurdusev Özsökmenler, Mayor of Bağlar Municipality in Diyarbakır; Rojda Kızgın, Deputy Mayor of Bağlar Municipality; Özlem Yasak, project coordinator at Bağlar Municipality; Fatih Sultan Mehmet Tuşay, Director of Diyarbakır Metropolitan Municipality Social Services Directorate; Ebru Ökmen, Diyarbakır Metropolitan Municipality Foreign Relations Adviser; Diyarbakır Governor Office; Ruken Tanaman, Deputy Director of 75th Anniversary Children and Youth Centre in Diyarbakır; SELIS Women Counselling Centre in Diyarbakır; Abdullah Karahan, Chairman and other board members of Eğitim-Sen Diyarbakır Branch; Halef Beren, Director of Sehitlik Children and Youth Centre in Diyarbakır; Emin Sarıkaya, Coordinator of Association for the Children Under the Same Roof Association (ÇAÇA) in Diyarbakır; Lawyer Muharrem Erbey, Chairman of Human Rights Association (İHD) Diyarbakır Branch; Democratic Society Party (DTP) Diyarbakır Branch; Dursun Özdođan, Chairman of Diyar Göç-Der; Lawyer Dursun Özdođan; Lawyer Muharrem Şahin.

Şırnak

Aydın Budak, Mayor of Cizre; Ahmet Dalmuş, Deputy Mayor of Cizre; Şırnak Bar Association; Lawyer Ilknur Yokuş Tanış, Head of Şırnak Bar Association Children and Women Commission; Lawyer Rojhat Dilsiz in Cizre; Hüseyin Birlik, Chairman of Genç-Der (Youth Association) in Şırnak.

İstanbul

Yusuf Kulca, chairman of Hope Children Association (Umut Çocukları Derneđi); Prof. Dr. Ođuz Polat, chairman of Street Kids Rehabilitation Association (Sokak Çocukları Rehabilitasyon Derneđi); Mesopotamian Cultural Centre (MKM) in İstanbul; Gülseren Yoleri, Chairwoman of Human Rights Association İstanbul Branch; Abdullah Geldi of TUAD-DER (Association for Prisoners' Families) in İstanbul; Şahhanım Kanat,

Chairwoman of Başak Culture and Art Foundation (Başak Kùltür ve Sanat Vakfı) in İstanbul; Şefika Gürbüz, Chairwoman of Göç-Der (Immigrants Association for Cooperation and Culture) in İstanbul; Neşe Erdilek, Administrative Coordinator of İstanbul Bilgi University Center for Migration Research; Baran Gündođdu of Bianet (Independent Communication Network); Lawyer Abdalbaki Bođa.

Finally KHRP gratefully acknowledges the financial support of:

The Big Lottery Fund (UK), Irish Aid (Ireland), The Sigrid Rausing Trust (UK), The Corner House (UK), Dutch Ministry of Foreign Affairs (Netherlands), Bishop's Subcommission for Misereor (Germany), Oakdale Trust (UK), Rowan Charitable Trust (UK), Stitching Cizera Botan (Netherlands).

Kurdish Human Rights Project
11 Guilford Street
London
WC1N 1DH, UK
Tel: +44 (0) 207 405-3835
Fax: +44 (0) 207 404-9088
khrp@khrp.org
www.khrp.org

Kurdish Human Rights Project is an independent, non-political human rights organisation founded and based in London, England. A registered charity, it is dedicated to promoting and protecting the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include Kurdish and non-Kurdish people.

Bar Human Rights Committee of England and Wales
Garden Court Chambers
57-60 Lincoln's Inn Fields
London, WC2A 3LS, UK
Tel: +44 (0) 7993 7755
Fax: +44 (0) 207993 7700
bhrc@compuserve.com
www.barhumanrights.org.uk

The Bar Human Rights Committee is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial. The remit of the BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales.

Contents

LIST OF ABBREVIATIONS

INTRODUCTION

1. THE SITUATION OF KURDISH CHILDREN IN TURKEY: BACKGROUND

- a) **History of the Kurdish People in Turkey**
- b) **History of Language and Cultural Issues**
- c) **Demographics**
- d) **Economy**
- e) **Income Distribution- Effect on Kurds**

2. TURKEY'S INTERNATIONAL OBLIGATIONS

- a) **The European Convention on Human Rights and Fundamental Freedoms**
- b) **The European Social Charter**
- c) **EU Accession Bid Obligations**
- d) **United Nations Conventions**

3. HOUSING

- a) **International Obligations**
- b) **Successes and Problems in Compliance/Implementation**
- c) **Conclusion and Recommendations**

4. HEALTH AND NUTRITION

- a) **International Obligations**
- b) **Desk-based Research**
- c) **Fact-Finding Mission**
- d) **Conclusion and Recommendations**

5. EDUCATION

- a) **International Obligations**
- b) **Desk-based Research**
- c) **Fact-Finding Mission**
- d) **Conclusion and Recommendations**

6. STREET CHILDREN & CHILD LABOUR

- a) **International Obligations**
- b) **Desk-based Research**
- c) **Fact-Finding Mission**
- d) **Conclusion and Recommendations**

6. DISCRIMINATION

- a) **Discrimination: Kurdish Names**
- b) **Discrimination: Girls**
 - i. Education: Desk-based Research
 - ii. Education: Fact-Finding Mission
 - iii. Early/Non-consensual Marriage and Honour Killings: Desk-based Research
 - iv. Early/Non-Consensual Marriage and Honour Killings: Fact-Finding Mission
 - v. Forced Prostitution, Trafficking and Rape: Desk-Based Research
 - vi. Forced Prostitution, Trafficking and Rape: Fact-Finding Mission
- c) **Conclusion and Recommendations**

7. VIOLENCE IN THE HOME

- a) **Domestic Violence: Desk-Based Research**
- b) **Child Abuse: Desk-Based Research**
- c) **Domestic Violence and Child Abuse: Fact-Finding Mission**
- d) **Conclusion and Recommendations**

8. JUVENILE JUSTICE

- a) **International Obligations**
- b) **Desk-based Research**
- c) **Fact-Finding Mission**
- d) **Conclusion and Recommendations**

9. THE CONFLICT AND POLITICAL ACTIVITY

- a) **Desk-based Research**
- b) **Fact-Finding Mission**
- c) **Conclusion and Recommendations**

10. EU ACCESSION PROCESS

11. CONCLUSION AND OVERARCHING RECOMMENDATIONS

LIST OF ABBREVIATIONS

BIA	Independent Communication Network
CACA	Children Under the Same Roof Association
CC	Turkish Criminal Code
CCT	Conditional Cash Transfers
CPC	Criminal Procedure Code
CRC	Convention on the Rights of the Child
DTP	Demokratik Toplum Partisi (Democratic Society Party)
EC	European Commission
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court of Human Rights
EDI	Education for All Development Index
ESC	European Social Charter
EU	European Union
FFM	Fact-Finding Mission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally-displaced persons
İHD	İnsan Hakları Derneği (Human Rights Association of Turkey)
ILO	International Labour Organisation
MoNe	Ministry of National Education
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
PKK	Partiya Karkeren Kurdistan (Kurdistan Workers' Party)
SSPCA	Social Services and Child Protection Agency
SYDGM	General Directorate of Social Assistance and Solidarity
TMK	Turkish Anti-Terror Legislation
UN	United Nations
UNICEF	United Nations Children's Fund

Introduction

The Kurdish Human Rights Project (KHRP) is an independent, non-political human rights organisation dedicated to the promotion and protection of the human rights of all persons in the Kurdish regions, irrespective of race, religion, ethnicity, gender or other belief or opinion. In line with this mandate the KHRP produced a report in 2004 on the situation of Kurdish children in Turkey, which was based on desk-based research. It was decided to follow up on this report in 2008 in order to assess what improvements, if any had been made in the interim period.

Initially this report was to be based solely on desk-based research. However, it became apparent that information gathered in this manner was not going to be sufficient to produce a report giving a comprehensive assessment of the situation of Kurdish children in Turkey. There were two key reasons for this conclusion. Firstly, when the first report was produced it closely followed the assessment of Turkey's international obligations under the UN Convention on the Rights of the Child in 2001. Due to this assessment a number of NGOs had produced their own assessments of Turkey's compliance, which meant that up-to-date information was more easily obtainable. Secondly, and more importantly, due to the policy of non-recognition by Turkey of its Kurdish population it was difficult, if not impossible to gather information or data on the specific target group of Kurdish children. This problem was heightened by the fact that many of the international organisations working in Turkey that KHRP contacted regarding this subject matter also did not distinguish between the Turkish and Kurdish population within their work and in their profiling of the situation in Turkey.

The difficulties encountered regarding the obtaining of information on the situation of Kurdish children in Turkey from outside the country led to the decision to organise a Fact-Finding Mission on the subject in June 2008. The timing of the mission was chosen to coincide with the trial of Kurdish children from Diyarbakır who had been charged under the anti-terror legislation for singing Kurdish songs in a choir during a trip to the USA. The mission members were part of the Trial Observation team in this case, and

stayed on in the country to assess the situation of Kurdish children more generally.

The desk-based research and the FFM focused on the following issues regarding the situation of Kurdish children in Turkey: housing, health and nutrition, education, child labour, street children, discrimination, juvenile justice and political activity. In particular, the mission was aware that in recent years Turkey has introduced legislation such as the Child Protection Law as part of the EU accession process. However, the consistent theme apparent from both the desk-based research and the FFM was that the implementation of such legislation is at best patchy and at worst non-existent.

Children require special protection against abuse of their fundamental rights, as they are one of the most vulnerable sections of every country's society. This reality is recognised by various international instruments, including the Convention on the Rights of the Child. All countries therefore face the difficult but necessary challenge of providing adequate child protection. Respect for and fulfilment of children's rights must occur at all levels of every country's state structure and society.

In Turkey, children are generally not treated as a vulnerable group requiring special protection. Against this background, Kurdish children in particular suffer disproportionately. In part, this is because Kurdish children in Turkey face stigma and discrimination as a result of their ethnicity. Their particular vulnerability also stems from a history of armed conflict in the Kurdish regions. Violent clashes between the PKK and the state security forces remain frequent. Lawyers, human rights advocates and representatives of Kurdish children's and women's NGOs all fear that the political situation and conflict may worsen with the increasing formalisation of the Kurdistan Regional Governorate (KRG).¹ Thus the conflict continues to affect all of those living in the Kurdish regions, especially children, and the rights of Kurdish children as a group continue to require specific attention.

The mission visited three areas in Turkey – Diyarbakır, Cizre and Istanbul – and met with a cross-section of representatives from broadcasting, print and online media, as well as with state officials, local lawyers, bar associations and civil society groups. When considering the information obtained in the areas visited it is important to be aware of the demographic and other differences between them. Firstly, Diyarbakır and Cizre are in the Kurdish regions of south-eastern and eastern Turkey. In both places the vast majority of the population is Kurdish: estimates of over 90 per cent were offered to the mission. In these areas it is difficult to make a distinction between IDPs and non-IDPs because the population as a whole shares many of the socio-economic and other problems faced. However, it is also vital to note that the

¹ European Parliament Project: The Increase in Kurdish Women Committing Suicide, Final Report 2007, p. 3.

socio-economic problems in Cizre are more pronounced than in Diyarbakır, and that the fact that Cizre is within a government-imposed 'high security zone' brings specific negative consequences for the children in the area. By contrast, the situation in Istanbul is in general better for Kurdish children than in the southeast and east. However, Istanbul has a population made up of many different ethnic groups, which renders the difference in living standards between the different groups much more apparent. With regard to Istanbul, the situation of IDPs requires a specific focus and consideration.

Though the mission concluded that the situation of Kurdish children, particularly IDPs, was comparatively much better than in the 1980s and 1990s, there was widespread acknowledgement that the rapidly worsening political climate is having a negative impact on Kurdish children. Amendments to the Police Powers Law in May 2007 were cited as a recent example of retrogressive steps that have been introduced that undermine positive reforms that have been made thus far. These amendments have led to reports in all the areas visited by the mission that children are being subject to violence from police both on the streets and whilst in police custody because the police have been given too much power. Another example is new Anti-Terror legislation (TMK), which provides that children aged 15 to 18 who are charged under its provisions are to be treated as adults. This qualification of the protections afforded to children who come into contact with the criminal justice system exemplifies the fact that the protection of children in Turkey as a particularly vulnerable group often does not comply with international standards.

Thus, although the mission welcomes the introduction of legislation such as the Child Protection Law, it urges the Turkish government to take the necessary steps to ensure the thorough implementation of such legislation in all regions of the country. The mission noted the huge disparity between the standards of living in general and the provision of services in the Kurdish regions and Istanbul. In order to ensure that the rights of all children in Turkey are respected and fulfilled, such disparity must be ameliorated. It also requires a solution to be reached regarding the Kurdish issue, since many of the problems faced by Kurdish children are heightened by, or even solely rooted in, existing social and political tensions stemming from the current situation. If this does not occur it will prevent progress, since the source of many of the problems will remain ignored. Thus, it is critically important that concerns about the welfare of Kurdish children in Turkey are brought to the attention of the international community and remain on the international agenda. To this end, the mission urges the EU to place a greater emphasis on the protection of the rights of children and the Kurdish issue in general in the context of Turkey's accession bid. Turkey must be encouraged to treat children as a vulnerable group requiring special protection, and to seek a democratic settlement of the Kurdish question in order to help address those

problems faced by Kurdish children that flow from, or are compounded by, the current political situation.

1. THE SITUATION OF KURDISH CHILDREN IN TURKEY: A BACKGROUND

a) History of the Kurdish People in Turkey

Both the social oppression and the forced displacement of the Kurdish population in the southeast of Turkey have a long history. The history of ethnic diversity in Turkey is highly complex, but it is marked by the consistent disenfranchisement of its largest minority, the Kurds. For the Kurds, the dissolution of the Ottoman Empire and the creation of the Turkish nation state in 1923 did little to alter their social and political position. During World War I, The Ottomans usurped Kurdish tribal lands and forced mass resettlement.² Significantly, the 1923 Treaty of Lausanne, which defined Turkish independence and paved the way for protection of non-Muslim minorities including Armenians, Greeks and Jews, made no mention of the Kurdish people. After Turkish independence, Mustafa Kemal Atatürk and his followers attempted to create a homogenous and unified Turkey. This involved the suppression of minority cultures and, in an attempt to integrate and homogenize the population, the mass displacement of the Kurdish peoples. The forced displacement of the Kurds under the Law of Resettlement (1934) briefly slowed during the 1950s. However, armed conflict between the Turkish military and the Kurdistan Workers' Party (PKK) between 1984 and 1999 renewed the government's forced displacement and cultural oppression policies. It is estimated that between 1984 and 1999, roughly 3 million Kurds were displaced from their villages, that approximately 3,000 of the 5,000 Kurdish villages in the southeast of Turkey were partially or completely evacuated, and that roughly 37,000 people were killed.³

b) History of Language and Cultural Issues

Constitutions that came into effect in Turkey in 1924, 1964 and 1982 all declared the state's control over cultural identity. Article 3 of the 1982 constitution states that, 'The Turkish State, with its territory and nation, is an indivisible entity. Its language is Turkish.' Under the 1964 and 1982 constitutions Kurdish music, culture, and celebrations were banned. Schools, institutions and publication that did not support Atatürk's policy of cultural hegemony were outlawed. In practice, this effectively made Kurdish identity illegal.

Within this constitutional framework, numerous laws and policies have been enforced that target the use of the Kurdish language and the very existence of the Kurdish culture. For example, the Law on Publications Other Than

² David McDowell, *A modern History of the Kurds*, I.B. Tauris, 1996, pp. 105-6.

³ Yildiz, Kerim and Caitlin Hughes, *Internally Displaced Persons: The Kurds in Turkey*, (KHRP, London, September 2003), p.13.

Turkish, passed in 1983, stated that only first official languages of states recognised by Turkey could be used for the expression of opinion.⁴ Thus Kurds were legally prohibited from speaking their mother tongue, even at home.⁵ This law and others in the same vein provided the Turkish government and military with a legal basis for discriminatory policies such as the imprisonment of Kurds or their sympathisers, violent oppression and displacement.

c) Demographics

Turkey's censuses do not list Kurds as a separate ethnic group. Consequently, there are no reliable data on their total numbers. Turkey's censuses do not list Kurds as a separate ethnic group. Consequently, it is not possible to come by reliable data on their total numbers. In 1995 estimates of the number of Kurds in Turkey ranged from 6 million to 12 million. Moreover, it has been estimated that Kurds amount to 20 per cent of the population of Turkey. About half of all Kurds worldwide live in Turkey.⁶

In Turkey, Kurds are concentrated in eleven provinces in the south-east of the country, though there are also isolated Kurdish villages in other regions. Over the last 30 years, Turkey has experienced significant urbanisation. In 1970, 32 per cent of the Turkish population lived in urban areas. In 2008 it is estimated that this figure has risen to over 73 per cent.⁷ Kurds have been migrating to Istanbul for centuries and since 1960 they have migrated to almost all other urban centres as well.⁸ There are Kurdish neighbourhoods, for example, in many of the *gecekondu*s, or shantytowns, which have grown up around large cities in western Turkey.

Although Turkey is the world's 17th most industrialised nation, it ranked just 85th out of 173 countries in terms of Human Development Indicators, as measured by the UNDP in 2002.⁹ The Southeastern Anatolia Project (GAP) has been promoted as an effort to accelerate development in south-eastern Turkey, and statistics suggest that it has brought about some changes. Income per capita in the south-east is reported to have risen from \$981 in 1987 to \$1,532 in 2000, representing a rise of 56 per cent. Between 1990 and 2000, the

⁴ Law No. 2932, 19 November 1983 (subsequently amended).

⁵ Yildiz and Fryer, *Internally Displaced Persons: The Kurds in Turkey*, (KHRP, London, August 2004), p.32.

⁶ 'Country Studies', <http://countrystudies.us/turkey/28.htm> (last accessed April 2008).

⁷ The World Bank Group, 'Turkey Country Brief', <http://lnweb18.worldbank.org/ECA/eca.nsf/Countries/Turkey/7E9A5E38A2F3946385256C3E0052C28E?OpenDocument>. (last accessed April 2008)

⁸ GlobalSecurity.org, 'Kurdistan – Kurdish Conflict', <http://www.globalsecurity.org/military/world/war/kurdistan.htm>

⁹ The World Bank Group, 'Turkey Country Brief', <http://lnweb18.worldbank.org/ECA/eca.nsf/Countries/Turkey/7E9A5E38A2F3946385256C3E0052C28E?OpenDocument> (last accessed April 2008).

gross domestic product (GDP) of the region is said to have increased 35 percent. It is also reported that the share of agricultural employees has decreased, that new hospitals and schools have been established, and that the proportion of doctors in the population has increased.¹⁰ However, although development in south-eastern Turkey is reported to have accelerated as a result of GAP, regional inequality in Turkey has persisted and has even increased in some fields. The change in income per capita in the south-east was much less than the average across Turkey, where the figure went from \$1,629 in 1987 to \$2,941 in 2000. The share of agricultural employees in the south-east also remained higher than the average for Turkey. Despite the rise in the number of hospitals in the south-east region, the proportion in comparison to the national total decreased from 6.7 percent in 1980 to 5.9 percent in 2000, and the proportion of doctors in the population remained below the national average.¹¹ Such figures show that the Kurdish population, mainly situated in south-eastern Turkey, continue to be at a distinct socio-economic disadvantage in comparison with the rest of Turkey.

d) Economy

Turkey has a dynamic economy, which is a complex mix of modern industry, commerce and a traditional agricultural sector that continues to account for more than 35 per cent of employment. The state plays a major role in basic industry, banking, transport and communication. However, the country also has a strong and rapidly growing private sector. Textiles and clothing is the largest industrial sector, accounting for a third of industrial employment. This sector is facing increasingly stiff competition in the international markets due to the end of the global quota system. Other sectors, including for example the automotive and electronics industries, are becoming increasingly important to Turkey's export mix.

Turkey's Gross National Product (GNP) growth has exceeded 6 per cent for a number of years. However, this strong expansion has been interrupted by marked declines in output in the years 1994, 1999 and 2001. These crises resulted in rapid inflation, severe banking problems, an increase in domestic public debt, and a 9.5 per cent fall in GDP. The economy is turning around with the implementation of economic reforms, and in 2004 GDP growth reached 9 per cent, followed by roughly 5 per cent annual growth from 2005 to 2007. Inflation fell to a 30-year low of 7.7 per cent in 2005 but climbed back to 8.5 per cent in 2007. Despite the strong economic gains from 2002 to 2007, which were largely due to renewed investor interest in emerging markets, IMF backing and tighter fiscal policy, the economy is still burdened by a high current account deficit and high external debt. However, economic and judicial reforms and prospective EU membership are expected to boost

¹⁰ Yildiz, N., 'Socio-economic disparity and the Kurdish Issue', *Turkish Daily News*, 21 January 2008.

¹¹ *Ibid.*

foreign direct investment. In 2007, Turkish financial markets weathered significant domestic political turmoil, including turbulence sparked by controversy over the selection of former Foreign Minister Abdullah Gül as Turkey's 11th president. Economic indicators are promising as they are displaying strong economic growth and increases in foreign direct investment. Yet Turkey's high current account deficit remains a problem as it leaves the economy vulnerable to destabilizing shifts in investor confidence.¹²

e) Income Distribution and the Consequences for Kurds

Income in Turkey is unevenly distributed. While income levels in certain western parts of the country are equivalent to those in the EU, those in the south-eastern and eastern areas are comparable to those of the least developed countries of the world. As these latter areas are predominately Kurdish, the Kurds are placed at a clear disadvantage by this huge disparity. This disadvantage is reinforced by the findings of the UNDP's Human Development Index 2004, in which Turkey came last of all the OECD countries and other EU candidate countries. It was lower on the list than countries such as Albania, Azerbaijan, Georgia, Russia and the Ukraine. This low ranking is mostly due to deficiencies in the country's healthcare and education systems. In the efforts to fulfil the UN Millennium Goals, the country's greatest challenges lie in the social domain, where healthcare and education in particular will require substantial investments.¹³

¹² Central Intelligence Agency, 'The World Factbook: Turkey', <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> (last accessed 10 October 2008).

¹³ Swedish Government, 'Strategy for Development Cooperation, Turkey 2005-09', <http://www.sweden.gov.se/content/1/c6/05/31/82/a59fbbe4.pdf> (last accessed 10 October 2008).

2. TURKEY'S INTERNATIONAL OBLIGATIONS

Turkey has ratified the following international human rights conventions and treaties:

a) The European Convention on Human Rights and Fundamental Freedoms

The European Convention on Human Rights and Fundamental Freedoms (ECHR), adopted in 1953, is based on the Universal Declaration of Human Rights. The ECHR calls upon European nations, 'to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration.'

Turkey ratified the ECHR in 1954, in addition to Protocol 1, which enshrines the right to protection of property, to education and to free elections. In 2003, Protocol 16 was ratified, abolishing the death penalty. In October 2006 Turkey ratified Protocol No 14 amending the control system of the ECHR. However, Turkey has not ratified the following Protocols of the ECHR: Protocol 4, which deals with prohibition of imprisonment for debt, freedom of movement, and prohibition of expulsion of nationals; Protocol 7, which covers procedural safeguards relating to expulsion of aliens, the right of appeal in criminal matters, compensation for wrongful conviction, right not to be tried or punished twice, and equality between spouses; and Protocol 13, which provides for abolition of the death penalty in all cases. Significantly, the majority of cases establishing violations of the ECHR and its Protocols by the Turkish government have related to events in the Kurdish regions of south-eastern turkey.

b) The European Social Charter

The European Social Charter (ESC) was adopted to complement the ECHR. It provides further protection from discrimination and the protection of the social wellbeing of European citizens. This treaty in particular secures the protection of children's rights.

A number of Articles of the ESC specifically refer to children's issues: Article 7 provides for the rights of children and young persons to protection; Article 11 guarantees the right to health; Article 16 addresses the right of the family to social, legal and economic protection; and Article 17 provides the right of children and young persons to social, legal and economic protection.

Turkey ratified the ESC on 24 November 1989. On the 26 June 2007 it ratified the Revised Social Charter accepting 91 of its 98 paragraphs. Turkey has neither signed nor ratified Protocol 3, which provides for a system of collective complaints.

Further, Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities, or the European Charter for Regional or Minority Languages.

c) EU Accession Bid Obligations

The European Union (EU) remains the most important international actor with regard to the fostering of respect for human rights in Turkey. The Association Agreement between Turkey and the then EEC was signed in 1963 and entered into force in December 1964. Turkey and the EU formed a customs union in 1995. The Helsinki European Council of December 1999 granted the status of candidate country to Turkey. Accession negotiations with Turkey were opened in October 2005. In 2006 and 2007 accession negotiations with Turkey continued and the preparatory analytical phase reached its final stage.

In December 2006, however, it was decided at an EU summit to partially freeze membership negotiations because of Turkey's relations with Cyprus. This has contributed to the perception in Turkey that EU member states were reneging on their commitment to Turkey's candidacy. This perception was reinforced after the election in France of President Nicolas Sarkozy in 2007, who has repeatedly stated his opposition to Turkey joining the EU. In June 2007 France used its veto power to block two minor chapters of the accession negotiations.

Yet the EU 2007 Commission Report indicated that there had been enhanced political dialogue between the EU and Turkey during 2006 and 2007. Political dialogue meetings were held in June 2007 at ministerial level and in March and September 2007 at political director level. These meetings focused on the main challenges faced by Turkey in terms of the Copenhagen political criteria and reviewed progress being made towards fulfilment of Accession Partnership priorities. Foreign policy issues were also regularly discussed. The government reiterated its intention to push forward the implementation of the Turkish 'road map' for EU accession presented in April 2007. The road map provides internal guidance to line Ministries on alignment with the *acquis* and covers alignment of primary and secondary legislation to be adopted and implemented between 2007 and 2013.

In its annual progress report, published in November 2007, the European Commission commented on the failure to advance reforms in 2007, continuing restrictions on free speech, the interference of the military in political affairs, the need to strengthen the independence of the judiciary, and the failure to further minority rights.¹⁴ The hope had been that the EU accession process would lead to better protection of minority group rights in

¹⁴ Human Rights Watch, 'World Report 2008', http://hrw.org/wr2k8/pdfs/wr2k8_web.pdf (last accessed 10 October 2008).

Turkey. However, there is a growing perception of rising nationalism in Turkey as a response to the erosion of the nation state as a result of globalising forces, including the EU. It is clear that Turkey has a long way to go before achieving full membership and the full recognition of minority rights that this should entail.

d) United Nations Conventions

Although Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR), its reservation regarding the rights of minorities is a concern. The same goes for its reservation to the UN Covenant on Economic, Social and Cultural Rights (ICESCR) regarding the right to education.

More promising is the fact that the First Optional Protocol to the ICCPR, signed by Turkey in 2004, was ratified in November 2006 and entered into force in February 2007. This Protocol recognises the competence of the UN Human Rights Committee to receive and consider complaints from individuals on violations of human rights.

Turkey has also ratified the UN Convention Against Torture (CAT). The Optional Protocol to the UN Convention against Torture (OPCAT), although signed in September 2005, has not been ratified.

In the context of this report, however, perhaps the most important UN convention is the Convention on the Rights of the Child (CRC), which was written specifically to ensure the legal and actual protection of children. The CRC is unique in history as well as in current politics because it is the only international declaration to be ratified by almost every country in the world and is thus the most globally accepted declaration to date. This not only signifies the global consensus on the importance of children's rights but establishes an internationally consensual framework to secure those rights.

Having ratified the CRC on 4 April 1995, the Turkish government has an obligation to protect children living in Turkey, regardless of their ethnicity, religion, or sex. However, at the time of ratification Turkey stated that it reserved the right to interpret and apply the provisions of a number of articles of the CRC 'according to the letter and the spirit of the Constitution of the Republic of Turkey and those of the Treaty of Lausanne'. The relevant articles are: Article 17, covering a child's right to have access to information and materials from a diverse source of national and international mass media; Article 29, which provides for a child's right to education that encourages cultural respect and diversity; and Article 30, which covers a child's right to participate in his or her culture, language and religion. After ratification, Turkey was required to submit an implementation report within two years. Upon receipt of this report in 1999, the working group of the Committee on the Rights of the Child requested further information regarding a number of

specific concerns regarding the implementation of the CRC. Turkey was required to submit a second periodic report by 2 May 2002 and a third by the 3 May 2007. However, it has yet to submit either of these reports. This has resulted in a lack of assessment of Turkey's progress since 2001, both by the CRC itself and by NGOs who produce shadow reports on the situation in countries being reviewed.

On 8 June 2001, after reviewing reports from leading human rights NGO and information provided by the Turkish government, the Committee emphasised the following issues:

- 1) The potential negative impact of Turkey's 'reservations' on the rights of children not recognised under the Treaty of Lausanne, particularly Kurdish children;
- 2) Discrepancies between the law and practice of legal review, particularly with regard to the pre-trial detention of children;
- 3) The need for Turkey to develop stronger programs to ensure the economic and social protection of children in the most vulnerable circumstance, including those in south-eastern Turkey;
- 4) Regional and socio-economic disparities and their grave consequences on the development of children, particularly in the south-east;
- 5) Concerns regarding the number of displaced Kurdish children and their lack of substantial housing, health services and education;
- 6) The finding that a significant number of children working or living on the streets are mainly reliant on NGO assistance, with most not receiving government aid.

There are two additional protocols to the CRC. The first is entitled the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. This was ratified by Turkey in June 2004. The second is the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which was ratified by Turkey in 2002.

3. HOUSING

a) International Obligations

The right to housing has been included in a number of international human rights agreements, including the UN Declaration of Human Rights.¹⁵ A child's right to housing is seen as an integral part of a child's right to develop to his or her fullest potential and to experience an emotionally and physically secure childhood. Specifically, Article 27 of the CRC states that:

(1) States Parties recognize the right of every child to a standard of living adequate for the children's physical, mental, spiritual, moral, and social development...

(3) States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.¹⁶

The ESC Article 16 states that:

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.¹⁷

b) Successes and Problems in Compliance/Implementation

While Turkey as a whole has considerable housing problems created by rapid urbanisation, Kurdish children suffer disproportionately from poverty and poor housing. Living conditions are a particularly urgent concern for those Kurdish families who were displaced from their homes as a result of the conflict between the PKK and state security forces. In general, government efforts to improve housing conditions have been inadequate. In some cases, housing problems have even been dramatically exacerbated by 'urban renewal' programmes which pay little heed to deprived families who are displaced in the process.

Turkey's housing problem essentially boils down to the fact that demand for housing outstrips supply. This situation is exacerbated by population growth, which has contributed to increasing unemployment. This, in conjunction with other economic factors, has prevented the provision of long-term housing

¹⁵ United Nations Declaration of Human Rights, Art.25.

¹⁶ United Nations Convention on the Rights of the Child, Art. 27.

