

THE SITUATION OF KURDISH CHILDREN IN TURKEY

FACT-FINDING MISSION & RESEARCH REPORT



January 2010

By Kerim Yıldız, Rachel Bernu and Julianne Stevenson

Kurdish Human Rights Project
KHRP
Established 1992

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KURDISH HUMAN RIGHTS PROJECT
BAR HUMAN RIGHTS COMMITTEE

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The 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.



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LIST OF ABBREVIATIONS

AKP	<i>Adalet ve Kalkınma Partisi</i> (Justice and Development Party)
BİA	Independent Communication Network
ÇAÇA	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	<i>Demokratik Toplum Partisi</i> (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
GAP	<i>Güneydoğu Anadolu Projesi</i> (Southeastern Anatolia Project)
HDA	Housing Development Administration
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally Displaced Persons
İHD	<i>İnsan Hakları Derneği</i> (Human Rights Association of Turkey)
ILO	International Labour Organisation
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
PKK	<i>Partiya Karkeren Kurdistan</i> (Kurdistan Workers' Party)
SELİS	<i>Kadın Danışmanlık Merkezi</i> (Women's Consultation Association)
SSCPA	Social Services and Child Protection Agency
SYDGM	General Directorate of Social Assistance and Solidarity
TUAD-DER	<i>Tutuklu Aileleri İle Dayanışma Derneği</i> (Association for Prisoners' Families)
TMK	Turkish Anti-Terror Legislation
UN	United Nations
UNICEF	United Nations Children's Fund
VAKAD	Van Kadın Derneği (Van Women's Association)

INTRODUCTION AND SUMMARY

There are an estimated 15 million Kurds in Turkey. Comprising 23 per cent of the country's population, the Kurds are Turkey's largest non-Turkish ethnic group.¹ According to census data, one quarter of the Turkish population is under 15.² Accurate figures for the percentage of children under 18 are difficult to find given that the Turkish census only aggregates demographic data according to those aged 0-14, 15-64 and 65 years and over. However the United Nations Children's Fund (UNICEF), estimate that approximately 36 per cent of Turkey's population is under the age of 19,³ and applying this percentage to the Kurdish population we can roughly estimate that there are around 5,400,000 or more Kurdish children aged 19 and under in Turkey. In line with the mandate of promoting and protecting human rights in the Kurdish regions, in 2004 the KHRP produced a report on the situation of Kurdish children in Turkey, which was developed from desk-based research.⁴ KHRP decided to follow up on this report in 2008 in order to assess what improvements, if any, had been made in the intervening period.

The 2004 report was produced in the wake of the assessment of Turkey's international obligations under the UN Convention on the Rights of the Child (CRC) in 2001. Immediately following this assessment a number of NGOs had produced their own reviews of Turkey's compliance, and as a result, there was a dearth of new investigative material. Since then, the UN Committee on the Rights of the Child has gone onto review in December 2007, Turkey's report under Article 8, paragraph 1, of the optional protocol to the CRC on the involvement of children in armed conflict,⁵ and in September 2009, the Turkish government's responses to the

1 Kerim Yıldız, *The Kurds in Turkey: EU Accession and Human Rights*, (Pluto Press, 2005), 6.

2 Tolga Korkut, 'Half of Turkey's Population Younger than 29', *Bianet*, at <<http://bianet.org/english/people/119663-half-of-turkeys-population-younger-than-29>> (last accessed 27 January 2010).

3 UNICEF in Turkey: *Country Profile* at <http://www.unicef.org/turkey/ut/ut2_2010.html> (last accessed January 2010).

4 See Kerim Yıldız and Anna Elyse Ressler, *Turkey: The Situation of Kurdish Children* (KHRP, London, October 2004).

5 UN Committee on the Rights of the Child (CRC), *Consideration of Reports Submitted by States Parties under Article 8, paragraph 1, of the Optional Protocol to the Convention of the Rights of the Child on the Involvement of Children in Armed Conflict: Initial Reports of States Parties Due in 2006: Turkey*, 12 December 2007, CRC/C/OPAC/TUR/1, at <<http://www.unhcr.org/refworld/docid/478373e92.html>> (last accessed 26 November 2009).

Committee's list of issues.⁶ The continued policy of the Turkish state which does not distinguish between its citizens ethnic/cultural/linguistic origins makes it difficult to gather information or data on any specific sub-group of the Kurdish population, including children. This problem is magnified by the fact that many of the international organisations working in Turkey that KHRP contacted, did not distinguish between the Turkish and Kurdish population within their work. A report developed solely from desk-based research would therefore not be sufficient to produce a comprehensive assessment of the situation of Kurdish children in Turkey.

Of particular concern to the authors and the KHRP is the increase of ill-treatment of children in detention and in the judicial system since 2008 and especially in the latter half of 2009. As we go to print, according to official figures more than 2,700 children are in detention and over 700 children were convicted and imprisoned under anti-terror charges in 2008. The plethora of examples of abuse is staggering, and merits its own report. Section 8 of this report is therefore focused on outlining some of the principal issues surrounding juvenile justice in Turkey, however the increasing severity and indeed the growing breadth of problems, require yet another field mission to Turkey, which KHRP plans to undertake with its partners.

Therefore, the focus of this report is on the wide range of issues affecting the situation of Kurdish children in Turkey: housing, health and nutrition, education, child labour, and street children, and examined whether discrimination against Kurds as a group infringes on children's rights. The fact-finding missions visited the areas of Diyarbakır, Cizre and İstanbul in Turkey and met with state officials, local lawyers, bar associations and civil society groups, as well as a cross-section of representatives from broadcasting, print, and online media.

The areas chosen were intended to offer a variety of perspectives on the question of children's rights in Turkey. Diyarbakır and Cizre are located in the Kurdish region of south-eastern Turkey. In both places the vast majority of the population is Kurdish: estimates of over 90 per cent are regularly given when meeting with officials and civil society from these regions. The populations of both areas face serious socio-economic and other problems, including issues stemming from the presence of large numbers of Internally Displaced Persons (IDPs), with these problems being most pronounced in Cizre. The location of Cizre within a government-imposed 'high security zone' also brings specific negative consequences for children in the area. By contrast, the situation in İstanbul is better for children because of greater

6 UN Committee on the Rights of the Child (CRC), *Written Replies by the Government of Turkey to the List of Issues (CRC/C/OPAC/TUR/Q/1) to be Taken Up in Connection with the Consideration of the Initial Report of Turkey Under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC/C/OPAC/TUR/1)*, 2 September 2009, CRC/C/OPAC/TUR/Q/1/Add.1, at: <<http://www.unhcr.org/refworld/docid/4aeeb2972.html>> (last accessed 26 November 2009).

infrastructure, yet Kurdish children continue to face specific problems arising from the stark and clearly visible differences in the living standards of different ethnic groups, and must still deal with issues stemming from the presence of IDPs.

This report considers the special protections required by children— as one of the most vulnerable sections of every country’s society— against abuse of their fundamental rights, as recognised by various international instruments, including the CRC. All countries face complex questions in ensuring these protections are met, relying on the fundamental principle that respect for and fulfilment of children’s rights must occur at all levels of every country’s state structure and society. The authors have concluded that children in Turkey are generally not treated as a vulnerable group requiring special protection, and that Kurdish children especially face discrimination because of their ethnicity, and lack adequate protection to live free from human rights violations.

Female children are a particularly vulnerable group in Turkey and face a variety of gender-based human rights violations. The reasons for and the types of violations vary at times depending on economic disparities, religious devotion or family norms. Among the most extreme violations are their inability to go to or complete school, physical and sexual violence in the home, non-consensual early marriage, forced prostitution and other forms of trafficking, and honour killings.

Kurdish children’s particular vulnerability also stems from a history of armed conflict in the Kurdish region. Violent clashes between armed opposition groups and the state security forces remain frequent. Thus the conflict continues to affect all of those living in the Kurdish region, especially children, and the rights of Kurdish children as a group continue to require specific attention. More than 3.5 million people were displaced in the 1990s and as a result, there are children who have grown up as displaced persons.

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. From a legal perspective, the Police Powers Law in May 2007 was cited as a recent example of retrogressive steps that undermine the positive reforms made thus far. These amendments, perceived by many of the interviewees as giving the police excessive powers, have led to reports in all the areas visited that children are being subject to violence from police both on the streets and in police custody. In a similar vein, new Anti-Terror legislation (TMK) has been introduced which stipulates 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 enter the criminal justice system illustrates that children in Turkey are not always offered the protections expected

by international standards. In December 2009, the Turkish parliament was meant to discuss the implementation of the TMK and possible amendments, but at the time of writing, the discussion had been postponed without a specific date rescheduled. Although the authors welcome the introduction of legislation such as the Child Protection Law, it urges the Turkish government to take the steps necessary to ensure the thorough implementation of such legislation in all regions of the country.

In addition, the glaring economic disadvantage of the Kurdish populations in Turkey directly affects the well-being of Kurdish children. Over the course of writing of this report, the research team noted a large disparity between the standards of living and the provision of services in the Kurdish region and İstanbul. Serious economic challenges include a lack of adequate state-provided housing, insufficient compensation for those displaced from their homes, meagre health-care and educational provision, and the continued prevalence of child-labour. In order to ensure that the rights of all children in Turkey are respected and fulfilled, such disparity must be ameliorated.

The political instability prevalent in the Kurdish region of Turkey is another issue that affects the physical and emotional well being of Kurdish children. A solution must 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. For example, the mission noted the continued lack of Kurdish-language education for children, the manipulation of the Green Card health scheme for political ends, and the continued prevalence of violence against and within Kurdish communities.

KHRP also found that there were few civil society organisations within Turkey that focus primarily on children's rights. Although Kurdish children are not the only group affected by the legal, political and economic failures highlighted in this report, they are a particularly vulnerable group and suffer disproportionately as a result. For progress to be made and entrenched, significant legal, economic and political challenges must be tackled. These cannot be overcome without a great deal of consistent effort. The Turkish government must therefore not only continue existing legal and political reforms and economic investment, but must also extend these plans and buttress them with the political will necessary to ensure they are effectively implemented.

This report concludes, therefore, that 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. 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. 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, and to encourage other governments with an interest in Turkey to use their good offices to assist Turkey where needed in meeting its children's rights obligations.

1. 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 south-east Turkey have a long history. The south-east region of Turkey has historically been predominantly Kurdish. 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.⁷ 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 homogenise 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 *Partiya Karkeren Kurdistan* (Kurdistan Workers' Party, PKK) between 1984 and 1999 renewed the government's policies of forced displacement and cultural oppression. It is estimated that between 1984 and 1999, over 3 million Kurds were displaced from their villages, that approximately 3,000 of the 5,000 Kurdish villages in the south-east of Turkey were partially or completely evacuated, and that roughly 37,000 people were killed.⁸

b) Demographics

Turkey's census data does not list Kurds as a separate ethnic group. Consequently, there is no reliable data on their total numbers. However estimates suggest there are approximately 15 million Kurds in Turkey, which represents 23 per cent of the country's population.⁹ Almost half of all Kurds worldwide live in Turkey.¹⁰

7 David McDowell, *A Modern History of the Kurds*, (I.B. Tauris, London, New York, 1996), 105-6.

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

9 Kerim Yıldız, *The Kurds in Turkey: EU Accession and Human Rights*, (Pluto Press, 2005), 6.

10 Country Studies, 'Turkey', Source: *U.S. Library of Congress*, at <<http://countrystudies.us/turkey/28.htm>> (last accessed April 2008).

In Turkey, Kurds are concentrated in 11 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.¹¹ Kurds have been migrating to İstanbul for centuries and since 1960 they have migrated to almost all other urban centres as well.¹² There are Kurdish neighbourhoods, for example, in many of the *gecekondu*s, or shantytowns, which have grown up around large cities in western Turkey.

c) Turkey's 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 communications. 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, but faces increasingly stiff global competition. Other sectors, including for example the automotive and electronics industries, are becoming increasingly important to Turkey's export mix.

d) Income Inequality and Development in the Kurdish Region

Although the World Bank considers Turkey to be an upper-middle income country that is among the world's 20 largest economies, poverty is said to remain significant.¹³ Turkey ranked just 79 out of 182 countries with regards to the UNDP's Human Development Indicators in 2007,¹⁴ and income distribution is markedly uneven. As Sweden's development cooperation strategy for Turkey for the period

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

12 GlobalSecurity.org, 'Kurdistan – Kurdish Conflict', <<http://www.globalsecurity.org/military/world/war/kurdistan.htm>> (last accessed April 2008).

13 The World Bank ranks Turkey as having the 15th largest gross domestic product in the world. This is based on the purchasing power parity index, which accounts for the relative cost of living and the inflation rates of countries, allowing more accurate comparisons in general living standards between nations (rather than relying on exchange rates, which may distort real differences in income). See World Bank, 'Country Brief 2009', <<http://www.worldbank.org/tr/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/TURKEYEXTN/0,,contentMDK:20630704~menuPK:361720~pagePK:141137~piPK:141127~theSitePK:361712,00.html>> (last accessed December 2009).

14 UNDP, 'Summary Human Development Report 2009. Overcoming Barriers: Human Mobility and Development'; (United Nations Development Programme, New York, 2009), p12, at <http://hdr.undp.org/en/media/HDR_2009_EN_Summary.pdf>, (last accessed December 2009).

2005 to 2009 acknowledges, income levels in the south-eastern and eastern areas are comparable to those of the least developed countries of the world, as compared to those in certain western parts of the country which are on par with income levels in the EU.¹⁵ As these south-eastern areas are predominately Kurdish, the Kurds are placed at a clear disadvantage by this disparity. This shortcoming is reinforced by the findings of the UNDP's Human Development Index in 2007, in which Turkey came last of all the OECD countries and other EU candidate countries.¹⁶ It was also lower on the list than countries such as Albania, Russia and the Ukraine. Deficiencies in the country's healthcare and education systems are said to be the main contributory factors for this low ranking.¹⁷ The Swedish government also discerns that the country's greatest challenges pertain to healthcare and education, where substantial investments are necessary as part of its bid to fulfil the UN Millennium Goals.¹⁸

The Southeastern Anatolia Project (commonly referred to as GAP after its Turkish name, *Guneydogu Anadolu Projesi*) has been promoted as an effort to accelerate development in the Kurdish region of Turkey. According to Turkish government statistics, GAP has brought about concrete changes to the south-east regions. However regional inequality in Turkey has persisted and has even increased in some fields. For example, it is estimated the *Ilisu Dam* project— part of GAP— will submerge over 183 small villages and hamlets, forcing the majority Kurdish populations in these areas to relocate against their choice, with no proper resettlement plans in place.¹⁹ Furthermore, while GAP has reportedly contributed to a 56 per cent increase in income per capita from \$981 in 1987, to \$1,532 in 2000 in the south-east, this was much less than the national average which saw an increase of more than 80 per cent during that same period.²⁰ Such figures show that despite investment in development projects located in the south-east, the resultant benefits seem to bypass the Kurdish populations living there, whom continue to remain at a distinct socio-economic disadvantage in comparison with the rest of the country.

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

16 UNDP, 'Summary Human Development Report 2009', p12.

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

18 *Ibid.*

19 Sally Eberhardt, Nicholas Hildyard, Antonio Tricarico, Heike Drillisch and Doug Norlen, 'If the River were a Pen...' - The Ilisu Dam, the World Commission on Dams and Export Credit Reform (KHRP, London, 2000).

20 Nejdan Yildiz, 'Socio-economic Disparity and the Kurdish Issue', *Turkish Daily News*, 21 January 2008.

e) Language and Cultural Issues Affecting Kurdish Populations

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 publications that did not support Atatürk's policy of cultural hegemony were outlawed. In practice, this effectively made Kurdish identity illegal. Furthermore, Kurdish names were 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.²¹ A government Circular of 23 May 2002, which remains current, clarified that all 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. Some concessions appeared to be made in the Sixth Harmonisation Package (as part of Turkey's EU accession bid), which came into force in July 2003, 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.²² However, Courts upheld in 2004 that names including non-Turkish letters could not 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 with the letters 'q', 'w', and 'x', and that children have been assigned alternative names.²³ The Gaziantep Court has ruled that the use of 'x', 'q', and 'w' could potentially cause civil unrest and political confusion.²⁴ More recent accounts of such discrimination include a report in September 2008 by the now-banned *Demokratik Toplum Partisi* (Democratic Society Party, DTP) in Turkey that a student in Aliğa was not allowed to read a poem at the opening ceremony of her new school because she had a Kurdish name.²⁵ A motion has been filed by DTP Deputy Nuri Yaman with the Ministry of the Interior, asking if an investigation

21 Kerim Yıldız and Mark Muller, *The European Union and Turkish Accession: Human Rights and the Kurds*, (Pluto Press, 2008), 75.

22 *Ibid.*

23 *Ibid.*

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

25 Alliance for Kurdish Rights, 'Discrimination Against Girl with Kurdish Name in Turkey: DTP' at: <<http://www.kurdishrights.org/2008/09/19/discrimination-against-girl-with-kurdish-name-in-turkey-dtp/>> (last accessed January 2009).

has been opened against the District Governor for this discriminatory action, but at the time of writing, he had not yet received a response.²⁶ In November 2009, it was reported that a case was opened against a man for naming his daughter ‘Helin Kürdistan’. Because her name was announced in the papers, he is now charged with making progaganda for an illegal organisation and its purpose.²⁷

Numerous other laws and policies that target the use of Kurdish language and the very existence of the Kurdish culture have been enforced. For example, the Law on Publications Other Than Turkish, passed in 1983, stated that only first official languages of states recognised by Turkey could be used for the expression of opinion.²⁸ Thus Kurds were legally prohibited from speaking their mother tongue, even at home.²⁹ 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. Although many of the laws have changed, their legacy continues through malicious prosecutions and deprivation of public services for people with Kurdish names or who can only speak Kurdish.

26 Nuri Yaman, motion submitted to Minister of Interior, at <<http://www2.tbmm.gov.tr/d23/7/7-5049s.pdf>> (last accessed 25 November 2009).

27 Radikal ‘Kürdistan adı mahkemelik oldu’ 11 November 2009, at <<http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetay&ArticleID=964207&Date=11.11.2009&CategoryID=77>> (last accessed 15 November 2009).

28 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*, 8.

29 Yıldız and Fryer, *Internally Displaced Persons: The Kurds in Turkey*.

2. TURKEY'S INTERNATIONAL OBLIGATIONS

Turkey's ambition to be a member of the European Union has been an important element of its foreign policy and undertaking of international obligations. The country has had strong historical and cultural ties to the European region and it is believed that its political, military, economic and geographic stature would make it a strategic member for the EU. Opponents of Turkish membership, however, see Turkey as located outside the EU's geographic and cultural boundaries, and fear waves of migration from poorer regions of Turkey. The issues of Cyprus and government's abuse of human rights have also been at the forefront of the controversy over Turkey's accession to the EU. The EU accession process has led to major reforms within the country on economic and political lines, with the Turkish government showing more flexibility towards reform and international undertakings to win its membership bid. Despite several reforms made by the government in their bid to gain membership, 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.

Nonetheless, the EU remains the most important international actor with regard to the fostering of respect for human rights in 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 renegeing 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 2007,³⁰ and in its most recent progress report in 2009, confirms that this has continued.³¹

A common theme in interviewees' analysis of the situation is that the EU misinterprets the impact of the positive legislative changes that have been introduced.³² 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 being genuine.³³ The growing prospects of EU membership led to a spurt of reforms in Turkey between 1999 and 2004 and the opening of official accession negotiations in August 2005 accelerated this trend of reform.³⁴ However, a recurrent theme highlighted throughout the research was that implementation of such reforms was generally lacking, most markedly in the east and the Kurdish region. Furthermore, 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. Many interviewees suggested that the current stagnation from both the EU and Turkey in the accession bid process is undermining the will of the state to fully effect implementation.