¹⁷ European Social Charter, Art. 16.

financing. Although the inflation rate in Turkey has declined since 2003, this positive economic trend has not resulted in steps being taken to provide affordable housing by the government in Turkey. The inadequacy of government efforts to address these problems has seen the number of luxury and shanty houses increasing more rapidly than much-needed social and mass housing. Poverty and poor living conditions at home have led to a large number of children being taken into institutional care. In some cases, these institutions are themselves in bad physical condition and therefore unable to provide adequate living conditions for children.¹⁸

The European Committee on Social Rights has noted that housing conditions for low-income groups are particularly dire in the south-east of Turkey, where it is estimated that 60 per cent of the population lives below the poverty line.¹⁹ Even those Kurds who were not forcibly displaced during the conflict have suffered as a result of destruction of crops, livestock and other resources, which has made parts of the region uninhabitable.²⁰ Homes in the region do not always include heating or adequate sanitation and are vulnerable to collapse in the event of an earthquake.

The housing problem across Turkey has been exacerbated by mass displacement caused by conflict, human rights violations and the construction of a series of hydroelectric dams in the south-east of the country. The failure of the state to provide adequate temporary housing has meant that of the approximately 3 million people, predominantly Kurds, who are estimated to have been forcibly displaced as a result of such factors, a large proportion have ended up in the impoverished slums that now encircle most of the country's cities. This dynamic has not only vastly increased the populations of those cities but has also added stress to already failing economic and social systems

The Immigrants Association for Social Cooperation and Culture Study found that 96.6 per cent of IDPs suffered financial loss due to forced eviction or house demolition. 72.4 per cent of IDPs noted personal property loss and 88.4 per cent had their houses destroyed or were forced to evacuate.²¹ Although prior to displacement 78 per cent of Kurdish IDPs resided in detached village

¹⁸ Committee on the Rights of the Child, Twenty seventh session, Consideration of Reports Submitted by State Parties Under Article 44 of the Convention, *Concluding Observations of the Committee on the Rights of the Child: Turkey, 9 July, 2001*.

¹⁹ European Social Charter, European Committee of Social Rights Conclusions XVII-1 (Turkey) 2003.

²⁰ Info-Turk, 'No Real Improvement in Living Conditions for Kurds', June 2002 [Internet].

²¹ Human Rights Association of Turkey, *House Demolitions and Forced evictions Perpetrated by the Turkish Security Forces: A Form of Cruel, Inhuman or Degrading Treatment or Punishment Against the Kurdish Population*, Notes presented to the Committee against Torture by OMCT and HRA, May 2003.

houses, after displacement 57 per cent lived in slum accommodation.²² Such changes are also reflected in research by Gök-Der, summarised in the following tables.²³

Table A: Kinds of Residences Prior to Migration

Kind of Residence	Number	%
Slum	45	2.1
Shed	27	1.3
Detached Village House	1682	78.6
Rented Apartment Flat	19	0.9
Apartment Flat Owned by Himself/Herself	117	5.5
Detached House	228	10.7
Other	21	1.0
Total	2139	100.0

Table B: Kinds of Residences After Migration

Kind of Residence	Number	%
Rented Slum	621	29.0
Slum Owned by Himself/Herself	610	28.5
Shed	93	4.3
Tent	30	1.4
Rented Apartment Flat	386	18.0
Owner Apartment Flat	232	10.8
Basement Floor	30	1.4
Other	137	6.4
Total	2139	100.0

Conditions in the slums are extremely poor. A Gök-Der study found that IDP communities, particularly those living in the slums, faced a number of serious problems with their accommodation:

- (1) 58.4% have difficulty accessing both drinking water and water used for every day tasks, 20.3% do not have access to water in their residences;

²² Compilation of information available in the Global IDP Database of the Norwegian Refugee Council, *Profile of Internal Displacement: Turkey*, October 2002, http://www.ecoi.net/pub/ds164_02347tur.pdf

²³ Immigrants' Association for Social Cooperation and Culture (Gök-Der), 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic who are Forcibly Displaced due to Armed-conflict and Tension Politics; the Problems They Encountered due to Migration and their Tendencies to Return back to the Villages', 2002.

- (2) 69.0% had sewage problems in their residence, 27% of the sample population do not have a WC in their house, 8.1% have an outside WC, and, significantly, 37.2% do not have access to a toilet in the near vicinity of their house;
- (3) 63.4% have difficulty with their electricity, 19.5% do not have electricity at all;
- (4) 32.4% experience problems relating to rubbish;
- (5) 42.2% have insufficient heating facilities, 97.3% do not have central heating in their homes, 80.2% heat their houses with wood, sticks and twigs, 11.1% heat their accommodations with coal or electricity.²⁴

In addition to the aforementioned issues, the living conditions in the slums are not conducive to the physiological and emotional health of the communities living there. The same Göc-Der research found that large proportions of IDPs faced issues including muddy roads, problems with communication and transportation, and a lack of playgrounds, green spaces, shops and community associations.²⁵

Poor living conditions in the slums encourage the growth of disease, with a lack of clean drinking water, heating and proper sanitation facilities turning common, treatable illnesses into widespread and sometimes deadly epidemics. An NGO worker in Diyarbakır noted that many slum residents continue their rural way of life by practising animal husbandry, with part of the home used for animals and part for the family. The maintaining of the rural way of life also means that many do not buy bread but use traditional ovens within the slum areas, which produce vast amounts of smoke in a confined space.²⁶

Given conditions in the slums, it is unsurprising that many organisations working in Turkey detect a feeling amongst IDPs that they would return to their villages if that were a realistic option. As one IDP was quoted as saying in an HRA/OMCT report, 'I am unemployed. I don't know how to survive with my six children and wife. We are not used to concrete streets. This is not the place to live for us. If I can find a job and earn money for bus tickets and if the conditions in the village are improved we will return to our village.'²⁷

In practice, however, a series of obstacles prevent IDPs from returning to their villages. Many villagers are reported to simply lack the funds needed to

²⁴ Immigrants' Association for Social Cooperation and Culture (Göc-Der), 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic who are Forcibly Displaced due to Armed-conflict and Tension Politics; the Problems They Encountered due to Migration and their Tendencies to Return back to the Villages', 2002.

²⁵ *Ibid.*

²⁶ FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

²⁷ HRA/OMCT May 2003, Sect. IV, Extract from the testimony of Mehmet Hadi Karakaya

return to their homes.²⁸ Many villages were also burnt down in the course of the conflict²⁹ and village guards and active mines frequently make it unsafe to return.³⁰ In addition, conflict in south-eastern Turkey is ongoing and there have been reported cases during and after 2004 of further displacement of villagers in the region.³¹ Five days before the interview in Dicle, masked people attacked a number of returnees. With NGOs unable to work in areas under the village guard system and temporary security zones, there is no way of monitoring such abuses and people are left at the mercy of soldiers.³² In some cases, the use of pastures surrounding villages remained prohibited, preventing the practice of animal husbandry.³³

For its part, the Turkish government claims to be supporting the return of IDPs to their homes and has announced the 'Back to Village and Rehabilitation Project', intended to 'facilitate return and resettlement as well as the creation of minimum social and economic infrastructure and sustainable living standards and more rational provision of public services', as well as to 'increase productivity of the people concerned as well as their educational level.'³⁴ A government-sponsored national survey of IDPs published in December 2006, which was carried out by Hacettepe University, estimated that some 124,000 people had returned.³⁵ As of April 2007, the government estimated that some 151,470 IDPs had gone back to their homes.³⁶ The government has stated that 136,000 returns have been the result of its own efforts within the framework of the 'Back to the Villages' campaign.³⁷

It is clear, however, that these returns account for only a tiny proportion of the millions who were displaced in the first place. In practice the state's approach to returns has been shown to be flawed. There is evidence that in some cases discriminatory caveats have been placed upon returns, with preference given to those who are prepared to join village guard units,

²⁸ FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır, and also from interview with Mr İlhan Bal, Göc-Der İstanbul Branch, Wednesday 2008, İstanbul.

²⁹ *Ibid.*

³⁰ 'Specific Groups and Individuals: Mass Exoduses and Displaced Persons,' Written Statement submitted by Society for Threatened Peoples International, a non-governmental organisation in special consultative status to the Economic and Social Council, E/CN.4/2005/NGO/234.

³¹ *Ibid.*

³² FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

³³ *Ibid.*

³⁴ Internal Displacement Monitoring Centre, 'Government Figures on Return (2007)', [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument) (last accessed 10 October 2008).

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

requirements that returnees should reside in centralised settlements and requests for villagers to sign forms effectively waiving the right to judicial redress.³⁸ The delays and obstruction that face villagers who seek to return to their homes were illustrated by the 29 June 2004 ECtHR judgment in the case of *Dogan and Others v. Turkey*. Between 1999 and 2001, the applicants petitioned various state departments including the Prime Minister's Office and the State of Emergency Regional Governor's Office to be allowed to return to their home village of Boydas in the Hozat region of Tunceli, only to be told that return was 'prohibited for security reasons'. The Court found that access to the village was prevented until 22 July 2003, resulting in the applicants not being able to use or dispose of their property for almost nine years and ten months. The Court stated that 'the refusal of access to the applicants' homes and livelihood constituted a serious and unjustified interference with the right to respect for family life and home' and as such violated Article 8 of the European Convention.³⁹

Besides failing to adequately support the voluntary return of IDPs to their villages, the government has also failed to take sufficient steps to improve living conditions in their new urban places of residence.

In Diyarbakır, the mission was told that there are no social housing projects planned at present and that a state initiative to build houses and then rent or sell them to IDPs at reduced prices had thus far resulted in the provision of just 950 new homes, a figure which is clearly insufficient to meet demand. Despite a law introduced in 2004 which was supposed to set out a framework for compensation for damages resulting from displacement, Mr Özdoğan of the Diyarbakır branch of Göc-Der stated that few applications for compensation that he was aware of had been successful.⁴⁰

In Cizre, the municipality authorities were apparently applying for EU funding to improve housing conditions, for example by improving the sewage system.⁴¹ However, the mission was not informed of any existing state-run projects to provide social housing or to improve existing buildings.

The situation for IDPs in Istanbul, one of the main destinations for those displaced in the 1990s, has shown some improvement since 2000 from the early days when people were living in tents in appalling conditions. For

³⁸ 'Specific Groups and Individuals: Mass Exoduses and Displaced Persons,' Written Statement submitted by Society for Threatened Peoples International, a non-governmental organisation in special consultative status to the Economic and Social Council, E/CN.4/2005/NGO/234.

³⁹ *Dogan and Others v. Turkey* 8803-8811/02, 8813/02 and 8815-8819/02. Council of Europe: European Court of Human Rights. 29 June 2004, available at <http://www.unhcr.org/refworld/docid/414d86ab4.html> (last accessed 1 October 2008).

⁴⁰ FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

⁴¹ *Ibid.*

many, the improvement has been only incremental, marked by a shift from tented accommodation to squatting in shanty towns or to living in houses shared between multiple families. Some, however, have been able to work themselves out of poverty and buy homes.

Even these kinds of marginal improvements, however, have been jeopardised by recent 'urban renewal' programmes. Projects such as the construction of the Atatürk Stadium have reportedly included demolitions of nearby shanty towns, with the apparent aim of improving the appearance of the surrounding areas. In March and April 2008 the state also demolished shanty town buildings in parts of Istanbul including Maltepe and Bashibuyuk. Those who owned homes that were demolished in these areas have been given apartments that they did not have to pay for. However, the state apparently has no such alternative accommodation plan to deal with those people who were renting homes that have been demolished in these areas. The state has discussed giving renter's credit they will have to repay in order to buy homes; however, no policy decision has been officially made. Further, these families will be unable to repay this credit as they are generally unemployed and living in poverty.⁴²

Further, many Kurdish families living in these areas were squatters who had been unable to raise funds to buy their own home. As a consequence of not owning their homes they have been afforded few, if any, rights in the face of demolition of their places of residence. Thus, the result of the lack of provision of alternative accommodation, the mission learned, was that there were 15 to 20 families still living in tents on the site of the demolition simply because they had nowhere else to go. The tents in which these families are living had reportedly been destroyed two or three times by state forces. The idea appeared to be that these families should return to the villages, with this expectation apparently paying little heed to the many serious obstacles that stand in the way of such returns, as outlined above.

Similarly, an EU-funded restoration project in Taxim, a poor district in the town centre heavily populated by Kurdish IDPs, is also expected to result in families being displaced. It is anticipated that the residents will be sent to live in accommodation far from the city centre, which will make it difficult and expensive for children to travel to school and for the families in general to access services in the city.⁴³

Most families in the shanty towns and in the town centre quarters due to be demolished have seven to ten children. It is clear, then, that a large number of children will be impacted by the demolitions. In total, Gök-Der estimates that there are some 300 children already living in tents as a result of demolitions

⁴² FFM interview with Mr İlhan Bal, Chairman, Gök-Der İstanbul Branch, Wednesday 25 June 2008, İstanbul.

⁴³ *Ibid.*

that have taken place of shanty accommodation in Istanbul.⁴⁴ The organisation has assisted some by providing help including clothes and shoes. In general, the demolitions are believed to be worsening the living conditions of IDPs in the affected areas, driving them deeper into poverty and creating new problems in terms of education, nutrition and health.⁴⁵

In general, Mr Özdoğan of the Diyarbakır branch of Göc-Der stated that there has been a lack of awareness regarding the situation of IDPs. The week after the mission was in Diyarbakır, local civil society groups were organising a 'Migration Week'. This was to involve an intensive programme of talks involving MPs, NGO representatives and ex-villagers. The previous day there had been a panel discussion about the ongoing effects of forced migration.

d) Conclusion and Recommendations

Thus, a common theme in all the locations the mission visited was the clear lack of adequate state-provided social housing. In the south-east and east the housing problems encountered by the mission appeared to be a continuation of those identified by the UN Committee on Children's Rights in 2001. There was little or no evidence of improvements being made as a consequence of state action. In Istanbul the mission was gravely concerned to learn of the forced displacements that have already taken place and those that are planned for the future. It appears that two classes of IDPs will be created. The first are those IDPs who have managed to purchase their homes and who will be provided with flats in apartment blocks. The second are those who are renting or squatting and for whom at the time of writing no provision had been made for when they are displaced. It is not denied that anyone, particularly children, should not be living in the conditions in the slums and shanty towns. However, they should not be forced to leave without any realistic alternative provided for by the government. Further, in principle encouraging and enabling IDPs to return to their villages is a positive measure. However, it must be a choice that IDPs can make for themselves. Moreover, it must be a realistic option, which in the view of the mission is not the case at present. The compensation provided for thus far is not sufficient to enable many to return, and the conflict situation in the east and south-east means it may not be safe for them to do so. Thus, it was apparent to the mission that many Kurdish children continue to live in poor housing conditions, and some face worsening conditions due to displacement. To comply with its international obligations Turkey must take all reasonable steps to provide all its population, including its Kurdish citizens, with adequate housing. The EU must take account of these issues in the context of Turkey's accession bid. It must also insist that suitable alternative

⁴⁴ FFM interview with Mr İlhan Bal, Chairman, Göc-Der İstanbul Branch, Wednesday 25 June 2008, İstanbul.

⁴⁵ *Ibid.*

accommodation is provided to those who are displaced by the projects that it is funding.

4. HEALTH AND NUTRITION

a) International Obligations

Article 24 of the CRC states that:

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such healthcare services.⁴⁶

b) Desk-based Research

In 2003 The European Committee of Social Rights noted the following areas of concern:

- 1) Significantly worse results achieved by Turkey in the field of health compared to many other countries with a comparable income levels;
- 2) A considerably higher infant mortality rate compared to that of other Contracting Parties, though the Committee noted that the infant mortality rate had been decreasing;
- 3) A low number of available hospital beds in comparison with the total population;
- 4) A lack of doctors in certain areas of Turkey, especially in the rural areas of the south-east and the slums surrounding a number of the larger cities.⁴⁷

In conclusion, the Committee found that, 'the manifestly inadequate budget for healthcare and the inadequacy of equipment and health personnel do not guarantee access for the population, notably children, to healthcare of a satisfactory quality in the whole country'.⁴⁸

Further, the Committee on the Rights of the Child found in 2001 that children with disabilities are frequently institutionalised, usually without specialised healthcare staff to attend to their needs. Although the Committee acknowledged improvements in health legislation, it stated that it was 'nevertheless concerned that the situation with regard to maternal, child and reproductive health is still poor and that there are great disparities between geographic regions and socio-economic classes... in particular... infant, child and maternal mortality rates and malnutrition rates are particularly high in rural areas of the south-eastern region and in poor urban areas... immunisation rates are particularly low in the eastern region'.

⁴⁶ CRC, Art. 24.

⁴⁷ European Social Charter, European Committee of Social Rights Conclusions XVII-1 (Turkey) 2003.

⁴⁸ *Ibid.*

In terms of assessing improvements regarding Turkey's international obligations in the areas of health and nutrition it should be noted the Turkish national expenditure on health between 1992 and 2001 was 3 per cent of the total public expenditure budget. The amount increased to 7.6 per cent in 2005. However, it must also be observed that this is still below the average of 9 per cent across OECD countries. Further, despite increasing numbers of doctors in recent years, Turkey continues to have the lowest number of physicians per capita among all OECD countries. In 2004, Turkey had 1.5 physicians per 1,000 members of the population, two times less than the OECD average of 3. Similarly, there were only 1.8 nurses per 1,000 members of the population in Turkey in 2004, a much lower figure than the average of 8.6 in OECD countries. The number of acute care hospital beds in Turkey in 2005 was 2 per 1,000 members of the population, about half the OECD average of 3.9.⁴⁹ These issues are heightened by regional disparities.

The aim of most of the available material is to ascertain the impact of displacement on health issues. The table below was produced as part of a July 2005 study⁵⁰, which aimed to ascertain the effect of displacement upon children. The study involved analysing information collected about children under the age of five from their mothers via questionnaires. As can be seen from the table, displaced children and Kurdish children as a whole are less likely to be vaccinated against key illnesses when compared to the average across Turkey, are less likely to benefit from antenatal care, and are more likely to suffer from acute respiratory infection and fever.⁵¹

Table C: Basic Health Outcomes of Children under 5.

⁴⁹ OECD, 'Health Data 2007, How Does Turkey Compare?,'

<http://www.oecd.org/dataoecd/46/5/38980477.pdf>. (last accessed March 2008)

⁵⁰ Koç, İsmet and Ünalın, Turgay, 23 July 2005, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey,' pp. 16-17.

⁵¹ *Ibid.*

Health outcomes	Turkey	Kurdish	IDPs
Vaccination			
BCG	87,7	65,5	52,3
DBT-3	64,4	40,5	36,4
Polio-3	69,1	49,3	40,9
Measles	79,4	47,2	43,5
Full vaccination	54,2	29,2	25,8
Never vaccinated	2,8	7,9	8,2
Nutritional status			
Height-for-age	12,2	22,0	31,1
Weight-for-age	3,9	7,5	11,1
Symptoms of ARI			
Fever	28,8	33,0	33,8
	40,1	47,7	50,2
Antenatal care			
Antenatal visits	81,4	51,6	41,3
Place of delivery: Health facility	78,2	49,4	41,5
Assistance during delivery: Health staff	83,0	55,8	48,0
Coverage of birth registration (Under-5)	84,3	70,4	68,6

As illustrated by the following table, the same 2005 study found that IDPs and members of the Kurdish population also suffer from early age mortality rates that are well above the national average. The particular vulnerability of IDPs is clearly reflected in the fact that their rates are the highest for almost every field.

Table D: Early Age Mortality Rates

Early Age Mortality Indicators	Turkey	Kurdish	IDPs
Neonatal Mortality Rate	17	28	30
Post-neonatal Mortality Rate	12	18	17
Infant Mortality Rate	29	46	47
Child Mortality Rate	9	8	11
Under-5 Mortality Rate	37	54	58
e_0	71,5	67,7	67,5
e_5	72,6	69,9	69,8

(*) Life expectation at birth and at five were based on the infant mortality rates calculated from TDHS-2003 and East model life tables.

The results obtained through this survey show that children are especially vulnerable due to displacement. Improved access to and increased availability of community-based, primary and reproductive healthcare services for them remains vital. However, as the table indicates, the findings obtained in the July 2005 study also highlighted that the Kurdish speaking population as a

whole is also at a great disadvantage regarding early age mortality rates and other health indicators.⁵²

Research carried out by KHRP in the past has shown that IDP communities are vulnerable in a number of specific ways:

- IDPs face unhealthy conditions in new settlement areas, increasing their risk of contracting diseases such as tuberculosis and malaria or mental illnesses;
- Factors including economic problems, lack of health and social insurance and cultural differences limit access to health services;
- Lack of adequate infrastructure and shortage of medical personnel, in particular Kurdish-speaking personnel, also makes it difficult to combat the health problems linked with poverty;
- IDPs have also been denied green-cards which would entitle them to get free health consultation and hospital accommodation.

Further, researchers are increasingly finding evidence of grave emotional and mental health conditions amongst IDPs as a result of their situation. This has been found most commonly among women and children, who have been the most adversely affected by displacement and by the living conditions in slums and shantytowns.⁵³ The effect of displacement was related to higher internalizing of problems when factors like physical illness, child age, child gender and urban residence were taken into account.⁵⁴ Research indicates that 79.9 per cent of IDPs have psychological problems after their forced displacement.⁵⁵ Many women and children experience symptoms including 'headaches, sleeping disorders and extreme timidity... frequent recollection of the traumatic event, its re-enactment in daily life or in dreams, the shunning of people... emotions recalling the traumatic experience, and alienation'.⁵⁶ Other psychological affects of dislocation and violence on women and children include emotional disconnection, desire for seclusion, nervousness and abruptness.⁵⁷ There is also a high level of suicide among women and girls who have been forced to migrate.⁵⁸ The *Turkish Daily News* has reported, 'There are no social activities for young girls who immigrated from the south-east to big cities. For them, life is limited within the walls of their houses and they feel the pressure of strict traditions that limit their lives.'⁵⁹ Furthermore,

⁵² *Ibid.*

⁵³ *Turkish Daily News*, 5 April 2001

⁵⁴ 'Effects of internal displacement and resettlement on the mental health of Turkish Children and adolescents,' *European Psychiatry*, Volume 20, Issue 2, March 2005, pp.152-157.

⁵⁵ Immigrants' Association for Social Cooperation and Culture (Göç-Der), *The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic who are Forcibly Replaced due to Armed-conflict and Tension Politics; the Problems They Encountered due to Migration and their Tendencies to Return back to the Villages*, 2002.

⁵⁶ *Turkish Daily News*, 5 April 2001

⁵⁷ *Ibid.*

⁵⁸ Human Rights Foundation of Turkey, March 2001.

⁵⁹ *Turkish Daily News*, 13 March 2001

it seems that there may be a significant connection between the cultural and emotional alienation that displaced women and girls feel, and the high number of suicides within this population sector.⁶⁰

Although male IDPs have more opportunities for social engagement, they are also impacted by the physiological trauma of their abrupt displacement and their cultural alienation. Young boys often develop alcohol and drug addictions.⁶¹ Some research indicates that there is a connection between youth involvement in violent gangs and the detrimental impact of experiencing displacement and witnessing violence.⁶²

At the same time, it is clear from the tables above that not only IDPs, but in fact the Kurdish population as a whole, are at a disadvantage when compared to the rest of Turkey's population. Since Turkey has a Green Card scheme which ought to provide basic health coverage for the poorer sections of society, it was unclear from the desk-based research why such huge disparities exist. Further, there has been indications that public expenditure on health could rise during the course of the next few years due to the government's plan to transform the Green Card scheme of free healthcare for the poor into a component of the Universal Health Insurance. According to the new bill on health there will be an expansion of the current health system so that it takes the form of a universal health insurance system. It is suggested that this will provide every citizen with a general health insurance number and access to healthcare with only limited participation fees for medicines and also for hospital treatment. The premiums of those who are very poor will be paid by the state.⁶³ It was unclear, however, whether such a move would provide a remedy for the disadvantages faced by the Kurdish population as a whole and the Kurdish children as the source of the problems was unclear. Further, it was also difficult to obtain information about whether any improvements or regression in healthcare outcomes for both IDPs and non-IDPs had occurred in the past few years.

c) Fact-Finding Mission

Diyarbakır

In her interview with mission members, Mrs Ozsokmenler, Mayor of Baglar Municipality, stated that the Green Card is issued by the governor's office and that many Kurdish applicants are deprived access to the card for political reasons; if, for example, a family member has been convicted for political

⁶⁰ *Turkish Daily News*, 13 March 2001

⁶¹ *Turkish Daily News*, 5 April 2001

⁶² ILO, *Street Children in Turkey*, 2001

⁶³ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.64, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

crimes under anti-terror legislation.⁶⁴ Mr Özdoğan, Chairman of Göc-Der, elaborated on this issue.⁶⁵ Firstly, he stated that in the West of Turkey if an individual applies for a Green Card there will not be an extensive investigation into that person's financial situation as occurs with regard to applications in the south-east. Secondly, he said, despite the fact that the law does not require a security investigation applications are also sent to the gendarmie. Due to the high level of poverty amongst IDPs it is often these people who have to apply for cards. If they are considered to have been involved with or to sympathise with the PKK then the gendarmie provides a report arguing against their application. The applications are then refused on the grounds that the criteria had not been met, without any specific reasons being given. The number of refusals was said to depend on the timing of the application, especially in relation to elections. During the 2007 elections a huge number of cards were apparently awarded. However, Mr Özdoğan stated that following the election 35,000 cards were cancelled. There is an appeal process via the Provincial Administrative Council and the Administrative Court. However, when Göc-Der has made applications on behalf of clients the process has been subject to delays and applications have been refused, even when the criteria to receive the card have been met. Moreover, many people do not challenge the initial refusal because they are not aware of their rights. Further, the Green Card only gives access to basic healthcare, so individuals with special health requirements may not be covered by the scheme anyway.⁶⁶

Although Mr Özdoğan acknowledged that his organisation had not carried out specific investigations into the health problems facing IDPs or those common in Diyarbakır in general, he was able to relate some of the common problems observed in the area. The mission was informed that there are high levels of Hepatitis B and stomach and digestive problems related to low standards of food, and that contagious diseases are easily spread to the cramped and unhygienic conditions in the slum areas. It was also stated that diseases such as chicken pox and measles are common amongst children, due to the fact that immunisation levels are either insufficient or non-existent.⁶⁷ The mission observed that it is often difficult to distinguish IDPs from the general population in Diyarbakır as there is such high numbers of people living in poverty. Thus, health problems suffered by IDPs are likely to be shared by those in general who live in the same poor conditions.

In the large cities in the south-east, including Diyarbakır, the municipality authorities have begun a number of projects designed to improve the

⁶⁴ FFM interview with Mrs Yurdusev Ozsokmenler, Mayor, Baglar Municipality, Friday 20th June 2008, Diyarbakır.

⁶⁵ FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

standards of living and education of the local population. Many of these projects are undertaken with international cooperation regarding funding. The Baglar municipality runs centres that provide programmes for mothers on reading and writing, but also the healthcare system and family planning.⁶⁸ Mr Tuşay, Director of the Diyarbakır Metropolitan Municipality Social Services Directorate, accompanied the mission on a visit to one of the municipality-run laundry houses that provides the use of washing machines, washing powder and ironing boards free of charge to the local community.⁶⁹ Mr Özdoğan commented that the laundry houses are very positive projects and are working well. They are improving hygiene and the women take their children to them to socialise. However, he also drew attention to the fact that the municipalities have very limited funds, thus such initiatives need to come from or at least be supported by central government. According to Gök-Der, the governor's office does provide some poor people with cash or food. However, this support is reportedly insufficient, is considered to undermine the recipient's dignity, and is not part of a functioning welfare system that can support the poor in general, or IDPs in their return to the villages or their integration into city life.⁷⁰

The mission also met with representatives of the Children Under the Same Roof Association (CACA), which operates two centres in a district of Diyarbakır that has a high population of migrants and IDPs.⁷¹ One centre provides a pre-school for 4 to 6-year-olds. The second centre is for 7 to 15-year-olds. Alongside activities such as artistic workshops, the centre also provides training for mothers in order to help them improve their children's health and hygiene, and their ability to undertake family planning. They attempt to work through the families by engaging with the mothers through the training, and organising meetings in the neighbourhoods with male figures and fathers using simple language about how they should deal with and care for their children. Ms Durmaz informed the mission that as the centre is operating in a very poor area there are problems with cleanliness that are passed on to the children. Thus, the children attending the pre-school are taught about brushing their teeth, washing their hands and hair, and having a shower at least once a week. However, she said that they just inform the children about these needs, and that they do not have the facilities available to allow the children to do so on their premises. This hygiene

⁶⁸ FFM interview with Ms Ozlem Yasak, Project Coordinator at Baglar Municipality, 20 June 2008, Diyarbakır.

⁶⁹ Fatih Sultan Mehmet Tuşay, Director Diyarbakır Metropolitan Municipality Social Services Directorate, 20 June.

⁷⁰ FFM interview with Mr Dursun Özdoğan, Chairman, Gök-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

⁷¹ FFM interview with Ms Sabahat Durmaz, Project Coordinator, Emin Sarikaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), CACA (Children Under the Same Roof Association), 21 June 2008, Diyarbakır.

training is considered important since, particularly in the summer months, poor hygiene can lead to diseases with symptoms such as diarrhoea.⁷²

Mr Özdoğan also drew attention to the fact that many IDP children suffer from psychological problems associated with forced migration.⁷³ The example given was of a boy who was only four years old when he witnessed the destruction of his village home but he cannot forget what happened. Another example given was that children are made to feel inferior in school when their classmate's parents are civil servants and theirs are unemployed. The situation in the region has led to a phenomenon that he described as 'cultural corruption', with children spending a great deal of time in the streets where there are high levels of crime. The strain on families has put a distance between children and their parents, with children becoming foreign to their parents who then lose control of them. This has led to children running away to Istanbul. Mr Özdoğan, a practising lawyer, informed the mission that he was asked by a neighbour whose son had ran away to Istanbul to find out what had happened to him. He went to Istanbul and spoke to the son, who said that he could not relate to his parents, only his friends who he spent most of his time with on the streets. In Istanbul, the son could not find a job and so became involved in drugs and ended up in prison. This, according to Mr Özdoğan, is a typical example of what happens to children who run away to Istanbul, as many become involved in drugs, crime or gangs.⁷⁴

Cizre:

The mission was informed by the Deputy Mayor of Cizre Municipality that there are insufficient health facilities for children in the area.⁷⁵ Further, he informed the mission that forced migration and the resulting growth in population has heightened some of the problems with the town's infrastructure that are having a negative impact on the standards of health of children. These problems include insufficient provision of drinking water, a poor sewage system and flooding. The municipality has made applications for funding for relevant projects to the EU, since they do not have the funds to carry out such projects themselves. These include efforts to provide drinking water networks, a system for recycling waste water, improvements to the sewage system and flood defences. It was clearly stated that the government

⁷² FFM interview with Ms Sabahat Durmaz, Project Coordinator, Emin Sarikaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), CACA (Children Under the Same Roof Association), 21 June 2008, Diyarbakır.