The interviewees at *Kadin Danismanlik Merkezi* (Women's Consultation Association, SELİS) and a number of other interviewees stated that with regard to 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.³⁵ However, there was a general feeling that the EU is not taking the Kurdish issue seriously enough in the accession negotiation process and that in-fighting within the EU has enabled the government not to take human rights implementation seriously.

Mr. Erbey, Chair of *Insan Haklari Dernegi* (the Human Rights Association of Turkey, İHD) Diyarbakır Branch, drew specific attention to the fact that there have been a number of highly-publicised events where the Prime Minister recognised

30 Commission of the European Communities, Turkey 2007 Progress Report, SEC (2007) 1436, p4, at <http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf> (last accessed December 2008).

31 Commission of the European Communities, Turkey 2009 Progress Report, SEC (2009) 1334, p5, at <http://www.ihb.gov.tr/english/turkey_progress_report_2009.pdf> (last accessed November 2009).

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

33 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

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

35 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

the Kurdish issue, stating that they were ready to make amends for past mistakes.³⁶ He noted that when the current President was the then Minister of Foreign Affairs, he took items such as Kurdish CDs and billboards as evidence of change to the European Parliament and various EU officials. Mr. Erbey stated that such actions on the behalf of government ministers give Europe the impression that the Turkish government is willing to comply, but that they are held back by the military. Yet the introduction of legislation such as the anti-terror laws belies any such claims.³⁷ The overall impression that the missions obtained from interviews 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 long-term positive change.³⁸ It was thought that the process could be used as a necessary means to provide for ongoing monitoring of the implementation of legislative changes (that could improve the position of Kurdish children); as a means of identifying problem areas that require further consideration; and to assess 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.³⁹

Due to the leverage facilitated by the accession process, the EU's role in Turkish domestic developments bestows upon it a particular importance to the children confronted with the challenges discussed in this report. The EU accession process itself has had a significant influence over Turkey's ratification of 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.'

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

37 *Ibid.*

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

39 *Ibid.*

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 2004, Turkey ratified Protocol 13, which prohibits the death penalty in all circumstances, including in times of war and at times of danger of war. In October 2006, Turkey ratified Protocol No. 14, amending the control system of the ECHR.

Significantly, the majority of cases establishing violations of the ECHR and its Protocols by the Turkish government have related to events in the Kurdish region 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 in 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 26 June 2007 it ratified the Revised Social Charter, accepting 91 of its 98 paragraphs. However, 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

Political dialogue meetings at ministerial and at political director level have regularly been held between the EU and Turkey, and were most recently held in March 2009 at ministerial level and in February and July 2009 at political director level. These meetings continue to focus on the main challenges faced by Turkey in terms of the Copenhagen Criteria and review progress being made towards fulfilment of Accession Partnership priorities. Foreign policy issues related to regional areas of common interest to the EU and Turkey, such as Iraq, Iran, the Middle East and the Caucasus have also been regularly discussed.

Although the European Commission commended Turkey on undertaking several positive steps, particularly in reforms of the judiciary and opening debate into the Kurdish issue in its annual progress report published in October 2009, they also highlighted the need for the pace of reforms to be stepped up. Specific areas of concern included freedom of expression, freedom of the press, freedom of religion, trade union rights, civilian oversight of the military and women's rights and gender equality. The report also highlighted that much more needs to be done regarding impunity for those involved in torture and ill-treatment and points to the implementation of several judgments delivered by the European Court for which legislative amendments have been outstanding for several years.⁴⁰

d) United Nations Conventions

Although Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR), its reservations regarding the rights of minorities is a concern. The same is true in respect of its reservations about 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.

Most importantly for this report, however, is the Convention on the Rights of the Child (CRC). The CRC is unique 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

40 Commission of the European Communities, Turkey 2009 Progress Report, p5.

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 on 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 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 the countries under review.

On 8 June 2001, after reviewing reports from leading human rights NGOs 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 programmes 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 Southeast;
- 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.⁴¹

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 Chil-

41 Committee on the Rights of the Child, 'Concluding Observations of the Committee on the Rights of the Child: Turkey,' (Office of the United Nations High Commissioner for Human Rights, Geneva, 09 July 2001), at <[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.152.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.152.En?OpenDocument)> (last accessed December 2008).

dren 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, HEALTH AND NUTRITION

This chapter explores the problem of housing in the Kurdish region of Turkey, and examines how Kurdish populations have been affected by internal displacement and discrimination within the public housing system. It will look at how housing related problems render Kurdish children especially vulnerable to a range of social, health and nutritional problems, thereby perpetuating a cycle of social disadvantage.

a) Housing Problems in the Kurdish Region of Turkey

i) 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 armed opposition groups 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 demand for housing outstripping supply. According to some studies the annual shortfall between demand and supply falls between 15-20 per cent, with over 50 per cent of the current stock requiring renovation.⁴² This situation is exacerbated by population growth, which has contributed to increasing unemployment. Turkey’s current population of over 70,500,000 people is growing at about 1.5 per cent annually. Most of this growth is happening in cities, which are growing at 2 to 2.5 per cent annually, mainly due to migration from rural areas.⁴³ 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. More than half of all of Turkey’s

42 David Smith, *Affordable Housing in Turkey* (Affordable Housing Institute, 15 June 2008), at <http://www.gyoder.org.tr/zirve8/sunum/David_Smith.pdf> (last accessed January 2009).

43 David Smith, *Affordable housing in Turkey: Talk at GYODER* (26 June 2008), at <<http://affordablehousinginstitute.org/blogs/us/2008/06/affordable-housing-in-turkey-my-talk-at-gyoder.html>> (last accessed January 2009).

housing has been estimated to be *gecekondü* – either built out of compliance with building codes, illegally on someone else’s land, or both.⁴⁴ Poverty and poor living conditions at home have led to a large number of children being taken into institutional care. In the 2001 UN International Committee of the Red Cross (ICRC) report, it noted that some of these institutions were in bad physical condition and therefore unable to provide adequate living conditions for children.⁴⁵ The missions did not have the opportunity to see these institutions, but this claim was refuted by Mr. Beren of the Selutlik Children and Youth Centre in Diyarbakır, who stated that he has been working in the centre for 10 years, and that the institutions have improved over this time. He went on to state that they [the government] are aware that these institutions cannot take a parent’s place but that the Social Services and Child Protection Agency allocates better resources for these institutions than in the past, and that all the children’s material needs are met.⁴⁶ Several other organisations with whom the missions met implied that they felt the institutions remain inadequate, though the mission was not able to ascertain whether they had indeed improved.

b) International Obligations

i) International Housing Obligations

The right to housing has been included in a number of international human rights agreements, including the UN Declaration of Human Rights.⁴⁷ 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 recognise 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

44 David Smith, *Affordable Housing in Turkey: Talk at GYODER (26 June 2008)*, at <<http://affordablehousinginstitute.org/blogs/us/2008/06/affordable-housing-in-turkey-my-talk-at-gyoder.html>> (last accessed January 2009).

45 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*.

46 FFM interview with Mr. Halef Beren, Director of Şehitlik Children and Youth Centre, Diyarbakır Governor Office, 13 October 2009, Diyarbakır.

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

implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.⁴⁸

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.⁴⁹

ii) International Health and Nutrition Obligations

Article 24 of the CRC states that:

States Parties recognise 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.⁵⁰

The Housing Development Administration (HDA) is the single responsible public body within the housing sector in Turkey. According to the Turkish government's website, since 1984 the HDA has been effectively addressing Turkey's housing problem by 'providing affordable housing for the low and middle-income groups through innovative financial mechanisms.'⁵¹ The HDA's recent activity report published in December 2009, which covers the period 2003-2009, states that 398,980 houses were built in 81 provinces and 685 districts:

- 184,878 of them were given to narrow-income and middle-income groups;
- 105,417 of them were given to lower-income groups and poor people;
- 42,407 of them were provided to help transform shanty houses (*gecekondu*);
- 9,798 of them were given for areas hit by natural disasters;
- 3,472 of them were provided for agriculture village projects.

In practice however, the reality of the housing situation in Turkey is dismal. The HDA state that nearly 1.5 million housing units are needed to meet the housing

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

49 European Social Charter, Art. 16.

50 CRC, Art. 24.

51 Republic of Turkey Prime Ministry, 'A New Approach to Confront the Housing Challenge', Housing Development Administration (TOKI), at <<http://www.toki.gov.tr/english/hda.asp>> (last accessed January 2009).

problem in Turkey.⁵² According to the European Committee on Social Rights, housing conditions for low-income groups are particularly dire in the Kurdish region of Turkey, where it is estimated that 60 per cent of the population lives below the poverty line.⁵³ 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.⁵⁴ 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 Kurdish region. The failure of the state to provide immediate adequate temporary housing or indeed, long-term permanent housing has meant that approximately 3.5 million people - predominantly Kurds, who are estimated to have been forcibly displaced as a result - 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.

In 2002, a study by the Immigrants' Association for Social Cooperation and Culture (Göç-Der) found that IDP communities, particularly those living in the slums, faced a number of serious problems with their accommodation:

- 1) 58.4 per cent have difficulty accessing both drinking water and water used for every day tasks, 20.3 per cent do not have access to water in their residences;
- 2) 69 per cent had sewage problems in their residence, 27 per cent of the sample population do not have a WC in their house, 8.1 per cent have an outside WC, and, significantly, 37.2 per cent do not have access to a toilet in the near vicinity of their house;
- 3) 63.4 per cent have difficulty with their electricity, 19.5 per cent do not have electricity at all;
- 4) 32.4 per cent experience problems relating to rubbish;

52 Republic of Turkey Prime Ministry, 'New Prospects in Housing Development through Toki's Innovative Financial and Technical Mechanisms', at <<http://www.toki.gov.tr/english/newprospects.asp>>, (last accessed November 2009).

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

54 Mark Muller and Sharon Linzey, *The Internally Displaced Kurds of Turkey: Ongoing Issues of Responsibility, Redress and Resettlement* (KHRP, London, 2007), 31.

- 5) 42.2 per cent have insufficient heating facilities, 97.3 per cent do not have central heating in their homes, 80.2 per cent heat their houses with wood, sticks and twigs, 11.1 per cent heat their accommodations with coal or electricity.⁵⁵

Göç-Der was founded in 1997 solely to assist the internally displaced because no state agencies were carrying out this work. It has since continued to work with the communities cited in its 2002 survey, and has found that little has changed. In addition to the aforementioned issues, living conditions in the slums are not conducive to the physiological and emotional health of the communities living there. 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.⁵⁶

They also found that 96.6 per cent of IDPs suffered financial loss due to forced eviction or house demolition. A study by İHD in Turkey meanwhile, found that 72.4 per cent of IDPs noted personal property loss and 88.4 per cent had their houses destroyed or were forced to evacuate.⁵⁷ According to information on the Global IDP Database, prior to displacement 78 per cent of Kurdish IDPs resided in detached village houses, but after displacement 57 per cent lived in slum accommodation.⁵⁸ Such changes are also summarised in the following tables based on Göç-Der's research.

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- 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 Displaced due to Armed-conflict and Tension Politics; the Problems They Encountered due to Migration and their Tendencies to Return back to the Villages' (Göç-Der, Ankara, 2002).
- 56 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 Displaced due to Armed-conflict and Tension Politics.
- 57 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, (İHD, Ankara, May 2003).
- 58 Global IDP Database, *Profile of Internal Displacement: Turkey: Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council* (October 2002), at <http://www.ecoi.net/pub/ds164_02347tur.pdf> (last accessed January 2009).

Table A: Kinds of Residences Prior to Migration⁵⁹

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 Migration⁶⁰

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

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. According to the Director of Göç-Der Diyarbakır Branch, 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

59 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 Displaced due to Armed-conflict and Tension Politics.

60 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 Displaced due to Armed-conflict and Tension Politics.

produce vast amounts of smoke in a confined space.⁶¹ The Director went on to say that he knew of no workable government - initiated programme to protect children who live in these conditions. He stated that there is only AMATEM (Alcohol, Substance, Research and Rehabilitation Centre) run by the Governor's office, which carries out medical treatment of drug addicted children.⁶²

Given conditions in the slums, many organisations working in Turkey sense a feeling amongst IDPs that they would return to their villages if that were a realistic option. For example, a government-sponsored survey carried out by the Institute for Demographic Studies at Hacettepe University in 2005, found that over 55 per cent of IDPs want to return home.⁶³ 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 return to their homes.⁶⁴ Many villages were also burnt down in the course of the conflict⁶⁵ and village guards and active mines frequently make it unsafe to return.⁶⁶ In addition, conflict in the Kurdish region of Turkey is ongoing and there have been reported cases during and after 2004 of further displacement of villagers in the region.⁶⁷ Five days before the interview with Mr. Özdoğan, masked people attacked a number of returnees in Dicle.⁶⁸ 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.⁶⁹ In some cases, the use of pastures surrounding villages remained prohibited, preventing the practice of animal husbandry.⁷⁰ According to Mr. Özdoğan, the inability of IDPs to return to their village has negative effects on children such as forcing them to live in unacceptable standards, implication in various crimes (theft, pick-pocketing, and deforcement) and drug and alcohol addiction. They often work to supplement the household income or run away, live in the street and are subject to physical and/or sexual abuse, disease and malnutrition. Mr. Özdoğan highlighted that a repre-

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

62 *Ibid.*

63 Muller and Linzey, *The Internally Displaced Kurds of Turkey*.

64 FFM interview with Mr. Dursun Özdoğan, Chairman, Göç-Der Diyarbakır Branch, 21 June 2008, Diyarbakır, and also from interview with Mr. İlhan Bal, Göç-Der İstanbul Branch, 25 June 2008, İstanbul.

65 *Ibid.*

66 '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.

67 *Ibid.*

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

69 *Ibid.*

70 *Ibid.*

sentative from the Diyarbakır Security Directorate had disclosed reports during a general assembly on children in 2006, which indicated that 80 per cent of juvenile offenders were IDPs.⁷¹

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’. This is 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,’ and ‘increase productivity of the people concerned as well as their educational level.’⁷² According to government figures, in April 2007, it was estimated that some 151,469 IDPs had gone back to their homes, however there is no way of verifying these estimates, and interviewees frequently have much lower estimates than the government figures.⁷³ 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.⁷⁴

Even if the numbers are correct, this would account for only a tiny proportion of the millions who were displaced. 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, requirements that returnees should reside in centralised settlements and requests for villagers to sign forms effectively waiving the right to judicial redress.⁷⁵

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

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

72 Internal Displacement Monitoring Centre, ‘Government Figures on Return (2007)’, at <[http://www.internaldisplacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument](http://www.internaldisplacement.org/idmc/website/countries.nsf/(httpEnvelopes)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument)> (last accessed 10 October 2008).

73 *Türkiye Cumhuriyeti İçişleri Bakanlığı* (Ministry of the Interior), *2008 Budget Proposal*, at <http://www.icisleri.gov.tr/default.icisleri_2.aspx?id=3380> (last accessed 4 December 2009).

74 Internal Displacement Monitoring Centre, ‘Government Figures on Return (2007)’, at <[http://www.internaldisplacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument](http://www.internaldisplacement.org/idmc/website/countries.nsf/(httpEnvelopes)/414B4D061AE1FA8C802570B8005AAF13?OpenDocument)> (last accessed 10 October 2008).

75 ‘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.

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.⁷⁶ Despite a law introduced in 2004, which was supposed to set out a framework for damages resulting from displacement, practising lawyer Mr. Özdoğan of Göç-Der, stated that he was aware of only a few applications for compensation which had been successful.⁷⁷

In Cizre, the municipal authorities were apparently applying for EU funding to improve housing conditions, for example by improving the sewage system.⁷⁸ 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 İstanbul, one of the main destinations outside the Kurdish region for those displaced in the 1990s, has shown some improvement since the early days in 2000, when people were living in tents in appalling conditions. Some have been able to work themselves out of poverty and buy homes. For many, however, the improvement has only been incremental, marked by a shift from tented accommodation to squatting in shanty towns or to living in houses shared between multiple families.

Even these kinds of marginal improvements 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 İstanbul including Maltepe and Başbüyük. Those who owned homes that were demolished in these areas have been given apartments free of charge. However, the state apparently has no such alternative accommodation plan to deal with those people who were renting homes that too were destroyed. 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, there was concern that these families will be unable to repay this credit as they are generally unemployed and living in poverty.⁷⁹

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,

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

77 *Ibid.*

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

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

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.

The mission heard about an EU-funded restoration project in Taxim— a poor district in the town centre heavily populated by Kurdish IDPs— which is also expected to result in families being displaced. Based on past experiences, 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 town.⁸⁰

According to Göç-Der, most families in the shanty towns and in the town centre quarters due to be demolished, have seven to 10 children indicating that a large number of children will be impacted by the demolitions. Göç-Der, the only consistently active NGO in these shanty towns, estimates that in total there are some 300 children already living in tents as a result of shanty accommodation in İstanbul being demolished, some of whom the organisation has assisted.⁸¹ These 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.⁸²

In general, Mr. Özdoğan of the Diyarbakır Branch of Göç-Der stated that there has been a lack of awareness regarding the situation of IDPs. This is a problem that civil society groups involved in Turkey are trying to address. 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. A day earlier, there had been a panel discussion about the ongoing effects of forced migration.

c) Health and Nutrition Problems in the Kurdish Region

i) The General Health Situation

The regional disparities between the decidedly poorer eastern and south-eastern regions of Turkey, as compared to the distinctly more prosperous west,⁸³ contributes

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

81 *Ibid*

82 *Ibid*.

83 See Berna Bayazit, ‘Poverty Reduction’, United Nations Development Programme: Turkey at <<http://www.undp.org.tr/Gozlem.aspx?WebSayfaNo=93>>.

to a marked economic divide between ethnically Kurdish and Turkish citizens. In part because of this, Kurdish children's access to adequate healthcare is not on par with their Turkish counterparts. In addition, Kurdish children in need of preventative or other healthcare are again victims of the state-based systematised discrimination against the use of the Kurdish language in public spaces, as well as towards people who identify themselves as Kurdish.

Since the *Adalet ve Kalkınma Partisi* (Justice and Development Party, AKP), made healthcare one of their campaigning priorities back in 2003, in part because of their pro-EU accession stance, healthcare has become a contentious issue in the country. Unfortunately, it is seen as yet another populist issue that is used by political parties to garner votes to the detriment of the populations they serve. According to the Trade Unions of Public Employees in Health and Social Services, the AKP 'Turkey Health Transformation' project, should be called the 'Turkey Health Destruction' project. They believe that the programme's aim to privatise the health system is making it more difficult for poor people to access health services in state hospitals. In turn, they believe that this will disproportionately affect Kurdish children. One of the programme's components with which they take particular issue is that doctors are now paid on a per patient basis, causing hospitals and surgeries to be run more like retail businesses than as healthcare providers. They also criticise plans to place all hospitals under the Ministry of Health's control, according to a rating system. The government has drafted legislation which categorises hospitals under A, B, C, D and E. The nicer more comfortable hospitals which make more money, will be put under category A, and the contribution which patients have to pay is higher as compared with the others. They complain that there's no stated plan to ensure that the economically disadvantaged will have access to equal treatment.⁸⁴

The government argues that it has made great strides in the field of healthcare and that public spending on it has increased 540 per cent since 1999. It also points to goals which have been set to put 'a general health insurance system' into place in its '9th Development Plan', which runs from 2007-2013.⁸⁵ However according to the United Nations Population Fund, maternal mortality, albeit improved, remains problematic in Turkey due to widespread regional disparities:

With an estimated maternal mortality ratio of 20.94 deaths per 100,000 live births and significant regional variation (including an MMR of 40.3 in rural areas), maternal death remains a significant issue in Turkey. There is evidence of substantial disparities in level of care and maternal health outcomes across the regions... There are concerns regarding a relatively low level of antenatal care and a related failure to recognize problems lead-

84 FFM interviewed with Vahdettin Kılıç, Chair of the Trade Unions of Public Employees in Health and Social Services, Diyarbakır Branch, 12 October 2009, Diyarbakır.

85 Economic Policy Research Foundation of Turkey "Health Expenses are Unhealthy", 11 April 2008, at <<http://www.tepav.org.tr/tur/index.php?type=event&cid=390&title=S>> (last accessed November 2009).

ing to delays in accessing care, which is seen as the most significant factor contributing to death. There is a strong suggestion that the quality of care received and the capacity to deal with emergencies at time of delivery, the most common cause of death, is inadequate.⁸⁶

The EU progress report in 2007 cites a lack of progress on access to health for people with disabilities, and the 2008 and 2009 reports do not cite any changes to this. Despite ‘moderate’ overall progress,⁸⁷ the report pointed to the high level of unregistered children in the Kurdish region of Turkey as a potential problem for access to health services, because such children cannot gain access to public or private hospitals and healthcare providers. On KHRP’s visits to the region, it asked why children are not registered and what efforts are being made to correct this. The Chair of the Trade Unions of Public Employees in Health and Social Services (SES), Diyarbakır Branch, stated that children are not registered simply because families neglect to do so, and this is mostly a rural phenomenon.⁸⁸ However the Chair of the Education and Science Worker’s Union (Eğitim Sen) expressed a different opinion, stating that they witnessed many unregistered children when they visited residences for a Ministry of Education project in both urban and rural areas. During the project, teachers visited local residences where they worked and asked families whether they have children who do not attend schools. He stated that although they do not have statistical information, they have learned of many unregistered children who are under school age. He believed that most would be registered at the age of six or seven years of age, but stated that families are usually particularly reluctant to register girls and disabled children whom they do not tend to send to school. He also believed that the reason Kurdish families wait as long as possible to register children is because they believe that their children will be unfairly targeted because of their ethnic origin. The mission was distressed to hear nothing from state actors that demonstrated that they were in any way proactively addressing this concern.⁸⁹

The data below looks at the impact of displacement on health issues and was produced as part of a July 2005 study,⁹⁰ which aimed to ascertain the effect of displacement upon children. The study involved analysing information collected about chil-

86 UNFPA, ‘A Review of Progress in Maternal Health in Eastern Europe and Central Asia’, 2009, at <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2009/maternal_health.pdf> (last accessed November 2009).

87 Commission of European Communities, Turkey 2007 Progress Report, 20.

88 FFM interviewed with Vahdettin Kılıç, Chair of the Trade Unions of Public Employees in Health and Social Services, Diyarbakır Branch, 12 October 2009, Diyarbakır.

89 FFM interviewed with Abdullah Karahan, Eğitim Sen, Diyarbakır Branch, 12 October 2009, Diyarbakır.

90 İsmet Koç and Turgay Ünalın, 23 July 2005, ‘The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey’, Paper Presented at XXVth IUSSP International Population Conference, Session 506, ‘Forced migration’, Tours, France, 18-23 July, 2005, 16-17.

dren 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. According to the authors, whilst there may be advancements in Turkey as a whole, there have been few noticeable improvements for IDP children. The authors therefore believe that this data is still as relevant today and if anything, shows a greater contrast between IDP and non-IDP children.⁹¹

Table C: Basic Health Outcomes of Children under 5⁹²

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.

- 91 Ismet Koç and Turgay Ünalın, 23 July 2005, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey,' Paper Presented at XXVth IUSSP International Population Conference, Session 506, 'Forced migration', Tours, France, 18-23 July, 2005, 16-17.
- 92 Koç and Ünalın, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey,' 16-17.

Table D: Early Age Mortality Rates⁹³

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.⁹⁴

ii) Impact of Internal Displacement on Health and Nutrition

Internally displaced persons are the most afflicted group with regards to their lack of access to health services. The 2009 EU Progress report noted that as a result of economic and social marginalisation, 'the 'situation of IDPs in urban areas remains a cause for concern.'⁹⁵ It is believed that at least 90 per cent of Turkey's IDPs are Kurdish and were displaced during the height of the conflict in the Kurdish region in the 1990's.⁹⁶ The poverty of the region combined with the difficulties of displacement has made this group particularly vulnerable. The added strain caused by the mass displacement of people as well as undertones of discrimination have rendered it difficult for IDPs to have access to state social services.

Health problems that have arisen from the actual migration, rather than the squalid conditions that meet IDPs after having been displaced, have also had a considerable impact on children's health. Mr. Özdoğan drew attention to the fact that many IDP

93 Koç and Ünalın, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey,' 16-17.

94 *Ibid.*

95 Commission of the European Communities, Turkey 2009 Progress Report, p31.

96 Muller and Linzey, *The Internally Displaced Kurds of Turkey*.

children suffer from psychological problems associated with forced migration, such as post-traumatic stress.⁹⁷ The situation in the region has also 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 was said to have put a distance between children and their parents, with children becoming foreign to their parents who then lose control of them. This has reportedly led to children running away to İstanbul.

Mr. Özdoğan relayed to the mission a neighbour’s request for him to find out what had happened to his son, who had ran away to İstanbul. Upon finding and speaking to the son in İstanbul, the boy was said to have expressed his inability to relate to his parents, contrasting this to his relationship with his friends with whom he spent most of his time on the streets. In İstanbul, the son was said to have been unable to 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 İstanbul only to become involved in drugs, crime or gangs.⁹⁸ The incident was reported to the police by the child’s family but according to Mr. Özdoğan and the family, nothing was done to find the boy. It was only when the child was arrested on other charges that the family learned of their son’s whereabouts. Mr. Özdoğan believes that this is because of a state policy that ignores its Kurdish citizen’s basic needs. He stressed that he believed that if a similar incident was reported in the western part of Turkey, state officials would go to greater lengths to find the missing child or would act to prevent such incidents from occurring.⁹⁹

Research carried out by KHRP has shown that IDP communities are vulnerable in a number of ways. The large IDP population represents an added strain to an already overstretched healthcare system. Because of the discrimination to which they are subjected, the large proportion of Kurdish IDPs caused by economic and forced migration, have been slow to receive medical attention.

IDPs often face what the 2005 EU Progress Report described as ‘precarious conditions’ in new settlement areas.¹⁰⁰ These living conditions significantly increase their risk of contracting diseases, with IDPs having ‘little or no access to social educational and health care services.’¹⁰¹ The general difficulties that the Turkish health care system faces are often accentuated in regions and localities with large IDP

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

98 *Ibid.*

99 *Ibid.*

100 Commission of the European Communities, Regular Report on Turkey’s Progress Towards Accession (2005) European Commission, 38.

101 Commission of the European Communities, Turkey 2009 Progress Report, p31.

populations. Furthermore, the 2009 EU report stated that ‘the government lacks an overall national strategy to address the IDP issue and needs to step up efforts to address IDP needs.’¹⁰² In addition, the particular problems flagged in the 2005 report have not changed. This includes:

The lack of adequate infrastructure and shortage of Kurdish-speaking medical personnel have made it difficult for IDPs of Kurdish origin to receive local healthcare in the west of the state whilst the east suffers from a lack of means to cater to the local population. Furthermore, IDPs have often had difficulties in attaining state-issued Green Cards which would entitle them to get free health consultations and hospital accommodation.¹⁰³

This problem will be dealt with in further detail in subsequent sections of this chapter.

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.¹⁰⁴ The effect of displacement was related to higher internalising of problems when factors like physical illness, child age, child gender and urban residence were taken into account.¹⁰⁵ Research indicates that 79.9 per cent of IDPs have psychological problems after their forced displacement.¹⁰⁶

Research undertaken by the Turkish Economic and Social Studies Foundation (TESEV) around Batman in 2005 indicated that ‘displaced women were the most affected suffering from emotional problems, depression and psychosomatic disorders, as well as suicidal tendencies’.¹⁰⁷ A psychologist at the Kocaeli University, Öznur Acicbe, commented on the findings, stating that ‘their social fabric has been damaged and they encountered more problems after migrating from their homes.’¹⁰⁸ This is a view shared by Human Rights Watch who citing Dr.’s Aytekin Sır, Yener

102 Commission of the European Communities, Turkey 2009 Progress Report, p31.

103 *Ibid.*

104 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

105 ‘Effects of Internal Displacement and Resettlement on the Mental Health of Turkish Children and Adolescents,’ *European Psychiatry*, Volume 20, Issue 2, March 2005, 152-157.

106 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.

107 ‘Effects of Internal Displacement and Resettlement on the Mental Health of Turkish Children and Adolescents,’ *European Psychiatry*, Volume 20, Issue 2, March 2005, 152-157.

108 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

Bayram and Mustafa Özkan,¹⁰⁹ underlined that the psychological trauma of forced migration is well documented. This was noted in a ‘1998 medical study carried out on a group of internally displaced [that] found that 66 per cent were suffering from post-traumatic stress disorder, with 29.3 per cent showing profound depression.’¹¹⁰ It is clear that such problems for parents have negative implications for children. Serkan Yolaçan from TESEV stated that although their findings are more than 10 years old, they are still applicable, although they have not carried out new research. Women continue to suffer from the above-mentioned problems mostly because of the language barrier, which prevents them participating in public life. He went on to say that it is not necessary to carry out another piece of research to verify these findings because the government has not carried out any project or programme to address these problems. He referred to two notable government plans specific to IDPs, Law 5233 on compensation for displacement and the ‘Van Province Action Plan for Service Delivery to Internally Displaced Persons’ (the Van Action Plan), which aims to introduce potential strategies that will improve the living conditions of IDPs in Van. He went on to highlight that neither project has been a remedy for IDP women whose concerns remain ill-addressed. According to TESEV’s findings, the Van Action Plan failed to achieve its aims due to a:

lack of a clear, coherent, comprehensive and strong national policy on Turkey’s Kurdish question in general and internal displacement in particular, the absence of concrete government action on ending the armed conflict, the ongoing attacks by the PKK, continued political debate about the Kurds’ demands for recognition of their cultural rights such as native language education have overflowed into the discussion on the content and implementation of the Action Plan. Issues such as the abolishment of the provisional village guard system, the clearance of landmines and UXOs and ensuring the safety of rural areas to which IDPs wish to return cannot be handled by any governorship within the purview of a provincial action plan. They need to be addressed by the national government as part of a national policy.¹¹¹

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.’¹¹² Other psychological effects of disloca-

109 Human Rights Watch, ‘Still Critical’: Prospects for Internally Displaced Kurds in Turkey’, March 2005 Vol. 17, No. 2(D).

110 Dr. Aytekin Sr, Dr. Yener Bayram and Dr. Mustafa Özkan, ‘A Preliminary Study on PTSD after Forced Migration,’ Turkish Journal of Psychiatry, 1998, 173-180.

111 Telephone interview with Serkan Yolaçan, **Turkish Economic and Social Studies Foundation** (TESEV), 3 December 2009; Deniz Yüsekser and Dilek Kurban, ‘Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs’, (TESEV, İstanbul, May 2009), at <http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/TESEV_VanActionPlanReport.pdf> (last accessed 3 December 2009).

112 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

tion and violence on women and children include emotional disconnection, desire for seclusion, nervousness and abruptness.¹¹³ There is also a high level of suicide among women and girls who have been forced to migrate.¹¹⁴ Countless KHRP missions have heard that there are few to 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.¹¹⁵ Furthermore, 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.¹¹⁶

In 2004, KHRP learned that 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.¹¹⁷ Unfortunately, in the intervening years, it has heard that nothing has changed. Global research indicates that there is a connection between youth involvement in violent gangs and the detrimental impact of experiencing displacement and witnessing violence. An article by the LA Times in 2005 noted that ‘muggings by juveniles – many of them drug users between 15 and 18 – rose 94% in 2004, according to a report released by the Diyarbakır Security Directorate.’¹¹⁸ The author adds that juvenile crime in Diyarbakır is widely linked to the war between the Kurdish separatist insurgency and the Turkish army. The PKK is reported to have recruited some 3,000 child soldiers into its forces operating in Iraq and south-east Turkey in 1998; current numbers are not known.¹¹⁹

KHRP’s fact-finding missions to Diyarbakır, Cizre and İstanbul looked at the differences within the three cities in healthcare coverage and the problems facing IDPs in these regions. 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. However, 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 in the cramped and unhygienic conditions of the slum areas. It was also stated that diseases such as chicken pox and measles are common amongst children due to insufficient or non-existent im-

113 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

114 Human Rights Foundation of Turkey (HRFT), ‘Human Rights Report of Turkey’, March 2001.

115 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

116 KHRP European Parliament Project, ‘*The Increase in Kurdish Women Committing Suicide*’ (KHRP, London, October 2007).

117 Yıldız and Elyse Ressler, *Turkey: The Situation of Kurdish Children*.

118 Amberin Zaman, ‘Kurdish Delinquency Rife in Parts of Turkey’, LA Times, 24 June 2005.

119 Coalition to Stop the Use of Child Soldiers, ‘Global Report 2008: Turkey’, at <<http://www.child-soldiersglobalreport.org/content/turkey>> (last accessed December 2009).

munisation levels.¹²⁰ The mission observed that IDPs and the general populace were often difficult to distinguish due to the high levels of poverty found in Diyarbakır; thus health problems suffered by the IDPs were often shared by those who lived in the same conditions.

The situation of Cizre, further to the east, resembled that of Diyarbakır's with a greater level of strain on local infrastructure due to limited resources. Mr. Ahmet Dalmiş, the Deputy Mayor of Cizre Municipality, informed the mission that there are insufficient health facilities to cope with the number of children in the area and that IDPs were presenting a challenge to the town's infrastructure. This was said to be leading to a negative impact on children's health standards.¹²¹ These problems included insufficient provisions of drinking water and a poor sewage system that have made the town prone to flooding. The Mayor of Cizre, Aydın Budak, stated that he believed that the reason for the lack of development is the government's negligence, both in addressing the needs of its Kurdish citizens, and in investing in the infrastructure. He gave the example of stream improvements which the General Directorate of State Water Affairs have failed to act on, despite this falling within their remit. Cizre Municipality reportedly had to use their own resources when undertaking 1.5 km of stream developments. A proposal submitted to the EU to carry out another 1 km of stream development was accepted, with work on the project commencing on 16 November 2009. Furthermore, Budak stated that the government should have also laid 90 km of sewage lines for Cizre, towards which they have not yet contributed. Cizre Municipality has laid 60 km itself, and are planning to find resources to lay the remaining 30 km of lines. He also referred to the disastrous floods experienced in Cizre in 2006 and 2007. According to the inspectors' report from the Ministry of Public Works and Settlements and the Bank of Provinces, the cost of damages caused by these disasters was €2 million. This loss should have been compensated by the Directorate of Disaster Affairs, but as yet no funds have been forthcoming.¹²²

The problem of overcrowding due to IDPs has similarly taken place in İstanbul. There too, this has overstretched local infrastructure, creating an environment where disease and malnutrition are rife. Though the problems are quite similar in İstanbul, Diyarbakır and Cizre, the poorer eastern regions had far less resources to cope with this influx and as such the IDPs in those regions have tended to fare less well than their western counterparts.

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

121 FFM interview with Mr. Ahmet Dalmiş, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

122 Telephone interview with Mr. Aydın Budak, Mayor of Cizre, 16 November 2009.

It is clear that the dislocation of such a large social group placed into squalid conditions has created a breeding ground for health problems that are transmuted to the social scene. The lack of attention given to IDPs and children in particular is a major issue that Turkish health authorities must face. Failing that could risk creating a situation that would see a permanent dislocation within Turkish society stemming from the initial harm and the following neglect of these populations.

iii) The Green Card System and Institutionalised Discrimination

The fundamental pillar of the Turkish health care system remains the Green Card, which was introduced in 1992 with the Law No. 3816 for 'low income citizens that were not covered by social security'.¹²³

The Turkish government's stated plan to expand the Green Card system for the poor into a component of a universal health insurance (part of a comprehensive healthcare reform project announced in December 2003), would reduce some of the disparities, as access to healthcare will become more open.¹²⁴ Nevertheless it remained unclear whether an expansion of the system would remedy some of the current shortcomings faced by Kurdish and IDP populations. KHRP's fact-finding missions were particularly helpful in outlining some of the challenges faced by regional localities and how the problem differed in various areas across Turkey.

The Green card's politicisation was a key variable that affected the various regions that the mission visited. For example, in Cizre, KHRP was told that where the village guard system is in operation, individuals who do not actively cooperate' with the state reportedly find their applications delayed or not granted at all.¹²⁵ 'Actively cooperate' means, according to the Deputy Mayor, that the applications are investigated by the police or gendarmerie. He outlined that they consider whether the applicant has any ties to or demonstrates any outward support for the pro-Kurdish party and if so, the officer manufactures a reason that prevents the person from obtaining a Green Card. It was commonly suggested that in their written reports they state that the person has an income above the threshold and is thus ineligible.¹²⁶ It was also reported that there is a high margin of error in assessing need. For example, one person present for part of the interview with the Deputy Mayor had a disabled child in need of medical care, but his application was apparently dismissed

123 Prof. Dr. Recep Akdağ, 'The Progress so Far: Health Transformation Programme in Turkey, November 2002- June 2007', (Turkish Ministry of Health, Ankara, 2007), 18.

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

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

126 Telephone interview with Mr. Ahmet Dalmış, Deputy Mayor, Cizre Municipality, 16 November 2009.

and delayed on the basis of his ownership of an old car that was so old it was not considered road worthy. He stated that he would gladly get rid of the car if someone would take it, but would still have been considered to be in a superior financial position, despite his difficulties in paying for healthcare and education. It was reported that such cases are becoming more common as the conflict situation in the region worsens.¹²⁷ In addition, a 2007 KHRP report notes that many IDPs were technically still property owners after they were displaced and were therefore ineligible for a Green Card.¹²⁸

In Diyarbakır the situation remains similar with allegations of political obstruction and deep background checks of any Kurdish applicants. Mrs. Özsökmenler, Mayor of Bağlar Municipality, stated that the Green Card is issued by the governor's office and that it is often withheld from Kurdish applicants; if, for example a family member has been convicted for political crimes under anti-terror legislation.¹²⁹ Mr. Özdoğan of Göç-Der stated that Green Card applications in the west of Turkey did not have extensive investigations into individual financial security in comparison with those of the south-east¹³⁰. Secondly, he also stated that numerous applications in the south-east that do not require security investigations are handed over to the gendarmerie. If applicants are considered to sympathise with or be affiliated with the PKK, their applications are refused on the grounds that 'certain conditions have not been met.' In 2009, it was reported approximately 1.5 million Green Cards were cancelled in East Anatolia.¹³¹ Göç-Der said they did not apply to anywhere to resolve this issue because they believed it would be a waste of their time and resources, as this has happened repeatedly over the years.¹³²

The alleged arbitrary nature of these decisions has undoubtedly hampered efforts to provide healthcare to those with the greatest need for it. The difficult screening process for Green Cards has politicised the healthcare system on security but also on electoral grounds. Mr. Özdoğan stated that during the 2007 elections, a large number of Green Cards were awarded only to have 35,000 of them cancelled after the elections. Apparently, before the election all applications were accepted without considering the admissibility conditions, and after the election the government

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

128 Muller and Linzey, *The Internally Displaced Kurds of Turkey*.

129 FFM interview with Mr. Yurdusev Özsökmenler, Mayor, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

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

131 Doğu'da 1 milyon yeşil karta iptal, 20 Jan 2009, at <<http://www.albayrakgazetesi.com/haber/831>>, (last accessed February 2009).