⁷³ FFM interview with Mr Dursun Özdoğan, Chairman, Gök-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

⁷⁴ *Ibid.*

⁷⁵ FFM interview with Mr Ahmet Dalmis, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

agencies operating in the area are not tackling these issues.⁷⁶ The mission observed that the municipalities in general lack the political power and funds to initiate large projects on their own. Such important infrastructure requirements should be dealt with by central government agencies, and should be considered by them to be a high priority, since lack of safe drinking water, for example, can have a wide variety of detrimental health consequences for children and adults alike. Due to the number of problems the community faces in Cizre, projects embarked upon did not appear to target specific vulnerable groups such as children. Rather, it appeared that due to the vulnerability of the entire community children were not thought of or targeted as a separate group requiring special help. In light of the lack of a basic infrastructure such a special focus on children's needs was simply not contemplated.

With regard to access to Green Cards in Cizre, a number of problems were reported to the mission. Firstly, in the villages where the guard system is in operation, individuals who do not actively cooperate with the state reportedly find their applications delayed or not granted at all. A gentleman present for part of the interview related that he had a disabled child in need of medical care.⁷⁷ However, when he applied for a green card he had to wait months to receive a response because applications are sent to a different office for a thorough investigation. The gentleman's application was refused because he owns a vehicle that was said to be able to provide him and his family with a high enough income that he did not meet the financial criteria required. However, his vehicle is over 20 years old and under Turkish legislation vehicles over this age limit cannot be used. Thus, he was told that he would have to have his vehicle removed from the registry of road-worthy vehicles, something that he cannot afford to do. As a result, the gentleman has apparently had to try to pay for healthcare and schooling, when in reality this is simply beyond his means. It was stated that such cases are becoming more common as the conflict situation in the region worsens.⁷⁸

Istanbul:

In the context of the worsening housing conditions due to the demolitions discussed in the previous section of this report, it is unsurprising that the mission was informed that a number of nutritional and health problems are faced by Kurdish children in Istanbul, particularly IDPs.

As in Diyarbakır and Cizre, there are considerable problems regarding access to Green Cards. When applications are made, Kurdish families are reportedly investigated to establish whether any extended family members have been

⁷⁶ FFM interview with Mr Ahmet Dalmis, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

charged with political crimes or with sympathising with the PKK.⁷⁹ Most are apparently given negative reports and so their applications are subject to lengthy delays and are often refused without any reason being given.⁸⁰ Green Cards were also said to function as a tool for persuading people to cooperate with the state, and are reportedly used to obtain votes in elections. Before demolishing the shanty towns in an attempt to force the families to leave, the authorities were said to have cut off their water supply and confiscated their Green Cards. They are now allegedly being blackmailed insofar as they have been told that if they leave the area their cards will be returned to them. This type of action by the Turkish authorities is said to have started three years ago and to be occurring in many areas of Istanbul.⁸¹

d) Conclusion and Recommendations

It was clear to the mission, both from the desk-based research and from the information obtained during the fact-finding mission that Kurdish children are a particularly vulnerable to disadvantage with regard to healthcare provision. Despite some increases in levels of funding it was clear that there remains a regional disparity that renders children in the east and southeast gravely disadvantaged. The Turkish authorities are under a duty to rectify this situation. However, of considerable concern to the mission was the information received regarding the use of the Green Card system as a tool for blackmail and manipulation in the hands of the Turkish authorities. Such behaviour is a blatant violation of Turkey's international obligations. Such behaviour by the Turkish authorities must be highlighted in the context of Turkey's EU accession bid in order for pressure to be applied to prevent such tactics being utilised in the future. The mission would welcome the introduction of a universal health insurance scheme. However, this must be subject to an important caveat that any such scheme should be applied indiscriminately and that sufficient safeguards would have to be put in place to prevent replication of the manipulative tactics employed with regard to the Green Cards.

⁷⁹ FFM interview with Mr İlhan Bal, Chairman, Gök-Der İstanbul Branch, 25 June 2008, İstanbul

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

5. EDUCATION

a) International Obligations

The CRC states explicitly that States Parties are obliged to provide and ensure adequate access to education for all children.

CRC Article 28 states:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free for all.⁸²

CRC Article 29 states:

States Parties agree that the education of the child shall be directed to... (c) The development of respect for the child's parents, his or her own cultural identity, language and values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national, and religious groups and persons or indigenous origin.⁸³

Article 7 of the ESC states the following:

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting parties undertake... (3) To provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education.⁸⁴

b) Desk-based Research

In 2001, the Committee on the Rights of Child affirmed Turkey's increased funding for education for children. However, the Committee expressed concern that vulnerable groups of children did not adequately benefit from the increased spending.⁸⁵ Further, it noted the following areas to be of special concern in Turkey, especially in the rural areas: 'the high drop-out rates among girls after the third grade; the decline in the quality of education and the insufficiently participatory teaching methods; [and] the lack of trained

⁸² CRC, Art. 28.

⁸³ CRC, Art. 29.

⁸⁴ ESC, Art. 7.

⁸⁵ Committee on the Rights of the Child, Twenty seventh session, Consideration of Reports Submitted by State Parties Under Article 44 of the Convention, *Concluding Observations of the Committee on the Rights of the Child: Turkey*, 9 July 2001.

personnel and insufficient infrastructure, especially classrooms, in particular in large metropolitan areas and in the southeast.⁸⁶

When considering whether any improvement has been made since these findings one should first consider that since 2001 the share of the Ministry of National Education (MoNE) increased steadily over the next five years.⁸⁷ In 2006 the share of MoNE was approximately 9.5 per cent. In 2007 it was approximately 10.4 per cent, which amounts to roughly 3.4 per cent of Turkey's GNP. However, this remains low compared to other OECD countries. The average expenditure of the OECD countries per student across primary and secondary education is \$81,485. In Turkey the average is \$40,000 per student. This is similar to the levels of expenditure in countries such as Mexico, Poland, and the Slovak Republic.⁸⁸ Furthermore, the UNDP Youth Report identifies Turkey as a country that is prioritising access to education at the expense of quality of education. According to the EDI (Education for All Development Index) an index designed by UNESCO to measure the development of education in different regions of the world, ranks Turkey 77th among 125 countries.⁸⁹

A problem readily ascertainable from the background research was the provision of education to Kurdish children in their mother tongue language. The European Commission noted in its' 2006 Turkey Accession Report that

There has been limited progress as concerns education. The 2005 recommendations of the European Commission against Racism and Intolerance (ECRI) on school curricula and textbooks as well as on the functioning of minority schools remain valid. Further efforts are needed to remove discriminatory language from textbooks... Children whose mother tongue is not Turkish cannot learn their mother tongue in the Turkish public schooling system, such education can only be provided by private education institutions. As concerns Kurdish all such courses were closed down in 2004. Therefore, there are no possibilities to learn Kurdish today in the public or private schooling system. Furthermore, there are no measures taken to facilitate access to public services for those who do not speak Turkish.⁹⁰

The 2007 Progress Report noted to no change to this situation.⁹¹

⁸⁶ *Ibid.*

⁸⁷ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.43, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

⁸⁸ *Ibid.*, citing Ministry of National Education, National Education Statistics: Formal Education 2006-2007.

⁸⁹ *Ibid.*

⁹⁰ European Commission, 'Turkey 2006 Progress Report,' 8 November 2006.

⁹¹ European Commission, 'Turkey 2007 Progress Report.,' SEC2007 1436, p.22, available at http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf. (last accessed April 2008).

Furthermore the US 2006 Country Report stated that language barriers remain a severe problem for Kurdish children. It stated that a number of private Kurdish language courses closed during the year, citing a lack of students. Kurdish rights advocates said many Kurds could not afford to enrol in private classes. They also maintained that many potential applicants were intimidated because authorities required those enrolling in the courses to provide extensive documents, including police records that were not required for other courses. They maintained that the requirements intimidated prospective applicants, who feared that the police were keeping records on students taking the courses.⁹² The United Nations Children's Fund's (UNICEF) deputy chief has urged Turkey to try out teaching its Kurdish children in Kurdish, saying international examples indicated it would improve educational standards.⁹³

A number of other issues arose from the background research undertaken. Pre-school education reaches only about 20 per cent of the pre-school aged population in Turkey. Children from better-off households are more likely to obtain pre-school education and the proportion of those who obtain pre-school education overall decreases in regions such as the south-east due to economic disparities.

Primary education for all children in Turkey is free and compulsory.⁹⁴ In 1997 the number of years of compulsory education was increased from five to eight years. This has led to a countrywide average primary schooling enrolment rate of 89 per cent. However in the south-eastern region the average is only 79 per cent.⁹⁵ It was also reported that there are still five-year elementary schools in some villages. Further, it is reported that in some of these village schools teachers are having to attempt to teach five different grades in the same classroom. A recent UNDP report included an account by a young male teacher serving in a village of Bitlis (in south-eastern Turkey), under extremely hard conditions, teaching all five grades of elementary school in a single classroom:

I divide the blackboard into five sections, writing the lesson of each class in different sections. I think to myself 'I divide the blackboard into five, but can I divide myself, too?' Each class has a different lesson, different curriculum and different levels. Shall I handle this kid or the other? Each class is taught 6 hours a day (theoretically). But what I do is teach the first grade in the first hour, the second grade in the second hour and so on. So, I teach the first grade only one

⁹² US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey', <http://www.state.gov/g/drl/rls/hrrpt/2006/78844.htm>, (last accessed September 2008).

⁹³ *Turkish Daily News*, 9 July 2006.

⁹⁴ Turkey's Addendum Report to the Committee on the Rights of the Child, 7 July 1999 CRC/C/51/Add.4:p.21.105.

⁹⁵ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.43, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

hour every day. Up comes the end of the year, and the first grade kids still can't read and write properly. And I bang my head against the wall...⁹⁶

Teachers face other difficulties as well. The same report quoted Işıl, a young teachers trying to implement a new curriculum:

There is no time to implement the new curriculum. First teaching the children, then controlling the crowded classes and then trying to carry out the activities... Since we have not done such things before, we feel pressurized. And not every school has the tools to realise the suggested activities. I also noticed that the new research assignments we give to children are usually done by their parents. The parents do it to please their children; the children do it to please their teachers, and the teachers do it to please the State. I do not think the kids really internalize these new techniques.⁹⁷

Further, vulnerable groups such as IDPs and Kurdish children in general appear to be particularly at risk of suffering a lack of adequate education. Regarding IDPs, this can be understood as a consequence of displacement, which leads to children living in poorer social and economic conditions. This deprivation is clearly shown by the graph below, which presents the school attendance ratios for different population groups and between the sexes.⁹⁸ The graph implies that the school attendance ratios of the Kurdish-speaking population and IDPs are very similar across different ages and are consistently lower compared to the overall population. The difference becomes slightly larger in university ages.⁹⁹

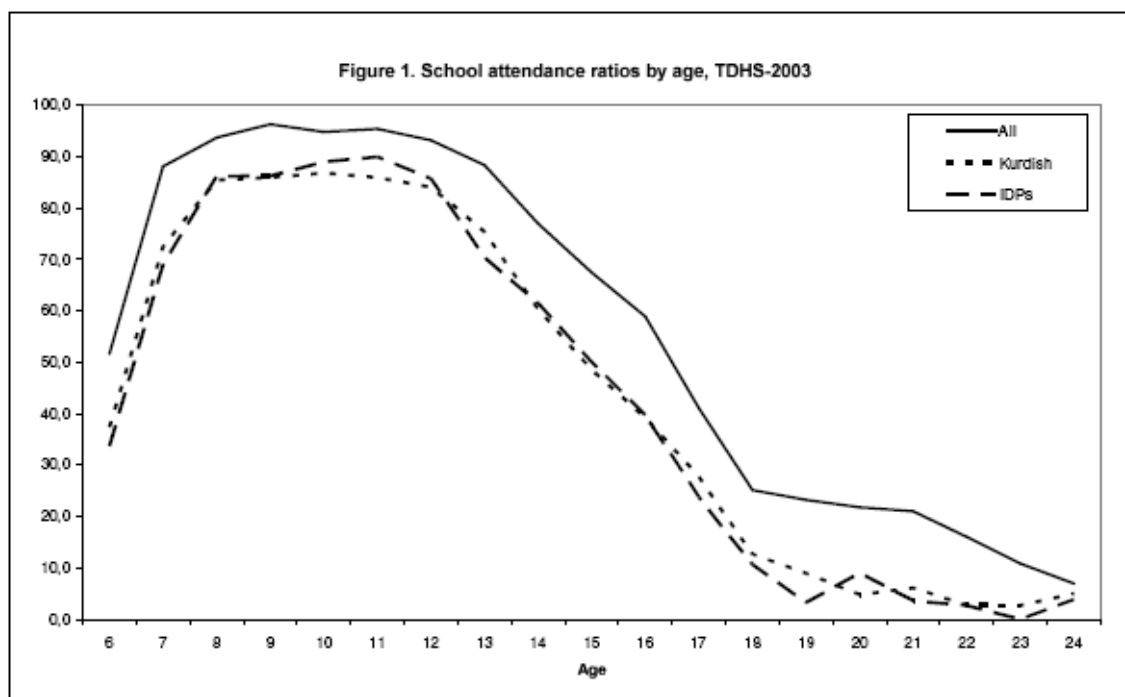
Table E: School Attendance Ratios by Age

⁹⁶ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.51, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

⁹⁷ *Ibid.*, at p.43.

⁹⁸ Koç and Ünalın, July 2005, pp.13-15.

⁹⁹ *Ibid.*



Alongside migration and gender, there are a number of economic barriers to accessing equitable education by Kurdish children. There are a number of disparities between regions and social classes, enrolment rates in the north-east, the east and the southeast of Turkey lag behind other regions. Nine out of ten of the lowest-spending provinces on education per student are located in the east and south-east Anatolia. Disparities in achievement also exist. Two-thirds of this variation is explained by socio-economic factors. According to PISA (OECD's Program for International Student Assessment) results, variation of performance levels amongst schools in Turkey is highest amongst the OECD countries.¹⁰⁰

A number of economic barriers also stand in the way of Kurdish children's access to education. UNESCO has observed that the private contribution of parental spending required for a public school student is \$39,000 per public primary schools. This includes the cost of books and school clothing, which are too expensive for many families. Further, it covers necessities such as equipment and renovations to school buildings.¹⁰¹ Such high levels of required expenditure act as a clear barrier to children from poorer families accessing education. Although UNESCO does not distinguish between ethnic groups in its reports, the fact that many Kurdish families fall into this latter group would suggest that this may be a major barrier to Kurdish children's access to education.

¹⁰⁰ UNESCO Country Profile Prepared for Education for All Global Monitoring Report 2008, Turkey Country Case Study, Aydagul Batuhan 2007, at p.20, available at <http://unesdoc.unesco.org/images/0015/001555/155505e.pdf> (last accessed April 2008).

¹⁰¹ *Ibid.*

In addition, the survival of many displaced families depends on the income of their children.¹⁰² In the east and south-eastern Anatolia region, families tend to prioritise their short-term needs over the long-term and not so definite benefits of education. This is particularly relevant for families who labour in seasonal agriculture, where large numbers of children drop out of school to undertake seasonal work.¹⁰³ There are also a number of further barriers to education in Turkey relating to social, cultural and family background. Examples of dropout determinants are the mother's literacy, the family's interest in children's education, and expectancies regarding achievement. However, it has also been observed that an important factor is the language spoken at home. Children who come from homes where Turkish is spoken have been found to be more likely to stay in school.¹⁰⁴ This has obvious applicability to children from the Kurdish community.

An apparent opportunity to improve access to education is the Conditional Cash Transfers (CCT) offered by the General Directorate of Social Assistance and Solidarity (SYDGM) within the Prime Ministry. This is an initiative financed by a loan from the World Bank. SYDGM extends financial support for the education of young people who have no social security and cannot go to school because of economic difficulties. Besides paying out regular cash allowances (i.e. CCTs) for young people continuing their primary or secondary education, SYDGM also provides needy students with free school materials at the beginning of each semester. In order to benefit from the CCT, students must attend 80 per cent of classes every month and not repeat more than one year (throughout all school years). The UNDP has reported that this initiative has been successful.¹⁰⁵ It says that as of October 2006, more than 1.5 million students benefited from CCTs, which greatly increased the ratio of students who advanced to secondary school and continued their studies beyond. Overall in Turkey, during the school year from 2003 to 2004, one out of every two pupils who attended the 8th grade were able to pass on to high school (Lycee). Amongst children who benefited from the CCT scheme, however, seven out of every ten achieved this success. During the same period, the ratio of female students who graduated from the 8th grade and continued on to secondary school was 38.7 per cent, while the corresponding ratio for girls who benefited from CCT was a net 75.4 per cent.¹⁰⁶ However, independent research has found that only 9.7 per cent of families are receiving the payments, which is nowhere near the amount suggested by the official figures. The reason identified for this is that the official term 'conditional cash'

¹⁰² Human Rights Watch, *Turkey: Displaced and Disregarded; Turkey's Failing Village Return Program*, 30 October 2002.

¹⁰³ UNESCO Country Profile Prepared for Education for All Global Monitoring Report 2008, Turkey Country Case Study, Aydagul Batuhan 2007, at p.19, available at <http://unesdoc.unesco.org/images/0015/001555/155505e.pdf>. (last accessed April 2008)

¹⁰⁴ *Ibid.*, at p.20.

¹⁰⁵ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.31, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

¹⁰⁶ *Ibid.*

used in the distributed questionnaire was not understood well by ordinary people.¹⁰⁷

Thus, the background research identified a number of problems affecting Kurdish children's access to education in Turkey. In this context, it was unclear what impact initiatives such as the CCT were actually having on the ground. At the same time, it was in general difficult to ascertain from desk research information specific to Kurdish children and up-to-date information concerning any improvements or regression that may have occurred in recent years.

c) Fact-Finding Mission

Diyarbakır:

Mr Özdoğan, Chairman of Göc-Der, stated that a particular problem facing children of IDPs is a the lack of an education culture within this community.¹⁰⁸ Many people coming from the villages were illiterate and did not place great emphasis on access to education. Illiteracy remains a major problem in Turkey, particularly amongst women.

At the same time, however, education problems do not only pertain to IDPs in Diyarbakır. The mission also met with Mr Karahan, Chairman of the Diyarbakır branch of the Egitem-Sen teachers' trade union, who provided the following data on rates of illiteracy amongst women in different regions of Turkey:

Table F: The Percentage of Illiterate Women According Region¹⁰⁹

Regions	Percentage of illiterate women within regions women population	Percentage of illiterate women within the regions illiterate population
South-east of Anatolia	44.6	76.8
East Anatolia	37	81.7
Black Sea Region	25.4	79.6

¹⁰⁷ Emin Yasar Demirci, *The Places of the Displaced*, July-August 2006, p.16-17.

¹⁰⁸ FFM interview with Mr Dursun Özdoğan, Chairman, Göc-Der Diyarbakır Branch, 21 June 2008, Diyarbakır.

¹⁰⁹ Data supplied by Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır. The information was reportedly gathered by Egitem-Sen members.

Central Anatolia	17.2	80
Aegean	19.7	80
Marmara	12.5	81.8
Mediterranean	20.9	81

These figures suggest a marked regional disparity in relation to illiteracy, with average illiteracy rates significantly higher in eastern and south-eastern Anatolia than in other parts of Turkey. Mr Karahan elaborated that higher levels of illiteracy amongst women in the south-east and east impacts upon their children, not only because educational attainment is less valued in such households, but also because mothers are unable to help children with their schoolwork.¹¹⁰ Mr Karahan further informed the mission that despite various five-year improvement plans the government has introduced regarding improving access to pre-school education, Turkey still has markedly lower access rates in comparison to other states. In this respect, he provided the mission with the following figures dating back to 1996¹¹¹:

Table G: Percentage of schooling according to sex in pre-school education

Country	Female	Male
Armenia	31.1	19.6
Iran	10.5	10.5
Italy	94.3	95.4
Greece	64.4	63.4
Turkey	7.3	7.9

Source: UNESCO, Institute of Statistics. Data of year 1996

While these figures are clearly dated, Mr Karahan informed the mission that a study undertaken by his organisation in 2003 in fact displayed a further decrease in the percentage of children who receive pre-school education, bringing the figure down to 6.7 per cent for girls and 7.1 per cent for boys. A reason identified for this was the fact that the majority of pre-schools are

¹¹⁰ FFM interview with Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır.

¹¹¹ Data provided by Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır.

private institutions and are therefore quite expensive.¹¹² It was stated that as a consequence, less children in the south-east and east are able to access pre-school education. Further, within the children that do access pre-school education in these regions there is a marked disparity between the genders, with girls less likely to be sent to pre-school.

Mr Karahan also provided information regarding access to primary education, including the following data¹¹³:

Table H: Ratio of Primary Education (2003)

Ratio of Schooling in Primary Education	Net Schooling Ratio	Gross Schooling Ratio		Gross Schooling Ratio			Gender Ratio
		Female	Total	Male	Female	Total	
Settling Area							
Urban	91.5	89.2	90.3	100.4	94.3	97.03	0.94
Rural	88.8	82.8	85.9	100.4	88.0	94.5	0.88
Region							
West	93.9	93.5	93.7	102.8	98.0	100.3	0.95
South	91.7	90.0	90.8	99.3	94.8	97.1	0.95
Central Anatolia	91.2	90.7	91.0	99.8	96.6	98.1	0.97
North	93.3	90.4	91.9	101.5	96.6	99.1	0.95
East	84.8	73.0	79.1	98.4	78.5	88.8	0.80

As well as providing clear evidence of gender disparities in the ratios of students accessing education, these figures also clearly reflect the regional disparities that exist in accessing education. Mr Karahan stated that such disparities arise due to economic reasons, since poverty prevents families in the south-east and particularly in the east from being able to afford for their

¹¹² FFM interview with Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır.

¹¹³ *Ibid.*

children to attend school. Mr Karahan also informed the mission that in 2004 33 per cent of students who graduated from primary school did not enrol in secondary education, and that this disproportionately applies to girls and children in the east and south-east. Due to economic problems in the east and south-east, many children end up working on the streets and this greatly hinders their ability to access education.¹¹⁴

Many interviewees identified the exclusive use of Turkish in the school system as a further common problem that affects all Kurdish children's access to education. Mr Karahan informed the mission that his trade union, Egitem-Sen, had been forced to remove from their constitution provisions stating that their aim was to have education provided in children's mother tongue. These provisions were apparently removed after the organisation was threatened with court cases and closure, although it was stated that they might be reintroduced in the future.¹¹⁵ The immediate result of the removal was that, to the mission's knowledge, there was currently no organisation actively advocating for the provision of education in Kurdish in the region. The threats from the Turkish authorities appeared to have silenced this issue to the serious ongoing detriment of Kurdish children. The Bağlar Mayor Yurdusev Ozsokmenler stated that their inability to access education in their mother tongue language of Kurdish acts as a particular barrier to learning in the first few fundamental years of education, which then has an ongoing detrimental impact throughout the child's education.¹¹⁶

In relation to the World Bank-backed Conditional Cash Transfer scheme, Mayor Yurdusev informed the mission that the fact that the governor's office is responsible for distributing funds has a politicising effect. Additionally, the Mayor noted that while such schemes help in the short-run, what is required in the long term is the improvement of the overall education infrastructure.¹¹⁷

In terms of steps being taken to address the educational problems identified in Diyarbakır, the mission was told about a youth social centre run by the Bağlar municipality.¹¹⁸ The centre was operated by five professional teachers paid by the municipality, in addition to a number of volunteers. The project coordinator of the Bağlar Municipality services related that the teachers had a good connection with the children, but that the centre suffered from insufficient resources in the face of high levels of demand.¹¹⁹ Rather than educational support, the services provided focus on artistic expression.

¹¹⁴ FFM interview with Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır.

¹¹⁵ *Ibid.*

¹¹⁶ FFM interview with Mrs Yurdusev Ozsokmenler, Mayor, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

¹¹⁷ *Ibid.*

¹¹⁸ FFM interview with Ms Özlem Yasak., Project Coordinator, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

¹¹⁹ *Ibid.*

Examples of the kinds of activities available included photography exhibitions, workshops in theatre, drama and dance, and a project for children to produce their own short film.¹²⁰

The mission also met with Mr Tusay, the head of the Social Services Unit at the Diyarbakır Metropolitan Social Services Directorate, who stated that one of the main focuses of the Directorate's agenda is to support access to education.¹²¹ The municipality has established an educational camp north of Diyarbakır where 1,000 children are taken a year. Further, they provide books and collaborate with local NGOs to identify those children who are in need of services. Mr Tusay invited the mission to visit one of the municipality's three laundry houses. This facility provided a pre-school for a small number of children and a workshop room that was used for helping children with their schoolwork, as well as courses on issues such as family planning. Mr Tusay indicated that at first it was difficult to encourage the local community to make use of the laundry house due to cultural attitudes, particularly in relation to women making use of the educational facilities.¹²² Although it was suggested that this had been overcome, the mission noted that there were few people present at the centre on the day of the visit, other than the staff and pre-school children. At the same time, since the mission was conducted during the school holidays, it was difficult to assess the numbers of children accessing this centre. In addition to the laundry house, the mission also visited an impressive new municipality development, which includes separate areas for women, children and the disabled, and buildings for NGOs to use, as well as a library and other resources.

Notwithstanding such initiatives, Mr Tusay noted that the municipality faces a lack of real political power and a lack of resources, particularly in comparison to the governor's office. The municipality is therefore apparently unable to complete all the projects that they wish to, particularly as some were reportedly prevented from going ahead as a result of a lack of necessary permission from government agencies.¹²³

In addition to the fact that the municipality authorities acknowledged that their services were limited as a result of a lack of political power and resources, the mission also noted a number of other recurring themes with regard to the work of the municipalities in Diyarbakır. The projects available tended to have an artistic or cultural expression as their core aim rather than focusing on supporting children's educational progression. While

¹²⁰ FFM interview with Ms Özlem Yasak., Project Coordinator, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

¹²¹ FFM interview with Mr Fatih Sultan Mehmet Tuşay, Head of Social Services Unit, Diyarbakır Metropolitan Municipality Social Services Directorate, 20 June 2008.

¹²² *Ibid.*

¹²³ FFM interview with Mr Fatih Sultan Mehmet Tuşay, Head of Social Services Unit, Diyarbakır Metropolitan Municipality Social Services Directorate, 20 June 2008.

opportunities for self-expression are necessary, the mission observed that these could be more effectively integrated with educational projects. Of even greater concern, in the view of the mission, was the fact that there were no reports of the central government undertaking initiatives to remedy the educational difficulties face by Kurdish children in Diyarbakır.

Cizre:

The mission observed that there was considerable concern regarding the quality of education on offer in local schools in the Cizre area. In an interview with members of the Bar Association in Cizre, the mission was informed that the major problem is the fact that teachers do not want to be posted there. The majority of teachers who come to the area are newly qualified and only stay for a short period in order to gain experience.¹²⁴ Further, the Deputy Mayor informed the mission that teachers who have only completed high school and no form of further education sometimes teach children in primary school.¹²⁵ Such problems are compounded by the fact that class sizes are large. In addition, the mission was informed that the education received by children in the area is undermined by the fact that parents cannot afford to buy items such as books and pens, which are not provided free of charge.¹²⁶

Children in Cizre, as with all Kurdish children in Turkey, face the problem of not being able to access education in their mother tongue. The mission was informed that teachers never communicate with children in Kurdish, even if they are unable to understand the Turkish instructions, and that this often leads to children refusing to speak Kurdish at all. The mission observed that in light of the language issue, all Kurdish children in areas like Cizre will be at a distinct disadvantage that will place them possibly years behind their peers. Without targeted remedial classes, this disadvantage can clearly have a detrimental impact throughout their education, including in relation to their ability to undertake study at university level.¹²⁷

In addition to the language issue, the mission was informed by Ms Elai that both children and parents resent the fact that every morning at the start of the school day, all children across the country have to swear an oath to Turkey. If one of the younger children in particular makes a mistake then the whole reportedly school has to start the oath again. Quite apart from political objections to this practice, it was observed that it is unacceptable for school

¹²⁴ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nîrîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

¹²⁵ FFM interview with Mr Ahmet Dalmis, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

¹²⁶ *Ibid.*

¹²⁷ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nîrîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

time to be eaten away in this manner.¹²⁸ In terms of the nationalistic and political nature of lessons themselves, the mission was informed that children in pre-school are taught poetry praising Atatürk.¹²⁹ Interviewees asserted that rather than providing quality education, pre-schools are used as a tool for teaching the Turkish language and promoting assimilation.

İstanbul:

In Istanbul the mission met with Mr Mehmet from the Mesopotamia Culture Centre, who noted that public schools in the city provide teaching for just half the day, with only private schools providing for full-day attendance. Although Turkish and Kurdish children attend the same schools, Mr Mehmet noted that the quality of education and facilities differs between districts and that districts with large populations of Kurds, and especially those with a high proportion of IDPs, tend to have lower standards.¹³⁰

Mr Mehmet informed the mission about activities run by the Mesopotamia Culture Centre with the aim of helping children from IDP communities in Istanbul to retain their mother tongue language and to express themselves through the arts. The centre provides courses on theatre, dancing and musical instruments, all of which are taught in Turkish. Some children attend courses four days a week. While the courses are provided free of charge, musical instruments must be brought, although the Foundation was said to try to buy instruments in cases where families cannot afford them. The main difficulty facing the Foundation was said to be obtaining funding. While they organise events such as concerts to raise funds, in recent years these have apparently come up against increasing obstacles. Mr Mehmet stated that up until 2002 the state forces attacked the centre physically. After that time, new methods have been used to try to block the Foundation's activities, including refusing permission to use venues that have been used in the past.¹³¹

The mission also met with staff from the Başak Culture and Art Foundation, which supports children in local IDP communities. Mission members were informed that 105 children now regularly attend the centre, which provides classes in art, music, computing and English. The organisation has also set up exchanges whereby children are able to travel overseas to take part in musical performances. Staff at the organisation offered mission members a number of positive examples concerning girls who were previously stuck in the home

¹²⁸ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nörirevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

¹²⁹ *Ibid.*

¹³⁰ Interview with Mr Mehmet, Staff Member, Mesopotamia Culture Centre, 24 June 2008, İstanbul.

¹³¹ *Ibid.*

but who are now taking a more active role in society.¹³² Again, the greatest difficulty faced by the Foundation is obtaining funding.

As was the case in Diyarbakır, mission members observed that both of the centres visited in Istanbul focused their efforts on art, drama and music with a view to keeping alive Kurdish culture. Although this is clearly a worthwhile endeavour, the centres did not appear to be targeting children's educational difficulties, particularly those stemming from the fact that education is provided exclusively in Turkish.¹³³

The mission initially believed that this latter gap might be filled by a centre run by the İstanbul Bilgi University Centre for Migration Research. Set up and run by Bilgi University, the centre is led by Ms Neşe Erdilek, who has produced numerous reports on migration and clearly has a wealth of knowledge on the subject. In an interview with mission members, Ms Erdilek noted a range of problems affecting the education of displaced children in Istanbul, including large class sizes (minimum 40 or 50 pupils) and families who are often themselves illiterate. Ms Erdilek informed mission members that the centre works in districts that are heavily populated by Kurdish migrants, providing after-school support for children's education. This includes help with schoolwork and English-teaching provided by foreign students. Further, the centre produces a magazine made up of work by the children themselves. However, the mission was very disappointed to learn that none of the volunteers at the centre communicate with the children in Kurdish, as this was not deemed to be necessary to reach out to them and offer support. Yet, the mission observed that the inability to use Kurdish not only hampered Kurdish children's access to education but also denied them their cultural rights. Thus, it would appear that there is a great need for services to be provided to Kurdish children in order to support their ability to access education and to maintain their mother tongue language.¹³⁴

d) Conclusion and Recommendations

The mission observed that a common theme across all of the regions visited was that services provided through centres operated by NGOs, municipalities and private institutions tended to focus on the provision of artistic courses that were designed to enable children to express themselves. In many cases, educational support was not provided. Where education support was provided, it did not seek to address one of the main disadvantages faced by Kurdish children in accessing education – that is, the fact that schooling is not provided in their mother tongue of Kurdish. In general, the support children

¹³² FFM interview with Mrs Şahhanım Kanat, Head of Başak Culture and Art Foundation, 24 June 2008, İstanbul.

¹³³ *Ibid.*

¹³⁴ FFM interview with Ms Neşe Erdilek, Administrative Coordinator Centre for Migration Research, İstanbul Bilgi University, İstanbul.

receive in dealing with this particular disadvantage is either limited or more likely non-existent. The mission acknowledges that it is important to preserve children's Kurdish identity through maintaining specific aspects of its cultural manifestations. Similarly it is important that Kurdish children are afforded opportunities to express themselves through artistic means. However, it is vital that these services are used to complement courses and other means of support aimed at enabling Kurdish children to effectively pursue their education. In the view of the mission, this gap in support should be filled by services being provided by central government as it is clearly not possible for the municipalities and NGOs to fill the gap.

It is vital to note that restructuring the current education governance system in Turkey is an essential component that is currently missing from ongoing reform efforts. Such a restructuring will have to ensure an appropriate level of decentralization, an improved capacity of school administration and an effective policy and performance monitoring system in the provinces and in Ankara. A new system must be based on the principles of strongly increasing transparency, accountability and local participation.¹³⁵ It is also essential to ensure that all teachers are competent. Thus, it is necessary for the status and capacity of teachers to be improved, and for both professional and financial incentive systems to be adopted in order to improve performance and to encourage teachers to work in disadvantaged areas. Similarly, better-qualified individuals must be attracted into the teaching profession and teachers must receive adequate training through pre-service teacher training programmes. Intensified efforts for in-service training of teachers are also essential, particularly in order to promote successful implementation of the child-centred approach in the classroom and the integrated classroom approach for students with special needs.¹³⁶ In the view of the mission, with regard to the specific needs of Kurdish children, it is essential that education should be provided in their mother tongue language. Until this step is taken, Kurdish children will remain at a constant disadvantage. The EU must place sufficient emphasis on concerns regarding educational provision for Kurdish children in the context of accession negotiations, in order to encourage Turkey to meet its international obligations.

¹³⁵ UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' p.43, http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf (last accessed April 2008).

¹³⁶ *Ibid.*, at p.50.

6. STREET CHILDREN & CHILD LABOUR

a) International Obligations

Turkey has ratified all of the ILO conventions, including those that focus on child labour. Turkey has also signed the Protocols of the Convention on the Rights of the Child that address the trafficking of children, child pornography and child prostitution.¹³⁷

b) Desk-based Research

The information gathered from desk-based research on street children and child labour tended to make unclear distinctions between these concepts, or to use only one of them to describe all of the types of work undertaken by children in Turkey. For the purposes of this report it is vital to underline that child labour is used to describe children undertaking work in, for example, the textile or industrial industries. It is also used to cover children undertaking domestic work or seasonal agricultural work. Street children, on the other hand, are those who work on the streets selling items such as pens and water bottles. If the children in question also sleep on the streets, this will be made clear. In respect to both child labour and street children it was very difficult to obtain up-to-date information on the numbers of children involved, and information obtained from different sources often contradicted each other.

Child labour remains a key area of concern in Turkey despite the extensive international legislation ratified by the country. The actual situation remains slightly ambiguous as NGO estimates of the number of children working differ significantly from that of the Turkish authorities. Reports acknowledge that domestic legislation has been introduced, with provisions intended to protect children from exploitation in the workplace. Turkish law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than eight hours a day. At age 15 children may engage in light work, providing that they remain in school. The law prohibits children attending school from working more than two hours per day or ten hours per week. Children who work on the streets are not specifically covered in the above legislation. However, Article 50 of the Turkish Constitution states that, 'No one shall be required to perform work unsuited to his age, gender or capacity.' The same Article also provides for special protection with regard to working conditions for minors, as well as women and persons with physical or mental disabilities.

¹³⁷ H.E. Hasan Gemici, Minister of State of the Republic of Turkey, Statement on the Occasion of the Special Session of the General Assembly on Children, New York, 9 May 2002.

In practice, however, it has been observed that the Turkish government does not effectively implement these laws.¹³⁸ The US 2006 and 2007 Country Reports stated that there was a disparity in enforcement by the Ministry of Labour and Social Security of these employment restrictions in different sectors of the economy.¹³⁹ The restrictions were effectively enforced in workplaces that were subject to labour law, including medium- and large-scale industrial and service sector enterprises. However, a number of sectors are excluded from the laws' coverage. Such sectors include small-scale agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses and small shops employing up to three persons. It was noted that small enterprises have typically preferred to use child labour because it is cheap and because it provides practical training for the children, who subsequently had preference for future employment in the enterprise. Both Country Reports noted that child labour remained widespread. The 2007 report noted a child labour survey conducted in the last quarter of 2006 and released in April, as a result of which the State Statistical Institute reported that the number of child labourers between the ages of six and 17 was 960,000, or 5.9 per cent of a total of 16,264,000 in that age group. According to the 2006 survey, 40.9 percent of child labour occurred in the agricultural sector, with a total of 52.4 percent of employed children working in rural areas, compared to 47.6 percent working in urban areas.¹⁴⁰ Both country reports noted that some observers claim there are no reliable statistics in this field, and that there are divergent claims as to whether or not the actual number of working children was rising.¹⁴¹ Due to the vulnerability of Kurdish children, particularly those who have been internally displaced, it is probable that these groups are amongst the worst affected.

According to data collected by the Human Rights Association of Turkey (HRA) in 2003, 43.4 per cent of displaced children have cut all formal ties with the schooling system and have gone to work in very poor conditions. A lot of children were said to have ended up working in textile shops, in the construction sector, as shoe shiners or street sellers.¹⁴² A separate 2006 research survey conducted in Van province suggested that there are high

¹³⁸ US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey', <http://www.state.gov/g/drl/rls/hrrpt/2006/78844.htm>, (last accessed September 2008). Also 'Country Reports on Human Rights Practices, 2007: Turkey,' <http://www.state.gov/g/drl/rls/hrrpt/2007/100589.htm>, (last accessed September 2008).

¹³⁹ *Ibid.*

¹⁴⁰ US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey,' <http://www.state.gov/g/drl/rls/hrrpt/2007/100589.htm>, (last accessed September 2008).

¹⁴¹ *Ibid.*

¹⁴² Human Rights Association of Turkey (HRA) and the World Organisation Against Torture (OMCT), May 2003, *House Demolitions and Forced Evictions Perpetrated by the Turkish Security Forces: A Form of Cruel, Inhuman or Degrading Treatment or Punishment Against the Kurdish Population*, Notes presented to the Committee against Torture (CAT) by OMCT and HRA.

rates of child labour in areas where IDPs live.¹⁴³ Child labour in the city was observed to have negatively impacted on schooling rates, while it was said to cause high levels of absenteeism during peak seasons of work in rural villages. The results of the 2006 survey are displayed in the table below:

Table I: Child Labour survey in Van Province¹⁴⁴

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	None	376	64,7	70,0	70,0
	One child	99	17,0	18,4	88,5
	Two children	47	8,1	8,8	97,2
	Three children	7	1,2	1,3	98,5
	Four children and more	8	1,4	1,5	100,0
	Total	537	92,4	100,0	
	Unanswered	44	7,6		
Total	44	7,6			
Total		581	100,0		

According to this study, 30 per cent of the households surveyed used child labour as a survival strategy.¹⁴⁵ However, the authors cautioned that the figure is higher in reality, since some households who did in fact rely on child labour told researchers that they did not, because of cultural attitudes about what constitutes child labour. In particular, activities undertaken by teenage girls, such as babysitting and cleaning, both within and outside the household, were not recognized as child labour.¹⁴⁶ The US Country Report supports these findings insofar as it states that girls were rarely seen working in public, but that many were kept out of school to work in handicrafts, particularly in rural areas.¹⁴⁷ The authors of the Van study argue that this shows that poverty is not the sole reason for the perpetuation of child labour. They argued that it is in part also due to the replication of rural traditions and cultural values, which expected children to undertake household labour, in urban living.¹⁴⁸

Regarding street children in Turkey, in 2001 the Committee on the Rights of the Child stated, 'While noting that a number of centres have been established, with the collaboration of non-governmental organisations, to

¹⁴³ Emin Yaşar Demirci, *The Place of the Displaced: choices and preferences of internally displaced persons in Van*, August 2006.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey,' <http://www.state.gov/g/drl/rls/hrrpt/2007/100589.htm>, (last accessed September 2008).

¹⁴⁸ Emin Yaşar Demirci, *The Place of the Displaced: choices and preferences of internally displaced persons in Van*, August 2006.

provide counselling, training and rehabilitation services for children living in the streets, the Committee nevertheless expresses its concern at the significant number of such children and notes that assistance is generally only provided to them by non-governmental organisations.¹⁴⁹ It would appear that in the years since the Committee reached this conclusion in 2001, the numbers of street children in Turkey has increased further, despite the claim by Turkish authorities that they have opened a small number of new centres.¹⁵⁰ Children without parents and children living and/or working in the streets are legally defined as 'children in need of protection'. Such children are the responsibility of the General Directorate of Social Services and Child Protection (SHCEK). In 2001 there were 76 child centres and 97 dormitories available to such children. However, the US 2006 Country Report noted that this institution operated 44 centres to assist such children.¹⁵¹ This appears to suggest a decrease in the services available to street children, despite the Turkish government's recognition of children working in the streets as one of the worst forms of child labour.¹⁵²

Yusuf Kulca, President of the Unut (Hope) Children's Association that was founded to assist children and young people on the streets to reintegrate back into society, has highlighted the importance of providing shelter for street children, stating:

Children and young people living on the streets need somewhere to stay at night, and this needs to be provided by the municipalities. In Istanbul, at least 10 night shelters need to be founded. Istanbul's 32 district municipalities need to come together and collaborate on a common project. They have not done anything on this issue yet, but the problem could be solved within a year if there were a project under the coordination of the Greater Istanbul Municipality.¹⁵³

It has been noted that rural to urban migration has led to a substantial increase in the number of street children. Furthermore, 98 per cent of street children are said to have been internally displaced, mostly from the south-eastern regions. 35 per cent of children living/working in the streets do not have identity cards, which affects their ability to access certain social benefits. This also indicates that they were most likely displaced from the rural Kurdish communities. In the same interview Kulca also noted that people

¹⁴⁹ Committee on the Rights of the Child, Twenty seventh session, Consideration of Reports Submitted by State Parties Under Article 44 of the Convention, *Concluding Observations of the Committee on the Rights of the Child: Turkey*, 9 July, 2001.

¹⁵⁰ UNICEF, 'Making a Difference for Children: Street Children,' <http://www.unicef.org/turkey/dn/cp8.html> (accessed April 2008).

¹⁵¹ US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey,' <http://www.state.gov/g/drl/rls/hrrpt/2007/100589.htm>, (last accessed September 2008). Also 'Country Reports on Human Rights Practices, 2006: Turkey', <http://www.state.gov/g/drl/rls/hrrpt/2006/78844.htm>, (last accessed September 2008).

¹⁵² *Ibid.*

¹⁵³ Býa news centre, 'Solve the Problem of Street Children', 16 January 2008.

generally assumed that it was families that migrated into the cities. However, that the reality is that 14 to 15-year-olds are migrating to big cities alone in an attempt to support their families at home. They are living in homes designed for single people, often living in three-room flats with 25 or more people crowded in together. Moreover, he warned that such migration can lead to population explosions and safety problems on the streets.¹⁵⁴

This proposition is supported by research conducted by the ILO in the past into the nature and conditions of children living/working on the streets of Diyarbakır, Adana, and Istanbul. While this report does not make distinctions in its findings between children of different ethnicities, in all three cities, over 88 per cent of street children were found to be male, ranging in age from seven to seventeen. The ILO study concluded that the explanation for the disproportionately large number of male street children was, in part that 'stemming also from the agrarian economic structure, recent migrant families tend to attach more economic than psychological value to their children.'¹⁵⁵ Traditionally, sons are in charge of the family property, bear the family surname and provide for older members of the family. Boys therefore migrate to big cities in an attempt to fulfil their traditional provider role.

This report also found that the majority of children who work on the street either used to attend school or continue to do so. In fact only 13 per cent of the research group had never attended school.¹⁵⁶ In contrast, the *Turkish Daily News* noted that 40.7 per cent of internally displaced children who live and work on the streets do not go to school.¹⁵⁷ As Professor Kulca has argued, it is this removal of children from the education system that presents the major problem. Street children face a huge amount of prejudice from the rest of society. This is mainly due to the negative coverage of street children in the press, which leads to an attitude that the focus should be on protecting others from street children rather than helping them.¹⁵⁸

Research indicates that a majority of children who work on the streets actually return home to their parents, who usually reside in the slums. However, there are groups of older gangs of children who sleep in the streets, are involved in theft and drug use and are generally feared by the younger children. Most children who live/work on the streets are engaged in activities such as selling lottery tickets, selling stationery, cleaning windshields, working in graveyards, selling books, and flowers. There are, however, those that become involved with more dangerous occupations such as theft or scavenging (garbage picking). There seems to be a natural progression from selling to scavenging, due mostly to the substantial increase in profitability.

¹⁵⁴ Býa news centre, 'Solve the Problem of Street Children', 16 January 2008.

¹⁵⁵ ILO, *Street Children*, 2001.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Turkish Daily News*, 7 August 2001.

¹⁵⁸ Býa news centre, 'Solve the Problem of Street Children', 16 January 2008.

Public health experts believe that children who are working/living in the dumps are exposed to a wide range of high-risk disease.¹⁵⁹ Though there are a few centres, they are considerably understaffed, including a particular lack of psychiatrists.

The situation of street children in Diyarbakır and Gaziantep has recently been investigated and reported upon by an investigating commission for the Turkish Parliament. Due to the fact that the vast majority of the population in these areas are Kurdish these figures have clearer implications for Kurdish children in particular. This report revealed that 96.5 per cent of the mothers of these children and 54 per cent of their fathers did not know how to read or write. In addition, the report found that 94 per cent of the mothers and 57.5 per cent of the fathers were unemployed, that 73 per cent of the families lived in shanty accommodation, that 78 per cent of the families of street children needed the income of the children, and that 41.5 per cent said that they would force their children to work even if they did not want to. Half of the parents also said that a child deserves to be beaten if he spends the money he has earned without the permission of the parents.¹⁶⁰

It appeared from the report that children who live or work on the streets do not receive adequate care or nutrition. Most of the children interviewed did not have a balanced diet and skipped meals. Scavenger children received the lowest nutrition, frequently sustaining themselves from scraps of food found in the garbage dump. Furthermore, 72 per cent of the children interviewed experience considerable fatigue, due in part to long hours of standing, heavy carrying, extensive walking, and enduring extreme weather conditions. Children working/living in the streets were also found to suffer from psychological fatigue, resulting from the constant fear, anxiety and insecurity associated with their working conditions.¹⁶¹

However, from the background research it was difficult to obtain a clear picture of the extent of the problems of child labour and street children, and which of these categories of work undertaken by children affects Kurdish children the most in different regions of the country. In addition, due to the fact that organisations such as the ILO do not distinguish between Kurdish and non-Kurdish children it was difficult to establish the extent to which Kurdish children are affected by these issues and the reasons for it. Furthermore, it was difficult to obtain clear information regarding the provision of services aimed at helping children engaging in child labour or

¹⁵⁹ ILO, *Street Children*, 2001.

¹⁶⁰ F. Sahin and U. Beyazova, Gazi University Faculty of Medicine, Department of Social Pediatrics, Co-Directors of Gazi University Child Protection Center, Ankara, Turkey, 'Child Protection Systems in Turkey' (to be published in 2008). The authors cite www.shcek.gov.tr/hizmetler/Sokakta_Yasayan_Calisan_Cocuklar/ (last accessed March 2008).

¹⁶¹ *Ibid.*

working on the streets. One of the main aims of the FFM was to obtain this information.

c) Fact-Finding Mission

During the course of the fact-finding mission it became clear that it is difficult to make a clear distinction between the concepts of street children and child labour in practice in Turkey, as reflected in the reports discussed above. Different interviewees had different understandings of what 'street children' meant, with some using the term to cover those who only worked on the streets, others also using it to refer to those who worked in seasonal labour or in factories, and others also including those who were living on the streets. In this report, 'street children' will be used to refer to those working on the streets unless stated otherwise.

Diyarbakır:

Mr Erbey of İHD stressed the fact that since the mid-1990s, as the number of IDPs increased so did the number of children working on the streets, thus emphasising a link between forced migration and children working on the streets. However, he also observed that children in Diyarbakır generally spend most of their time in the streets because their houses are small, and that they also go to garbage sites to look for things to sell.¹⁶² The mission, during its time in Diyarbakır saw a large number of children selling a variety of things including pens, handkerchiefs, water and the use of weighing scales. It also observed that it is very difficult in Diyarbakır to make a distinction between those who are from IDP and non-IDP families. Rather, the link between displacement and the levels of street children relates to the fact that IDPs have a higher tendency to be living in poverty, which leads to children working on the streets.

This observation is supported by the information obtained by the mission on the work of CACA. Ms Durmaz of CACA informed the mission that the two centres run by the association are open to all children at risk. She added, however, that an estimated 30 per cent of the children they work with are working on the streets.¹⁶³ Mr Sarikaya and the other interviewees present made it clear that although they engage in preventative work, as well as working with families whose children are working on the streets in order to stop this occurring, they did not specifically categorise the children as being

¹⁶² FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

¹⁶³ FFM interview with Ms Sabahat Durmaz, Project Coordinator, Emin Sarikaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), CACA (Children Under the Same Roof Association), 21 June 2008, Diyarbakır.

in need of special care on the grounds that they were street children.¹⁶⁴ The mission was informed that the area in which the centres operate, Ben ū Sur, has a significant number of IDPs residing within it. Although in general everyone residing in the area is experiencing trauma due to the political and social situation of the Kurds, IDPs are particularly vulnerable to living in poverty.¹⁶⁵ Thus, the centres work with all IDPs and the rest of the population in the area because they all have special needs deriving from the conditions of poverty within which they are living.

Further, during the course of the interview with CACA it became clear that their definition of street children did not apply singularly to those children who work on the streets. Within this category they included those working in a factory or restaurant, for example, and seasonal agricultural workers who go with their parents to work elsewhere. It also included those children, mostly girls, who are used at home for domestic work. Mr Sarikaya related to the mission that these forms of child labour are not viewed as a problem by the general population as they are either culturally acceptable or are seen as beneficial to the children. The centres, the mission was informed, do try to discourage this view.¹⁶⁶

However, it appears that regarding other actors the focus is primarily on street children in the sense of those who are working on the streets. Firstly, the mission met with Mr Gzzer, the Street Children Project Coordinator of the Bağlar Municipality. Mr Gzzer related to the mission that the municipality's street children project aims to encourage street children to attend school, since they are aware that street children usually stop attending over time. They get in touch with the schools and have psychologists profile the children to determine their needs. Further, they have field workers who go out onto the streets. The focus of the services, however, appeared to be the provision of workshops in theatre, drama, chess and computing. There appeared to be no services targeted at supporting the child's ability to access education, such as help with homework. Regarding the children's parents, courses were provided on the risks that children face working on the streets. However, the problem that the municipality faces is one of resources. The project was initiated in January 2008 and is foreseen to continue for 12 months and beyond if the municipality can obtain the necessary funding from outside sources. This issue of funding, a recurrent theme regarding the activities of the municipalities, reflects the fact that in the Turkish political structure the municipalities have very little actual power and a small budget. This led to the missions' observation that the municipalities in Diyarbakır in general

¹⁶⁴ FFM interview with Ms Sabahat Durmaz, Project Coordinator, Emin Sarikaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), CACA (Children Under the Same Roof Association), 21 June 2008, Diyarbakır.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

appeared to have the will to effect changes in the social conditions of the local population, but that they were limited in what they could achieve.¹⁶⁷

Mr Erbey observed that children working on the streets were invisible to the authorities until they became hungry and started stealing.¹⁶⁸ Increasing reports of bag snatching, in particular, had raised considerable concern in the media and amongst the public. This, he said, had raised awareness of the issue in terms of the supposed 'dangers' posed by the children, rather than in terms of the dangers that they themselves face. In particular, Mr Erbey emphasised to the mission that a number of street children engage in forms of glue sniffing, and that these children are thus viewed as a problem that needs to be dealt with.

The mission briefly visited the 75th Anniversary Children and Youth Centre before meeting with Taş Social Services Province Director Mr Oktay and other members of staff at the governor's office to discuss the provision of services for children by this government agency.¹⁶⁹ The aforementioned centre was reported to have been opened in 1999 to provide services for street children.¹⁷⁰ The mission was told that services were provided not only for children but for their families as well. The services provided were said to include social activities, workshops, vocational training, family counselling and education support.¹⁷¹ It was stated that since the centre was opened it had reached 6,000 children, of which 1,000 were in the rehabilitation process and 600 had completed this process.¹⁷² The mission was also told of a Commission for Children organised by the governor's office that involved meetings with representatives of NGOs and the municipalities to discuss and decide possible approaches to the issue, and which had been operating for five months.¹⁷³ It was also related that there is a campaign planned for September on children's rights and street children.¹⁷⁴

However, the main focus of their services regarding street children appeared to revolve around three mobile teams that operate 24 hours a day.¹⁷⁵ These teams were said to be made up of expert psychologists and social workers who go out into the field to find children and to motivate them to access

¹⁶⁷ FFM interview with Mr Mehmet Gzzer, Street Children Project Coordinator, Bağlar Municipality, 20 June 2008, Diyarbakır.

¹⁶⁸ FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

¹⁶⁹ FFM interview with Mr Oktay Taş, Social Services Province Director, Mr Ruken Tanaman, Deputy Director and Mr Halef Beren, Director of Schetlik Children and Youth Centre, Diyarbakır Governor Office, 20 June 2007, Diyarbakır.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

services such as drug rehabilitation through the centre.¹⁷⁶ The teams were reported to involve the families in the children's rehabilitation process. They were also said to be used as experts for the provision of social enquiry reports required by children's courts under the Child Protection Law.¹⁷⁷

Although the projects and policies mentioned by the Director sounded like positive initiatives, it became apparent to the mission that they lacked real substance. This was most evident from the discussion surrounding a second centre reported to have been opened recently and to be specifically designed to deal with children involved in drugs and crime. It was stated that new buildings had been acquired and that efforts were underway to improve the facilities available. The services provided through this centre were said to include vocational courses and contact with the child's families. However, when mission members stated that they had an appointment at the centre the following morning, they were told that there was not much point in going as at present the centre consisted of only one room being used as an office by the centre manager.¹⁷⁸

The interviewees from CACA informed the mission that the mobile teams run by the governor's office began operations two years ago. However, they believed that the goal was merely cosmetic, rather than being to tackle the problems that led to the children working on the streets.¹⁷⁹ The interviewees stated that the teams find the children and remove them to police centres in order to contact their families.¹⁸⁰ A circular had apparently been sent around all government offices underlining that it is a criminal offence for children to be working underage. However, rather than any real attempt to tackle the reasons why the children were working in the first place, the result of this was apparently that families were simply being threatened with prosecution if their children were found to be working again. At the children's centre that the mission visited, children are registered as a means of keeping track of whether they return to working on the streets.¹⁸¹ It was the observation of the interviewees at CACA, and the view of the mission as a result of its interview with Mr Taş, that the authorities do not have a long-term strategy aimed at targeting the problems that lead to children working in the street, and that they also do not provide any services aimed at rehabilitating those children, particularly with regard to providing educational support. It appeared that the mobile teams and centres were designed to deal with the street children as problems that had to be removed from the streets, particularly if they were

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ FFM interview with Ms Sabahat Durmaz, Project Coordinator, Emin Sarikaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), CACA (Children Under the Same Roof Association), 21 June 2008, Diyarbakır.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

involved in crime or drug-taking, but that beyond this they received no targeted services in light of their vulnerable status.¹⁸²

Cizre:

The mission was informed by the Deputy Mayor that 50 per cent of children in the area are working in the streets due to the high poverty levels in the region. Although this figure could not be verified, the mission observed during its visit that there was a considerable number of children selling various items on the streets and in the local parks.¹⁸³ The general situation of poverty forces children out onto the streets to work, and children are also increasingly sleeping on the streets.¹⁸⁴ However, the municipality reportedly did not have the funds to support projects for street children and there are no specific NGOs working with such children. It appeared that at present little if anything is being done to stop children working on the streets. In particular, the mission was not informed of any projects that the governor's office or state agencies are running in the area.

İstanbul:

A number of problems facing children living and/or working on the streets in Istanbul were related to the mission during an interview with Ms Yoleri, the Chairwoman of the İHD branch in İstanbul, and other members of her staff.¹⁸⁵ The mission was informed that many such children are the victims of torture or violence either on the streets themselves or after being taken into custody.¹⁸⁶ However, the problem for İHD is that unless the child is taken into custody, whereby they have to be appointed a lawyer, they do not have the opportunity to make a complaint about behaviour that they have been subjected to.¹⁸⁷ The children were said to be victims of sexual molestation as well as physical abuse, and it was also reported that they are deprived of their right to education.¹⁸⁸ It was related that some children do attend school but then have to work on the streets after, which cuts into their study time, whilst some children do not attend school at all.¹⁸⁹ The interviewees stated that many of the children working on the streets are IDPs but that the state authorities are ignoring the source of the problem.¹⁹⁰ Interviewees also stated that in fact the state blames the families, saying that they choose to send the

¹⁸² *Ibid.*

¹⁸³ FFM interview with Mr Ahmet Dalmis, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

¹⁸⁴ *Ibid.*

¹⁸⁵ FFM interview with Ms Gulseren Yoleri, Chairwoman, İHD İstanbul Branch, 24 June 2008, İstanbul.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

children out onto the streets.¹⁹¹ The problem was stated to be that displacement, unemployment, poverty and the resulting social corruption has forced children and families to behave in this manner. Thus, the state should be taking positive steps to alleviate the source of the problem.¹⁹²

It became apparent to the mission that there are two types of street children in Istanbul. Unut (Hope) Association Chairman Professor Kulca informed the mission that the association does not distinguish between Kurdish and non-Kurdish street children.¹⁹³ The distinction made is between those who have to work on the streets because of economic reasons and those children who live on the streets because they have fled, for example, abuse in the home. The majority of the first group was stated to be Kurdish. Similar to the situation in Diyarbakır, many children who work on the streets, for example selling cigarettes and polishing shoes, return home in the evenings to their families. However, regarding the second group, Professor Kulca said that Kurdish children do not make up the majority. Both Kurdish children and children from other ethnic groups end up living on the streets as a result of drugs, child abuse, divorcing parents, crowded housing, and poverty in general. Professor Kulca informed the mission that his organisation mainly focused on the second group of children.¹⁹⁴ It appeared to the mission from the meetings regarding street children in Istanbul that Kurdish children both live and work on the streets, but that IDPs make up the majority of those who work on the streets and then return home.

The mission was told that Professor Kulca's organisation was active in the field doing precautionary work, for example trying to get the children to access education and health services.¹⁹⁵ The organisation was also said to run boarding centres for young people aged 18 to 25.¹⁹⁶ In addition, the mission was given written information about the organisation that outlined a number of project proposals for 2007, including providing a school to offer special education projects.¹⁹⁷ However, the mission was informed that no funding was received for the proposed projects and so none were completed.¹⁹⁸ Similarly, when the mission visited the centres offices their electricity had been cut off. Thus it appeared to the mission that the organisation was struggling to provide any services due to its financial position.

However, Professor Kulca outlined to the mission that what is required is strong and early preventative measures to prevent children ending up on the

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ FFM interview with Professor Yusef Kulca, Chairman, Unut (Hope) Association, 24 June 2008, İstanbul.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

streets.¹⁹⁹ The mission understands this suggestion to involve targeted efforts in communities to eradicate the problems that lead to children ending up on the streets. Thus, it included the need for initiatives such as the provision of education about rights and on the unacceptability of violence in the home. Professor Kulca underscored the point that it is cheaper to engage in such preventative measures than it is to wait until children are on the streets, at which point they will require rehabilitation and services to help them give up drug-taking and to deal with other problems arising from their time on the streets.²⁰⁰ Professor Kulca also argued that controlling the birth rate is an important step, since many families have large numbers of children that they cannot afford to support, and that the state should be providing family planning centres.²⁰¹ Professor Kulca's main argument was that the families of street children must be provided with support and economic opportunities that would prevent children ending up on the streets.²⁰²

The link between displacement and migration and the number of children working on the streets or in child labour was emphasised by Mr Bal, Chairman of Gök-Der, who described it as having a very close relationship.²⁰³ The children involved were described as falling into two groups. Firstly, those engaged in child labour in the textile or industrial sectors. The mission was informed that children as young as 10 or 11 are employed in the textile industry, and that children aged 13 to 16 are employed in the industrial sector.²⁰⁴ The second group are those working on the streets selling various items. Thousands of children are said to do this, and they have to travel into the town centre from the shanty towns at considerable risk to themselves.²⁰⁵ Professor Polat said the problem was the current economic crisis that had led to a number of families from the east and south-east of the country moving to the larger cities in an effort to improve their situation.²⁰⁶ Because they cannot find work and end up living in poverty, he said, many children become involved in crime and gangs.²⁰⁷

Professor Polat stated that the government was taking positive steps, including opening centres, and that the Child Protection Law was good legislation.²⁰⁸ Even though he acknowledged there are problems with its implementation he stated that there was good collaboration between NGOs,

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ FFM interview with Mr İlhan Bal, Chairman, Gök-Der İstanbul Branch, 25 June 2008, İstanbul.

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ FFM interview with Professor Oğuz Polat, Chairman, Street Kids Rehabilitation Association, 24 June 2008, İstanbul.