132 FFM interview with Mr. Dursun Özdoğan, Chairman, Göç-Der Diyarbakır Branch, 13 October 2009.

cancelled most of them on the grounds that they did not meet the criteria.¹³³ There is an appeal process via the Provincial Administrative Council and the Administrative Court. However, KHRP heard that when Göç-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. Many people were alleged not to 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 in any case not be covered by the scheme. MP Gülten Kışanak, also raised this issue in the Parliament, and some Green Cards were reinstated.¹³⁴ This lack of transparency in the process has made it extremely difficult for Kurds and IDPs to have access to necessary healthcare in their vulnerable living conditions.

Although the issue of healthcare disparity is far greater in the Kurdish region of Turkey, the problems of the East have followed the IDPs to western cities such as İstanbul. When applications are made, Kurdish families are similarly investigated to establish whether any extended family members have been charged with political crimes or with sympathising with the PKK.¹³⁵ Most are apparently given negative reports which lead to their applications being subject to lengthy delays and often result in them being refused, without any reason being given.¹³⁶ It was noted that Green Cards were also used in İstanbul for political ends such as cooperation with the state or to obtain votes in elections. An example of this was given to the mission by Mr. İlhan Bal, Chairman of Göç-Der's İstanbul Branch. He claimed that before demolishing shanty towns, the authorities cut off the water supply and confiscated the Green Cards of affected families in an attempt to force them to leave.¹³⁷ 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.¹³⁸ This type of action by Turkish authorities is said to have started in 2005 and was occurring in many areas of İstanbul.¹³⁹

More recently, Adana Governor İhsan Atış announced the planned revocation of health insurance cards for families whose children participated in violent acts

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

134 *Ibid.*

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

136 *Ibid.*

137 *Ibid.*

138 *Ibid.*

139 *Ibid.*

against police officers in recent illegal demonstrations to support the PKK.¹⁴⁰ Andrew Gardner, Amnesty International's Turkey expert, stated that 'The steps to deprive children suspected of involvement in the demonstrations and their families of health care and other benefits are a form of collective punishment and violate the right of all persons to health and to an adequate standard of living, without discrimination.'¹⁴¹

The abuse of the local health system for political ends has harmed the benefits of the 'transformation in health' program. The role of discrimination stands as one of the principal issues in healthcare and is a major obstacle to providing healthcare to those who need it.

iv) Regional Initiatives and Role of Central Government

Despite the difficulties facing the institutions created to provide healthcare, a number of regional and NGO initiatives have attempted to fill the gaps left by the inadequacy of government funding. The movement of IDPs has placed an extra burden on numerous municipalities in the eastern provinces, but government funding has yet to catch up. The mission observed that regional initiatives have provided some improvements in these municipalities and though these efforts have had an effect, the scale of operations has been too small to have a meaningful impact. In addition, there is a lack of productive cooperation between local and central government.

The Kurdish region in the south-east which bore the brunt of migratory movements as a result of the conflict with the PKK, has suffered an immense strain on local infrastructure. In Cizre, local amenities have been strained by the population influx and local officials stated that 'government agencies operating in the area are not tackling these issues'.¹⁴² The mission reported that the municipality had made applications for funding for relevant projects to the EU since they lack internal financing. These projects included the provision of drinking water networks, a water recycling system, and improvements to the sewage system and flood defences.¹⁴³ Mr. Ahmet Dalmiş, the Deputy Mayor of Cizre Municipality, explicitly stated that government agencies in the area were not tackling the issues facing the community. The mission observed that municipalities lacked the political power and funds to initiate large

140 Parents of Demonstrators to Lose State Aid in Adana, *Today's Zaman*, 31 October 2008, at <<http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=155498>> (last accessed January 2009).

141 Amnesty International, 'Turkey: Governor Threatens to Deprive Demonstrators and Their Families of Health Care', 29 October 2008, at <<http://www.amnestyusa.org/document.php?id=ENGP RE200810297886&dlang=e&rss=recentnews>> (last accessed January 2009).

142 FFM interview with Mr. Ahmet Dalmiş, Deputy Mayor, Cizre Municipality, 24 June 2008, Cizre.

143 *Ibid.*

projects on their own. Such important infrastructural projects would normally require a strong role played by the central government. The difficult situation facing the Cizre municipality made it difficult for the regional government to specifically target children due to the poor living conditions of the general populace.

Cizre faces severe shortages of funding, and the mission also observed local initiatives in Diyarbakır suffering from the inadequacy of central government funding. Numerous projects that have been initiated in Diyarbakır have required international cooperation on funding. The Bağlar Municipality runs centres that provide programmes for mothers on reading and writing as well as on the healthcare system and family planning.¹⁴⁴ In addition, the Diyarbakır Metropolitan Municipality Social Services Directorate has funded numerous projects such as the municipality-run laundry houses. According to Göç-Der, the governor's office does provide some poor people with cash or food. However, this support is described as insufficient, is considered to undermine the recipient's dignity, and was said not to be part of a functioning welfare system that can support the poor in general, IDPs in their return to the villages, or their integration into city life.¹⁴⁵ Mr. Özdoğan went on to explain how it undermines the recipient's dignity. He said that the means of distribution which involves hundreds of women standing in the queue outside of the Governor's office to receive a very small amount of cash (between 30-50 YTL; approximately equivalent to £13-£22) in hand is particularly demeaning and makes the women appear to be beggars, especially as it is on a first come, first serve basis with no apparent policy for deciding who is given the cash.¹⁴⁶

Though many initiatives have been undertaken by the regional government, local officials maintain that they lack the resources necessary to make a strong impact on the community; to do so would require the attention and effort of the central government or a vast increase in local budgeting and initiative.¹⁴⁷

The vacuum left by the absence of adequate state-directed social care has often been filled by national and international NGOs operating in provinces that have required extra resources. KHRP's fact-finding mission to Turkey particularly noted the role of NGOs in Diyarbakır. The mission met with representatives of the Children Under The Same Roof Association (ÇAÇA), which operates two centres in a district

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

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

146 *Ibid.*

147 *Ibid.*

of Diyarbakır that has a high population of migrants and IDPs.¹⁴⁸ The NGO was founded by a wide range of civil society actors including archaeologists, teachers, artists, journalists and university students. These centres provided educational services and health, hygiene and family planning training for mothers. ÇAÇA works very much at a grassroots level and has aimed to teach many IDPs and members of the poorer socio-economic classes, basic sanitary guidelines to improve the general health situation.

Local initiatives have played an important role in providing for their local communities. The minimal role played by the Turkish central government in local healthcare is regrettable. Despite international interests in easing the strain, the current situation requires the direct intervention of national resources in infrastructure projects that would be able to cope with the influx of IDPs from the conflict in south-eastern Turkey.

v) Conclusions and Recommendations

KHRP's desk research and fact-finding mission found that Kurdish children are particularly vulnerable and disadvantaged with regard to healthcare provision. Despite the increased level of funding to Turkey's national healthcare scheme, numerous groups have been left out or have slipped through the social security net. Furthermore, though the budgets have been increased, considerable disparities remain between eastern and western Turkey.

Turkish authorities should urgently focus on the issues of its Kurdish citizens to remedy the numerous shortcomings which were identified. Of considerable concern to the mission were the politicisation of the healthcare system and the use of the Green Card as a tool for blackmail. Such behaviour by Turkish authorities is contrary to Turkey's international obligations and should be highlighted in the context of Turkey's EU accession bid in order to prevent such tactics being utilised in the future. The mission would welcome the introduction of a universal health insurance scheme. However, there must be no discrimination in the application of this scheme and sufficient safeguards should be implemented, in order to prevent replication of the manipulative tactics employed with regards to the Green Card system.

148 FFM interview with Ms. Sabahat Durmaz, Project Coordinator, Emin Sarıkaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), ÇAÇA, 21 June 2008, Diyarbakır.

4. EDUCATION

a) International Education 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 recognise 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...¹⁴⁹

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 of indigenous origin.¹⁵⁰

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.¹⁵¹

b) Education in Turkey: The General Situation

Recent reforms in Turkey have significantly altered the landscape of Turkish education. Obligatory and free schooling was introduced to Turkey as recently as 1997

149 CRC, Art. 28.

150 CRC, Art. 29.

151 ESC, Art. 7.

under Law No. 4306. Since this date government statistics have indicated significant strides in participation rates with enrolment in compulsory primary school apparently jumping from 6.4 million students in 1997 to 10.9 million as of 2007.¹⁵²

However, the mission heard from several sources that there are still major obstacles to access to schooling such as restricted language rights for the Kurdish minority, IDPs and their place in the educational system, as well as regional disparities between the west and the poorer east where enrolment rates are still 10 per cent below the national average of 89 per cent.

c) Lack of Resources for Education

Despite some progress, various institutions have pointed to the lack of material and human resources involved in the delivery of educational services. Reports of overcrowding and understaffing in the poorer regions of south-eastern Turkey have hampered efforts to provide the same level of education that is the standard in the west of the country. These trends point to a lack of resources as well as regional disparities.

The problem of overcrowding and understaffing is exemplified by a UNDP report that included an account by a young male teacher serving in the 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 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...¹⁵³

Teachers face other difficulties as well. The same report quoted Işıl, a young teacher 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 pressurised. And not every school has the

152 Turkstat, Turkish Statistical Institute, Number of School/Unit, Teacher, Enrollment and Graduate by Kind of School and Educational Year, at <http://www.turkstat.gov.tr/VeriBilgi.do?tb_id=14&tust_id=5> (last accessed January 2009).

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

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 internalise these new techniques.¹⁵⁴

These testimonies point to the problem of overcrowding and notably the lack of resources allocated to these schools. The fact-finding mission to Turkey explored the difficulty of attaining resources to supply the demand, which revealed a number of parallel issues such as the politicisation of education and complaints from local officials that more long-term improvements were required from the central government.¹⁵⁵

It was also added that despite the lack of initiative from the central government, local government is not given the means to cater to the excess demand. Mr. Tuşay, Head of the Social Services Unit at the Diyarbakır Metropolitan Social Services Directorate, 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.¹⁵⁶ Mr. Tuşay said that in one of their projects they were planning to go to schools and inform students about risk of substance abuse, but administrators of the schools told them that they need to get permission from the Governor's office. When they applied to the Governor's office, they were told that the decision would be made by school administrators. He said that he believed these were delaying tactics as part of a state policy not to invest in the region. He cited another example where they are awaiting permission from the central government to use municipality land for a summer school project where they can provide children various courses including drama, music, sport and painting courses.¹⁵⁷ KHRP is concerned that there were no reports of the central government undertaking initiatives to remedy the educational difficulties faced by Kurdish children in Diyarbakır.

In Cizre, the mission observed that there was considerable concern regarding the quality of education on offer in local schools in the 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

154 UNDP, 'Youth in Turkey: UNDP Turkey 2008 Human Development report,' 43.

155 FFM interview with Mr. Yurdusev Özsökmenler, Mayor, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

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

157 FFM interview with Mr. Fatih Sultan Mehmet Tuşay, Head of Social Services Unit, Diyarbakır Metropolitan Municipality Social Services Directorate, 14 October 2009, Diyarbakır.

who come to the area are newly qualified and only stay for a short period in order to gain experience. The Deputy Mayor informed the mission that teachers are not fully trained, having completed only 2 year post-high school degrees.¹⁵⁸ Such lack of training and experience is particularly unhelpful when class sizes are as large as they are in the Cizre area.

The recurrent problems of overcrowding in Diyarbakır and Cizre differed from the issues facing education in İstanbul. The focus in İstanbul was more closely associated with quality of education between districts; districts with large Kurdish or IDP populations were said to have been provided inferior educational services.

It is the view of the authors that the inadequacy of central government in addressing the problems faced by local educational services has led to the development of various regional initiatives designed to compensate certain sectors of education. The KHRP fact-finding mission observed several such local initiatives designed to fill the gaps in the educational system, but these also suffered from limited resources.

In Diyarbakır, a number of steps were taken to address the educational problems of the locality. The mission was told about a youth social centre run by the Bağlar municipality.¹⁵⁹ 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 explained 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.¹⁶⁰ Rather than educational support, the services provided focus on artistic expression. 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.¹⁶¹

Mr. Tuşay stated that one of the main agenda focuses of the Diyarbakır Metropolitan Social Services Directorate, is to support access to education.¹⁶² The municipality has established an educational camp north of Diyarbakır for 1,000 children a year. They also provide books and collaborate with local NGOs to identify those children who are in need of services. Mr. Tuşay 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

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

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

160 *Ibid.*

161 *Ibid.*

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

with their schoolwork, as well as courses on issues such as family planning. Mr. Tuşay 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.¹⁶³ Although it was suggested that this problem 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.

Whereas local initiatives in Diyarbakır catered largely to the general populace, İstanbul's local initiatives placed a heavier emphasis on IDP and Kurdish communities that often lag behind the national average. Mr. Mehmet from the Mesopotamia Culture Centre informed the mission about activities run by the centre with the aim of helping children from IDP communities in İstanbul to retain their Kurdish culture 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 centre makes an effort to buy instruments in cases where families cannot afford them. However, the centre has great difficulty 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. Police raids were carried out and performers attached to the centre were arrested.¹⁶⁴ After that time, new methods have been used to try to block their activities, including refusing permission to use venues that have been used in the past.¹⁶⁵

The mission also met with staff from *Başak Kültür ve Sanat Vakfı* (the Başak Culture and Art Foundation) in İstanbul, 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

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

164 Kurdistan Informatie Centrum Nederland (KIC), *Violations of Human Rights in NW Kurdistan (East and South East Turkey)*, Report Presented by the Kurdistan Committees in Europe to the Fifty-Fourth Session of the UN Commission on Human Rights Geneva, March - April 1998, at <<http://www.xs4all.nl/~kicadam/artikel/unhright3.html>>, (last accessed 26 February 2009).

165 FFM interview with Mr. Mehmet, Staff Member, Mesopotamia Culture Centre, 24 June 2008, İstanbul.

a number of positive examples concerning girls who were previously stuck in the home but who are now taking a more active role in society as a result of their participation in the centre's activities.¹⁶⁶ Again, the foundation faced great difficulty in obtaining funding.

As was the case in Diyarbakır, mission members observed that both of the centres visited in İstanbul focused their efforts on art, drama and music with a view to keeping Kurdish culture alive. 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.¹⁶⁷

The mission initially hoped 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 is well-versed in the subject. In an interview with mission members, Ms. Erdilek noted a range of problems affecting the education of displaced children in İstanbul, including large class sizes (minimum of 40 or 50 pupils), and families who are often illiterate themselves. 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.¹⁶⁸

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. In general, the support children 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 pur-

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

167 *Ibid.*

168 FFM interview with Ms. Neşe Erdilek, Administrative Coordinator Centre for Migration Research, İstanbul Bilgi University, 25 June 2008, İstanbul.

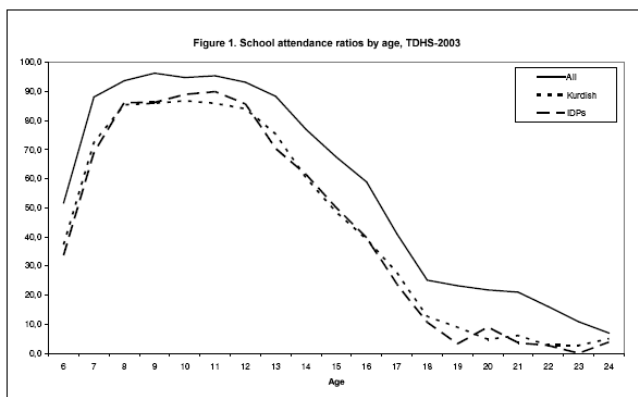
sue their education. In the view of the mission, this gap in support should be filled by services being provided by central government, as it is clearly not possible for municipalities and NGOs to fulfil this role. Mr. Tuşay said that the Municipalities are given legal obligation to carry out services for children, disabled people and women but they are not provided resources for these services. For example, specific resource allocation should be made for these kinds of services. He also said that the government does not allocate resources on an equal basis between municipalities in west of Turkey and south-east of Turkey. The budget allocation is made on the accrual of tax for municipalities in western cities but for municipalities in the Southeast, it is made on collected tax.¹⁶⁹

d) Access to Education

A plethora of issues determine access to education in general and also access to education of varying quality in Turkey. Aside from the difficulties of incorporating IDPs and Kurdish populations into the national education system, money and gender also play a role in determining access.

Kurdish and IDP groups face the broadest variety of obstacles. The two groups share many socio-economic traits, and both face political discrimination stemming from the conflict situation in the Kurdish Region.

Graph E – School Attendance Ratios by Age¹⁷⁰



169 FFM interview with Mr. Fatih Sultan Mehmet Tuşay, Head of Social Services Unit, Diyarbakır Metropolitan Municipality Social Services Directorate, 14 October 2009, Diyarbakır.

170 Ismet Koç and Turgay Ünalın, 23 July 2005, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey', Paper Presented at XXVth IUSSP International Population Conference, Session 506, 'Forced migration', Tours, France, 18-23 July, 2005, 13-15.

This graph points to the marked disparities between the national average in attendance and IDP and Kurdish attendance.

e) Access - Kurdish Language

One of the main problems encountered by the mission is the issue of language. The European Commission's 2006 Turkey Accession Report noted that:

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.¹⁷¹

The descriptions of ground realities in the 2009 Progress Report showed that there had been little if any change in the situation.¹⁷²

The US 2006 Country Report stated that language barriers remain a severe problem for Kurdish children, noting that a number of private Kurdish language courses closed during the year, citing a lack of students. In the end, KHRP learned all private language courses closed their doors. 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.¹⁷³ The Deputy Chief of UNICEF has urged Turkey to try-out teaching its Kurdish children in Kurdish, saying international examples indicated it would improve educational standards.¹⁷⁴

This point is corroborated by the 2008 UNESCO Global Monitoring Report on Turkey, which observed that an important variable in educational progress is the lan-

171 European Commission, 'Turkey 2006 Progress Report'.

172 Commission of the European Communities, Turkey 2009 Progress Report, p29.

173 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

174 Emma Ross-Thomas, 'UNICEF Urges Turkey to Teach in Kurdish', *Turkish Daily News*, 9 July 2006.

guage spoken at home. Children who come from homes where Turkish is spoken have been found to be more likely to stay in school.¹⁷⁵

The issue of language rights was also brought up during the KHRP's fact-finding mission. In Diyarbakır, many interviewees identified the exclusive use of Turkish in the school system as a common issue that arises in Kurdish childrens access to education. Mrs. Özsökmenler, Mayor of Bağlar Municipality, explicitly informed the mission that Kurdish children's barred access to education in their own language in the first few fundamental years of education harmed the long-term prospects of the child throughout their education.¹⁷⁶ Mr. Karahan, the Chairman of Eğitim-Sen's (Education and Science Worker's Union) Diyarbakır Branch, informed the mission that his union had been forced to remove provisions from their constitution stating their aim to have education provided in children's mother tongue. These provisions were apparently removed after the organisation was threatened with court cases and closure.¹⁷⁷ To the mission's knowledge, the immediate result of the removal was that 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 mission noted that, without the participation of this organisation, no others openly advocated Kurdish language rights in the classroom.

In Cizre, as in Diyarbakır, Kurdish children have not been able to access education in their language. The mission was informed that teachers never communicate with children in Kurdish, even if the children 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 levels.¹⁷⁸ Even within out-of school educational support programmes carried out in Turkey, the mission was disappointed to learn that where educational support was provided, it did not seek to redress one of the main disadvantages faced by Kurdish children in accessing education – that

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

176 FFM interview with Mr. Yurdusev Özsökmenler, Mayor, Bağlar Municipality, 20 June 2008, Diyarbakır.

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

178 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008, Cizre.

is, the fact that schooling is not provided in their mother tongue of Kurdish. 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.

The issue of language is compounded by the Turkish state's neglect in assisting any potential transition to assist Kurdish children in learning Turkish. This approach has created a situation in which children will face immense difficulties in early years with no particular programme designed to facilitate usage of the Turkish language. Aside from denying some cultural rights, the issue is particularly important because it creates a situation where an entire group lags behind in education, contributing to some of the present inequalities in Turkish society.

i) Nationalism in Education

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.¹⁷⁹ If one of the younger children in particular makes a mistake, reportedly the whole school has to start the oath again. Quite apart from political objections to this practice, it was observed that it is unacceptable for school time to be eaten away in this manner. 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, the founder of the Turkish Republic and its first President, who is considered by most minority groups to be a controversial figure. Interviewees asserted that rather than providing quality education, pre-schools are used as a tool for teaching the Turkish language and promoting assimilation.

f) Access - Cost and Education

The introduction of compulsory and free schooling in 1997 has undoubtedly altered access to education in Turkey. Nevertheless, major issues continue to plague the objectives as laid out by the introduction of Law No. 4306. One of the principal issues that were identified in research and during the fact-finding mission was the economic status of many IDPs and Kurds and its effect on access to education for their children.

179 FFM interview with Ms İlknur Yokuş Tunis the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nürirevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

Economic well-being and its effect on education start off at the pre-school level with a net enrolment ratio of 10.4 per cent.¹⁸⁰ As it may be expected, 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.

Alongside migration and gender, there are a number of economic barriers to accessing equitable education by Kurdish children. There are also disparities between regions and social classes, with enrolment rates in the north-east, the east and the south-east of Turkey lagging behind other regions. Nine out of 10 of the lowest-spending provinces on education per student are located in east and south-east Anatolia. Disparities in achievement also exist.

According to PISA (OECD's Programme for International Student Assessment) results, variation of performance levels amongst schools in Turkey is highest amongst the OECD countries.¹⁸¹

UNESCO reports that there is an average of \$39,000 of annual private contribution per public primary school, which includes the cost of books, transportation and school clothing, and also covers necessities such as equipment and renovations to school buildings.¹⁸² Turkey established Parent-School Unions (PSU's) to regulate such donations; while it is illegal to force parents to make donations, violations of this rule have been noted.¹⁸³ Such high levels of private 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.

Since the survival of many displaced families depends on the income of their children,¹⁸⁴ families in the east and south-eastern Anatolia region tend to prioritise their short-term needs over the long-term and uncertain benefits of education. This is particularly relevant for families who labour in seasonal agriculture, where large

180 2005 Net Enrolment Rate for Preschool, UNESCO Institute for Statistics, Data Centre, January 2008, at <<http://stats.uis.unesco.org/unesco/ReportFolders/ReportFolders.aspx>>, (last accessed March 2009).

181 UNESCO Country Profile Prepared for Education for All Global Monitoring Report 2008, Turkey Country Case Study, Aydagul Batuhan 2007, 14, at <<http://unesdoc.unesco.org/images/0015/001555/155505e.pdf>> (last accessed March 2009).

182 *Ibid.*

183 *Ibid.*, 14-15.

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

numbers of children drop out of school to undertake seasonal work.¹⁸⁵ In addition, social, cultural and familial considerations play a role in enrolment rates. Examples of dropout determinants are the mother's literacy, the family's interest in children's education, and expectancies regarding achievement.

An interview with Mr. Abdullah Karahan, Chairman of Eğitim-Sen's Diyarbakır Branch, during the fact-finding mission to Diyarbakır provided information regarding access to education.¹⁸⁶

Table E: Ratio of Primary Education (2003)

Ratio of Schooling in Primary Education	Net Schooling Ratio		Gross Schooling Ratio		Gross Schooling Ratio		Gender Ratio
	Male	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 education, these figures also clearly reflect the regional disparities that exist in access to 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 their children's schooling. 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,

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

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

many children end up working on the streets and this greatly hinders their ability to access education.¹⁸⁷

Similar conditions were found in Cizre and İstanbul. The difficulties facing families often had direct repercussions on the local quality of education. In Cizre, 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.¹⁸⁸

One noted initiative 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. 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, and 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 thereafter.¹⁸⁹ 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 figure of more than 1.5 million students.¹⁹⁰ This may be because the official term ‘conditional cash’ used in the distributed questionnaire was not understood well by ordinary people.¹⁹¹

Mr. Karahan stated that in principle, Eğitim-Sen supports the idea of CCT, but he thinks that the amount of the CCT is very low (50 YTL per student) and is not enough to cover a child’s monthly needs. He thinks that if the amount was sufficient many school children would not leave their school for seasonal work. He also criticised the method of identifying students in need and the method of payment. He noted that teachers ask students in the classrooms to provide their names if

187 FFM interview with Mr Abdullah Karahan, Chairman, Eğitim-Sen Diyarbakır Branch, 12 October 2008

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

189 UNDP, ‘Youth in Turkey: UNDP Turkey 2008 Human Development Report’, 31, at <http://www.undp.org.tr/publicationsDocuments/NHDR_En.pdf> (last accessed April 2008).

190 *Ibid.*

191 Emin Yaşar Demirci, The Place of the Displaced: Choices and Preferences of Internally Displaced Persons in Van, July-August 2006, 16-17, at [http://www.internal-displacement.org/idmc/web-site/countries.nsf/\(httpEnvelopes\)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument](http://www.internal-displacement.org/idmc/web-site/countries.nsf/(httpEnvelopes)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument) (last accessed January 2008).

their families have economic difficulties, and some students refrain from doing so because they do not want to be seen as poor by their classmates. The list of students is prepared by the school administrator and is sent to the Governorship. If the Governorship approves the list, the money is sent to the school account and paid to the families in cash by the school administrators. He said the payment is often delayed because it gives school administrators further responsibilities outside of their work, and he suggested that it would be more appropriate if the payment procedure was to be done through banks.¹⁹²

The mission found also that in Diyarbakır, the CCT scheme supported by the World Bank for investment into human capital was controlled by the governor's office. Mayor Yurdusev of Bağlar municipality added that while these schemes have helped and continue to do so in the short-run, what is required in the long-term is the improvement of the overall educational infrastructure.¹⁹³

In addition, although significantly reduced, cost remains a key issue. The poverty of IDPs and the Kurdish region have affected the attitude to education, as well as the means families have to provide their children with a good education. The necessity of children's income to the family as well as cultural attitudes to education have hampered the drive to provide universal education, with particular consequences for the least favoured groups in the country.

g) Access – Gender and Access to Education

The involvement of women in education can be seen as an indicator of educational integration. During the course of the fact-finding mission to Diyarbakır, gender and education was raised as a key issue. Mr. Karahan, Chairman of the Diyarbakır Branch of the Eğitim-Sen teachers' trade union, provided the following data on rates of illiteracy amongst women in different regions of Turkey:

192 FFM interview with Mr. Abdullah Karahan, Chairman, Eğitim-Sen Diyarbakır Branch, 12 October 2009, Diyarbakır.

193 FFM interview with Mr. Yurdusev Özsökmenler, Mayor, Bağlar Municipality, Friday 20 June 2008, Diyarbakır.

Table F: The Percentage of Illiterate Women According to Region¹⁹⁴

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

Besides showing 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, they also illustrate the disparity in illiteracy between men and women. 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.¹⁹⁵ He also noted 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.

h) Conclusions and Recommendations

The Turkish educational system has undergone profound changes in the last decade which have significantly altered access and quality. Nevertheless, numerous challenges remain, particularly for IDPs and Kurds.

It is vital to note that no restructuring of the education governance system is currently included in ongoing reform efforts in Turkey. Such a restructuring will have to ensure an appropriate level of decentralisation, 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.¹⁹⁶ Mr. Karahan

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

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

196 UNDP, 'Youth in Turkey' 43.

stated that the government does not implement UNDP recommendations. He also said that the recommendations were prepared without considering the realities of Turkey, because there exist economic and linguistic disparities in schools between the west and south-east. For example students in the south-east of Turkey are the least successful in national examinations because they are not educated in their mother tongue. He noted that according to the Turkish Board of Higher Education, Diyarbakır was 77th out of 81 cities in terms of enrolling at universities in 2009.¹⁹⁷ 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 necessary, 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.¹⁹⁸

In the view of the mission, with regard to the specific needs of Kurdish children, it is essential that steps are taken to facilitate the learning of Turkish in parallel with courses designed to maintain their mother tongue. 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.

197 FFM interview with Mr. Abdullah Karahan, Chairman, Eğitim-Sen Diyarbakır Branch, 12 October 2008, Diyarbakır.

198 UNDP, 'Youth in Turkey' 50.

5. STREET CHILDREN & CHILD LABOUR

a) International Child Rights Obligations

Turkey has ratified all of the ILO conventions, including those that focus on child labour. Turkey has also signed the Protocols of the CRC that address the trafficking of children, child pornography and child prostitution.¹⁹⁹

b) General Introduction to Street Children and Child Labour in Turkey

The status of children in Turkey is an important issue that has been the subject of political attention in recent years. The growth of crime and drug use amongst children has made it imperative to address the issue. In analysing the issues facing children in this field, it is important to clarify some points.

From the desk-based research it was problematic 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. This assessment was difficult due to the fact that organisations such as the ILO do not distinguish between Kurdish and non-Kurdish children. Furthermore, it was difficult to obtain clear information regarding the provision of services aimed at helping children engaging in child labour or working on the streets. In the south-east, a very high proportion of street children are Kurdish, and while street children in İstanbul come from different ethnic groups, a large number of them are also Kurdish, having been forced into that situation due to displacement from the south-east of Turkey

The fact-finding missions to Turkey attempted to remedy some of the short-comings in the desk-based research. However, 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

199 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, at <<http://www.ilo.org/public/english/region/eurpro/ankara/conv/ratified.htm>> (last accessed February 2009) and <<http://www.ilo.org/public/english/region/eurpro/ankara/programme/ipcec/government.htm>> (last accessed February 2009).

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. The mission also had difficulty in distinguishing those from IDP and non-IDP families. 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. A 2008 Turkish news article reported that although there has been a decrease in the number of children living on the streets, the number of children working on the streets is on the rise, with around a total of 4,000 children working on the streets.²⁰⁰

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 received from different sources was often contradictory.

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 those of the Turkish authorities. Reports acknowledge that domestic legislation intended to protect children from exploitation in the workplace has been introduced. The Turkish Labour 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 10 hours per week.²⁰¹ 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. It must also be added that the effect of neglecting such a group has created a level of tension associated with crime and drug use. The development of

200 İstanbul Streets See Growing Number of Child Workers, *Today's Zaman*, 10 October 2008, at <<http://www.todayszaman.com/tzweb/detaylar.do?load=detay&link=155498&bolum=10>> (last accessed March 2009).

201 E. Hasan Gemic, 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, at <<http://www.ilo.org/public/english/region/eurpro/ankara/legislation/law4857.htm>>, (last accessed 26 February 2009).

crime amongst these children has led to a growing involvement of security authorities which threatens to alienate children that are confronted with street life.

c) Causes of Child Labour

Child labour remains inextricably linked to poverty. Although poverty plays a prominent role in pushing these children into work numerous other factors have also come into play. Notably, population movements related either to economic migration or forced migration have pushed families into poverty, thus elevating the numbers of child labourers. Cultural attitudes to work and children have similarly played an important role.

IDP populations have tended to swell the number of child labourers in cities. These groups which have often been forced from their home regions have had to implant themselves in new locales with limited means. This situation has pushed numerous families to send their children out to make money for the family as IDPs often face poor conditions. An example is a 2006 research survey conducted in Van which suggests that there are high rates of child labour in areas where IDPs live.²⁰² 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.

According to a study carried out in Van, 30 per cent of the IDP households surveyed used child labour as a survival strategy.²⁰³ 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 recognised as child labour.²⁰⁴ 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.²⁰⁵ 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, according to which children are expected to

202 Emin Yaşar Demirci, *The Place of the Displaced: Choices and Preferences of Internally Displaced Persons in Van*, July-August 2006, at [http://www.internal-displacement.org/idmc/web-site/countries.nsf/\(httpEnvelopes\)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument](http://www.internal-displacement.org/idmc/web-site/countries.nsf/(httpEnvelopes)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument) (last accessed April 2008).

203 *Ibid.*

204 *Ibid.*

205 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey.'

undertake household labour, in urban living.²⁰⁶ A 2001 ILO report on the conditions of children working and living in the streets of Diyarbakır, Adana and İstanbul found that of the street children, an overwhelming majority were male. The report concluded that the explanation for the disproportionate amount of male street children stemmed from an 'agrarian economic structure' with 'recent migrant families attaching more economic than psychological value to their children.'²⁰⁷

The importance of rural values in determining the role of children within their families is particularly important when considering that rural to urban migration has led to a substantial increase in the number of street children; 98 per cent of street children are said to have been internally displaced, mostly from the south-east regions and of Kurdish ethnicity.²⁰⁸

The association between IDPs and the number of children working in streets was also noted during the KHRP's fact-finding mission to Diyarbakır. In an interview with Mr. Muharrem Erbey, the Chairman of İHD Diyarbakır Branch, it was stressed 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. 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.²⁰⁹ In 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 were a considerable number of children selling various items on the streets and in the lo-

206 Emin Yaşar Demirci, *The Place of the Displaced: Choices and Preferences of Internally Displaced Persons in Van*, July-August 2006, at [http://www.internal-displacement.org/idmc/web-site/countries.nsf/\(httpEnvelopes\)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument](http://www.internal-displacement.org/idmc/web-site/countries.nsf/(httpEnvelopes)/3AE8AE245930FBC0C12572DD0047CEFF?OpenDocument) (last accessed April 2008).

207 Dr. Bahattin Akşit, Dr. Nuray Karancı and Dr. Ayşe Gündüz-Hoşgör, *Investigating the Worst Forms of Child Labour No. 7, Turkey, Working Street Children in Three Metropolitan Cities: A Rapid Assessment*, (International Labour Organisation, International Programme on the Elimination of Child Labour (IPEC), Geneva, November 2001), at http://www.ilo.org/ipecinfor/product/viewProduct.do;jsessionid=0a038009cea46f1e9cf3f2d40e797bec12e09374a91.hkzFngTDP6WImQuUaNaKbxD3lN4K-xalah8S-xyIn3uKmAiN-AnwbQbxaNv-zaAmI-huKa30xgx95fjWTa3eIpkzFngTDP6WImQxahqTaxyNbheOawb48OX3b4Dtj15eM-byknvrLQIQzNp65In0__?productId=2440 (last accessed April 2008).

208 BIA News Centre, 'Solve the Problem of Street Children', 16 January 2008.

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

cal parks.²¹⁰ The general situation of poverty forces children out onto the streets to work, and children are also increasingly sleeping on the streets.²¹¹

From these factors it can be said that poverty and displacement are strongly intertwined. The prevailing cultural attitudes have stemmed from rural backgrounds which are often in the least educated zones of the country.

The close link between economic or forced migration and the number of children working in the street was also emphasised by Mr. Bal, Chairman of Göç-Der in İstanbul.²¹² 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.²¹³ 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.²¹⁴ Professor Polat, Chairman of *Sokak Çocukları Rehabilitasyon Derneği* (the Street Kids Rehabilitation Association, said the problem was the current economic crisis that has 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.²¹⁵ Because they cannot find work and end up living in poverty, he said, many children become involved in crime and gangs.²¹⁶

It is clear that poverty and migration - which are often related - have boosted the numbers of children working in the streets. The emphasis on rural to urban migration has also opened another scope of cultural perceptions of the child. 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 of these children and 54 per cent of the fathers were unemployed, that 73 per cent of the families lived in shanty accommodation, that 78 per

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

211 *Ibid.*

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

213 *Ibid.*

214 *Ibid.*

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

216 *Ibid.*

cent of the families of street children needed the income of their 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.²¹⁷

It can be noted that whilst poverty remains a major cause of the large number of street children, other factors have influenced the numbers. The child's role as a bread-winner in numerous rural families and the lack of education that prevails amongst the migratory groups have undermined their children's school attendance and have put these children in environments that have led to crime and drug abuse; this will be elaborated upon in the next section.

d) Effects of Child Labour

The effect of child labour on children in Turkey has been profound and has touched on a number of social issues. Aside from living in a poor environment, labour has, in some cases, cut bonds between children and their families, taken time away from education and encouraged criminality. This link between street children and crime has developed a strong prejudice against the children. 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.²¹⁸ Based on desk research as well as the findings of the fact-finding mission, it was found that the effects of child labour have been profoundly detrimental to the children involved. The prejudice directed at street children combined with the difficulties of being successful at school in these conditions have pushed many of these children towards crime and drugs; this poses a major challenge to Turkish society.

According to data collected by İHD 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.²¹⁹ The 2001 ILO report on street children found that 13 per cent of the research group had never

217 Figen Şahin and Ufuk Beyazova, Gazi University Faculty of Medicine, Department of Social Pediatrics, Co-Directors of Gazi University Child Protection Centre, Ankara, Turkey, 'Child Protection Systems in Turkey'. The authors cite <www.shcek.gov.tr/hizmetler/Sokakta_Yasayan_Calisan_Cocuklar/> (last accessed March 2008).

218 BİA News Centre, 'Solve the Problem of Street Children', 16 January 2008.

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

attended school.²²⁰ 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.²²¹ Yusuf Kulca, President of *Umut Çocukları Derneği* (the Hope Children's' Association), has argued that it is the removal of children from the education system that presents the major problem.

The KHRP's fact-finding mission to İstanbul also noted the difficulties faced by street children in terms of education. Ms. Gülseren Yoleri, Chairwoman of İHD's İstanbul Branch, informed the mission that even the children who do attend school have to work on the streets afterwards, which cuts into their study time, whilst some do not attend school at all.²²²

Other effects that have been noted are the health consequences of street life on children's lives. Research indicates that a majority of children who work on the streets actually return home to their parents, who usually reside in the slums.²²³ 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 or 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).²²⁴ There seems to be a natural progression from selling to scavenging, due mostly to the substantial in-

220 Dr. Bahattin Akşit, Dr. Nuray Karancı and Dr. Ayşe Gündüz-Hoşgör, Investigating the Worst Forms of Child Labour No. 7, Turkey, Working Street Children in Three Metropolitan Cities: A Rapid Assessment, (International Labour Organisation, International Programme on the Elimination of Child Labour (IPEC), Geneva, November 2001), at <http://www.ilo.org/ipecinfo/product/viewProduct.do;jsessionid=0a038009cea46f1e9cf3f2d40e797bec12e09374a91.hkzFngTDP6WImQuUaNaKbxD3lN4K-xalah8S-xyIn3uKmAiN-AnwbQbxaNv-zaAmI-huKa30xgx95fjWTa3eIpkzFngTDP6WImQuXahqTaxyNbheOawb48OX3b4Dtgi15eM-bynknvrkLOlQzNp65In0_?productId=2440> (last accessed April 2008).