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

state agencies and other relevant actors on children's issues.²⁰⁹ Further, he stated that he had advised on the development of a one-year preventative programme to start in September 2008, which is to be funded by the EU.²¹⁰ However, when he was asked about the details of this collaboration and preventative programme he could not give any. The mission observed that the Professor seemed extremely reluctant to acknowledge any link between internal displacement and other problems faced by the Kurdish population, and the issue of street children. This was despite his acknowledgement that most of the migrants were coming from the Kurdish regions. The Professor appeared to work closely with state agencies and in the view of the mission this may have affected his attitudes on some issues.²¹¹

d) Conclusion and Recommendations

In the view of the mission the issues of child labour and street children are major problems for Kurdish children in Turkey, as they are disproportionately affected by issues such as poverty and displacement. UNICEF argues that the action required to be taken is as follows:

- Provide a safe environment for street children and equip them with the skills to help them re-integrate into society.
- Advocate for provision of safe and supportive environments for children with different needs such as sexually abused children, those using volatile substances, children working on the streets, runaways and abandoned children for example.
- Support measures which will address the root cause of children living or working on the street.
- Develop partnerships with Government agencies and the private and public sectors in order to mobilise resources and meet the educational and training needs of street children.
- Organise and support training workshops for concerned personnel such as the police, the gendarmerie, social workers, psychologists and so forth.²¹²

However, there is a huge barrier to tackling the root causes of these problems – that is, the Kurdish question. This is exemplified by the denial of the authorities and organisations that work closely with it that there is a clear link between internal displacement and the problems of child labour and street children. Kurdish children in Turkey, due to internal displacement and socio-economic disadvantage, are particularly vulnerable to the possibility of living

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² UNICEF, 'Making a Difference for Children: Street Children,' <http://www.unicef.org/turkey/dn/cp8.html> (last accessed April 2008).

or working on the streets. The suggestions made by UNICEF will not remedy these problems unless this is recognised and steps are taken to target the underlying causes of Kurdish children's involvement in these activities. In particular, it is necessary for state action with regard to street children to not solely revolve around the desire to get them off the streets. This merely results in a never-ending cycle of teams removing children and them returning the next day because the reasons for them being there have not changed. As with many of the issues faced by Kurdish children in Turkey, there is a distinct lack of thorough and accurate statistical information available from government sources to ascertain the extent of the problem. Thus, external organisations should attempt to fill this gap in the information available. Further, it is vital that organisations such as the ILO who work in this field should also consider ethnic differentials in their reporting and work. This would assist in placing the necessary pressure on the Turkish authorities to tackle the sources of the problem that are impacted upon by the ethnicity of the children.

6. DISCRIMINATION

a) Discrimination: Kurdish Names

An important field in which discrimination against Kurds has been keenly felt is the restrictions placed on personal names. Kurdish parents have for many years been unable to even name their children with Kurdish names, being compelled instead to give each child two names, a Turkish name for public use and a Kurdish name for use among family and the local community. Kurdish names were effectively prohibited in the public domain. An individual's name is a highly personal and integral element of his or her identity, and these restrictions accordingly had a deeply detrimental impact on the ability of Kurds to define and express themselves in accordance with their own traditions.²¹³

Although concessions appeared to be made in the Sixth Harmonisation Package, whereby the condition that children may not be given names that are not appropriate to the 'national culture' and Turkish 'customs and traditions' was replaced with one stating that only names which contravene 'moral norms' or that 'offend the public' are prohibited.²¹⁴ However, despite the lifting of these restrictions a Government Circular of 23 May 2002, which remains current, clarifies that names must consist of letters contained in the Turkish alphabet. As such, an effective ban has been seen by local authorities to be in force on the use of names including the letters 'q', 'w', and 'x', (common letters in the Kurdish language), due to these letters not existing in the Turkish alphabet. Courts upheld in 2004 that names including these letters cannot be registered in several applications made during that year. Allegations have also been made following the enactment of the new regulations that authorities have refused to register Kurdish names without the letters 'q', 'w', and 'x', and that children have been assigned alternative names.²¹⁵ The Gaziantep Court has ruled that the use of 'x', 'q', and 'w' could potentially cause civil unrest and political confusion.²¹⁶ Furthermore, the Gendarmerie Commanders and the police are reported to be investigating newborn children who are given Kurdish names.²¹⁷ UNICEF notes that some 25 per cent of all Turkish children are not registered and that the rate is higher in the eastern and south-eastern regions.²¹⁸

²¹³ Yildiz, Kerim, *The European Union and Turkish Accession: Human Rights and the Kurds*, (Pluto Press, 2008), p.75.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ United Nations Commission on Human Rights; Contemporary Lawyers Association; Promotion and Protection of Human Rights, Turkey, Working group of Minorities

²¹⁷ *Ibid.*

²¹⁸ Committee on the Rights of the Child, Twenty seventh session, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, *Concluding Observations of the Committee on the Rights of the Child*, 9 July 2001.

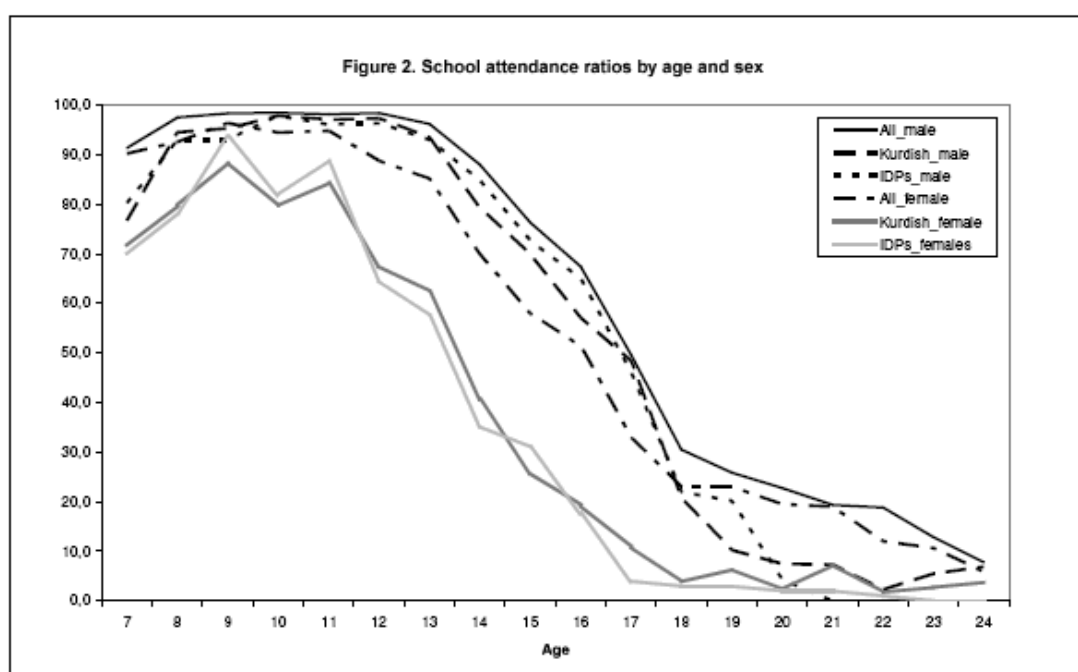
b) Discrimination: Girls

While children in general are recognised as an exceptionally vulnerable segment of society, girls are especially vulnerable in certain societies. In Turkey, girls face a variety of gender-based human rights violations, especially in the poorer regions. Among the most extreme violations are their inability to go to or complete school, physical and sexual violence in the home, often non-consensual early marriage, forced prostitution and other forms of trafficking, and honour killings.

i) Education: Desk-based Research

Kurdish girls are often unable to attend school for a number of reasons, including poverty, cultural expectations and limitations, and a lack of suitable education facilities. According to Ministry of Education figures released in recent years, 95.7 per cent of girls and 100 per cent of boys in the country attended primary school.²¹⁹ However, the following graph and table published in 2005 paint a rather different picture.²²⁰ They clearly display the attendance issues regarding the internally displaced and non-internally displaced children. However, they also clearly show that Kurdish girls are not gaining equal access to educational opportunities with their male Kurdish counterparts, and consistently their attendance ratios are significantly lower than the ratios for the overall population.²²¹

Table I: School Attendance Ratios by Age and Sex



²¹⁹ US DOS, 28 February 2005

²²⁰ Koç and Ünalın, July 2005, pp.13-15

²²¹ *Ibid.*

Table J: Basic Educational Outcomes of Children

Educational outcomes	Turkey	Kurdish	IDPs
Net school attendance ratio (Primary)			
Male	90,6	85,6	86,9
Female	87,0	71,2	70,3
Total	88,8	78,6	78,6
Net school attendance ratio (Secondary)			
Male	53,0	29,1	28,6
Female	46,9	13,3	9,3
Total	50,0	21,6	19,6
Gross school attendance ratio (Primary)			
Male	100,4	99,8	100,8
Female	92,2	76,3	74,2
Total	96,3	88,2	88,5
Gender Disparity Index	0,92	0,77	0,74
Gross school attendance ratio (Secondary)			
Male	80,4	48,7	47,7
Female	63,0	19,6	10,3
Total	71,8	34,9	30,3
Gender Disparity Index	0,78	0,40	0,22
Grade repetition rates			
1	3,1	6,1	7,9
2	1,8	1,1	2,5
3	0,8	1,7	3,5
4	1,4	1,0	2,2
5	0,9	1,6	4,4
Mean years of schooling (age 6+)	5,7	3,6	3,1
Median years of schooling (age 6+)	5,2	3,7	2,5

On any examination of these school attendance ratios by sex, one will quickly discern an alarming trend for female access to education across the board. However, it must equally be noted that the difference in attendance levels is significantly greater within the Kurdish-speaking population, and most particularly for IDPs.²²² Moreover, as Table 9 shows the ratios decline severely in secondary education, especially among females. The disadvantaged picture this paints is also supported by the grade repetition rates and mean or median years of schooling.²²³ Moreover, in 2004 the CEDAW committee expressed deep concern at the high level of illiteracy among women and girls (especially in rural areas), the drop-out rates of girls in schools owing to family practices, the impact on girls of early marriages and the prioritization of boys in school enrolment, and other gender discriminatory practices in education. It found

²²² Koç and Ünalın, July 2005, pp.13-15

²²³ *Ibid.*

that 22.4 per cent of girls and women more than twelve years old are illiterate, compared to 5.9 per cent of boys and men.²²⁴

In an attempt to combat this problem the Ministry of National Education conducted a program in cooperation with the UN Children's Fund called Let Us Send Girls to School, which was designed to provide primary education for at-risk girls. By the end of 2006 the program benefited nearly 250,000 school-age girls.²²⁵ However, it was not possible to obtain information as to whether this project was still proving to be successful. Despite such apparently positive initiatives there is a considerable amount of progress still required to be made. This proposition is supported by the following statement from the EC Accession Progress Report of 2007:

As concerns education, the gender gap in primary education decreased to 4.6% in the 2006-2007 school year from 5% in the 2005-2006 school year. The first phase of the campaign on education for girls conducted by the Ministry of National Education and UNICEF ended. Between 2004 and 2006 a total of 191,879 girls and 114,734 boys were integrated into primary education. A cash transfer scheme reinforced the campaign by providing direct income support to families. Private sector and NGO campaigns aimed at increasing enrolment rates in primary and pre-school education continued.... Girls' enrolment in primary education has increased, but the gap in secondary education remains wide.²²⁶

ii) Education: Fact-Finding Mission

Mr Karahan, Chairman of the Diyarbakır branch of Egitem-Sen, informed the mission that the barriers that exist in the east and south-east to children accessing education, such as poverty, disproportionately affect girls.²²⁷ Mr Karahan provided the mission with the following data:

Table K: Percentage of female and male students in selected regions²²⁸

Regions	Female	Male
Mediterranean	43.1	56.9

²²⁴ Human Rights Watch, *Memorandum to the Turkish Government on Human Rights Watch's Concerns with Regard to Academic Freedom in Higher Education, and Access to Higher Education for Women who Wear the Headscarf*, 29 June 2004, pp. 22-23.

²²⁵ UNESCO Country Profile Prepared for Education for All Global Monitoring Report 2008, Turkey Country Case Study, Aydagul Batuhan 2007, at p.20, available at <http://unesdoc.unesco.org/images/0015/001555/155505e.pdf> (last accessed April 2008).

²²⁶ European Commission, 'Turkey 2007 Progress Report' SEC2007 1436, p.19, available at http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf. (last accessed April 2008).

²²⁷ FFM interview with Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır.

²²⁸ Ministry of Education data for 2001-2002, cited in documentation prepared by Egitem-Sen.

Southeast	32.1	67.9
Marmara	45.3	54.7

The gender disparities are clearly heightened by regional disparities. Mr Karahan highlighted that the high illiteracy rates amongst women will not be abated until girls are effectively accessing education, and that until that point the cycle of illiteracy amongst mothers hindering their children's access to education will be perpetuated.²²⁹

The mission was told by the interviewees at the SELIS Women Advisory Centre that in the course of their field work they have clearly seen that where a family has insufficient funds to send all relevant children to school, the male children are prioritised ahead of their female siblings.²³⁰ If there are eight to ten children in the family, but only three or four in school, the interviewees said, then they are always the boys. The mission observed that the reasons given for only some children being sent to school were financial. Although cash payments may assist in the short term, these merely act as a salve to the pervasive problem of poverty in the Kurdish regions.

iii) Early/Non-consensual Marriage and Honour Killings: Desk-based Research

The legal age of consent for marriage is 17 years old for both boys and girls in Turkey under Article 124 of the Turkish Civil Code. However UNICEF has found that the rate of early marriage in Turkey is 18 per cent.²³¹ Further, early and non-consensual marriage of girls continues to be a problem in the southeast of Turkey. There appears to be a number of factors that encourage this practice: the lack of alternative options for women and girls, the insubstantial creation and implementation of laws that act in girls' defence, the inaccessibility of systems that do exist for their protection, the economic dependence of Kurdish families on the 'bride price' and laws that encourage rapists to marry their victims. Forced marriage, in contrast to arrange marriage, has been described as 'marriage conducted without the valid consent of both parties and may involve coercion, mental abuse, emotional blackmail, and intense family or social pressure. In the most extreme cases, it may also involve physical violence, abuse, abduction, detention, and murder of the individual concerned.'²³² For example, forced marriage occurs in some

²²⁹ FFM interview with Mr Abdullah Karahan, Chairman, Egitem-Sen Diyarbakır Branch, 20 June 2008, Diyarbakır

²³⁰ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²³¹ Gündüç, Gökçe, 'UNICEF: Two in Ten People in Turkey Marry Underage', Bia News Centre, 24 January 2008.

²³² Amnesty International, Turkey: *Women Confronting Family Violence*, AI Index: EUR 44/023/2004 (Public), New Service No: 131, 2 June 2004.

cases of rape, particularly that of a virgin minor. The Turkish Criminal Code states that, 'anyone who seduces a girl above 15 years of age with the promise of marrying her shall be sentenced to between 6 months and 2 years of imprisonment²³³, but that, 'If the man marries the woman, the case and the punishment are deferred.'²³³

Studies in the southeast found that 45.7 per cent of married women were not consulted about their marriage or their marriage partner and that 50.8 per cent did not consent to marriage. Women who resist marriage are often subjected to violence and risk death. According to a survey of displaced Kurdish women and girls in the southeast, 36.9 per cent of women were married under the age of 15; 52.4 per cent married a relative; and the vast majority of the marriages were arranged.²³⁴ The US Country Report 2006 noted that women's rights activists in the region have claimed that the number of forced marriages has been decreasing in recent years. However, it was noted that it continued to occur in poverty-stricken regions, which suggests the south-eastern region and other heavily populated Kurdish areas where poverty is rampant. It was reported that children as young as 12 were at times married in unofficial religious ceremonies. Rare, but also said to be ongoing, were 'cradle arrangements', whereby it is agreed that newborn children will marry at a later date, well before reaching the legal age.²³⁵

The health hazards of early pregnancy that adolescent girls endure as a consequence of marrying before they have matured physically are of particular concern not only for the girls themselves but also for the subsequent generation. Poorly educated and uneducated mothers are unable, as the primary care-givers in their households, to provide adequate nutrition and healthcare to their growing families. At the same time they suffer the double bind of uncontrolled reproduction, which tightens the bonds of poverty and increases health risks such as malnutrition, disability and restricted development. The findings of the TDHS emphasise the adverse effects of child marriage on adolescent girls and their families by returning consistently poorer indicators for routine immunisation, stunted growth, disability, chronic illness and the recursive problem of lower educational performance and attainment in their children.²³⁶

The central barrier to combating child marriage appeared from the desk-based research to be that the Turkish authorities continue to protect parents who force their children into marriage. A recent case involved the forced marriage of a 15-year-old girl to a 40-year-old man. The parents were

²³³ Turkish Criminal Code, Art. 423(1).

²³⁴ Demir, Gul, 'Women are Part of the South-eastern Landscape,' *Turkish Daily News*, 5 April 2001.

²³⁵ US Country Report 2006.

²³⁶ UNESCO Country Profile Prepared for Education for All Global Monitoring Report 2008, Turkey Country Case Study, Aydagul Batuhan 2007, at p.19, available on the web at <http://unesdoc.unesco.org/images/0015/001555/155505e.pdf>. (last accessed April 2008)

punished under the new 'Controlled Freedom Law', which allows the courts to punish defendants with community work rather than prison sentences. This is intended as punishment for misdemeanours and was not applicable to this case. A lawyer for the Centre for Children's Rights of the Ankara Bar Association, Trkay Asma, argued that they should have been punished under Article 233 of Penal Code.²³⁷ This article states 'A person who does not fulfil the responsibilities of care, education and support as stipulated in family law shall be punished with imprisonment of up to a year if there is a complaint.' The failure of effective implementation of this law to applicable cases displays the continuing trend of the state protecting the family rather than focusing on the child's protection.

Though illegal, polygamy continues, particularly in the south-east among the Kurdish communities where it is estimated that 5 per cent of marriages are polygamous.²³⁸ Child-brides who are entering a polygamous marriage are especially vulnerable. Second wives are not legally recognised and therefore do not have access to certain protections and rights. The most common reason for polygamy is infertility in the first wife. Thus, extremely young virgins are usually chosen as second wives because they are thought more likely to be fertile.

Honour killings occur when a woman, or sometimes a man, is murdered for supposed sexual, marital, or cultural offences, with the justification that the offence has violated the honour of the family.²³⁹ Under the Penal Code, honour killings require punishment of life imprisonment. However, women's rights groups have reported that there remained dozens of such killings every year, including in the south-east and amongst migrants from the south-east living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.²⁴⁰

In 2005 Dicle University in Diyarbakır conducted a survey on honour killings during the year. The university polled 430 persons in the south-east; 78 per cent of those surveyed were men. The survey revealed that 37.4 per cent of the respondents believed honour killings were justified if a wife committed adultery, and 21.6 per cent believed infidelity justified punishments such as cutting off a wife's ear or nose. There has been considerable activity in recent years to deal with this issue. In 2006 a number of initiatives were undertaken,

²³⁷ Bia news centre 10-01-2008, 'The Government Could Prevent Child Marriage' by Gkce Gndc

²³⁸ A report to the Committee against Torture, 2003: http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id-2073

²³⁹ European Parliament Project: The Increase in Kurdish Women Committing Suicide, Final Report 2007, p. 13.

²⁴⁰ *Turkish Daily News*, 15 December 2006. See also US Country Report 2007.

including a major campaign by the Turkish government to end the practice of honour killings.²⁴¹

KA-MER, a women's organization in the south-east, reported that from 2003 to 2007 a total of 198 women from eastern and south-eastern Anatolia contacted KA-MER to report that their family had threatened them with honour killings. Of these cases, three of the women died from injuries sustained in the attacks, one committed suicide and 27 were pressured to commit suicide. The father or husband decided the fate of the woman in the vast majority of the cases. The report observed that 76 of these 'decision makers' were illiterate, while 47 had no education beyond junior high school. Increased education levels correlated with lower rates of such crimes. 'Disobedience' was determined to be the most common reason given to justify honour killings. Disobedience was variously defined as refusing to marry the person the family had chosen, refusing to have sex with a brother-in-law or father, not agreeing to involvement in prostitution, not fulfilling the demands of husbands, fathers, brothers, or other elders, and interrupting man-to-man conversations.

The government reported that there were 1,806 honour killings between 2001 and 2006. However, during the same period, 5,375 women committed suicide.²⁴² After the government increased penalties for honour killings, family members increasingly pressured girls to kill themselves in order to preserve the family's honour, according to women's rights groups.²⁴³ Broaching the formerly taboo topic, Prime Minister Recep Tayyip Erdoğan condemned the practice of honour killings at the Organization of the Islamic Conference in November. In July the Prime Ministry issued to all ministries and provincial governments a circular that reminded each government institution of its responsibility to prevent domestic violence, including honour killings.²⁴⁴ In December the interior ministry issued a circular to provincial governors instructing them to form special committees to prevent honour killings. Turkish imams joined pop music stars and soccer celebrities to produce television and billboard ads declaring honour killing a sin and condemning all forms of violence against women. The State Ministry for Women began a prevention of violence against women educational program for all soldiers doing their mandatory military service. Government officials worked with advocacy groups such as KA-MER to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls.²⁴⁵

An example of an incident involving a young girl as a victim of an honour killing took place in October 2006. A 15-year-old girl was slain after giving

²⁴¹ US Country Report 2006.

²⁴² US Country Report 2007.

²⁴³ US Country Report 2006.

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

birth as a result of a rape. Press reports said the girl, from the town of Baskale, was murdered by an elder brother, who shot her at point-blank range in the middle of a street. The *Vatan* newspaper quoted the local prosecutor as saying the family had convened a meeting where they nominated the brother to carry out the murder.²⁴⁶

The Fact-Finding Mission aimed to clarify the extent to which forced and early marriages and honour killings remains a problem for Kurdish girls, and how successful measures taken by the state have been in practice.

iv) Early/Non-Consensual Marriage and Honour Killings: Fact-Finding Mission

Diyarbakır:

According to the interviewees from the SELIS Women Advisory centre the number of early and non-consensual marriages has decreased, but does still occur in the Kurdish region.²⁴⁷ This was said to have a negative mental impact on the girls due to the traumatic experiences that are associated with this type of marriage. Ms Güven informed the mission of a 17-year-old girl whom her parents forcibly married. The only option open to the girl was to run away. When she ran away she came into contact with a gang that forced her into prostitution. However, she managed to escape and sought help at the centre. Such events would have obvious traumatic consequences for the girl herself but Güven also observed that these are passed along to her children. If the girl is under 18 then she is sent to the state run dormitories. According to interviewees, this is not a suitable solution, as it has a negative impact on the girls' mental health as well as putting them at risk of abuse in the dormitories themselves.²⁴⁸ Firstly, the problem was stated as being that when a girl has been forcibly married she has been treated as a woman but is then put in the dorm amongst children. Secondly, such girls are normally at risk of being the victim of an honour killing.²⁴⁹

A major problem that Ms Güven identified was that if the girl is under the age of 18 then she is sent to a children's dormitory; only if she is over the age of 18 would she be sent to the shelters run by either the governor's office or the municipality.²⁵⁰ However, the problem with these women's shelters is that the traumas experienced by women can be very different and require different types of help. This is particularly true with regards to forced

²⁴⁶ European Parliament Project: The Increase in Kurdish Women Committing Suicide, Final Report 2007, p. 15.

²⁴⁷ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁴⁸ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁴⁹ *Ibid.*

²⁵⁰ *Ibid.*

marriage, as the risk of honour killings demands a different type of protection than in other types of trauma.²⁵¹ Further, Ms Güven related that women are often not happy in these shelters as they are sometimes the victims of verbal abuse from staff.²⁵² It was also stated that there is legislation requiring there to be at least one shelter in towns of populations over 50,000, but that this is not being complied with.²⁵³ The state has made no policy change regarding the fact that girls under 18 cannot access the women's shelters already in existence, it was added, and this means that girls subject to forced marriages and other types of domestic violence are left as a particularly vulnerable group as the assistance provided by the state is in no way targeted to their particular needs.²⁵⁴

With regard to forced marriages Ms Güven observed that there are no penalties meted out against the parents or the actual/prospective husband if the victim is over 18.²⁵⁵ Although, if the girl is under 18 then a case of rape is brought, Ms Güven noted that in her experience there had not been sufficient punishments awarded to act as a sufficient deterrent to such offences. Regarding the response of the authorities to honour killings Ms Güven stated that the circular from the Prime Ministry and other campaigns targeted at preventing honour killings have had no impact. Further, she observed that the present legislation is insufficient because often young boys are chosen to commit the honour killing because they will receive a lesser sentence. This sentiment was echoed by the Project Coordinator of Bağlar Municipality.²⁵⁶ Ms Yasak stated that from her own observations young boys are placed under social pressure, from both their families and social contemporaries, to commit an honour crime. If they do not comply then they lose social status, thus they have two choices: either to obey the decision or to leave their families. The latter choice is not a real option, as they have nowhere to go and no resources. In particular, Ms Yasak noted that the younger boys are expected to commit the act as they receive lesser penalties than their older peers.²⁵⁷

Ms Güven related that the Courts generally accept that the crime was committed under heavy provocation, which reduces the punishment.²⁵⁸ In general, according to Ms Güven, there is a lack of implementation of legislation, such as the compulsory nature of shelters for towns over 50,000 and the Child Protection Law.²⁵⁹ Thus, she stated that when such girls apply

²⁵¹ *Ibid.*

²⁵² *Ibid.*

²⁵³ *Ibid.*

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ FFM interview with Ms Özlem Yasak., Project Coordinator, Bağlar Municipality, 20 June 2008, Diyarbakır.

²⁵⁷ *Ibid.*

²⁵⁸ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁵⁹ *Ibid.*

to the centre for help their only available course of action is to take the girl to the prosecutor to ask the court to put the child in a state-run dormitory making it difficult for the centre to then follow the case.²⁶⁰ However, she also observed that due to the non-implementation of the strong stands made against honour killings and the protective pieces of legislation when women or girls apply to the centre for help then they are unable to rely on the law.²⁶¹ Ms Güven related that in cases involving older women they have attempted to move the women to a shelter in another European country in an attempt to protect them, but that bureaucracy had hampered such attempts.²⁶² Finally, she also observed that the sexist character of the law, state and the media supports the belief that women, and/or girls provoke this sort of crime, and that they are the guilty ones not the males who commit the honour killing.²⁶³

Cizre:

Lawyers in Cizre described a case that occurred in a different district of Sirnak to the mission. This case involved an 11-year-old girl whose father reportedly planned to force her to marry a 65-year-old man. The child's mother was a refugee in Germany so she awarded power of attorney to a lawyer in another city. This lawyer apparently then requested assistance from the members of the Bar Association interviewed by the mission. They informed the prosecutor about the case and requested his intervention. Eventually the child was sent to Germany to be with her mother.²⁶⁴ It was stated that forced marriage is still a problem in the region and that, unlike in the case described, it often goes unreported.²⁶⁵

v) Forced Prostitution, Trafficking and Rape: Desk-Based Research

Turkish law prohibits trafficking in persons. However, there have been reports of trafficking in women and children to and within the country for the purpose of sexual exploitation and occasionally labour.²⁶⁶ There have also been allegations that police corruption at all levels contributed to the trafficking problem.²⁶⁷ Turkish law punishes trafficking with prison terms ranging from eight to 12 years' imprisonment in addition to heavy fines. The 2005 Penal Code specifically addresses trafficking as a crime. However, it has

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² *Ibid.*

²⁶³ *Ibid.*

²⁶⁴ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr N□rrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

²⁶⁵ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr N□rrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

²⁶⁶ US Country Report 2006.

²⁶⁷ *Ibid.*

been observed that Turkish prosecutors have tended to use other articles that regulate prostitution, rather than the new law on trafficking, which has so far rendered the new law nearly ineffective.²⁶⁸ This led to parliament passing two amendments to the Penal Code in December 2006 designed to address this problem by removing forced prostitution from the article regulating prostitution and adding it explicitly to the anti-trafficking article. The amendments were signed into law by the president in December 2006. The government reported that prosecutors opened 26 new cases against alleged traffickers through June. Courts were said to have convicted 22 defendants and acquitted 54 on trafficking charges during that period. Several cases were reported to be ongoing at year's end; however KHRP has been unable to ascertain the outcome of these cases.²⁶⁹ Most trafficking activity within the country occurred in Istanbul, Antalya, Ankara, Mersin, and Trabzon. For example, in December 2007 police rescued a 13-year-old runaway girl who had been held captive by traffickers in Trabzon and being forced into prostitution. Police arrested three suspects. The case was reported to be pending at year's end. However, KHRP has been unable to obtain information as to the conclusion of the case.

Despite it being difficult to obtain specific information with regard to the experience of Kurdish women and girls, KHRP anticipated that Kurdish women and girls would be especially vulnerable because of poverty, lack of education, the patriarchal nature of Turkish society, and their limited knowledge of Turkish, to being forced into prostitution by their economic circumstances or by members of their family or partners. There are reports of women and children from the rural areas in the south-east and east being forced into prostitution in the big cities in Turkey. In some instances, families believe that they are selling them into marriage, but they are actually selling them into prostitution. Parents in especially destitute areas sometimes feel the need to sell their daughters into prostitution, particularly daughters that will not bring a high bride price. The Directorate General on the Status and Problems of Women has stated that women and girls enter into prostitution because of low wages, sexual harassment or violation, and poverty. Furthermore, he found that one third of the prostitutes were forced into prostitution by husbands, boyfriends or fathers, and that most of them were under the age of 18 when they first became prostitutes.²⁷⁰ Once a child has been sold or forced into prostitution, it is extremely difficult to escape. Security or police officers guard brothels. This means that there is no means of escape in practice. There are also reports of a debt bondage system that ties prostitutes to their pimps. Further, in larger society prostitutes are ostracised, creating difficulties for children who have engaged in prostitution.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*

²⁷⁰ *Turkish Daily News*, 15 December 2006.

An example of the issue of forced prostitution occurred in March 2005 where a 15-year-old girl in Diyarbakır was allegedly not only raped by her father-in-law, but also pressurised by him to prostitute herself in order to earn money. When she refused, relatives allegedly attacked her and cut off her nose. Police arrested her father-in-law and three brothers-in-law; however, amid family pressure, the victim withdrew her complaint in September, and prosecutors dropped the case. In the event of an alleged victim of rape, or charges of attempted or actual forced prostitution, or trafficking withdrawing his or her complaint in the United Kingdom, for example, this would not necessarily entail the charges against the accused being dropped. The Crown Prosecution Service (CPS) will first of all consider what other evidence is available. As a general rule the CPS will prosecute all cases where there is sufficient evidence, and there are no factors preventing them from doing so.²⁷¹ Moreover, the CPS will seek to discover the reason for the withdrawal of the complaint, for example, by delaying the court hearing in order to carry out an investigation.²⁷² This information is contained in the Rape Policy document produced by the CPS, which is specifically designed to inform the general public, but particularly victims of rape about the procedures that will be followed during the prosecution of an alleged rapist. In the case of a victim withdrawing their complaint, the policy makes clear that the prosecution will proceed, even against the victim's wishes if it is considered to be in the public interest to do so. Turkish prosecutors should develop a similar clear policy document requiring prosecutors to continue with the case if it is in the public interest.

vi) Forced Prostitution, Trafficking and Rape: Fact-Finding Mission

Diyarbakır:

Ms Güven from the Women's Advisory Centre in Diyarbakır related to the mission that the concept of internal trafficking is not one that is commonly used within Turkey.²⁷³ Rather, the focus is on forced prostitution, which she divided into two forms Firstly, that there are a number of women IDPs who are forced into prostitution due to their economic problems Secondly, there are those that are forced by others to become prostitutes.²⁷⁴ Further, she related that between 2000 and 2005 the numbers regarding forced prostitution were very high and that most of these were girls under the age of 18.²⁷⁵ It was

²⁷¹ 'Crown Prosecution Service, 'Policy for Prosecuting cases of Rape available at http://www.cps.gov.uk/publications/docs/prosecuting_rape.pdf at p.12 (last accessed April 2008)

²⁷² *Ibid.*, at p.12.

²⁷³ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁷⁴ Crown Prosecution Service, 'Policy for Prosecuting Cases of Rape,' http://www.cps.gov.uk/publications/docs/prosecuting_rape.pdf (last accessed 10 October 2008).

²⁷⁵ *Ibid.*

reported that the state was ignoring the phenomenon and even allowing it occur as many such cases were committed by soldiers. The acts were said to have been generally committed by soldiers befriending young girls and then raping them, before forcing them into prostitution.²⁷⁶ An example given was the case of a girl who was allegedly raped by a police officer in 2004 but, because she was just over the age of 18, was deemed to have consented. The girl's family was reportedly threatened and she was forced to have an abortion.²⁷⁷ Ms Güven believed that the current increased tension in the south-east could lead to cases like this becoming more common as it is in a state of conflict.²⁷⁸

Cizre:

During an interview with members of the Bar Association the mission was informed that girls are increasingly running away from home to escape family pressures, for example to marry someone the family has chosen for her.²⁷⁹ Girls often reportedly choose as their destination cities such as Istanbul that they have seen on the television, in the belief that they will have a better life in the city with more opportunities and freedom.²⁸⁰ However, girls from rural areas such as Cizre are often forced to turn to prostitution.²⁸¹ This can be a result of either their socioeconomic needs arising out of a failure to gain employment, or due to the fact that they are particularly vulnerable to external pressure from gangs and others who would pressure them into prostitution.²⁸²

c) Conclusion and Recommendations

The mission was informed by Ms Güven that the Women's Advisory Centre collaborated with the Municipalities but not the governor's office.²⁸³ It was the view of the mission that despite some national efforts to promote an effective reaction to honour killings and legislation apparently affording protection against, for example, forced marriages and forced prostitution, this was not filtering down into actual implementation. Similarly, while education

²⁷⁶ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁷⁷ Crown Prosecution Service, 'Policy for Prosecuting Cases of Rape,' http://www.cps.gov.uk/publications/docs/prosecuting_rape.pdf (last accessed 10 October 2008).

²⁷⁸ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

²⁷⁹ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr N□rrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

²⁸⁰ *Ibid.*

²⁸¹ *Ibid.*

²⁸² *Ibid.*

²⁸³ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

campaigns such as 'Get Girls to School' are welcome, until the root causes of girls' absence from school are tackled, namely social attitudes and economic reasons, this problem will simply be perpetuated. There appeared to the mission to be no central strategy in place that would ensure effective collaboration, or indeed any collaboration, between all the relevant actors such as state agencies and NGOs that would enable such violations of girls' human rights to be dealt with appropriately.

In particular, the mission believed that the interview with the SELIS Women's centre highlighted a number of key issues with regard to girl's experience of violence. Girls that have been forcibly married should not be placed in children's dormitories that are unable to provide for their special needs arising out of their traumatic experiences. Girls who have been the victims of forced prostitution, forced or early marriage and those who are at risk of an honour killing must be placed in special shelters for girls and women designed for their needs. Further, there must be different categories of women's shelters that provide services for specific violations of women and girls rights. This is not an area where a one-size fits all approach is practicable.

It is vital to recognise that the problem of honour killings and other forms of gender-violence are not inherently a Kurdish problem. Rather, they are problems that permeate across Turkish society. Further, it is important to note that effective prevention of, and adequate punishment for, such violence is not dependent on ending the ongoing conflict in the south-east region. Although the levels of violence are likely to perpetuate violence in other aspects of people's lives, the higher levels of gender-based violence in these areas are not instigated purely by this fact. Rather, in the view of the mission, it is the position of women in society, coupled with socio-economic deprivation, that makes the largest contribution to the high levels of gender-based violence. The Turkish State has a responsibility to take all necessary measures to break this pattern of violence, which cannot be considered contingent upon an end to the broader, background political conflict. Thus, as the European Parliament 2007 progress report states, despite there being now a legal framework in place to protect women from violence, also applicable to girls, efforts are needed to translate it into a 'social reality', discussed in terms of the realisation of socio-economic rights.²⁸⁴ During EU accession negotiations the EU must place sufficient emphasis on the thorough implementation of existing legislation and the need for other necessary services to be introduced.

²⁸⁴ European Commission, 'Turkey 2007 Progress Report' SEC(2007) 1436, p.18, available at http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf. (last accessed April 2008).

7. VIOLENCE IN THE HOME

a) Domestic Violence: Desk-Based Research

Children can be affected by physical and sexual violence in the home in two key ways. First of all, by living in a home where domestic violence occurs, usually against the mother. Secondly, they themselves may be the direct victims of physical and sexual violence. In 2001 the Committee on the Rights of the Child expressed concern over the apparent lack of data and resources equipped to deal with domestic violence and abuse, including child sexual abuse and 'related virginity tests'. Furthermore, the Committee noted that cases of abuse or neglect are infrequently reported, due in part to societal attitudes towards women and children. If they are reported, the Committee said, police rarely intervened.²⁸⁵ The armed conflict of the last two decades has polarised and destroyed family life and the economic situation in south-east of Turkey. Against this backdrop of institutional violence, family violence has been ignored and has mostly gone unpunished.²⁸⁶ Amnesty International estimates that as many as 30 to 58 per cent of women and girls experience physical violence, and that 70 to 98 per cent of women and girls experience other forms of abuse.²⁸⁷

Domestic violence is a huge problem in Turkish society. It 'affects up to half of all Turkish women' and 'remains rooted in traditional patriarchal conceptions of femininity and the proper role of women... Perpetrators are rarely investigated or charged by the police, and women are not protected against aggressive husbands or other male relatives.'²⁸⁸ Women frequently do not report domestic violence to the police, not only because of fear of abuse and dismissal, but also because they too believe in upholding honour, and are concerned about the implications on their families and more broadly on Kurds if they were to report such events. This raises concern not only for the women who remain in a violent situation, but also for their children who consequently remain in a home where they may be aware of or even witness violence.

Efforts have been made to combat domestic violence in Turkey. One example is that the Governor of Van has recently started developing a provisional action plan to deal with violence to women and children. This includes the opening of a women's shelter in Van in the near future, which will be staffed

²⁸⁵ Committee on the Rights of the Child, Twenty seventh session, Consideration of Reports Submitted by State Parties Under Article 44 of the Convention, *Concluding Observations of the Committee on the Rights of the Child: Turkey*, 9 July, 2001.

²⁸⁶ Amnesty International Turkey: *Women Confronting Family Violence*, AI Index: EUR 44/023/2004 (Public), New Service No: 131, 2 June 2004.

²⁸⁷ Amnesty International's Secretary General, *Turkey: Memorandum to the Turkish Prime Minister on the occasion of the visit to Turkey of a delegation led by Irene Khan*, February 2004.

²⁸⁸ KHRP Research Report, *Turkey's Accession to the EU: Democracy, Human Rights and the Kurds*, (KHRP, London, 2006), p.32.

by individuals from the Social Services Directorate, and the funding for which will be provided by the 'Provisional Special Administrative and Social Solidarity Foundation, and Social Services Directorate'. While the municipalities are obliged by law to establish shelters, they are said to be under great financial pressure concerning the distribution of available funds.²⁸⁹ In addition, the governor's office is in the process of supporting the existing family counselling centre, which is currently 'not very active'. The reality is, however, that many provinces, particularly in the south-east of Turkey, do not have any women's shelters. A recent international recommendation by the European Parliament has stated the need for at least one shelter/refuge space for women and children survivors of domestic violence per female population of 10,000 people.²⁹⁰ However, in July 2006, there were reportedly only eight shelters to cater for Turkey's population of 70 million.²⁹¹ Further, the shelters that do exist can apparently only accommodate women for a maximum of three to six months.²⁹² For present purposes it is vital to note that at present shelters are unable to accommodate the children of the victim of violence.²⁹³ Therefore, children who live in a home where domestic violence is a painful reality are not afforded adequate protection by the Turkish authorities. As discussed above, it is also vital to observe that at present times such shelters are also unable to accommodate girls under the age of 18.²⁹⁴

The international community and the Turkish government have a responsibility to protect girls from abuse. Not only would an increase in awareness campaigns benefit the situation of girls, there must also be a substantial increase in shelters and counselling services for victims of violence. Even more crucially, however, the Turkish government needs to investigate the reason for the continued violence. Studies have shown that communities that experienced systematic violence, especially over a long period of time, sometimes internalise the violence, which contributes to an increase in domestic violence. The Turkish government, as well as Turkish and Kurdish communities, have a responsibility to address the issue of domestic violence in such a way that identifies the root causes and begins to address the core issues.

²⁸⁹ European Parliament Project: The Increase in Kurdish Women Committing Suicide, Final Report 2007 at p. 12.

²⁹⁰ *Ibid.*

²⁹¹ KHRP Research Report, *Turkey's Accession to the EU: Democracy, Human Rights and the Kurds*, (KHRP, London, 2006), p.32.

²⁹² European Parliament Project: The Increase in Kurdish Women Committing Suicide, Final Report 2007 at p. 12.

²⁹³ *Ibid.*

²⁹⁴ *Ibid.*

b) Child Abuse: Desk-Based Research

Within the international community there are very divergent definitions of behaviour that constitutes child abuse. In Turkey cultural norms are changing due to increasing educational opportunities and greater awareness of problems of violence within society. However, the traditional approach to corporal punishment still exists in many regions.²⁹⁵ The traditional acceptance of such violence is revealed in proverbs such as 'beating comes from heaven', 'if you don't beat your daughter, you beat your knees later on' (i.e. you will feel regret), and 'a rose blooms from the spot where the teacher slaps'.²⁹⁶ However, in contrast to tolerance of physical abuse, sexual abuse of a child is considered highly immoral. While expressing love and affection by hugging, kissing and touching is much more common than in Western societies, especially towards young children, sexual forms of touch are unacceptable. In fact, sexuality itself is taboo and not talked about within the family. Families do not usually educate their children about sexual subjects.²⁹⁷

In the abstract the legal framework regarding child abuse in Turkey is thorough. The legal definitions of child abuse and neglect are contained in the Turkish Penal Code. Although no provisions specifically exist for physical child abuse, all articles about inflicting physical harm against other individuals intentionally (article 86); torturing (article 94) and murdering (article 82) may also be applied to child abuse cases. For child sexual abuse on the other hand, there are special articles (articles 103-105). According to these, any sexual behaviour towards a child younger than 15 years old is subject to punishment even if nobody files a complaint. For children between 15 and 18 years the sexual act is considered a crime only if a complaint is filed. If the perpetrator is five years older than the victim then the act is considered a crime. If the perpetrator is a relative or somebody who is responsible for taking care of the victimised child, this is considered to be an aggravating factor that results in the penalty imposed being increased by half.²⁹⁸

Neglect is defined in the Turkish Penal Code as failure on the part of the parents to provide care, support or educational needs of the child and is subject to punishment if reported. According to the Social Services and Child Protection Agency's definition, 'a child in need of protection' is a child whose physical, spiritual and moral development or personal safety is endangered, who does not have a mother/father or both, who is neglected and abused, or where information regarding his/her parents' whereabouts is unknown or he or she has been abandoned by them. This is a broad definition, which appears

²⁹⁵ F. Sahin and U. Beyazova, Gazi University Faculty of Medicine, Department of Social Pediatrics, Co-Directors of Gazi University Child Protection Center, Ankara, Turkey, 'Child Protection Systems in Turkey' (to be published in 2008).

²⁹⁶ *Ibid.*

²⁹⁷ *Ibid.*

²⁹⁸ *Ibid.*

to require state action in a number of different situations where a child is suffering a form of neglect. Due to the high levels of reported violence in the home this would lead to the assumption that the above legislation would result in high levels of state intervention. In a study performed in The Apprentice Educational Center in a city in the eastern Turkey on 476 apprentices with a mean age of 17 years, 81.7 per cent stated that they had been exposed to violence at some time in their lives. Within the last year 5.5 per cent of the apprentices were exposed to violence in the family and 8.4 per cent were exposed to violence at work.²⁹⁹ Further, violence at school is also a problem in Turkey. The Ministry of Education has collected studies performed on violence at school and peer abuse in a book. In this book it is reported that 44 per cent, 30 per cent and 9 per cent of high school students were exposed to emotional, physical and sexual abuse respectively. Violence was reported to peak at 15 to 16 years of age.³⁰⁰

The state infrastructure for dealing with child abuse in Turkey relies upon three main systems Firstly, the Social Services and Child Protection Agency (SSCPA), which has directorates in all Turkish provinces, organises foster care provision. However, due to low numbers of foster carers, its main purpose is to provide care through institutions or homes. Institutional care is segregated by age, with children between up to 12 years old housed separately to those between 13 and 18 years old. According to data of the year 2006, there are 220 institutions housing almost 20,000 children and adolescents. They may remain in these institutions until 20 years of age if they attend high school and until 25 if they are college students. The government provides jobs for the children who have completed their institutional care period. However, due to concerns that large institutions are unable to provide adequately for the children's development and emotional needs there is a growing trend towards the provision of care through a system of 'home' institutions. In these homes, four to five children live with caregivers working in Social Services. There are 810 such homes in eight provinces.³⁰¹ The mission aimed to discover whether state intervention was employed where necessary. Further, another aim was to clarify if the trend towards smaller homes was actually occurring and if there was any regional disparities.

The second part of the state infrastructure for dealing with child abuse in Turkey is the medical system. In Turkey, however, there is no single unit dealing with abused children and there is no specialty about this subject. Paediatricians, paediatric surgeons, forensic medicine doctors and child psychiatrists are the individuals who most commonly see abused and/or neglected children. Recently multidisciplinary teams are being developed in the university and state hospitals of the big cities such as Ankara, İzmir, İstanbul, Kayseri and Adana. Gazi University Hospital's child protection

²⁹⁹ *Ibid.*

³⁰⁰ *Ibid.*

³⁰¹ *Ibid.*

center, established in 2001, is the first officially recognized centre.³⁰² The creation of such teams is a welcome step but this suggests that there will be disparities in the provision of medical services to abused children. Particularly, members of economically disadvantaged rural communities do not have access to services in their area, and generally will not have the means to be able to access the services available in the larger cities. It has been observed that due to the fact that child abuse and neglect are relatively new areas for Turkish medicine there are gaps in the knowledge of primary physicians and healthcare workers. In particular, education programmes are required to improve skills in detection, assessment, reporting, treatment, and prevention of child abuse and neglect. In the last few years the Ministry of Health and the Turkish Medical Association have organized several courses for practicing physicians about child abuse and neglect in collaboration with the Turkish Society for Prevention of Child Abuse and Neglect.³⁰³

The third tier of the state structure for dealing with child abuse is the legal system. The matter is first dealt with by the law enforcement agencies after the victim or medical staff reports it to them. The officer is responsible for reporting the case to the prosecutor who makes an initial investigation to decide if there is sufficient evidence to bring charges. The prosecutor will usually request a report from the Council of Forensic Medicine or from other authorities that can file a forensic report (usually either forensic medicine specialists or the recently established child protection centres in the universities or state hospitals).³⁰⁴ There are, however, a number of problems with child protection in Turkey. Firstly, it has been noted that 'values such as social norms, traditions and customs play a more determining role than legal codes in actual cases [of child abuse],' as the victims often stay silent under social pressure or fear of falling victim to an 'honour killing'.³⁰⁵ Secondly, it has been noted that helplessness, ignorance and poverty complicates the issue of reporting. This arises most often where the mother becomes aware of the abuse the father is inflicting on the children of the family. Due to the position of women, especially in rural communities, they are generally helpless to remove the child or seek help from outside.³⁰⁶ It was anticipated that Kurdish children would be at a considerable disadvantage regarding the protection afforded to them by the system. In part, this would arise due to the disparities of access to care protection services, given that specialised centres are situated in major cities. However, this would also be compounded by the considerable economic disadvantages suffered by Kurdish communities, which are also

³⁰² *Ibid.*

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ *Turkish Daily News*, 15 December 2006.

³⁰⁶ F. Sahin and U. Beyazova, Gazi University Faculty of Medicine, Department of Social Pediatrics, Co-Directors of Gazi University Child Protection Center, Ankara, Turkey, 'Child Protection Systems in Turkey' (to be published in 2008).

often traditional in their outlook. The FFM aimed to discover if this was the case on the ground.

Further, although it is acknowledged that the legal provisions are essentially thorough there are still problems with both the design and implementation of the system. The legal system faces a number of challenges mainly due to the high levels of case burden that results in some cases being prolonged for years. The offender may be imprisoned but not rehabilitated during this process and continues to be a danger for society after he is released.³⁰⁷ Another important issue is that in Turkey, in contrast to other jurisdictions, medical professionals are required to report child abuse to the police or prosecutor, rather than to social services. This poses two major issues. Firstly, although the amendments made in the criminal code in 2005 have required that the child victim testifies only once, that a specialist must be present during the interview and that the interview must be videotaped, it is still the case that this requirement is often not met and that children are interviewed a number of times by the police and then other parts of the protection system. This is due to the fact that the purpose of the police interview is the collection of evidence, and so other parts of the protection system will need to interview the child again to obtain the information required for their purposes. The focus of the legal system is the collection of evidence, not child protection. The police are not the appropriate service to deal with the initial contact with the child as they are not qualified to, for example, establish the psychological state of the child. This leads to the second issue, which is that the Social Services Agency, which is supposed to be the cornerstone of child protection, has inadequate resources in Turkey. The foster care system is underdeveloped, so protection orders issued by the court mostly entail sending the child to an institution, which is not ideal for child development.³⁰⁸

The SSCPA have 59 'Public Centers' in 31 of 81 provinces, where they open courses for vocational training, parenting programs and reading and writing classes, as well as 22 'Family Counselling Centres' in 21 provinces.³⁰⁹ However, the Family Counselling Centres are not equipped to deal with extreme cases of child abuse or neglect. Further, there are concerns over the safety of children when they are institutionalised for their protection. In 2005 police arrested over a dozen nurses, caretakers, and other employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution. On 26 December, a Malatya penal court sentenced nine suspects to one year's imprisonment for negligence and misuse of authority.³¹⁰

³⁰⁷ *Ibid.*

³⁰⁸ *Ibid.*

³⁰⁹ *Ibid.*

³¹⁰ US Country Report 2007.

The aim of the FFM was to ascertain the extent to which Kurdish children as a particular group are affected by child abuse and whether their ethnicity impacts upon the level and quality of services with which they are provided.

c) Domestic Violence and Child Abuse: Fact-Finding Mission

Diyarbakır:

To ascertain information about the governmental services operating in Diyarbakır the mission met with Mr Taş, the Social Services Province Director in Diyarbakır.³¹¹ Mr Taş indicated that there were two projects planned in this area. Firstly, the provision of residential boarding centres for the protection, care and rehabilitation of abuse victims and children who had committed crime, due to their legal obligation to deal with the child victims of abuse or neglect under the Child Protection Law. This was said to be just starting. Mr Taş stated that the reason for the delay in starting to plan such necessary projects was because this responsibility had only recently been transferred to them under the Child Protection Law. The second planned project involved the provision of public centres open to everyone, which would provide programmes for women and children related to education, training and family planning.³¹² There did not appear to be a set time-frame within which these centres would be operational. Regarding the services for children who were the victims of abuse or neglect already operational, it was related to the mission that dormitories were provided on the basis of age, split between age groups of 0 to 6, 7 to 12, and 13 to 18.³¹³ These children are also segregated according to gender. However, there was no provision of different services on the basis of gender in response to different kinds of abuse suffered.³¹⁴ Mr Taş stated that under normal circumstances, children could stay in these homes until the age of 18, and that generally a full time nurse was present at the dormitory and all healthcare was provided for by the state.³¹⁵ Further, the mission was informed that it was national policy that government agencies have to take a certain quota of their staff from among the children who have lived in these dormitories.³¹⁶

Mr Taş indicated that the numbers of children in the dormitories had been reduced from the level of eight or ten five years ago to a present maximum of four children.³¹⁷ Further, he said that the manner in which the dormitories are provided is being changed such that rather than children being housed in

³¹¹ FFM interview with Mr Oktay Taş, Social Services Province Director, Mr Ruken Tanaman, Deputy Director and Mr Halef Beren, Director of Schetlik Children and Youth Centre, Diyarbakır Governor Office, 20 June 2007, Diyarbakır.

³¹² *Ibid.*

³¹³ *Ibid.*

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ *Ibid.*

³¹⁷ *Ibid.*

larger dormitories, blocks of flats are instead being built, some of which will be used to house small groups of children.³¹⁸ However, only one example of a flat being used by six children in the town centre was given of this new policy in action.³¹⁹ Yet, the mission was most concerned by its observation that the social services appeared to rely upon the three mobile teams discussed in the context of street children above as their means of identifying children in need of services. There did not seem to be any other mechanisms used to discover child abuse or neglect. For example, it did not appear that there were any campaigns regarding the reporting of child abuse or collaboration with other government agencies, such as education services, in order to identify children in trouble. This is particularly worrying in light of statements obtained from other interviewees that the mobile teams have been merely used as a means of clearing the streets of street children, and not as a real tool for changing the social conditions that have resulted in them living on the streets in the first place. It was the mission's observation that the intention was to portray a commitment to children's issues that could not, unfortunately, be substantiated in reality. Thus, as was the case with regard to street children, victims of abuse and neglect do not appear to be receiving targeted services from the local government agencies to both identify and provide the required services in response to their needs.

This view held by the mission was reinforced by the information received from Mr Erbey, Chairman of IHD Diyarbakır Branch.³²⁰ He stated that the staff in dormitories providing special care are often lacking in formal education, low paid and violent, and that there have been incidents of beatings reported.³²¹ The public-run YIBOs, which are residential primary regional schools that children board at during the week, have been subject to reports of sexual and emotional abuse.³²² Further, they are seen as tools of assimilation to ensure Kurdish children learn Turkish.³²³ The new Law on child protection that regulates the taking of children into care is a positive piece of legislation. However, there is a fundamental lack of implementation due to a lack of institutional capacity. There are few cases of the state actually removing children.³²⁴ Mr Erbey also stated that the attitudes of the families themselves can be a problem, with families in cities often not worrying even if their children are away from home for days at a time.³²⁵ Mr Erbey stated it would take a football stadium to be able take all those into care that require it.³²⁶

³¹⁸ *Ibid.*

³¹⁹ *Ibid.*

³²⁰ FFM interview with Mr Muharrem Erbey, Chairman, IHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

³²¹ *Ibid.*

³²² *Ibid.*

³²³ *Ibid.*

³²⁴ *Ibid.*

³²⁵ *Ibid.*

³²⁶ *Ibid.*

Cizre:

Members of the Bar Association in Cizre initially observed that with regard to victims of child abuse that the system generally meets the prescribed legislative criteria.³²⁷ Thus, a state psychologist is sent to work with the victim. However, they also stated that during the initial investigation the police often unofficially question the victim.³²⁸ They also stated that the courts have been sensitive in dealing with cases of abuse. Cases usually involve rape or other forms of sexual abuse.³²⁹ An example was given of a case involving abuse committed by a brother against his sister and sister-in-law. Both girls gave evidence to the prosecutor and the brother was held in custody. However, following family pressure both girls changed their statements. The court was live to the issue so refused to release the brother. Yet the girls refused to leave the family and stopped dealing with their lawyers.³³⁰ This example was used to exhibit the problem that there is a strong mentality that it is more important that the male family member is not punished publicly rather than what the girls have suffered.³³¹ In another case relating to a village near Sirnak called Geçitboyu, two village guards who were brothers were alleged to have regularly raped a girl under 18 who had learning difficulties. The girl apparently became pregnant and gave birth, and, although a court punished the father of the baby, the baby was then given to the father's family. The prosecutor has appealed the case, stating that the other brother should also be punished and this case is still ongoing.³³² The interviewees believed that the baby was only taken by the family to prevent the punishment of the other brother. They are apparently subject to no special protection measures and the interviewees believed that the child would not be treated well. Such cases illustrated to the mission that despite legislative improvement in the protection of children, the implementation remains imperfect and this may be in part due to social conditions.

However, the members of the Bar Association interviewed also observed that the conflict situation in the region contributes to a legitimisation of violence, which in turn results in victims of abuse, especially girls, coming to believe that the violence committed against them is acceptable.³³³ They consider it to be usual or necessary because they deserve it, and this attitude prevents complaints being made in the first place. This was also said to apply to cases

³²⁷ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr N□rrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

³²⁸ *Ibid.*

³²⁹ *Ibid.*

³³⁰ *Ibid.*

³³¹ *Ibid.*

³³² *Ibid.*

³³³ *Ibid.*

of corporal punishment.³³⁴ Few cases come before the courts because such violence is on the whole viewed as acceptable.³³⁵ As discovered in the desk-based research, it is a part of the general culture in Turkey that beating is necessary to discipline children. Complaints are only made if a certain level of severity is reached, such as putting cigarettes out on them or if it is so severe that the hospital intervenes. However, even in these more severe cases the interviewees reported that nothing is actually done, the children are simply returned to their families, unless the case is covered by the media, which usually forces the authorities to act.³³⁶ Further, they stated that the general mentality of state officials, including the police, is that the husband or father is entitled to use violence against his children and wife so if witnesses change their statements this is usually simply accepted.³³⁷

The interviewees stated that it was necessary for children, especially girls, to receive education about domestic violence and child abuse, and about their rights.³³⁸ They reported that they had applied to the National Education Directorate and the governor for this to happen but that their request was refused without any reason being given.³³⁹ Human rights education coupled with discussions of culture are a clear necessity if attitudes such as acceptance of violence against children are to change. However, the mission observed that a solution to the wider issue of the Kurdish question and an end to the conflict is necessary to undermine the legitimacy of violence in general.

d) Conclusion and Recommendations

It must again be acknowledged that, as in the case of specifically gender-based violence, the issues of domestic violence and child abuse are not a purely Kurdish problem. However, domestic violence and child abuse are exacerbated by poverty, the position of women in society, and other traditional norms. The desk-based research identified a number of steps, such as the setting up of specialist teams and centres, that have been taken to deal with child abuse in Turkey. By contrast, the mission received no information regarding comparable positive initiatives in the east and south-east. Such regional disparities place Kurdish children at a considerable disadvantage. In the view of the mission a strategic action plan and national policy is required from central government, with the aim of targeting domestic violence and child abuse. Given the comparative deficiency in the infrastructure in the east and south-east, this requires a considerable level of focused intervention and investment in order to improve services. In the view of the mission it is of vital importance that the main goals for any such plan and policy must be

³³⁴ *Ibid.*

³³⁵ *Ibid.*

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ *Ibid.*

³³⁹ *Ibid.*

prevention and child protection. Evidence collection must be an important facet as perpetrators must be brought to justice, but this must not be done at the expense of the welfare of the child. Therefore, it is vitally important that there is thorough implementation of legislative provisions across all regions of the country that require special measures for interviewing victims of abuse. In particular, the presence of a specialist and videotaping should be implemented. Further, as a matter of routine, cases of child abuse should be legislatively provided for, and should be reported by medical personnel to both social services and the police to ensure that an assessment is done of what steps must be taken to ensure the child's protection. Further, education is required to address the belief that violence against women and children is unacceptable. Otherwise cases of violence will simply go unreported, as victims and others will not see the abusive behaviour as constituting an abuse of their rights.

8. JUVENILE JUSTICE

a) International Obligations

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty states, 'The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.'³⁴⁰

Furthermore, Article 40.1 of the CRC declares:

States Parties recognize the right of every child alleged as, accused of or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's assuming a constructive role in society.³⁴¹

b) Desk-based Research

Juvenile justice is an area where recent legislative reforms suggest that Turkey has made positive progress towards meeting its international obligations. There appears to be, on paper at least, an effort being made to construct a child-friendly judicial system in Turkey. The Turkish Criminal Code contains basic provisions regarding the status of children. However, the security and protection measures applicable to children are contained within the Child Protection Act. This act covers the specific protection measures applicable to children, the courts awarded jurisdiction in cases involving children, qualifications and appointments of those to work in such courts, enforcement measures, and supervision measures for protection orders granted. There are specific measures available to courts in cases involving children, such as suspension of pleading the criminal case, and suspension of the announcement of the verdict.

There are also special rules applicable to children regarding their apprehension and arrest. These are included in Article 19 of the Regulation on Apprehension, Arrest, and Examination, which includes the following:

Authorization of apprehension and examination under oath are limited as stated below:

a) The ones who have not completed their twelfth birthday on the time of the act, and the deaf and mutes who have not completed their fifteenth birthday;

³⁴⁰ United Nations Rules for the Protection of Juveniles Deprived of their Liberty; *Resolution 45/113; 68th Plenary Meeting*, 14 December 1990.

³⁴¹ CRC Art. 40.

- 1) Can not be apprehended under an accusation of a crime and cannot be used for the ascertainment of any crime.
- 2) Can be apprehended for determination of identification and crime.

They are released right after the determination of their identity. The Office of the Prosecutor is immediately informed about the identity particulars and the crime in order to enable the court to make a decision for temporary injunction.

b) The ones who have completed their twelfth birthday but not their eighteenth birthday may be apprehended for a criminal allegation. These children may be sent to the Prosecutor's Office immediately following the notification of their next of kin and defenders; the Chief Prosecutor or an assigned Public Prosecutor conducts investigation on these personally, and it is conducted in accordance with the provisions hereunder:

- 1) Parents or guardian of the child are notified about the apprehension of the child.
- 2) Even if he/she does not request for an attorney, an attorney is appointed, and parents or guardian of the child may appoint an attorney.
- 3) The juvenile suspect may be examined under oath with the condition of the presence of the attorney.
- 4) If it is determined that there is not any legal restriction or anything against his/her benefit, parents or guardians may be present during examination.
- 5) Juveniles are detained and kept separately from adults.
- 6) If the crimes, which are outlined in the Law on Juvenile Court Constitution, Assignment and Judicial Procedures numbered 2253, are committed along with adults, documentation on children are separated during the investigation stage, and examinations are conducted separately.
- 7) Identification and acts of children are kept confidential.
- 8) If the victim of the crime is a child, in *flagrant delicto* cases against these children, there is no contingency sought for the apprehension of the suspect and performance of an examination in the acts that depend on the complaints of the victim who are affected by the crime.
- 9) Procedures about children are conducted by personnel in civil attires as much as possible.
- 10) Children cannot be handcuffed or similar devices cannot be attached on them. However, in forced situations, in order to prevent the escape of the child, to prevent dangers to the life or body integrity of their own or others, requisite, measurements are taken by the law-enforcement officers.³⁴²

The right of children to a fair trial is further protected by more general reforms enacted in 2002. These included the following:

- Detainees shall be informed of the reason for the apprehension;
- They will have the right to remain silent and to make use of legal counsel;

³⁴² 28th Conference of European Ministers of Justice, Lanzarote (25-26 October 2007), *Report presented by the Minister of Justice for Turkey*.