221 *Turkish Daily News*, 'Displaced Children Resorting To Crime', 7 August 2001.

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

223 Dr. Bahattin Akşit, Dr. Nuray Karancı and Dr. Ayşe Gündüz-Hoşgör, Investigating the Worst Forms of Child Labour No. 7, Turkey, Working Street Children in Three Metropolitan Cities: A Rapid Assessment, (International Labour Organisation, International Programme on the Elimination of Child Labour (IPEC), Geneva, November 2001), at <http://www.ilo.org/ipecinfo/product/viewProduct.do;jsessionid=0a038009cea46f1e9cf3f2d40e797bec12e09374a91.hkzFngTDP6WImQuUaNaKbxD3lN4K-xalah8S-xyIn3uKmAiN-AnwbQbxaNv-zaAmI-huKa30xgx95fjWTa3eIpkzFngTDP6WImQuXahqTaxyNbheOawb48OX3b4Dtgi15eM-bynknvrkLOlQzNp65In0_?productId=2440> (last accessed April 2008).

224 *Ibid.*

crease in profitability. Public health experts believe that children who are working and/or living in the dumps are exposed to a wide range of high-risk disease.²²⁵

It appeared that children who live or work on the streets do not receive adequate care or nutrition.²²⁶ Most of the children interviewed did not have a balanced diet and skipped meals.²²⁷ Scavenger children received the lowest nutrition, frequently sustaining themselves from scraps of food found in the garbage dump.²²⁸ 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.²²⁹ 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.²³⁰

The fact-finding mission to İstanbul was informed of cases of abuse that have faced the street children. Ms. Yoleri, the Chairwoman of İHD Branch in İstanbul, stated that many children are the victims of torture or violence either on the streets themselves or after being taken into custody.²³¹ 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.²³² 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.²³³

On October 31 2008, a report submitted by Tsiatsan noted that İHD's regional representative Mihdi Perinçek, announced that 408 demonstrators were taken into custody. Of those, 120 were arrested and 24 of those arrested were children. Ac-

225 Dr. Bahattin Akşit, Dr. Nuray Karancı and Dr. Ayşe Gündüz-Hoşgör, *Investigating the Worst Forms of Child Labour No. 7, Turkey, Working Street Children in Three Metropolitan Cities: A Rapid Assessment*, (International Labour Organisation, International Programme on the Elimination of Child Labour (IPEC), Geneva, November 2001), at <http://www.ilo.org/ipeinfo/product/viewProduct.do?jsessionid=0a038009cea46f1e9cf3f2d40e797bec12e09374a91.hkzFngTDP6WImQuUaNaKbxD3lN4K-xalah8S-xyIn3uKmAiN-AnwbQbxaNvzaAml-huKa30xgx95fjWTa3eIpKzFngTDP6WImQuxahqTaxyNbheOawb48OX3b4Dtgi15eMbyknvrkLOIQz-Np65In0__?productId=2440> (last accessed April 2008).

226 Şahin and Beyazova, 'Child Protection Systems in Turkey'.

227 *Ibid.*

228 *Ibid.*

229 Şahin and Beyazova, 'Child Protection Systems in Turkey'.

230 *Ibid.*

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

232 *Ibid.*

233 *Ibid.*

ording to Perinçek, ‘95 per cent of those taken into custody were subjected to beating and torture. The children got their share, too.’²³⁴ The İHD stated that the 16 of those children arrested were at the age for elementary education.²³⁵

e) Protection of Children in Turkey

Despite Turkey’s ratification of various ILO conventions on the child numerous issues continue to plague children’s rights in Turkey.

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 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.’²³⁶ 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.²³⁷ 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.²³⁸ However, the US 2006 Country Report noted that this institution operated 44 centres to assist such children.²³⁹ 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.²⁴⁰ Mr. Beren countered that the number of institutions has increased, where there had previously only been one in Diyarbakır, there are now two, and they are planning to increase the number up to four. However, he also noted that some institutions have

234 Kurdish Info – 31 October 2008, Police Violence Against Children, at <<http://www.kurdish-info.net/modules.php?name=News&file=article&sid=11907>> (last accessed January 2009).

235 *Ibid.*

236 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.

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

238 Akşit, Karancı and Gündüz-Hoşgör, Investigating the Worst Forms of Child Labour No. 7, Turkey.

239 US Bureau of Democracy, Human Rights, and Labor, ‘Country Reports on Human Rights Practices, 2007.’

240 *Ibid.*

changed the nature and/or target of the services they provide, and for this reason it might appear that the number has decreased. For example some institutions which used to provide services to street children have started to provide services to refugee children or children with drug addiction(s).²⁴¹

The fact-finding mission to Diyarbakır interviewed Mr. Oktay Taş, Social Services Province Director, on central government initiatives. The mission was told that services were provided not only for street children but for their families as well. This was said to include social activities, workshops, vocational training, family counselling and education support.²⁴² 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.²⁴³ 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, which had been operating for five months.²⁴⁴

The main focus of services regarding street children appeared to revolve around three mobile teams that operate 24 hours a day.²⁴⁵ These teams were made up of expert psychologists and social workers who go out into the field to find children and to motivate them to access services such as drug rehabilitation through the centre.²⁴⁶ The teams reportedly involved the families in the children's rehabilitation process. They were also used as experts for the provision of social enquiry reports required by children's courts under the Child Protection Law.²⁴⁷

In September 2008, a public awareness campaign carried out by the government included posters, distributing leaflets in the schools and streets, and giving interviews to the newspapers, radios and TV channels. Mr. Beren stated that they had explained the rights of children, and tried to raise family awareness regarding potential risks that children face on the street, as well as create sensitivity to this is-

241 FFM interview with Mr. Halef Beren, Director of Şehitlik Children and Youth Centre, Diyarbakır Governor Office, 13 October 2009, Diyarbakır.

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

243 *Ibid.*

244 *Ibid.*

245 *Ibid.*

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

247 *Ibid.*

sue throughout society.²⁴⁸ Mr Özdoğan, of Göç-Der, stated that he could not recall any of the claimed activities of this campaign, or any specific results attributable to it.²⁴⁹

Interviewees from ÇAÇA informed the mission that mobile teams run by the governor's office began operations two years ago. However, they believed that this goal was merely a cosmetic one and did not tackle the problems that led to the children working on the streets.²⁵⁰ The interviewees stated that the teams find the children and remove them to police centres in order to contact their families.²⁵¹ 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 apparent result of this was 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.²⁵² It was the observation of the interviewees at ÇAÇA, and the view of the mission as a result of its interview with Mr. Taş, the Social Services Province Director, 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 involved in crime or drug-taking, but that beyond this they received no targeted services in light of their vulnerable status.²⁵³

Many of the laws drafted for the purpose of preventing child labour thus adhering to the conventions signed by Turkey at ILO conventions have been deemed to be ineffectively implemented.²⁵⁴ The US 2006 and 2007 Country Reports stated that

248 FFM interview with Mr. Halef Beren, Director of Şehitlik Children and Youth Centre, Diyarbakır Governor Office, 13 October 2009, Diyarbakır.

249 FFM interview with Mr. Dursun Özdoğan, Chairman, Göç-Der Diyarbakır Branch, 13 October 2009, Diyarbakır.

250 FFM interview with Ms. Sabahat Durmaz, Project Coordinator, Emin Sarıkaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), ÇAÇA, 21 June 2008, Diyarbakır.

251 FFM interview with Ms. Sabahat Durmaz, Project Coordinator, Emin Sarıkaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), ÇAÇA, 21 June 2008, Diyarbakır.

252 *Ibid.*

253 *Ibid.*

254 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

there was a disparity in enforcement by the Ministry of Labour and Social Security of these employment restrictions in different sectors of the economy.²⁵⁵ 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. 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 2007. As a result of this 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 per cent of child labour occurred in the agricultural sector, with a total of 52.4 per cent of employed children working in rural areas, compared to 47.6 per cent working in urban areas.²⁵⁶ 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.²⁵⁷ 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.

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.²⁵⁸ Interviewees also stated that in fact the state blames the families, saying that they choose to send the children out onto the streets.²⁵⁹ Family advocates countered 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.²⁶⁰

Although numerous children continue to face the negative effects of these policies, the mission to İstanbul was informed of positive steps taken by the government.²⁶¹

255 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

256 *Ibid*

257 *Ibid.*

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

259 *Ibid.*

260 *Ibid.*

261 FFM interview with Professor Yusef Kulca, Chairman, Hope Children's Association, 24 June 2008, İstanbul.

Professor Polat, of the Street Kids Rehabilitation Association, stated that these positive steps included opening new centres, and that the Child Protection Law was good piece of legislation.²⁶² Even though he acknowledged there are problems with its implementation he stated that there was good collaboration between NGOs, state agencies and other relevant actors on children's issues.²⁶³ 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.²⁶⁴ 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 region. In the view of the mission the Professor appeared to work closely with state agencies, which may have affected his attitudes on some issues.²⁶⁵

Complementing the government services there have been numerous initiatives by NGOs and private institutions. Yet these initiatives have, as was found by the fact-finding mission, often focused on different elements of the problem.

Yusuf Kulca, President of the İstanbul Umut (Hope) Children's Association—a group 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 İstanbul, at least 10 night shelters need to be founded. İstanbul'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 İstanbul Municipality.²⁶⁶

The mission was informed that Umut did not distinguish between Kurdish and non-Kurdish street children, but between those who have to work on the streets because of economic reasons and those children who live on the streets because they have

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

263 *Ibid*

264 *Ibid*.

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

266 BİA News Centre, 'Solve the Problem of Street Children', 16 January 2008, at <http://bianet.org/english/kategori/english/104195/solve-the-problem-of-street-children> (last accessed April 2008).

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. Professor Kulca informed the mission that his organisation mainly focused on the children living on the streets as a result of poverty rather than drugs or crime.²⁶⁷ It appeared to the mission from the meetings regarding street children in İstanbul 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, for example trying to get the children to access education and health services.²⁶⁸ The organisation also runs boarding centres for young people aged 18 to 25.²⁶⁹ 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.²⁷⁰

In Diyarbakır, KHRP found similar initiatives which provided shelter, encouragement to education and other elements. The all-inclusive nature of these institutions was supported by Ms. Durmaz of ÇAÇA who informed the mission that the association was 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.²⁷¹ Mr. Sarıkaya 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 in need of special care on the grounds that they were street children.²⁷² The mission was informed that the area in which the centres operate, Ben ü 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.²⁷³ Thus, the centres work with all IDPs and the rest of the population in the area because they all have

267 FFM interview with Professor Yusef Kulca, Chairman, Hope Children's Association, 24 June 2008, İstanbul.

268 *Ibid.*

269 *Ibid.*

270 *Ibid.*

271 FFM interview with Ms. Sabahat Durmaz, Project Coordinator, Mr. Emin Sarıkaya, Vice Chair, Mr. Cengit Giftai, Advisor (Politics), Mr. Abdullah Karakaya, Advisor (Social Service Expert), ÇAÇA, 21 June 2008, Diyarbakır.

272 *Ibid.*

273 *Ibid.*

special needs deriving from the conditions of poverty within which they are living. During the course of the interview with ÇAÇA 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. Sarıkaya 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. KHRP heard from interviewees that the centres do try to discourage this view.²⁷⁴ They produce publications and share them with other institutions, press and media. They also organise meetings to raise awareness on this issue (beside Diyarbakır some other meetings were organised in Batman, Urfa and Van), and are planning to organise conference or symposium in 2010. In addition, they provide physicosocial activities for children between 4 and 6, and children at school age but who do not attend school. Each year approximately 200-250 children benefit from these activities in each age group. They also meet families and attempt to explain to them the risks of violence and drug abuse that children can face in the streets.²⁷⁵

ÇAÇA's broad inclusion of various groups of children differed to Diyarbakır's local government's initiative. The mission met with Mr. Gzzer, the Street Children Project Coordinator of the Bağlar Municipality, who explained that the municipality's street children project aims to encourage the children to attend school, since they are aware that they usually drop-out in the long-term. 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.

In spite of the numerous initiatives that were identified during the mission, most of them reported that they lacked the funds and resources to expand their projects, as was stated in the interview with Mr. Gzzer concerning the Bağlar Municipality's initiative. 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

274 FFM interview with Ms. Sabahat Durmaz, Project Coordinator, Emin Sarıkaya, Vice Chair, Cengit Giftai, Advisor (Politics), Abdullah Karakaya, Advisor (Social Service Expert), ÇAÇA, 21 June 2008, Diyarbakır.

275 FFM interview with Mr. Emin Sarıkaya, ÇAÇA, 13 October 2009, Diyarbakır.

municipalities have very little political power and a small budget. This led to the missions' observation that in general the municipalities in Diyarbakır 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.²⁷⁶ Professor Kulca's initiative in İstanbul has similarly suffered from budgetary restraints. Umut's project of expanding boarding centres and its other special educational projects remain incomplete because no funding was received for the proposals.²⁷⁷ When the mission visited the centre's 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.

In Cizre, the same issues of budgetary needs were noted by the mission. However, in the case of Cizre the needs were greater as there are no specific NGOs working with children in the city. The municipality reportedly did not have the funds to support projects for street children. It appeared that at present little if anything is being done to prevent 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.²⁷⁸

While there have been various initiatives aimed at alleviating the condition of street children in Turkey, they were often uncoordinated or did not tackle the root causes of the issue. Cultural perceptions played a role in determining what the working role of children should be, but nevertheless it was observed that some improvements could be made. Professor Kulca of Umut outlined to the mission that strong and early preventative measures are required to ensure that children do not end up on the streets.²⁷⁹ 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.²⁸⁰ Professor Kulca also argued that controlling the birth rate is an important step, since many families have large num-

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

277 FFM interview with Professor Yusef Kulca, Chairman, Hope Children's Association, 24 June 2008, İstanbul.

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

279 FFM interview with Professor Yusef Kulca, Chairman, Hope Children's Association, 24 June 2008, İstanbul.

280 *Ibid.*

bers of children that they cannot afford to support, and that the state should be providing family planning centres.²⁸¹ Professor Kulca stressed that the families of street children must be provided with support and economic opportunities that would prevent children ending up on the streets.²⁸²

f) Conclusions and Recommendations

In the view of the authors 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 necessary actions needed to resolve the issue involve the provision of safe environments for street children with provisions to help them re-integrate society, support measures which will address the root causes of children living or working on the street, and development of partnerships with government agencies, private and public sectors in order to mobilise resources and meet educational needs of children. UNICEF also adds that safe and supportive environments should be provided to children with different needs such as sexually abused children or street children, which would be followed by the organisation of training and support workshops for concerned personnel such as the police, gendarmerie, social workers, psychologists and so forth.²⁸³

The major obstacle to resolving this problem is the denial of authorities and organisations that work closely on this issue that there is a clear link between internal displacement and problems of child labour and street children. Kurdish children in Turkey are particularly vulnerable to the possibility of living or working in the streets due to internal displacement, language barriers, institutionalised discrimination and socio-economic disadvantage.

The suggestions made by UNICEF will not remedy the situation unless the particular vulnerability of Kurdish children is recognised and steps are taken to target the underlying causes for this. In particular, state action regarding street children should not solely revolve around getting these children off the streets. This merely results in a never-ending cycle of teams removing children only to have them return the next day because the root causes of their circumstances 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 informational gap. It is also vital that organisations such as the ILO who work in this field consider ethnic differentials in their reporting and work. This

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

282 *Ibid.*

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

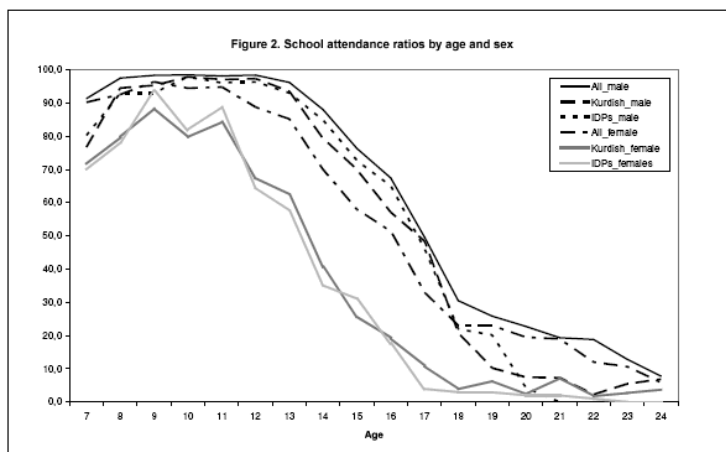
would assist in placing the necessary pressure on the Turkish authorities to tackle the sources of the problem that are directly related to the ethnicity of the children.

6. GENDER-BASED DISCRIMINATION

a) Gender Discrimination in Education

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.²⁸⁴ However, the following graph and table published in 2005 paint a rather different picture.²⁸⁵ 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.²⁸⁶

Table G: School Attendance Ratios by Age and Sex



284 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2005: Turkey'.

285 Koç and Ünalın, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey', 13-15.

286 *Ibid.*

Table H: Basic Educational Outcomes

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

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 prioritisation of boys in school enrolment, and other gender discriminatory practices in education. It found that 22.4 per cent of girls and women more than 12 years old are illiterate, compared to 5.9 per cent of boys and men.²⁸⁷

287 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, 22-23.

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.²⁸⁸ Moreover, as Table I 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.²⁸⁹

Mr. Karahan, Chairman of the Diyarbakır Branch of Eğitim-Sen, informed KHRP that the barriers that exist in the Kurdish region to children in accessing education, such as poverty, disproportionately affect girls.²⁹⁰ Mr. Karahan provided the mission with the following data:

Table I: Percentage of Female and Male Students in Selected Regions²⁹¹

Regions	Female	Male
Mediterranean	43.1	56.9
Southeast	32.1	67.9
Marmara	45.3	54.7

The gender disparities are clearly heightened by regional disparities. Mr. Karahan emphasised 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.²⁹²

KHRP was told by the interviewees at SELİS 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.²⁹³ If there are eight to 10 children in the family, but only three or four in school, 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

288 Koç and Ünalın, 'The Extent of Internal Displacement in Turkey and its Consequences on the Child Educational Attainment and Health in Turkey,' 13-15.

289 *Ibid.*

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

291 Ministry of Education Data for 2001-2002, cited in documentation prepared by Eğitim-Sen.

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

293 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

may assist in the short-term, these merely act as a salve to the pervasive problem of poverty in the Kurdish region.