- They will be allowed to inform a relative or another person about their detention;
- They will have the right to be examined by a doctor without police presence;
- Detainees cannot be held in custody for more than seven days without the decision of a judge;
- They may meet their lawyer only upon extension of custody period;
- The lawyer had the right to examine the file and the preparatory documents.³⁴³

In an attempt to prevent torture and inhuman and degrading treatment, an article has been added to the Code of Criminal Procedure which specifically addresses the importance of allegations of torture. Investigations and allegations of torture and ill-treatment are to be considered urgent cases and shall be debated promptly and without long periods of adjournment. Article 6 of the Law on Formation, Duties and Trial Methods of Juvenile Courts was amended to increase the age limit of juveniles from 15 to 18. The article now reads, 'Cases regarding crimes committed by children younger than 18 and debated by general courts are debated by juvenile courts.'³⁴⁴

In terms of legislative provision, a child's right to a fair trial appears to be protected. However, there appears to be a gap between theory and reality in this area. Despite the extensive legislative reform, allegations of ill-treatment of juveniles have been made against state agents from various parts of the criminal justice system.

Due to the armed conflict in the south-east of Turkey in the 1990s, the Turkish authorities defined certain areas as falling under a state of emergency, which allowed the officials to take extreme action. Under the 'emergency' laws children who were considered to have a connection to the PKK were detained, interrogated, and tried under the Anti-Terror Law.³⁴⁵ Since 1999, the number of child detentions for the supposed purpose of terrorism control has lessened. However, concern has been heightened recently due to provisions in a newly-ratified amended version of the terror legislation (TMK). The Initiative to Structure Children's Justice System has called for the abolition of this law on the grounds that it violates children's rights. The legislation allows children above the age of 15 to be tried before High Criminal Courts for TMK offences. This does not comply with Turkey's treaty obligations under Articles 1, 2 and 40 of the United Nations Convention on the Rights of the

³⁴³ Enlargement, 'Turkey Adopts Regulations to Implement Pro-EU Legislation', 26 September 2002, <http://www.eur.../1924220-517?targ=1&204&OIDN=1503960&-home=hom>.

³⁴⁴ *Turkish Press, Cicek: Turkey has Taken an Important Step on the Way to EU*, 22 September 2004.

³⁴⁵ The World Organisation against Torture, 'Rights of the Child in Turkey', Committee on the Rights of the Child: 27th session, Geneva 2001, Report Concerning the Application of the Rights of the Child by Turkey.

Child, and Article 6 of the European Convention on Human Rights Article on Terror legislation, or with Article 37 of the Turkish Constitution which provides for special legislation for the trial of minors.

Evidence suggests that Kurdish children are more likely to experience torture, wrongful detention and ill-treatment than other Turkish children. In fact, the World Organization Against Torture strongly believes that discrimination is one of the root causes of failing justice systems in Turkey: 'Failure to investigate and prosecute those suspected of killings, torture and other mistreatment seems to occur when the victims are Turkish citizens of Kurdish ethnic origin and is not a geographic problem, indicating discrimination on the grounds of race, language and/or association with a national minority.' This contention of the link between ethnicity and instances of torture is supported by the large number of cases regarding the detention and torture of Kurdish citizens of Turkey where violations have been found to have occurred by the European Court of Human Rights.

More recently, concerns have also been heightened regarding the torture and mistreatment of Kurdish children following the incidents in Diyarbakır in late March 2006.³⁴⁶ A total of 34 preparatory investigations were launched against police officers. The Diyarbakır Bar Association has stated that although officials have previously promised a zero tolerance policy against torture, and that there has been a decrease in the number of reported incidents during the European Union accession period, the incidents reported following the Diyarbakır disturbances shows that the promises made were not sincere. During the disturbances 213 children were initially detained, 94 of them were then arrested. A majority of the children placed in custody were subjected to mistreatment and torture.³⁴⁷ Further amendments to the law are unlikely to prevent such occurrences. Rather, more preventative measures must be taken and the culprits must be held accountable. Additionally, the children who were held were released after 62 days in detention, in violation of their human rights.³⁴⁸

Another example can be drawn from the aftermath of the protests that occurred in the south-eastern cities of Hakkari, Siirt, Van, and Yuksekova after local authorities refused to permit traditional Newroz celebrations earlier in 2008.³⁴⁹ There were widespread allegations of use of excessive force and ill-treatment by police officers in clashes that left three people dead.³⁵⁰ A large number of people, including some police officers, were also reportedly

³⁴⁶ Bia news centre, Kemal ÖZMEN,01-06-2006'All Diyarbakır Child Prisoners Released'; 'Torture Investigations in Diyarbakır.

³⁴⁷ *Ibid.*

³⁴⁸ Bia news centre, Kemal ÖZMEN,01-06-2006'All Diyarbakır Child Prisoners Released'; 'Torture Investigations in Diyarbakır.

³⁴⁹ Gündem Online, <http://www.gundemonline.org/haber.asp?HaberId=49576> (last accessed 10 October 2008).

³⁵⁰ *Ibid.*

injured during the demonstrations.³⁵¹ After demonstrations on the 22 March in the south-eastern city of Hakkari a 15-year-old boy was arrested by police.³⁵² He was apparently ill-treated during and after his arrest and was charged with offences including resisting arrest and making propaganda for a terrorist organization. Television footage apparently shows plainclothes police officers injuring his arm while he was under their control and not resisting arrest.³⁵³ He was the subject of an Amnesty International appeal for urgent independent medical examination and appropriate treatment.³⁵⁴ This call followed official medical reports that had apparently not found his arm to be seriously injured. Concerns for his health were heightened by reports that after he was taken into police custody, he was punched, slapped and verbally abused by police officers. Such alleged incidents highlight the ongoing concerns regarding the treatment of Kurdish children by the Turkish legal system.

In response to the treatment of the children following the 2006 demonstrations outlined above the UNICEF representative to Turkey, Edmond McLoughney stated that, 'Turkey should abide by international standards with regard to children in detention' with reference to the United Nations Standard Minimum Rules for the Administration of Protection of Juveniles Deprived of Their Liberty (the Havana Rules).³⁵⁵ As stated above, legislative reform does in many ways appear to comply with these international standards, but the problem lies in ineffective implementation. Thus the suggestion made by McLoughney that independent controls conducted by non-governmental organisations at detention facilities could prove an important instrument in preventing the abuse and ill-treatment of children in custody under arrest is an important one.³⁵⁶ The treatment of Kurdish children by the criminal justice system was a key area of concern for the mission. It was considered important to discover whether the examples outlined above are examples of isolated or widespread failures in the juvenile justice system.

c) Fact-Finding Mission

Diyarbakır:

In 2003 an amendment was made to criminal procedure legislation that provided that trials involving children under the age of 18 were to fall under the jurisdiction of the children's courts. However, Mr Eren and Mr Yavuz of

³⁵¹ *Ibid.*

³⁵² *Ibid.*

³⁵³ *Ibid.*

³⁵⁴ Amnesty USA, <http://www.amnestyusa.org/index.html>, (last accessed April 2008)

³⁵⁵ Togla Korkut, 'Children Can't be Subject to Adult Treatment,' Bia News Centre, 6 April 2006.

³⁵⁶ Togla Korkut, 'Children Can't be Subject to Adult Treatment,' Bia News Centre, 6 April 2006.

the Diyarbakır Bar Association informed the mission that despite this legislative change, in practice children continued to be tried by the former state security courts for political crimes. Further, in 2006 this practice was given legislative backing via the introduction of the new Anti-Terror Legislation (TMK), which provided that children over the age of 15 charged under the TMK are to be tried at the former State Security Courts, which are now the Heavy Criminal Courts.³⁵⁷ This is against Turkey's obligations under the UN Convention on the Rights of the Child, which designates people under the age of 18 as children. Further, Mr Yavuz and Mr Eren highlighted a recent amendment to the TMK introduced in February 2008, which entails that though previously sentences of less than two years committed by 15 to 18-year-olds could be suspended, this is no longer the case. Under the CRC, imprisonment of a child should be the last resort. Yet under the TMK it is the first choice.³⁵⁸ This is a clear violation of Turkey's international human rights obligations. In 1992 the Criminal Procedure law was changed so that in cases where children under the age of 18 are either the victim of a crime or are accused of committing a crime, the Bar Association is to be informed. Furthermore, it is established procedure that the Bar Association assigns a lawyer in all cases involving children.³⁵⁹

The key distinction that needs to be recognised in relation to the juvenile justice system in Turkey is between two types of crime committed by children: political and non-political. Non-political crime refers to ordinary crimes such as bag-snatching and theft. Political crime refers to behaviour such as joining demonstrations and rallies.³⁶⁰ All children charged with the former, and those under the age of 15 charged with a political crime, fall under the jurisdiction of the children's courts. Mr Eren and Mr Yavuz informed the mission that the treatment of children under the Child Protection law through the children's criminal courts is better than the treatment of those that fall under the jurisdiction of the Heavy Criminal Court.³⁶¹ There are two forms of children's courts. The first is the regular children's court that has jurisdiction over minor offences and where there is no prosecutor, merely the judge. The second is the Children's Heavy Criminal Court where there are three judges and a prosecutor. These courts do operate under some special conditions, including the requirement that both the prosecutor and the judge are parents themselves.³⁶² The Law also requires that a specially trained expert psychologist must produce reports on the

³⁵⁷ FFM interview with Mr Nahit Eren, Head of Children's Rights Commission and Baris Yavuz Coordinator of Legal Aid Unit , Diyarbakır Bar Association, 18 June 2008, Diyarbakır.

³⁵⁸ *Ibid.*

³⁵⁹ *Ibid.*

³⁶⁰ FFM interview with Mr Selahattin Coban, Chairman, Mazlumder, 19 June 2004, Diyarbakır.

³⁶¹ FFM interview with Mr Nahit Eren, Head of Children's Rights Commission, and Baris Yavuz, Coordinator of Legal Aid Unit , Diyarbakır Bar Association, 18 June 2008, Diyarbakır.

³⁶² FFM interview with Mr Selahattin Coban, Chairman, Mazlumder, 19 June 2004, Diyarbakır.

charged child, with regard to ability to understand what they have done and factors such as their social status. However, although the Ministry of Justice provides training for psychologists, lawyers, judges and prosecutors, the implementation of such regulations is not always effective.³⁶³

Mr Coban informed the mission that often the Child Protection Law is used merely to reduce sentence length in cases involving juveniles, while provisions providing for special protection measures to be taken to protect children due to their particular vulnerability are ignored.³⁶⁴ Mr Erbey, Chairman of the Diyarbakır branch of İHD, informed the mission that another major problem is that there is only one regular children's court in Diyarbakır, as there is only one specific judge and prosecutor designated for these cases.³⁶⁵ Mr Erbey stated that this was proving to be insufficient to cope with the caseload of the court. The resulting backlog results in delays to children's cases being dealt with.³⁶⁶ Further, the increasing number of crimes being committed by children exacerbates the backlog.³⁶⁷ Mr Erbey informed the mission that in 2002, 1,000 children were tried for minor offences. In 2006 the number had risen to 3,300 due to the number of IDP children in the city who were born into the slums and poverty that mark the lives of this vulnerable group.³⁶⁸ This was identified by Mr Erbey as one of the long-term consequences of the forced migration.³⁶⁹ Mr Erbey suggested that 90 per cent of non-political crimes committed by Kurdish children in Diyarbakır are due to economic reasons.³⁷⁰

Mr Erbey informed the mission that in Diyarbakır children are not held in prison with adults. But he said they are held with older children, for example, 13-year-old children are held with 17-year old children.³⁷¹ This has resulted in a number of applications involving ill-treatment committed by elder children against their younger counterparts.³⁷² The mission was also informed of a number of other forms of ill-treatment that children are allegedly subjected to in Diyarbakır.³⁷³ Under the child protection law the police are to have special children's police officer units who will conduct interviews with children in special rooms specifically designated for that purpose.³⁷⁴ However, although children arrested following the March 2008 Newroz violence were taken to

³⁶³ *Ibid.*

³⁶⁴ *Ibid.*

³⁶⁵ FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

³⁶⁶ *Ibid.*

³⁶⁷ *Ibid.*

³⁶⁸ *Ibid.*

³⁶⁹ *Ibid.*

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*

³⁷² *Ibid.*

³⁷³ FFM interview with Mr Nahit Eren, Head of Children's Rights Commission and Baris Yavuz Coordinator of Legal Aid Unit, Diyarbakır Bar Association, 18 June 2008, Diyarbakır.

³⁷⁴ *Ibid.*

special rooms designated for their questioning, mission members were informed that members of the anti-terror branch of the police went to the special unit in order to harass and question the children.³⁷⁵

Further, Mr Coban observed that in relation to political crimes the Heavy Criminal Courts always start cases brought to their attention, regardless of the amount and quality of evidence brought before them.³⁷⁶ This over-readiness to open cases, despite the fact that they do not always result in a conviction, and the ensuing investigation is a form of harassment in itself as it results in psychological pressure, especially given the length of time such cases take.³⁷⁷ Further, Mr Coban stated that decisions taken by the Heavy Criminal Courts involving political crimes are subject to an external invisible pressure from the army and security forces, which means that they are not impartial.³⁷⁸

Mr Coban informed the mission that he has 14 clients linked with the events on and after 28 March 2006.³⁷⁹ Although during that time 12 Kurdish people were killed, no one has ever been prosecuted. There was chaos in the town with the police picking people off the streets, including some children who were not even involved in the demonstrations. Banks were attacked and windows of shops smashed, and the children were accused of committing these acts. Once the children had been arrested they were held in a basketball court at a sports centre. According to Mr Coban, all were badly beaten, such that some were bleeding from their ears.³⁸⁰ Mr Coban wrote to the prosecutor to report the ill-treatment, who replied saying that it was not his business but was rather a concern for a doctor.³⁸¹ Although the injuries were allegedly clearly visible, medical reports are said to have found no evidence of ill-treatment. However, Mr Coban took both pictures and testimony from his clients regarding their experiences.³⁸² All 14 of his clients were under the age of 18, but over the age of 15, at the time of the incident.³⁸³ Initially the Children's Heavy Criminal Court dealt with the case. However, the nature of the charges alleged was changed such that they were then charged with political crimes. Thus, the Children's Heavy Criminal Court then held that it had no jurisdiction over the case. The children were held in custody during the first four months, during which time the case was under the jurisdiction of the Children's Heavy Criminal Court. However, the case was still ongoing at the time of the interview and, even though Mr Coban believes that there is no concrete evidence against the children, he stated that he expects at least some

³⁷⁵ *Ibid.*

³⁷⁶ FFM interview with Mr Selahattin Coban, Chairman, Mazlumder, 19 June 2004, Diyarbakır.

³⁷⁷ *Ibid.*

³⁷⁸ *Ibid.*

³⁷⁹ *Ibid.*

³⁸⁰ *Ibid.*

³⁸¹ *Ibid.*

³⁸² *Ibid.*

³⁸³ *Ibid.*

of the 14 to be convicted. This is because in his view adults and children are convicted regularly despite a lack of concrete evidence.³⁸⁴

The members of the FFM were also part of a Trial Observation team that observed a trial in Diyarbakır on 19 June 2008. The hearing observed related to charges brought against three children under the age of 18 who were charged under the anti-terror legislation for singing a Kurdish song at a folk music festival in San Francisco in October 2007. Prosecutors had filed charges against the children under Article 7/2 of the Anti-Terror law, which governs the production of propaganda for a terrorist organisation. The prosecutor claimed that the song had been adopted as the official march of the PKK, and that the children were standing in front of PKK flags during the performance. These three children were over the age of 15 and therefore tried as adults in an adult court. A further six children charged in connection with the same incident were under the age of 15 and so were tried by a children's courts. The three older children were acquitted on 19 June, and the six younger children were acquitted on 3 July. The choir sang songs in eight different languages, including Dutch, English, Hebrew, Russian and Arabic, during their appearance at the San Francisco festival. But Turkish prosecutors were exclusively concerned with their rendition of the Kurdish anthem *Ey Raqip* (Hey Enemy). Written by the famous Kurdish poet Dildar (1917-1948) while in prison in Iran, the song became the national anthem of the short-lived Kurdish Republic of Mahabad in north-western Iran in 1946. It is now the national anthem of the Kurdistan Regional Governorate in Iraq. According to the charges, the rendition of the song by the children amounted to a deliberate and premeditated attempt to propagandise on behalf of the PKK. This was in spite of the fact that the children claimed during the trial that it had been sung only after a request from the audience. The flag that was hung behind the children during their performance is used by the Kurdistan Regional Government in northern Iraq.

KHRP delegates, who were the only international observers present at the proceedings at the Diyarbakır Heavy Crimes Court, noted that the environment was clearly intimidating and wholly inappropriate for a trial involving minors. The majority of other cases before the court involved security charges, including alleged drug-trafficking and weapons-handling. A number of other concerns were registered with regard to court procedure. The three children were eventually acquitted after it was ruled that they had not intended to commit the crime of which they were accused. Despite the acquittal, KHRP is deeply concerned that such a trial should have occurred in the first place and that the grounds of acquittal failed to acknowledge the spurious nature of the charges themselves.

³⁸⁴ *Ibid.*

During the course of the proceedings themselves and also during a meeting with some of the children at a local youth centre, the delegates were extremely concerned to note the negative impact that the process was having on their lives. Having been indicted in November 2007, the legal proceedings had been hanging over the children's heads for seven months, a state of affairs that had clearly made the older ones amongst them apprehensive. Delegates were further concerned that the children apparently had to face the ordeal largely on their own, with no visible support from their parents, social workers or the adult organisers of the trip. The reluctance of some adults to involve themselves in the affair may have stemmed from a fear that this would lead to further problems with the authorities in future.

The delegates believed that this case reflects Turkey's broader failure to develop a culture of respect for children's rights and to distinguish between children and adults within its legal system. They concluded that such trials are being used to scare and harass individuals and their families in relation to their use of the Kurdish language, and to prevent them from exercising free expression.

Cizre:

Members of the Bar Association in Cizre informed the mission that children arrested in connection with demonstrations are subject to threats and tricks, including being told that if they inform on others the case against them will be dropped, although this never happens.³⁸⁵ One interviewee described an occasion where they were in the prosecutor's office and a child was being shown a video of a demonstration. The prosecutor was reportedly being nice to the child, saying that it looked like fun and asking who else was there. The boy apparently revealed the names because he thought it was in the context of a friendly conversation.³⁸⁶ Further, under the law the police have no power to take evidence from children as it is unofficial.³⁸⁷ However, interviewees stated that the police write a report that often includes the reporting of statements the child made in custody and are questioned about it in court.³⁸⁸ This evidence has apparently been held to be acceptable by the appeal court.³⁸⁹

Moreover, Turkish law states that children cannot be held alongside adults, if this is not possible then children cannot be arrested or held. However,

³⁸⁵ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nîrîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

³⁸⁶ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nîrîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

³⁸⁷ *Ibid.*

³⁸⁸ *Ibid.*

³⁸⁹ *Ibid.*

children arrested on 15 February in Cizre were reportedly held with adults due to the insufficient capacity of the prison.³⁹⁰ When the lawyers objected to this, the children were sent to Diyarbakır. The children's parents were subsequently said to have become angry with the lawyers because it meant they could not visit their children.³⁹¹ Further, it is only children arrested under the anti-terror law who are sent to Diyarbakır, while children charged with general crimes continue to be held with adults.³⁹² Children held for both political and non-political crimes are allegedly subject to ill-treatment, although the treatment of the former is said to generally be more severe.³⁹³ Interviewees stated that children are often beaten, although officers are careful not to leave marks.³⁹⁴ They are also allegedly insulted, sworn at, threatened and often kept waiting for hours.³⁹⁵ A common issue was described as unnecessary delays in the prosecution process. Often, it was claimed, all of the necessary documents will be ready but the prosecutor's office still waits until the end of the detention period to bring the case. Thus, by the time the trial is completed the child has served the sentence imposed. Essentially this means that regardless of whether the child is found guilty or not guilty they have already served the sentence anyway.³⁹⁶

Further, there is at present no specific children's court in Cizre. Instead, when a child is to be tried the court simply changes its name and then continues with the trial. Thus, the same court, judge and prosecutor try children.³⁹⁷ Criteria such as the judge being a parent and the recipient of special training are reportedly not met, and the prosecutor is often present despite this being against the requirements of the legislation.³⁹⁸ If asked to leave they do, but it was stated that their initial presence betrays the fact that children are not seen as such by the judicial system, and that officials need to be constantly reminded that they should be treated differently.³⁹⁹ Further, while there are attempts to comply with the Child Protection Law, interviewees said there are no experts to provide the reports about the children required by the legislation.⁴⁰⁰

A specific example of children's interaction with the juvenile justice system was related to the mission by Mr Dilsiz, a lawyer in Cizre, who informed the mission about events that took place on 15 February, amid protests to mark

³⁹⁰ *Ibid.*

³⁹¹ *Ibid.*

³⁹² *Ibid.*

³⁹³ *Ibid.*

³⁹⁴ *Ibid.*

³⁹⁵ *Ibid.*

³⁹⁶ *Ibid.*

³⁹⁷ *Ibid.*

³⁹⁸ *Ibid.*

³⁹⁹ *Ibid.*

⁴⁰⁰ *Ibid.*

the anniversary of the capture of Abdullah Öcalan.⁴⁰¹ Mr Dilsiz reported that a 17-year-old boy was killed by being run over by a police vehicle. A statement was released by officials stating that he had been killed by a stone thrown by one of the other protestors. However, a state hospital report said that he had been killed by something heavy rolling over him. There were further incidents on 16 February sparked by anger regarding the statement denying the cause of death. It was reported that the protesting was aggressive, but that the violence of the police response was nonetheless disproportionate. The protesting reportedly continued until 20 February, during which time 85 adults and 25 children were arrested and detained in custody for three days.⁴⁰² Mr Dilsiz represents all 25 of the children.⁴⁰³ He informed the mission that initially on 15 February eight children were detained and beaten very badly. These were the children who had witnessed the death of their friend. They were allegedly the victims of verbal assaults, and some were said to have suffered broken noses and other injuries. They were also threatened with sexual abuse, being told that they would be raped that night. The rest of the children were detained during the protests taking place over the following days. These children also allegedly suffered ill-treatment, although it was of a less severe nature than the initial eight children.⁴⁰⁴ The police have apparently stated that the injuries identified in the medical report were inflicted when the children were resisting arrest.⁴⁰⁵ It was highlighted to the mission that often doctors are too afraid to state in medical reports that the children are suffering from visible injuries.⁴⁰⁶ Further, due to lack of modern technology at the hospital many internal injuries are not diagnosed even when children are actually assessed.⁴⁰⁷

Mr Dilsiz said he had made a complaint to the prosecutor's office about the treatment of his clients and that after this the treatment of the children improved. However, the case was dismissed and the mission was informed that this is nearly always the case.⁴⁰⁸ It was explained to the mission that in such instances, often the officers who commit the beatings are not local but are brought in from outside to help control the demonstrations, making it much more difficult to identify them.⁴⁰⁹ The riot police brought in for this demonstration stayed for seven days and were said to have generally committed the worst acts of violence towards the protestors and the children in detention.⁴¹⁰ Mr Dilsiz stated that after the complaint was made the ill-treatment did not stop, but only became less severe and officers made more

⁴⁰¹ FFM interview with Mr Rojhat Dilsiz, Avukat, 23 June 2008, Cizre.

⁴⁰² *Ibid.*

⁴⁰³ *Ibid.*

⁴⁰⁴ *Ibid.*

⁴⁰⁵ *Ibid.*

⁴⁰⁶ *Ibid.*

⁴⁰⁷ *Ibid.*

⁴⁰⁸ *Ibid.*

⁴⁰⁹ *Ibid.*

⁴¹⁰ *Ibid.*

effort to avoid leaving any marks.⁴¹¹ The children being held in prison are all aged between 15 and 18. However, the mission was informed that several children under the age of 15 were detained during the protests. Although they were released without charge they were also allegedly the victims of ill-treatment, and Mr Dilsiz said he had made complaints regarding the treatment of all the children.⁴¹²

This case has now been transferred to a lawyer in Diyarbakır, and has also been the subject of a report produced by two lawyers the mission met with there, Mr Muharrem Sahin and Mr Fuat Cosacak.⁴¹³ This report followed interviews conducted by the lawyers with the children in prison in Diyarbakır on 11 June 2008. The report details the accounts given by the children to their lawyers about the treatment they were subjected to in Cizre. The content of the report was described to the mission by Mr Muharrem Sahin and Mr Fuat Cosacak as follows. According to this account, during the initial arrest the children were deprived of food and water and refused access to the toilet for long periods or not allowed to use it at all. They were woken during the night under the pretext of feeding them. They were also required to stand for two to three hours at a time at five o'clock in the morning. They were required to stand facing the wall whilst being bludgeoned by police. One child is stated in the report to have been sexually assaulted by police officers. When some of the children arrived at Cizre prison at midnight they were reportedly left wearing only their underwear outside in the cold for approximately two to three hours. During the transfer to Diyarbakır prison they were allegedly deprived of water, subjected to abusive language and, in at least one case, slapped. Another child was allegedly beaten with a belt and had his tooth broken by an officer thought to be a specialist sergeant from Diyarbakır E-Type Prison Gendarmerie. On arrival at the prison the children were apparently stripped and kept waiting naked for a long time in the prison's garden. The children were said to suspect that another child in the prison was being used to inform on their activities during their imprisonment.⁴¹⁴

It was also reported by the children that one of the officers had been using insulting language towards the children and talking to them about subjects of a sexual nature.⁴¹⁵ The example given was that he asked the children if they knew how to masturbate. One incident reported was that he rubbed against one of the children's sexual organs with his baton and used expressions, such as 'are you someone who gives his ass'. Another child who had been taken to hospital was allegedly beaten on more than one occasion by police officers.⁴¹⁶

⁴¹¹ *Ibid.*

⁴¹² *Ibid.*

⁴¹³ FFM interview with Mr Muharrem Sahin and Mr Fuat Cosacak, Avukats, 21 June 2008, Diyarbakır.

⁴¹⁴ FFM interview with Mr Muharrem Sahin and Mr Fuat Cosacak, Avukats, 21 June 2008, Diyarbakır.

⁴¹⁵ *Ibid.*

⁴¹⁶ *Ibid.*

At the time of writing all of the children have been charged under the anti-terror law with disseminating propaganda and all of them are still being held in prison in Diyarbakır. Yet, three and a half months later the case has still not been opened against them because the prosecutor in Cizre has not sent his report about the incidents. These reports are supposed to be sent within 15 to 20 days. Mr Dilsiz, the lawyer who acted for the children in Cizre, stated that the purpose behind such a delay is the fact that under Article 7/2 of the anti-terror law, which covers disseminating propaganda, the maximum sentence is four months. The trial is expected to take place sometime in July. By the time the trial is completed the children will have served the sentences and can be released regardless of whether their guilt is established. In the view of Mr Dilsiz sentences are being imposed prospectively, undermining the children's right to a fair trial.⁴¹⁷

Another example was given to the mission by Mr Dilsiz that involves 18 children who were arrested on 21 March 2008 during unrest connect with the Newroz festival.⁴¹⁸ As the incident occurred after the incidents described above in February, a complaint about ill-treatment had already been made and so the treatment of this second group of children was reportedly less severe. However, they were still allegedly beaten up and subjected to verbal abuse and threats.⁴¹⁹

Mr Dilsiz informed the mission that he has been providing training seminars to the recruits of a private security firm, and had informed them about their obligation to protect civil liberties. However, he said, the recruits replied that police officers who had also provided them with training had informed them that they can do whatever they like as long as they do not break any bones.⁴²⁰ This was the kind of behaviour exhibited towards the children following the Newroz celebrations, they were beaten up but no bones were broken. These children have also been charged under Article 7/2 of the anti-terror law.⁴²¹ Further, he anticipates that this case will also be delayed so that the children will have served their sentences prior to the verdict being established.⁴²²

Mr Dilsiz informed the mission that in both of the examples given, the police reports contained testimony obtained unofficially during the children's detention.⁴²³ As this has been held to be acceptable evidence, the only avenues of complaint open to him have been to the prosecutor's office, which he believes is highly unlikely to work.⁴²⁴ The alternative avenue he has taken is the sending of a complaint to the Ministry of Justice, which sometimes

⁴¹⁷ FFM interview with Mr Rojhat Dilsiz, Avukat, 23 June 2008, Cizre.

⁴¹⁸ *Ibid.*

⁴¹⁹ *Ibid.*

⁴²⁰ *Ibid.*

⁴²¹ *Ibid.*

⁴²² *Ibid.*

⁴²³ *Ibid.*

⁴²⁴ *Ibid.*

apparently sends investigators. However, he did not anticipate an outcome that would prevent the use of such evidence.⁴²⁵ Further, he also elaborated that during questioning the police often employ a 'good cop, bad cop' approach.⁴²⁶ Thus, some will threaten and abuse the children while others will be friendly, telling them that if they admit what they have done and tell them who else was involved they will not be in trouble.⁴²⁷

Mr Dilsiz related to the mission that the imposing of the high security zone in the area has increased the number and severity of incidents.⁴²⁸ Yet, he also made clear that the kinds of treatment described have always taken place in the area.⁴²⁹ The ill-treatment inflicted against the children was stated to be rendered more likely because under the anti-terror law during the first 24 hours a child is held he is not entitled to have access to legal representation. Thus, due to the treatment meted out against them, by the time their lawyer gains access to them it is often too late.⁴³⁰ Further, the police have had their powers increasingly heightened regarding what methods they can use to control demonstrations. This has resulted in the police being unafraid to use violence against demonstrators on the streets, and does nothing to undermine the legitimacy attached to violence committed against those in custody.⁴³¹

The mission was also informed that girls are usually the victims of rather than the committers of crime.⁴³² They are rarely arrested and when they are the prosecutor is reportedly usually reluctant to proceed as there is nowhere to hold girls.⁴³³ They would have to send them to Mardin, and usually do not proceed, in order to avoid the costs the transfer would involve.⁴³⁴ Sometimes girls are arrested for stealing, but this is apparently a rare occurrence.⁴³⁵

İstanbul:

It was stated by Ms Yoleri, Chairwoman of the İHD branch in İstanbul, and other members of her staff present at the meeting, that due to the social and economic circumstances of Kurdish children they are becoming increasingly involved in crime and gang culture, which means they are increasingly in

⁴²⁵ *Ibid.*

⁴²⁶ *Ibid.*

⁴²⁷ *Ibid.*

⁴²⁸ *Ibid.*

⁴²⁹ *Ibid.*

⁴³⁰ *Ibid.*

⁴³¹ *Ibid.*

⁴³² FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nörırevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

⁴³³ *Ibid.*

⁴³⁴ *Ibid.*

⁴³⁵ *Ibid.*

contact with the criminal justice system.⁴³⁶ It was strongly submitted by the interviewees that the Turkish courts award heavy sentences for the various crimes with which the children are charged, without taking any account of the fundamental problems underlying such crimes. It was further stated that street children and other children held in custody are often subjected to ill-treatment and torture.⁴³⁷ An example was given of 15 IDP children who were sitting in a park when officers requested to see their IDs. As they did not have them they were allegedly taken to the local police station and tortured.⁴³⁸ This example was used to illustrate to the mission the types of seemingly trivial incidents that can result in children becoming the victims of torture. Although İHD had not produced a specific report on Kurdish children, or focused on children as a distinct target group, it was observed that children suffer from all of the violations which the organisation focuses upon in its work regarding the criminal justice system.⁴³⁹ A particular issue identified was that under the anti-terror law children aged between 15 and 18 are treated as adults.⁴⁴⁰ It was observed that in Istanbul, cases regarding such children are sometimes joined with adult cases. It was stated that this had occurred in cases involving children aged 14.⁴⁴¹ Further, a key problem identified is that although children have to be compulsorily assigned a lawyer, İHD only has the right to assign the lawyer if there have been incidents of torture or other ill-treatment. It is often difficult for allegations of this type to be substantiated, as doctors are reportedly afraid of the repercussions of telling the truth in their medical reports, or medical reports are delayed.⁴⁴² The issue appeared to be one of time as there appeared to be nothing the İHD could do if the child had been released and if the child was not seen by medical staff quickly enough or evidence of beatings or other violence had been ignored. It was asserted that if a child comes to the organisation claiming they were the victims of torture or violence they do write reports and try to follow the case, and they also collaborate with the Foundation for Social Health to obtain medical reports. However, the passage of time reportedly often means that little can actually be done⁴⁴³.

The mission also met with members of the Prisoner's Family Association and the parents of two children who were currently detained in custody.⁴⁴⁴ The

⁴³⁶ FFM interview with Ms Gulseren Yoleri, Chairwoman, İHD İstanbul Branch, 24 June 2008, İstanbul.

⁴³⁷ *Ibid.*

⁴³⁸ *Ibid.*

⁴³⁹ *Ibid.*

⁴⁴⁰ *Ibid.*

⁴⁴¹ *Ibid.*

⁴⁴² *Ibid.*

⁴⁴³ FFM interview with Ms Gulseren Yoleri, Chairwoman, İHD İstanbul Branch, 24 June 2008, İstanbul.

⁴⁴⁴ FFM interview with staff of Tutuklu Aileleri İle Dayanışma Derneği (TUAD), Prisoner's Families Association, and members of families with a child in detention, 24 June 2008, İstanbul.

first was a 16-year-old boy who was arrested on 10 March 2008 in Istanbul, after being caught in possession of a sound bomb, a device that when activated makes only a loud noise, that he allegedly intended to detonate near a police vehicle. At the time he was apparently with four friends who were all aged 18 or over. They were sitting in a park carrying the package containing the sound bomb when police saw them. They fled and the officers chased them whilst shooting at them until they were eventually cut off and captured. During the first 48 hours that he was held in custody his family reportedly had no idea where he had gone, and it was only after the family were eventually informed he was in custody after this time had elapsed that they were able to send him a lawyer. It was apparently only when the lawyer first gained access to the child that it was discovered by the family that he had been sent to a police office on the other side of town to the police station that the family had been told he was being held in. The family tried to visit the child at this point but were said to have been refused access and to have had to wait three days to see him.⁴⁴⁵

When the lawyer met the child before the family was given access he asked him about the treatment he had been subject to since his arrest.⁴⁴⁶ The child has reportedly informed his lawyer that during the first four days that he was held he was given no food or water, and that he was subjected to torture. It is alleged that he was not allowed to sit or sleep, and that he was beaten. During this time he was apparently also continually interrogated by security forces.⁴⁴⁷ After this period he was taken before a court for heavy crimes and then sent to Bayrampaşa prison.⁴⁴⁸ In this prison the situation of the child was described as having improved because there was not as much torture committed against him here.⁴⁴⁹ However, he was subsequently moved to Maltepe prison on the other side of Istanbul after the first prison was closed down. This meant that for the family to visit the boy it would now take about three hours and they would have to change vehicles five times.⁴⁵⁰ Further, it was stated that the child's situation had worsened since the move. The parents had seen the child three weeks prior to the interview and described him as being in a very bad way. He had allegedly been badly beaten and had legions and other marks of torture on his body. This reportedly led to him joining a hunger strike with other prisoners, which resulted in the prisoners being held in isolation.⁴⁵¹ All of the ten prisoners involved in the strike were said to have been charged with political crimes and were all aged between 15 and 18. On 20 June the Prisoner's Family Association had released a public statement about the treatment they were receiving and after this they ended the hunger strike.⁴⁵²

⁴⁴⁵ *Ibid.*

⁴⁴⁶ *Ibid.*

⁴⁴⁷ *Ibid.*

⁴⁴⁸ *Ibid.*

⁴⁴⁹ *Ibid.*

⁴⁵⁰ *Ibid.*

⁴⁵¹ *Ibid.*

⁴⁵² *Ibid.*

The strike was reportedly precipitated by the fact that the political prisoners had refused to take part in a head count. The officers had then allegedly attacked them and placed them in isolation.

During the hunger strike the father was able to visit his son for five or six minutes. After this meeting both parents visited him in prison.⁴⁵³ However, during this second visit there was a glass screen between them and their child and they had to communicate by telephone.⁴⁵⁴ The mother can only speak Kurdish so when she began to speak Kurdish on the telephone the wardens were said to have cut off the line. Even though the mother explained she could not speak Turkish and cried out for the child the visit was apparently ended.⁴⁵⁵ The last time they saw the child before the mission met with them was on 19 June. The father was able to say two or three words in Turkish but again the mother was cut off for speaking Kurdish. They described their son as having lost a lot of weight, in a very bad physical condition and was having a black mark under his eye. However, they were given no opportunity to discover if he had been badly treated or received medical treatment.⁴⁵⁶ Although he has been held since March the trial was not set to begin until 1 September. By this time he would have been held for nearly six months, even though the indictment has already been released.⁴⁵⁷

The mission also met the mother and brother of another child during the course of the same interview.⁴⁵⁸ At the time the boy was arrested he was 17 years old, however, he is now 18. They did not know the exact date of his arrest but stated that it was about seven months prior to the interview, which took place on 24 June.⁴⁵⁹ It was stated that the boy's phone calls were being intercepted by the police because he was alleged to be working for the DTP election office. The boy was allegedly calling friends on his phone from this office asking them to bring water and other items⁴⁶⁰ In the indictment against him the police reportedly stated that these requests were coded messages for other items such as gas or petroleum. Further, it was alleged that his phone held political pictures and music that amounted to illegal propaganda.⁴⁶¹ The family was apparently at home on a Sunday morning when the police suddenly arrived and took the boy away. It was stated that the rest of the family were taken to another room, and that the younger children were crying, but that the brother was refused access to a glass of water to help calm them.⁴⁶² The child also has a nickname that the family use, which is not his

⁴⁵³ *Ibid.*

⁴⁵⁴ *Ibid.*

⁴⁵⁵ *Ibid.*

⁴⁵⁶ *Ibid.*

⁴⁵⁷ *Ibid.*

⁴⁵⁸ *Ibid.*

⁴⁵⁹ *Ibid.*

⁴⁶⁰ *Ibid.*

⁴⁶¹ *Ibid.*

⁴⁶² *Ibid.*

official name on his ID.⁴⁶³ When he was taken into custody the family referred to him by his nickname. The indictment apparently alleged that this nickname was a terrorist code name.⁴⁶⁴

During the arrest the family reportedly asked where he was being taken and were told to come to the central police station in Vatan to the Department for Anti-Terror.⁴⁶⁵ The following morning, however, when the family went to this police station they were informed that no-one of that name was being held in custody.⁴⁶⁶ It was only after 48 hours had elapsed that they were called to say that he was in a second police station. At this point they were able to see him and realised that he was hungry so they returned later with food but were refused access.⁴⁶⁷ It was reportedly only on the fifth day that he was held that they again had access to him. They said they asked the boy why they had been refused access and, and that he said he was being interrogated continuously throughout this time.⁴⁶⁸ It was also on the fifth day that the lawyer was apparently first given access to him. This first lawyer was assigned by the state and reportedly did not ask any questions about the treatment he had received, but only signed some documents and then left.⁴⁶⁹ After this the family obtained their own lawyer who has seen the boy a number of times.⁴⁷⁰

The brother stated that while the boy was held in police custody he had been hit but that when he arrived in the first prison where he was held, the officers, after discovering he was from Mardin, beat him very badly.⁴⁷¹ When the family visited him he was reportedly holding his chest and was in a very bad condition. However, he was subsequently taken to a doctor and since then he had reportedly started to feel better. The family have been able to visit the boy every Monday since he has been in prison. The boy was moved three weeks prior to the interview to Maltepe prison and they were able to see him on Thursdays. Although he has been now held for seven months, he was reportedly only seen by the prosecutor for the first time two months ago and the process was said to be progressing very slowly. This second child also participated in the same hunger strike outlined above. During the hunger strike, when the brother visited, after he said 'hello' into the telephone he was cut off, even though the word for 'hello' is the same in Turkish and Kurdish. It was stated that it is only the phones of Kurdish families that are cut off, which has led to a number of disputes between the families and the prison guards. One such dispute occurred between the mother and the guards, when

⁴⁶³ *Ibid.*

⁴⁶⁴ *Ibid.*

⁴⁶⁵ *Ibid.*

⁴⁶⁶ *Ibid.*

⁴⁶⁷ *Ibid.*

⁴⁶⁸ *Ibid.*

⁴⁶⁹ *Ibid.*

⁴⁷⁰ *Ibid.*

⁴⁷¹ *Ibid.*

she protested that things she had sent to her son were not given to him and that she had a right to see him. She threatened to take them to the European Court of Human Rights and go to the mass media with her story, and it was only at this time that she and his brother were able to see him and speak to him properly. The trial date for this second boy is not until 2 September. The first boy was a high school student. However, as stated his education has been gravely interrupted by his detention. The second boy was working and supporting his family, thus his mother has apparently now had to take cleaning jobs in order for the family to survive. The children were described as being in a constant state of fear and afraid to sleep. Although the children are held separately in a children's prison, the torture they are allegedly subjected to is said to make this segregation irrelevant.⁴⁷²

d) Conclusion and Recommendations

The mission observed there are strong common themes regarding the failings of the juvenile justice system in Turkey. Firstly, there are gaps between what is legislatively provided for under the Child Protection law and what actually occurs in practice. In particular, this gap is particularly wide in rural areas that are high security zones. Turkey must take all necessary measures to close this gap by ensuring that all provisions are enforced, and that the infrastructure required to allow for this is put in place.

However, it was also clear to the mission that although all Kurdish children are under the threat of ill-treatment, those arrested in connection with political crimes appear to be at particularly high risk of being the victims of ill-treatment or torture regardless of their location. However, the level of the severity of the violence the children are reported to be subjected to appears to be higher in the south-east and east, which appeared to be directly linked to the increasing tension in the region. Given the number of incidents reported to the mission, the problems regarding the treatment of such children appear to be endemic. In the view of the mission, the particular incidents highlighted by media sources are not isolated. Rather, they reflect a much broader problem. The mission was particularly concerned about the provisions under the anti-terror legislation that have resulted in children over the age of 15 being treated as adults when they are charged with political crimes. This is a clear example of regression with regard to Turkey's compliance with its international human rights obligations. Further, in the view of the mission, an important issue highlighted in all regions visited was the common practice of long-term detentions, blamed on unspecified administrative delays, which results in children effectively serving the sentences available for the acts with which they are charged prior to their guilt actually being established. This is a clear violation of their right to a fair trial. It is vital that Turkey takes urgent steps to rectify this situation. The EU must encourage Turkey in the course of the accession bid process to comply with its obligations to refrain from the

⁴⁷² *Ibid.*

use of torture and inhuman and degrading treatment, and to respect the right to a fair trial and rights pertaining to children as a special group.

9. THE CONFLICT AND POLITICAL ACTIVITY

a) Desk-based Research

Alongside the specific violations of the rights of Kurdish children that occur once they are in police custody having been arrested in connection with demonstrations, it is also important to consider the brutal treatment that they receive during such demonstrations themselves. It is also important to note the link between the brutal treatment they receive, and their decisions to become involved in further political activity, in particular joining the PKK fighters in the mountains.

A 2006 Guardian report told the story of Sevder, a 17-year-old Kurd who had become involved with PKK activity due to the deprivation he had suffered throughout his life and the witnessing of shootings of his schoolmates by Turkish security forces.⁴⁷³ Moreover, he was also said to be 'seething' because of vulgar taunts his mother and sisters had received from Turkish police, and the stories of family and friends of forced displacement.⁴⁷⁴ The Guardian report uses Sevder as an example of what the author described as a new wave of militancy among young Turkish Kurds. The article quoted lawyer Sezgen Tanrikulu as saying, 'There is a different generation now in Diyarbakır' and that '[t]hese youths are aged 14 to 20. They've grown up in this place feeling they don't belong. We can't communicate with them.'⁴⁷⁵ The brutal response of the Turkish security forces in March 2006, during a 48-hour clash between Kurdish protestors and the security forces, were described as an 'effective recruitment drive for the PKK.'⁴⁷⁶ Another young Kurdish youth Cevat was quoted as stating, 'We're fed up of the discrimination. It doesn't have to be like this' and that 'every time they do something like this, more people go into the mountains.'⁴⁷⁷ The latter phrase was defined as meaning joining the PKK fighters, estimated in the article to number around 5,000, in their bases in nearby northern Iraq. The author reported that an estimated 100 local youths had gone into the mountains in the month of May 2006 alone.

During the riots of March 2006 it is reported that a 7-year-old was shot dead, five teenagers were killed and another 500 people were wounded. During and after the riots, 180 under-18s were reportedly detained. According to a report from the Diyarbakır Bar Association, which is based on witness statements and medical reports, all of them were subjected to severe abuse in

⁴⁷³ Traynor, Ian, 'Children of the Repression: Turkish Kurd Teenagers Turn to the PKK After Enduring Years of Brutality,' Guardian, 5 June 2006, available at <http://www.guardian.co.uk/world/2006/jun/05/turkey.iantraynor> (last accessed March 2008).

⁴⁷⁴ *Ibid.*

⁴⁷⁵ *Ibid.*

⁴⁷⁶ *Ibid.*

⁴⁷⁷ *Ibid.*

detention.⁴⁷⁸ 'Mistreatment and illegal torture was applied. The unlawful behaviour of the police lent a new dimension to the situation,' the report says. The teenagers said they had been repeatedly beaten, threatened with death and rape, stripped naked, immersed in cold water, subjected to high pressure hosing and had cigarettes stubbed out on their bodies.⁴⁷⁹

Moreover, Turkey's Prime Minister, Recep Tayyip Erdoğan warned in June 2006 that Turkish security forces would act against women and children who he said were being used as 'pawns of terrorism'.⁴⁸⁰ There were violent clashes across the south-east between the riot police and Kurds in June 2006. Children aged nine, seven and three were reportedly among those killed in clashes around the provincial capital, Diyarbakır, two of them from gunshot wounds.⁴⁸¹ Turkish ministers have accused Turkish separatist groups of deliberately using children in the protests in order to win sympathy.⁴⁸² This is a pressing issue for children in Turkey, particularly in the context of rising tensions in the region. Thus, the mission was particularly concerned with obtaining information about this subject.

It is glaringly apparent that children, alongside the Kurdish community as a whole, are vulnerable to the violation of their civil and political rights by the Turkish authorities. It is imperative that the Turkish authorities take steps, particularly during the developing of the new Turkish Constitution, to alleviate these concerns.

b) Fact-Finding Mission

Diyarbakır:

The Vice-Chair of the DTP for Diyarbakır Province stressed that in situations of conflict people are negatively affected in general, both within the home and outside it. Due to the situation in the region it is not expected that the rights of children will be respected. This was particularly reflected in the information that the mission received regarding the treatment of children involved in any kind of political activity. Mr Erbey stated that children in the bigger cities, including Diyarbakır, attend demonstrations thinking it is a game. However, when the police intervene they do not discriminate between adults and children when using water guns and tear gas.⁴⁸³

Cizre:

⁴⁷⁸ *Ibid.*

⁴⁷⁹ *Ibid.*

⁴⁸⁰ BBC News, 'Turkey Warns Children Off Clashes,' <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/4867934.stm>, (last accessed April 2008).

⁴⁸¹ *Ibid.*

⁴⁸² *Ibid.*

⁴⁸³ FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

In Cizre, the mission met with a number of members of the Bar Association, who stated that the levels of political activity on the part of children has increased in recent years, a phenomenon that has been matched by a marked increase in the levels of aggression exhibited by security forces against children.⁴⁸⁴ They related to the mission that children are not only involved in demonstrations during the school holidays, but also attend after school and sometimes even miss school in order to participate. It is not only that the number of children involved has increased, the interviewees stated, it is that children are taking a more active role as their political consciousness increases.⁴⁸⁵ They stated that there is no pressure placed upon the children to take part, but that due to the conflict environment that they live in it is easy for them to become involved. Due to the clashes in the region and what they see happening around them, it was said that they begin to see the state as their opponents.⁴⁸⁶ However, having not been exposed to external pressure in the past, children are reportedly not as afraid to become involved. They are also not as aware of the legal consequences and they see it as more of a game, since their political consciousness is imperfect.⁴⁸⁷

It was observed that following the killing of a child by a police vehicle during the 15 February demonstrations, due to the fact that many children witnessed the killing or heard about what happened to a child, there has been an increase in the numbers taking part.⁴⁸⁸

The mission was informed that the majority of children taking part are male.⁴⁸⁹ Girls rarely participate in the demonstrations due to social structures, according to which it is not accepted for girls to be involved in public affairs. If a girl takes part then she is likely to face serious repercussions from her family. It was also said to be the case that boys are out on the streets in general, which makes it easier for them to become involved in incidents.⁴⁹⁰ Further, families were said to be proud of boys who take part.⁴⁹¹ Although many adults, both male and female, used to take part, the numbers of adults participating have reportedly decreased due to their fear of persecution.⁴⁹² The age range of children taking part is from 6 to 18; however, it is reportedly particularly children from the age of 12 to 18.⁴⁹³ This older age group were

⁴⁸⁴ FFM interview with Ms Ilknur Yokus Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nîrîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

⁴⁸⁵ *Ibid.*

⁴⁸⁶ *Ibid.*

⁴⁸⁷ *Ibid.*

⁴⁸⁸ *Ibid.*

⁴⁸⁹ *Ibid.*

⁴⁹⁰ *Ibid.*

⁴⁹¹ *Ibid.*

⁴⁹² *Ibid.*

⁴⁹³ *Ibid.*

said to motivate and direct the involvement of the younger children.⁴⁹⁴ If police catch children aged 11 and under they admonish them, interviewees said, and might be rough with them, but would then tell them to go back home. However, older children reportedly receive worse treatment at the scene of the demonstrations. Often water cannons are used and children have on a number of occasions been the victims of violence.⁴⁹⁵ As discussed in the section of this report covering juvenile justice, if these older children are arrested and detained they may fall victim to ill-treatment or even torture. The severity of the violence inflicted was stated to have been affected by the recent military operations. The level of aggression or violence committed against children reportedly tends to increase if there have been recent deaths of soldiers.⁴⁹⁶ The form of the children's involvement in the demonstrations was described as usually being chanting slogans, making the victory sign, waving illegal flags and posters supporting the PKK, and throwing stones. However, the throwing of stones was said to occur only after the police have intervened, and it was claimed that stones tends to be aimed at their vehicles rather than the officers themselves.⁴⁹⁷ Violence is expected from the police, interviewees said, so the throwing of stones tends to be in anticipation of this. More recently children have also reportedly been using petrol bombs against the police.⁴⁹⁸

The mission was informed that the response to child and adult demonstrators by state officials is not different due to age.⁴⁹⁹ Thus, with regard to the 17-year-old boy who was run over by a police vehicle during the protests on 15 February it was highlighted to the mission that the vehicle had been moving speedily amongst a crowd that included a large number of children and that, more children could therefore have been killed or injured. In this case, due to the high level of outcry in response to the death, the state hospital's report accurately identified the cause of death as being ran over by a heavy object. This was reportedly in contrast to an official statement that suggested a stone thrown by other demonstrators had killed the child. The body was subsequently sent to a hospital in Malataya, and the autopsy report confirmed the conclusion of the state hospital's report. However, at the time of writing, the investigation into the incident remains suspended. The mission was informed that it is incidents such as these that fuel the desire of children to be involved in demonstrations. They are apparently often not at the front of demonstrations as a matter of design, as is suggested by state sources, who argue that this is done in order to paint the state officials who respond in a bad light. Rather, the mission was told, they are at the front because incidents such as the death of their friend and the treatment they receive in the context

⁴⁹⁴ *Ibid.*

⁴⁹⁵ *Ibid.*

⁴⁹⁶ *Ibid.*

⁴⁹⁷ *Ibid.*

⁴⁹⁸ *Ibid.*

⁴⁹⁹ *Ibid.*

of the conflict in the region fuels a hatred of the state that leads to a genuine desire to push themselves forward.⁵⁰⁰

A problem relating to the political situation that was particular to Cizre was landmines.⁵⁰¹ The mission was informed that a number of landmines and other weaponry have been left lying around in the countryside round the villages, and many children have reportedly died or lost limbs as a result of finding unexploded weaponry lying around.⁵⁰² The attention of the mission was also drawn to a number of cases of suicide that have occurred involving 15, 16 and 17-year-old children, where it is believed that the reasons related to the environment of conflict.⁵⁰³

İstanbul

In an interview with Ms Yoleri, Chairwoman of the İstanbul İHD branch, it was observed that children there are also involved in demonstrations in a similar manner to that described in Diyarbakır and Cizre.⁵⁰⁴ Although the İHD lawyers are not automatically involved in such cases, they informed the mission that the main problem is the sheer number of cases brought. There are so many cases involving children being subjected to violence on the streets or in custody due to their involvement in political activity that many incidents are simply forgotten. In particular, as cases under the anti-terror law involving children over the age of 15 are dealt with by the adult courts, these children are said to become lost in the system, as well as being the victims of violence and torture both on the streets during the demonstrations and once taken into custody.⁵⁰⁵

c) Conclusion and Recommendations

In the view of the mission many Kurdish children who become involved in political activity such as demonstrations are at risk of being subjected to violence and aggression, both on the streets and in custody, regardless of where they are located. However, in this instance it would appear that children who reside in the high security zones are at a higher level of risk due to the level of tension between the population and security forces in these regions. In particular, as the conflict in the region escalates the direct correlation appeared to the mission to be an increase in the violence perpetrated against children. It is important that actions taken by security forces to control demonstrations should be appropriate and proportionate.

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

⁵⁰² FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

⁵⁰³ *Ibid.*

⁵⁰⁴ *Ibid.*

⁵⁰⁵ *Ibid.*

Further, when considering what is a proportionate response, the involvement of vulnerable groups such as children should be given considerable weight. Reported statements in the media by officials, including the Prime Minister, stating that officers will not discriminate between children and adults when responding to demonstrations are clearly reflected in actual policy on the ground. It is imperative that Turkey abandons this non-discrimination stance towards children involved in political activity, as particularly under the Convention on the Rights of the Child Turkey has an obligation to give special protection to children.

Although the mission did pose questions about reports of children 'going into the mountains' to some of the interviewees, they generally appeared reluctant to discuss this topic, mostly claiming that they knew little about it. If such reports are correct, this should also be an issue of great concern. Children should not be allowed to be involved in such activities. It must also be stressed that the reasons that lead children to make such choices must be eradicated as well.

In the view of the mission a vicious circle has emerged whereby police violence is escalating the level of children's involvement in political activity such as demonstrations, which then further exposes them to brutality and violence. The only remedy for the problems reported to the mission in this area is dependent upon a democratic solution being found for the Kurdish issue. Until such a solution is found and the conflict is brought to an end it will be difficult to prevent children from being the victims of violence when protesting against the treatment of their ethnic community. Thus, the EU must place much greater emphasis that it does at present on the need for Turkey to reach a democratic solution to the Kurdish question.

10. EU ACCESSION PROCESS

An issue raised by a number of interviewees with regard to all of the topics discussed in this report is the impact that it had been hoped the EU accession process would have, and the disappointment that has been felt on this front. Mr Erbey underlined a common theme that the EU misinterprets the impact of the positive legislative changes that have been introduced.⁵⁰⁶ Between 1999 and 2004 there was a number of significant changes in legislation due to Turkey's EU candidacy, particularly following the opening of official negotiations in August 2005.⁵⁰⁷ However, a recurrent theme highlighted throughout the research was that there is a lack of implementation generally, and most markedly in the east and south-east. Many interviewees suggested that the current stagnation in the accession bid process is undermining the will of the state to fully effect implementation. Further, regressive legislation has been introduced, in particular the anti-terror legislation and the law regarding police powers, which have led to increasing numbers of human rights violations.

This concern, however, is not limited to police brutality but is relevant to all areas covered in this report. The interviewees at the SELIS women's centre and a number of other interviewees stated that in areas such as honour killings and child abuse, it was hoped that the greater respect for human rights required by accession would lead to improvements in many areas.⁵⁰⁸ However, the mission noted a widespread belief that the EU was not exercising its influence to make improvements in such areas of concern. Its commitment to improving Turkey's human rights record was described as not genuine.⁵⁰⁹ This is compounded by the general feeling that the EU is not taking the Kurdish issue seriously enough in the accession negotiation process. Mr Erbey drew specific attention to the fact that there have been a number of highly publicised events where the Prime Minister recognised the Kurdish issue, stating that they were ready to recover past mistakes.⁵¹⁰ Further, he noted that the current President, when he held the position of the Minister of Foreign Affairs, took items such as Kurdish CDs and billboards as evidence of change to the European Parliament and in discussion with various EU officials. Mr Erbey stated that such actions on the behalf of government ministers gives Europe the impression that they are themselves willing to comply, but that it is the military which is preventing positive steps. Yet, the introduction of, for example, the anti-terror legislation belies

⁵⁰⁶ FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

⁵⁰⁷ *Ibid.*

⁵⁰⁸ FFM interview with Ms Sudan Güven and others, SELIS Women Advisory Centre, 20 June 2008, Diyarbakır.

⁵⁰⁹ *Ibid.*

⁵¹⁰ FFM interview with Mr Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 18 June 2008, Diyarbakır.

any such claims⁵¹¹ The overall impression that the mission obtained from the interviews it conducted was that the increase in tensions regarding the conflict and the stagnation of the EU accession bid was resulting in a regression in Turkey regarding the protection of human rights. Kurdish children, rendered vulnerable as a group both by their status as children and their ethnicity, are suffering from increasing disadvantages as a result.

However, it was also stressed to the mission that the EU accession process still has the potential to be a tool for positive change.⁵¹² The process could be used as a means to provide for necessary ongoing monitoring of the implementation of legislative changes introduced that could improve the position of Kurdish children, and as a means of identifying problems areas that require further consideration and the introduction of other measures. Further, it was suggested that the EU could engage with all relevant actors in Turkey, including central government, political parties, NGOs and others, in order to encourage collaboration between these different groups working to improve the protection of children's rights.⁵¹³ The mission urges the EU to undertake such a role in Turkey with regard to the protection of children's rights.

⁵¹¹ *Ibid.*

⁵¹² FFM interview with Ms Özlem Yasak., Project Coordinator, Bağlar Municipality, 20 June 2008, Diyarbakır.

⁵¹³ *Ibid.*

11. CONCLUSION AND OVERARCHING RECOMMENDATIONS

This report covers a number of areas within which Kurdish children are experiencing violations of their rights as a consequence of both their status as children and their ethnicity. In each section a conclusion to the specific topic has been drawn and specific recommendations have been made which flow from the need to address the problems identified. However, when considering the overall picture of the situation of Kurdish children in Turkey that this report draws there are a number of recurrent themes that must be highlighted. Although a number of the problems highlighted are not particular to Kurdish children alone, the trend identified is that Kurdish children suffer from particular disadvantages as a result of the broader status of the Kurds in Turkey. The huge regional disparities regarding economic output and the development of infrastructure places the Kurdish population in the east and south-east as a whole at a distinct disadvantage. In cities such as Istanbul, huge numbers of IDPs also continue to suffer disadvantages in all areas of life. In this context, children are a vulnerable section of society that requires special protection. The continuing failure of Turkey to recognise its Kurdish population, compounded by the work of international organisations that respect this stance by not differentiating between different ethnic groups in their work, results in the special needs of Kurdish children in all areas being ignored.

Another pervasive trend across all areas covered is that even where positive legislative measures have been introduced, they are persistently followed with a lack of thorough implementation. Particularly in the east and south-east they are sometimes marked by their complete lack of implementation. The numerous gaps that exist between legislative content and practice on the ground have to be filled in order to ensure respect for Kurdish children's rights. In all areas this will require considerable levels of investment and planning to improve the infrastructure and services provided. This must be led by central government. At present children receive little special attention due to their status. It was noted by the mission that the Turkish central government does not have a national policy or strategic plan directed at children. Further, there is little evidence across all of the areas covered of collaboration between the various relevant actors in each field. This lack of collaboration undermines what each actor can achieve, especially given that few have sufficient resources to have a real, long-term impact on the problems discussed individually. The mission also noted that in general there are few civil society organisations that focus purely on children's rights issues or which have it as a major area of their work. This reflected an overall picture whereby children's issues are not given separate and special attention in the areas covered by this report in Turkey.

Furthermore, the most worrying trend identified is the recent regression in the protection of fundamental human rights. This was most keenly identified with regard to the treatment of Kurdish children in the juvenile justice system and when they are engaging in political activity. However, regression was also discernible in other areas, including in relation to housing problems resulting from current and planned forced displacements of IDPs in Istanbul. Similarly, regression was noted with regard to the expectation of increasing levels of violence in the home as the conflict in the Kurdish region continues to escalate and violence becomes increasingly legitimised in the minds of the local population. In order for such regression to be halted and for real progress to be made, a democratic solution to the Kurdish issue must be sought. Further, external actors, particularly the EU, must use their influence to ensure Turkey's compliance with all of its international obligations.

In light of these conclusions the mission urges the Republic of Turkey to:

- Take proactive steps to foster a culture of respect for child rights.
- Review and repeal provisions of legislation that infringe upon children's rights.
- Honour existing international obligations with regard to the rights of children.
- Review and repeal reservations made in relation to particular provisions of international treaties on children's rights.
- Produce a national children's policy and strategic plan to guide and coordinate efforts in key areas in order to improve protection of the rights of children.
- Engage and collaborate effectively with other actors in the field, particularly political parties and civil society groups, in order to make the most of available resources.
- Actively seek a democratic solution to the Kurdish issue, in order to ameliorate the harmful effects of the current situation on Kurdish children.

This Report urges the European Union to:

- Uphold its commitment to the reform process by actively engaging with Turkey's accession bid.
- Actively monitor the situation of Kurdish children in Turkey and ensure that their needs are addressed as a central part of the reform process.
- Use its good offices and those of its member states to engage the Turkish government on issues pertaining to Kurdish children. In particular, this should include use of the Kurdish language in schools and the treatment of juveniles within the justice system.
- Maintain continued dialogue with, and exert persistent pressure on, Turkey to ensure that it fulfils its obligations and effectively

implements the legal reforms agreed pursuant to the Copenhagen Criteria, particularly in the realm of minority rights;

- Actively support existing civil society groups working on children's rights and encourage the establishment of new such groups, in order to promote greater focus on the protection of the rights of Kurdish children.