In an attempt to combat these problems the Ministry of National Education conducted a programme 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 programme benefited nearly 250,000 school-age girls.²⁹⁴ 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 more progress 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.²⁹⁵

The problems associated with women and education, are strongly tied to cultural perceptions of the role of women. The inclusion of women in education is a fundamental step in reinforcing the role of women in society. Although numerous initiatives have clearly helped the situation, some of the ongoing problems stem from the lack of education in poorer regions which still accord women a minor role.

b) Early and Non-consensual Marriage

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.²⁹⁶ Further, early and non-consensual marriage of girls continues to be a problem in the Kurdish region 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

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

295 European Commission, 'Turkey 2007 Progress Report' 19.

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

protection, the economic dependence of Kurdish families on the ‘bride price’ and laws that until recently, encouraged rapists to marry their victims. Forced marriage, in contrast to arranged 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.’²⁹⁷ For example, forced marriage occurs in some cases of rape, particularly that of a virgin minor. However Mazlumder have commended recent amendments to the Turkish Penal Code, wherein those responsible for rape can no longer avoid criminal sanctions by marrying the victim.²⁹⁸

Studies in 2003 in the Kurdish region 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.²⁹⁹ According to a survey of displaced Kurdish women and girls in the south-east, 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.³⁰⁰ 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 predominantly Kurdish areas where poverty is rampant, continue. 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.³⁰¹ When speaking to government officials during the course of this research, the authors were repeatedly disappointed with the dismissive tone taken when approached with how these things might be tackled. Inherent in the response was often that because people were illiterate or poor, there was little that could be done.

The fact-finding mission to Diyarbakır was informed by interviewees from SELİS that the number of early and non-consensual marriages has decreased, but does still occur in the Kurdish region.³⁰² This was said to have a negative mental impact

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

298 FFM interview with Mazlumder representatives, Van, 28 August 2009. See The Trial of Kerem Çakan: The Turkish Judiciary and Honour Killings, Trial Observation Report, KHRP, London, 2010.

299 A Report to the Committee against Torture, 2003; at <http://www.ihf-hr.org/viewbinary/view-document.php?doc_id-2073> (last accessed February 2009).

300 Gül Demir, ‘Women are Part of the South-eastern Landscape,’ *Turkish Daily News*, 5 April 2001.

301 US Bureau of Democracy, Human Rights, and Labor, ‘Country Reports on Human Rights Practices, 2006: Turkey’.

302 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

on the girls due to the traumatic experiences that are associated with this type of marriage. Ms. Güven of SELİS informed the mission of a 17-year-old girl forcibly married off by her parents. 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 it was 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. KHRP is concerned that state-run dormitories appear to be such a concern to local NGOs that they see them as an unworkable solution. According to interviewees, this is not a suitable solution, as it has a negative impact on the girls' mental health and puts them at risk of abuse in the dormitories themselves.³⁰³ In addition, when a girl has been forcibly married she has been treated as a woman, but is then put in the dorm amongst children; such girls are also normally at risk of being the victim of an honour killing.³⁰⁴

Although illegal, polygamy continues, with no official or unofficial figures available. 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 given 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.

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. As the primary care-givers in their households, mothers lacking formal education and/or basic health education are unable to provide adequate nutrition and healthcare to their growing families. At the same time they suffer the double bind of uncontrolled reproduction, which experts agree, 'can tighten the bonds of poverty and increases health risks such as malnutrition, disability and restricted development.' The findings of the Turkey Demographic and Health Survey (TDHS) undertaken by Hacettepe University Institute of Population Studies, 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.³⁰⁵

303 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

304 *Ibid.*

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

Of particular concern to the authors is 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 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.³⁰⁶ 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.

KHRP repeatedly heard during the course of its research across the Kurdish region and in İstanbul that, there are no penalties meted out against the parents or the actual/prospective husband if the victim is over 18. However, if the girl is under 18 then a case of rape may be brought. *Van Kadın Derneđi* (Van Women’s Association, VAKAD), SELİS and the Women’s Committee of the Cizre Bar all noted that in their experience, there had not been sufficient punishments awarded to act as a sufficient deterrent to such offences. This confirms KHRP’s findings during its recent trial observation of a man accused and found guilty of murdering his 17-year old wife in Van. The Court heard that the victim had been forced into the marriage prior to her death, but there has been no investigation against the victim’s family.³⁰⁷

c) Honour Killings

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.³⁰⁸ Under the Penal Code, honour killings require punishment of life imprisonment.

In 2005 Dicle University in Diyarbakır conducted a survey on honour killings. The university polled 430 persons in the Kurdish south-east regions; 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.

306 Gkce Gndc, ‘The Government Could Prevent Child Marriage’, BİA News Centre, 10 January 2008, at <<http://www.bianet.org/yazarlar/2741/gokce-gunduc>> (last accessed 20 January 2010).

307 Michael Kearney, *The Trial of Kerem akan: The Turkish Judiciary and Honour Killings: Trial Observation Report*, (KHRP, London, 2009).

308 Yıldız and Ressler, *Turkey: The Situation of Kurdish Children*, 26.

There has been considerable activity in recent years to deal with this issue. In 2006 a number of initiatives were undertaken, including a major campaign by the Turkish government to end the practice of honour killings.³⁰⁹

KA-MER, a women's organisation in the south-east, reported that from 2003 to 2007, a total of 198 women from the Kurdish region of Turkey called the organisation 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 formal education beyond junior high school. Increased levels of formal education 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.³¹⁰

The government reported that there were 1,806 honour killings between 2001 and 2006. However, during the same period, 5,375 women committed suicide.³¹¹ 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.³¹² In July 2006 the Prime Minister issued to all ministries and provincial governments a circular that reminded each government institution of its responsibility to prevent domestic violence, including honour killings.³¹³ Broaching the formerly taboo topic, Prime Minister Recep Tayyip Erdoğan also condemned the practice of honour killings at the Organisation of the Islamic Conference that November. The following month, 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 killings a sin and condemning all forms of violence against women. The State Ministry for Women

309 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

310 KA-MER 'Honour Killings, Statistics of 2003-2007', at <http://insanhaklarimerkezi.bilgi.edu.tr/data/NC_TR.doc>, (last accessed 18 December 2009).

311 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey'.

312 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

313 *Ibid.*

began a prevention of violence against women educational programme for all soldiers doing their mandatory military service. Government officials worked with advocacy groups to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls.³¹⁴

However, on 17 January 2007 a newspaper article in the *Turkish Daily News* made reference to findings made by a report on İstanbul's honour killing statistics in the past year. The article stated that 'one woman every two weeks was victim to a murder motivated by traditional beliefs about a woman's place in society' in İstanbul. Referring to data from a parliamentary commission on custom and honour killings and violence against women and children, the article stated that 'İstanbul ranks first in the number of crimes related to protecting the family honour. The same report found that violence against women and children was on the rise.'³¹⁵ Such findings give considerable cause for concern, and should provide sufficient incentive for further attempts to reduce the number of honour killings.

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.³¹⁶

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 birth as a result of a rape. Press reports said the girl, from the town of Başkale, 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.³¹⁷

During the fact-finding mission to Diyarbakır, Ms. Güven stated that the circular from the Prime Ministry and other campaigns targeted at preventing honour killings have had no impact.³¹⁸ This is largely related to negligence in adequately implementing Family Protection Law provisions. Whilst the circular itself details implementation of the law, Ms. Güven asserted that a failure to monitor those under protection orders on the part of law enforcement officers and public prosecutors,

314 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

315 'Turkish Press Yesterday', *Turkish Daily News*, 17 January 2007.

316 Barış Altıntaş, 'Turkey mulling crackdown on child pornography', *Turkish Daily News*, 15 December 2006. See also US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2007: Turkey', at <<http://www.state.gov/g/drl/rls/hr-rpt/2007/100589.htm>> (last accessed March 2009).

317 KHRP European Parliament Project, 'The Increase in Kurdish Women Committing Suicide', 15.

318 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

means that she still receives applications from women who have already obtained such orders from the Courts, but are still subject to violence.³¹⁹ Further, she also observed that the present legislation is insufficient because often young boys are chosen to commit the honour killing as they will receive a lesser sentence.³²⁰ This sentiment was echoed by the Project Coordinator of Bağlar Municipality.³²¹ 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 also noted that the younger boys are expected to commit the act as they receive lesser penalties than their older peers.³²² With regards to the absence of legal protection of women in honour killings, it was related to KHRP that the Courts generally accept that the crime was committed under heavy provocation, which reduces the punishment.³²³ Ms. Güven 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, rather than the males who commit the honour killing.³²⁴

In general, KHRP learned during the course of its research, that there is a lack of implementation of legislation, such as the compulsory nature of shelters for particular sized towns and the Child Protection Law. KHRP learned that when such girls apply 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; this in turn makes it difficult for the centre to follow up on the case.³²⁵ However, it was also repeatedly observed that due to the non-implementation of the strong stands made against honour killings and the protective pieces of legislation, that when women or girls apply to the centre for help they are unable to rely on the law. SELİS 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.³²⁶

319 FFM interview with Ms. Sudan Güven, SELİS, 12 October 2009, Diyarbakır.

320 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

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

322 *Ibid.*

323 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

324 *Ibid.*

325 *Ibid.*

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

All interviewed also mentioned that many state responses have often not addressed the specific issues faced by the women in question. The variety of traumas faced by women can be very different and thus require different types of help. This is evident with regards to the differences between forced marriage and honour killings. Further, SELİS and VAKAD both related that women are often not happy in these shelters as they are sometimes the victims of verbal abuse from staff.³²⁷ 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 requirement has not been met.³²⁸ It was added that the state has made no policy change regarding the fact that girls under 18 cannot access the women's shelters already in existence, and that 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.³²⁹ The issue of targeted aid and the absence of legal enforcement have created a delicate situation with regards to the security of women in the poorer regions.

d) Forced Prostitution, Human Trafficking and Rape

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.³³⁰ There have also been allegations that police corruption at all levels contributed to the trafficking problem.³³¹ 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 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.³³² 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.

327 FFM Interview with Ms Sudan Güven and others, SELİS Women Advisory Centre, 20 June 2008, Diyarbakır.

328 Telephone interview with Ms. Emine Baz, VAKAD, 13 October 2009 and Ms. Sudan Güven, SELİS, 13 October 2009.

329 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

330 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey.

331 *Ibid.*

332 *Ibid.*

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 the year's end; however KHRP has been unable to ascertain the outcome of these cases.³³³ Most trafficking activity within the country occurred in İstanbul, Antalya, Ankara, Mersin, and Trabzon. For example, in December 2006 police rescued a 13-year-old runaway girl who had been held captive by traffickers in Trabzon and had been forced into prostitution. Police arrested three suspects. The case was reported to be pending at the year's end.³³⁴ However, KHRP has been unable to obtain information as to the conclusion of the case.

Forced prostitution has been identified as the main form of sexual exploitation of children in the report, 'Situational Analysis of Commercial Sexual Exploitation of Children in Turkey: İstanbul and Diyarbakır 2006'. This report found that there had been a steady increase in the number of forced child prostitutes in both Diyarbakır and İstanbul. The report found that the most widely abused group of children was girls between 12 and 18 years old, but that there were also a substantial number of boys who were victims of sexual abuse. 'Child prostitution occurs in a variety of locales, ranging from slums to the rich,' and the culprits have no common profile other than being 'men.'³³⁵

According to VAKAD, Kurdish women and girls are 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. KHRP heard reports of women and children from the rural parts of Kurdish areas 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.³³⁶ Once a child has been sold or forced into prostitution, it is extremely difficult to escape. It was reported that security or police officers guard brothels. This means that there is no

333 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

334 *Ibid.*

335 *Turkish Daily News*, 15 December 2006.

336 *Turkish Daily News*, 15 December 2006.

means of escape in practice. There are also reports of a debt bondage system that ties prostitutes to their pimps. Further, in wider society prostitutes are ostracised, creating difficulties for children who have engaged in prostitution.³³⁷

KHRP's fact-finding mission attempted to find more information concerning human trafficking. In an interview with SELİS it related to KHRP that the concept of internal trafficking is not one that is commonly used in Turkey.³³⁸

SELİS in Diyarbakır informed the mission that their institution focused more on forced prostitution, which is divided into two forms. Based on their experience, there are a number of women IDPs who are forced into prostitution due to their economic problems and then there are those that are forced by others to become prostitutes.³³⁹ Between 2000 and 2005 the numbers regarding forced prostitution were very high; most of these were girls under the age of 18.³⁴⁰ According to many interviewed, the state was ignoring the phenomenon and even allowing it to occur as many such cases were committed by soldiers. The acts were allegedly generally committed by soldiers befriending young girls and then raping them, before forcing them into prostitution. 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.³⁴¹ Ms. Güven believed that the current increased tension in the Kurdish region could lead to cases like this becoming more common as it is in a state of conflict.³⁴²

In the case of forced prostitution the mission found that legal coverage of the issue was lacking. 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 pressured 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.³⁴³ By comparison in the United Kingdom, in the event of an alleged rape, or charges of attempted or actual forced prostitution or trafficking, the charges against the accused

337 Telephone interview with Ms. Emine Baz, VAKAD, 13 October 2009.

338 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

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

340 *Ibid.*

341 *Ibid.*

342 FFM interview with Ms. Sudan Güven and others, SELİS, 20 June 2008, Diyarbakır.

343 US Bureau of Democracy, Human Rights, and Labor, 'Country Reports on Human Rights Practices, 2006: Turkey'.

would not necessarily be dropped on the basis of the victim withdrawing his or her complaint. The Crown Prosecution Service (CPS) is required to consider all available evidence first, and as a general rule would prosecute all cases with sufficient evidence and no factors preventing prosecution.³⁴⁴ Moreover, the CPS should 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.³⁴⁵ 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. It is the view of the authors that Turkish prosecutors should develop a similar clear policy document requiring prosecutors to continue with the case if it is in the public interest.

During an interview with members of the Cizre 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.³⁴⁶ Girls often reportedly choose places that they have seen on the television, such as İstanbul, as their destination, in the belief that they will have a better life in the city with more opportunities and freedom.³⁴⁷ However, girls from rural areas such as Cizre are often forced to turn to prostitution.³⁴⁸ This can be a result of either their socio-economic needs arising out of a failure to gain employment, or due to the fact that they are particularly exposed to external pressure from gangs and others who would pressure them into prostitution.³⁴⁹

e) Conclusions and Recommendations

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 campaigns such as 'Get Girls to School' are welcome, until all the root causes of girls' absence from school are tackled, namely social attitudes and economic reasons, this problem will simply be perpetuated.

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

345 *Ibid.*

346 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008, Cizre.

347 *Ibid.*

348 *Ibid.*

349 *Ibid.*

The lack of cooperation between local and central government is extremely problematic, as is that between government and local NGOs. Without a central strategy to ensure effective collaboration, or indeed any collaboration, between all the relevant actors such as state agencies, municipalities, bar associations, unions and NGOs that would enable such violations of girls' human rights to be dealt with appropriately, implementation of directives seems unlikely.

In particular, the authors are particularly concerned with girls 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 designed for their needs. Given the prevalence of violence against young girls, there must be different categories of female 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.

The problem of honour killings and other forms of gender-violence are not inherently a Kurdish problem but rather they are problems that permeate across Turkish society. Therefore the central government has a vital role to play in supporting country-wide and local initiatives across the country. It is also 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 authors 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, which is also applicable to girls, efforts are needed to translate it into a 'social reality', discussed in terms of the realisation of socio-economic rights.³⁵⁰ During Turkey's 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.

350 European Commission, 'Turkey 2007 Progress Report', 18.

7. VIOLENCE IN THE HOME

Children can be affected by physical and sexual violence in the home in two key ways, either by living in a home where domestic violence occurs, usually against the mother or girl adolescents, or by being 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.’

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 the problems of violence within society. However, the traditional approach to corporal punishment still exists in many regions.³⁵¹ 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’ (that is, you will feel regret), and ‘a rose blooms from the spot where the teacher slaps.’³⁵² 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 usually talked about within the family. Most families do not usually educate their children about sexual subjects.³⁵³

The conflict in Kurdish region that has now gone on since the 1980s has played a role in the destruction of family structures and society in the region. Against this backdrop of institutional violence, family violence has been ignored and has mostly gone unpunished.³⁵⁴ Amnesty International estimated 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 experienced other forms of abuse.³⁵⁵

351 Şahin Beyazova, ‘Child Protection Systems in Turkey.’

352 *Ibid.*

353 *Ibid.*

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

355 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.

Domestic violence is also prevalent 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.’³⁵⁶ 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 for their families and more broadly for 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.

The international community and the Turkish government have a responsibility to protect girls from abuse. An increase in awareness campaigns would benefit the situation of girls, but 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, often internalise the violence, which contributes to an increase in domestic violence.³⁵⁷ 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.

a) Domestic Violence – State Protection

The state infrastructure for dealing with child abuse in Turkey relies upon a three tier system; the Social Services and Child Protection Agency (SSCPA), the medical system and the legal system.

Firstly, the 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 up to 12 years old housed separately from those between 13 and 18 years old. According to data from 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

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

357 Leela Visaria, *Violence against Women: A Field Study*, Economic and Political Weekly, 2000.

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.³⁵⁸ 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 were any regional disparities.

Efforts by the central government 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 against women and children. This includes the planned opening of a women’s shelter in Van in the near future, which will be staffed by individuals from the Social Services Directorate. Funding will be provided by the ‘Provisional Special Administrative and Social Solidarity Foundation, and Social Services Directorate.’ However, it should be noted that although this centre has been planned since at least the spring of 2008, at the time of writing in late 2009 it had yet to be opened.³⁵⁹ While the municipalities are obliged by law to establish shelters, they are reportedly under great financial pressure concerning the distribution of available funds.³⁶⁰ In addition, the governor’s office is in the process of supporting the existing family counselling centre, which is currently ‘not very active.’

The SSCPA have 59 ‘Public Centres’ in 31 of 81 provinces, (22 in the east and south-east of the country³⁶¹) where they open courses for vocational training, parenting programmes and reading and writing classes, as well as 22 ‘Family Counselling Centres’ in 21 provinces.³⁶² However, the Family Counselling Centres are not equipped to deal with extreme cases of child abuse or neglect. There are also 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.³⁶³

To ascertain information about the governmental services operating in Diyarbakır the mission met with Mr. Taş, the Social Services Province Director in Diyarbakır. Mr. Taş indicated that there were two projects planned in this area. One was the

358 Şahin and Beyazova, ‘Child Protection Systems in Turkey’.

359 Telephone interview with Ms. Emine Baz, VAKAD, Van, 12 November 2009.

360 KHRP European Parliament Project, ‘*The Increase in Kurdish Women Committing Suicide*’, 12.

361 http://www.shcek.gov.tr/Kuruluslarimiz/tablo_topmerkx.asp.

362 Şahin and Beyazova, ‘Child Protection Systems in Turkey’.

363 US Bureau of Democracy, Human Rights, and Labor, ‘Country Reports on Human Rights Practices, 2007: Turkey’.

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, but this project had only just begun. 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.³⁶⁴

Another 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. 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 18.³⁶⁵ These children are also segregated according to gender. However, there was no provision of specific services on the basis of gender in response to different kinds of abuse suffered. 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. It is also national policy that government agencies have to take a certain quota of their staff from among the children who have lived in these dormitories.³⁶⁶

Mr. Taş indicated that the numbers of children in the dormitories had been reduced from the level of eight or 10 years ago to a present maximum of four children. Dormitory provision has changed such that instead of large dormitories, blocks of flats are being built, some of which will be used to house small groups of children. However, only one example of a flat being used by six children in the town centre was given to demonstrate this new policy in action.³⁶⁷ 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.

The situation in Turkey remains quite difficult for women and children that are victims of domestic violence. Many provinces, particularly in the south-east of Turkey, do not have any women's shelters. Further, the shelters that do exist can apparently

364 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.

365 *Ibid.*

366 *Ibid.*

367 *Ibid.*

only accommodate women for a maximum of three to six months. It is also vital to note that at present shelters are unable to accommodate children of the victims of violence.³⁶⁸ 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 18.³⁶⁹

The mission noted that in Diyarbakır, there did not appear to be any campaigns regarding the reporting of child abuse or collaboration with other government agencies, such as educational services, in order to identify children in trouble. The use of mobile teams composed of social workers patrolling the streets as the sole means of identifying children in trouble is particularly worrying, especially 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 in the case of 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.

The mission's view of the SSCPA was further confirmed when speaking with Mr. Erbey, Chairman of İHD Diyarbakır Branch. He stated that the staff working in the dormitories providing special care is often lacking in formal education, low paid and violent, and that there have been incidents of beatings reported. The public-run Regional Boarding Elementary Schools (YİBOs), that children board at during the week have been subject to reports of sexual and emotional abuse. Further, they are seen as tools of assimilation to ensure Kurdish children learn Turkish. The new Child Protection Law that regulates the taking of children into care is a positive piece of legislation. However, there is a fundamental lack of implementation due to poor institutional capacity. There are few cases of the state actually removing children. He also stated that the attitudes of the families themselves can be a problem, with those residing in cities often not worrying even if their children are away from home for days at a time.³⁷⁰ Mr. Erbey noted that this often happens in large families and displaced families because they live in such extremely harsh conditions, that it creates an environment of lovelessness, where a missing child may be seen as one

368 KHRP European Parliament Project, *'The Increase in Kurdish Women Committing Suicide'*, 12.

369 *Ibid.*

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

less mouth to feed.³⁷¹ Mr. Erbey stated it would take a football stadium to be able take all those into care that require it.³⁷²

i) The Social Services Agency

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.³⁷³

Interviewees from the Şırnak Bar Association argued that it was necessary for children, especially girls, to receive education about domestic violence and child abuse, and about their rights.³⁷⁴ 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.³⁷⁵ Human rights education coupled with discussions of culture are a clear necessity if attitudes such as acceptance of violence against children are to change. The mission further observed that a solution to the wider issue of the Kurdish question and an end to the conflict are also necessary to undermine the legitimacy of violence in general.

Though initiatives have come from the central government, the mission found that the current level of protection of children is insufficient and would require further efforts by local and national institutions. Working alongside the SSCPA are the medical and legal systems which have been designed to provide a comprehensive coverage of issues of domestic violence, but each group seems to be left to work independently of the other, and have not been encouraged to work in tandem.

ii) The Medical System

In Turkey, there is no single medical unit designed to deal with abused children nor is there any available specialty on 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

371 FFM interview with Mr. Muharrem Erbey, Chairman, İHD Diyarbakır Branch, 13 October 2009.

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

373 Şahin and Beyazova, 'Child Protection Systems in Turkey'.

374 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008, Cizre.

375 *Ibid.*

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 Centre, established in 2001, is the first officially recognised centre.³⁷⁶ 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. In particular, 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. 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 organised several courses for practicing physicians about child abuse and neglect in collaboration with the Turkish Society for Prevention of Child Abuse and Neglect.³⁷⁷

iii) The Legal System

Police officers are responsible for reporting the case to the public 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).³⁷⁸

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.

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

376 Şahin and Beyazova, 'Child Protection Systems in Turkey'.

377 *Ibid.*

378 *Ibid.*

penalty imposed being increased by half. This applies to the crime of ‘sexual abuse of children’ and ‘sexual harassment’.³⁷⁹

The legal system also includes provisions with regards to neglect. 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.

The broad definition appears to require state action in a number of different situations where a child is suffering from 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 Centre 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.³⁸⁰ 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.³⁸¹

Although it is acknowledged that the legal provisions are essentially thorough, there are still problems with both the design and implementation of the system, including a high case volume that results in some cases being prolonged for years. The

379 Relevant provisions are: Article 103/3 ‘Where the sexual assault is committed by the direct ascendant, second or third degree blood relative, step father, the adoptive parent , guardian, tutor, teacher, carer, other persons in charge of providing health services or who bears the obligation for protection or supervision, or through abuse of the influence derived from a working relationship or is committed together by more than one person, the penalty to be imposed in accordance with the above sections shall be increased by half.’(No complaint required). Paragraph 2 of Article 105 (sexual harassment) states ‘where the acts are committed by misusing the influence derived from a hierarchical, service, educational/ training or familial relationship, or where such acts are committed by taking advantage of working at the same workplace, the penalty to be imposed under the above section shall be increased by one half . Where the victim has had to leave his employment or school or separate from his family, the penalty to be imposed shall not be less than one year.’ (Requires a complaint).

380 Şahin and Beyazova, ‘Child Protection Systems in Turkey’.

381 *Ibid.*

offender may be imprisoned but not rehabilitated during this process and continues to be a danger for society after he is released.³⁸² 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, this requirement is often not met and 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. Secondly, 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.

b) Violence and Culture

Despite the legal framework that has been devised for the protection of children, a number of problems remain that inhibit the laws from functioning as intended. 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 out of fear of falling victim to an ‘honour killing’.³⁸³ Secondly, it has been noted that helplessness, ignorance and poverty complicate 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.³⁸⁴ 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 often traditional in their outlook.

An example of the impact of culture on the legal system was related to the mission during its mission to Cizre. The Bar Association stated that courts have been sensitive in dealing with cases of abuse, usually involving rape or other forms of sexual

382 Şahin and Beyazova, ‘Child Protection Systems in Turkey’.

383 *Turkish Daily News*, 15 December 2006.

384 *Ibid.*

abuse.³⁸⁵ 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 declined the release of the brother because they understood the real reason for the statements being changed. Yet the girls refused to leave the family and stopped dealing with their lawyers.³⁸⁶ This example was used to demonstrate the mentality that it is more important that the male family member is not punished publicly rather than to get redress for what the girls have suffered.³⁸⁷ In another case relating to a village near Şırnak called Geçitboyu, two village guards who were brothers were alleged to have regularly raped a girl under 18 who had learning difficulties. The girl 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.³⁸⁸ The interviewees believed that the baby was only taken by the family as a means of coercing the victim to recant her statement to prevent the punishment of the other brother.³⁸⁹ The victim and her family 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.

Cultural attitudes to domestic violence have similarly impeded the rule of law in protecting children. Members of the Bar Association interviewed also observed that the conflict situation in the region contributes to a normalisation of violence, which in turn results in victims of abuse, especially girls, coming to believe that the violence committed against them is acceptable.³⁹⁰ 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 of corporal punishment.³⁹¹ Few cases come before the courts because such violence is on the whole viewed

385 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008, Cizre.

386 *Ibid.*

387 *Ibid.*

388 *Ibid.*

389 Telephone interview with İlknur Yokuş Tanış, Head of Şırnak Bar Association Women and Children's Rights Commission, 13 November 2009.

390 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008, Cizre.

391 *Ibid.*

as acceptable.³⁹² As discovered in the desk-based research, it is a part of the general culture in Turkey that hitting is necessary to discipline children. Complaints are only made if a certain level of severity is reached, or if it is so severe that the hospital intervenes. 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 of complaint, this is usually simply accepted.³⁹³

c) Conclusions 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 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 as a whole.

By contrast, the mission received no information regarding comparable positive initiatives in the Kurdish region. 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 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 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. Education for men is equally important, and is needed to address the belief that violence in the home is acceptable. Otherwise,

392 FFM interview with Ms İlknur Yokuş Taniş the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nürîrevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

393 *Ibid.*

cases of violence will simply go unreported, as victims and others will not see the abusive behaviour as constituting a violation of rights.

8. JUVENILE JUSTICE

a) International Legal 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.’³⁹⁴

Furthermore, Article 40.1 of the CRC declares:

States Parties recognise the right of every child alleged as, accused of or recognised 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.³⁹⁵

b) Juvenile Legal Protection in Turkey

Juvenile justice is an area where, until recently, legislative reforms suggest that Turkey has made positive progress towards meeting its international obligations. On paper, an effort is 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 Child Protection Law contains the security and protection measures applicable to children. This act covers the specific protection measures applicable to children; sentencing by courts 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 also specific measures available to courts in cases involving children, such as suspending the pleading of a criminal case or the announcement of a verdict.

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

395 CRC Art. 40.

i) Political vs. Non-Political Crime

A key distinction that should be recognised in relation to the juvenile justice system in Turkey is that the types of crime committed by children are classified into two subgroups, according to those that are considered political in nature and those which are deemed non-political.

Political crime refers to behaviour such as joining demonstrations and rallies.³⁹⁶ All children charged with non-political crime, and those under the age of 15 charged with a political crime, fall under the jurisdiction of the children's courts.

ii) Types of Children Courts

Two forms of children's courts exist. The first is the regular children's court that has jurisdiction over minor offences over which a judge presides but no prosecutor is present. The second is the Children's Heavy Criminal Court where there are three judges and a prosecutor. These courts operate under some special conditions, including the requirement that both the prosecutor and the judge are parents themselves.³⁹⁷ According to Mr. Eren and Mr. Yavuz of the Diyarbakır Bar Association, the treatment of children under the Child Protection Act through the children's criminal courts, is better than the treatment of those that fall under the jurisdiction of the Heavy Criminal Court.³⁹⁸

iii) Special Rules Applicable to Children

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

Authorisation 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;
 - 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.

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

397 *Ibid.*

398 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.

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 measures are taken by the law-enforcement officers.³⁹⁹

399 28th Conference of European Ministers of Justice, Lanzarote, *Report Presented by the Minister of Justice for Turkey* (25-26 October 2007).

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;
- 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 present;
- 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 the custody period;
- The lawyer has the right to examine the file and the preparatory documents.⁴⁰⁰

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 and ill-treatment. Such allegations and related investigations are to be considered urgent cases which are thus debated promptly and without long periods of adjournment. Article 6 of the Law on Formation, Duties and Trial Methods of Juvenile Courts, reads, ‘cases regarding crimes committed by children younger than 18 and debated by general courts are to be debated by juvenile courts.’⁴⁰¹ However, there is an exception if a child is charged under Turkish anti-terror legislation when they are aged between 15-18 years. In this instance, s/he is held and tried as an adult, as will be discussed in more detail below.

The Law also requires that a specially trained expert psychologist must produce reports on the charged child, with regard to their 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.⁴⁰²

c) Problems with Legal Framework

Despite the apparent strengths of the legal system, the fact-finding mission reported that numerous problems remain with regards to the application of law.

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

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

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

Mr. Coban, Chairman of Mazlumder Diyarbakır Branch, informed the mission that the Child Protection Law is often merely used to reduce the length of sentences in cases involving juveniles, while provisions for special protection measures which acknowledge children as a vulnerable group, are ignored.⁴⁰³ He said for example, that according to the Child Protection Law, a social service officer can be present when a child's statement is taken by the Public Prosecutor or during other procedures the Public Prosecutor carries out. However, in his experience he has never witnessed any social service officer present during procedures carried out by the Public Prosecutor.⁴⁰⁴ He also said that although social service experts do compile reports, they do not in his opinion undertake adequate research, but rather 'spit out the same pro-forma report for every child.'

Another major problem that was relayed to the mission by Mr. Erbey, Chairman of the Diyarbakır Branch of İHD, 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.⁴⁰⁵ Mr. Erbey expressed that this was proving to be insufficient to cope with the court's caseload. The resulting backlog was said to lead to delays in dealing with children's cases, which was being further exacerbated by the increasing number of crimes being committed by children.⁴⁰⁶ Mr. Erbey stated that in 2002, 1,000 children were tried for minor offences and that this number rose to 3,300 in 2006. This dramatic increase was attributed to the number of IDP children who were born into the city's slums, with poverty marking the lives of this vulnerable group. He identified this as one of the long-term consequences of the forced migration and suggested that 90 per cent of non-political crimes committed by Kurdish children in Diyarbakır are due to economic reasons.⁴⁰⁷

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. The legal apparatus that has been designed to protect children also seems to have suffered from a poor legal infrastructure which has led it to become congested and weakened.

In Cizre, the mission found that no specific children's court exists. Instead, when a child is to be tried the court simply changes its name and then continues with the

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

404 Telephone interview with Mr. Selahattin Coban, Chairman, Mazlumder, 13 November 2009.

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

406 *Ibid.*

407 *Ibid.*

trial. Thus, the same court, judge and prosecutor try children.⁴⁰⁸ Special measures, such as the judge being a parent and the recipient of special training, are reportedly not met, and although contrary to the requirements of the legislation, the prosecutor is often present.⁴⁰⁹ It was stated that although they would leave if they were asked to do so, their initial presence betrays the fact that children are not seen as deserving of special treatment by the judicial system, with officials constantly needing to be reminded that they should be treated differently.⁴¹⁰ Further, while interviewees said that there are attempts to comply with the Child Protection Law when children are victims of a crime (for example, having a psychologist or social worker present during interviews), no such experts are said to be available to provide the reports required by the legislation.⁴¹¹

d) Children in Armed Conflict and Juvenile Justice

The armed conflict in the Kurdish region has created a legal loophole where Turkish authorities have defined areas as falling under a 'high security zone.' The designation of such zones in the provinces of Şırnak, Hakkari and Siirt is reminiscent of 15 years of emergency rule in Turkey during the 1980s-1990s. Although the state of emergency was officially lifted in 2002, in these zones and across the Kurdish region, children who were considered to have a connection, however loose, to the PKK were detained, interrogated, and tried under Turkey's Anti-Terror legislation (TMK).⁴¹² From 1999-2007, the number of child detentions for the alleged purpose of terrorism control had decreased. However, concern has been heightened due to the alarming number of children that have been arrested and charged since newly-ratified provisions came into place in an amended version of the TMK legislation.

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 anti-terrorism offences, and a 2006 amendment allows children between the ages of 15 and 18 to be tried as adults concerning such charges. This directly contradicts Turkey's treaty obligations under Articles 1, 2 and 40 of CRC, and Article 6 of the European Con-

408 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

409 *Ibid.*

410 *Ibid.*

411 Telephone interview with Ms. İlknur Yokuş, the Head of the Women and Children Commission of Şırnak Bar Association, 13 November 2009.

412 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.

vention on Human Rights, as well as Article 37 of the Turkish Constitution, which provides for special legislation for the trial of minors.

In 2003, an amendment was made to criminal procedure legislation which 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 the Diyarbakır Bar Association informed the mission that despite this legislative change, in practice children have always been tried by the former state security courts for political crimes, even before the 2006 amendment to the TMK. They also highlighted that where previously sentences of less than two years committed by 15 to 18-year-olds could be suspended, this is no longer the case following a recent amendment to the TMK introduced in February 2008. Mr. Eren expressed that although imprisonment of a child should be the last resort under the CRC, it is the first choice under the TMK.⁴¹³ This is a clear violation of Turkey's international human rights obligations.

Children's involvement in the demonstrations was described as usually encompassing the chanting of slogans, making the victory sign, waving illegal flags and posters supporting the PKK, and throwing stones. The throwing of stones was said to be especially common during police intervention, aimed at police vehicles.⁴¹⁴ Interviewees said that the throwing of stones tends to be in anticipation of expected violence from the police, with children more recently also reportedly using petrol bombs against the police.⁴¹⁵

It was observed that children in İstanbul are also involved in demonstrations in a similar manner to that described in Diyarbakır and Cizre.⁴¹⁶ Although İHD lawyers are not automatically involved in such cases, Ms. Yoleri, Chairwoman of the İHD Branch, informed the mission that the main problem is the sheer number of cases brought against children due to their involvement in political activity. As a result, many incidents involving children being subjected to violence on the streets or in custody were said to be 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.⁴¹⁷

413 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.

414 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

415 *Ibid.*

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

417 *Ibid.*

Children arrested in connection with demonstrations are also often tricked and threatened by the authorities, such as being told that if they inform on other children the case against them will be dropped, although this never happens.⁴¹⁸ Under the law the police can only establish the identity of a child but have no power to take evidence from children, as all investigations related to juveniles should be carried out by the Public Prosecutor.⁴¹⁹ However, interviewees stated that the police do in fact report on statements children have made in custody, which are then subsequently used in court.⁴²⁰ This evidence has apparently been held to be acceptable by the appeal court.⁴²¹ One interviewee also described an occasion when a child was being shown a video of a demonstration in the prosecutor's office. 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 of other children because he thought it was in the context of a friendly conversation.⁴²²

e) Political Activism

It is important to note that Kurdish children not only have their rights violated during their arrest and detention in police custody following their alleged participation in political demonstrations, but also during the demonstrations themselves. The brutal treatment received by children, and the ensuing decisions of some to become involved in further political activity or active militancy, is vital in understanding the current position of children in the conflict.

i) Naivety of Children Taking Part in Demonstrations

Mr. Erbey stated that children in the bigger cities, including Diyarbakır, attend demonstrations thinking it is a game. However, when the police use water guns and tear gas to intervene, they do not discriminate between adults and children.⁴²³

This was a sentiment echoed by the the Bar Association in Cizre. A number of its members stated that because of the political climate, activism among children has increased in recent years. They highlighted that children's participation extends be-

418 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

419 *Ibid.*

420 *Ibid.*

421 *Ibid.*

422 *Ibid.*

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

yond their school holidays to after school hours, with some children even missing classes in order to attend. At the same time, their increased participation is a phenomenon which is said to have been matched by a marked increase in the levels of aggression exhibited by security forces against children, yet children were often said to be naïve to the dangers of their greater participation in such rallies.⁴²⁴ Because children have not been exposed to external pressure in the past and have not witnessed the legal consequences of political activism, they were reportedly less wary than adults to become involved, seeing their participation in political rallies as more of a game, or a youthful dare than anything else.⁴²⁵

ii) Reasons for Growth in Children's Participation

The mission heard about the various factors that contribute to the large attendance of children at demonstrations, including Turkish governmental policies and the growing politicisation of the Kurdish people.

According to interviewees, not only are more children participating, but those which do are also taking a more active role as their political consciousness increases.⁴²⁶ This was attributed to the conflict environment in which they live; although there was no pressure placed upon the children to take part, it was said to be easy for them to become involved as they observe what is happening around them (such as the clashes in the region), and they begin to view the state as their opponents.⁴²⁷

iii) Cultural Attitudes and Gendered Participation

The mission was informed that the majority of children taking part in demonstrations are male, with many families said to be proud of boys who take part.⁴²⁸ Conversely, if a girl takes part she was said to be likely to face serious repercussions from her family. Prevalent cultural attitudes influence the low participation of girls, who rarely participate in the demonstrations due to social structures, according to which it is not accepted for girls to be involved in public affairs. It was also said to be the

424 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

425 *Ibid.*

426 *Ibid.*

427 *Ibid.*

428 FFM interview with Ms İlknur Yokuş Tanış the Head of the Women and Children Commission, Ms Rüya Elai, Ms Dirşeng Bartan and Mr Nürirevan Elai the Chair of the Bar Association, Bar Association, 22 June 2008, Cizre.

case that because boys are more commonly out on the streets, it makes it easier for them to become involved in incidents.⁴²⁹

The reported age range of children taking part is from six to 18; however involvement is especially common among children aged between 12 to 18 years of age.⁴³⁰ This older age group were said to motivate and direct the involvement of the younger children.⁴³¹

iv) Special Suspicion towards Children

Turkish authorities have consistently accused armed separatist groups of deliberately using children in the protests in order to win sympathy.⁴³² This is a pressing issue for children in Turkey, particularly in the context of rising tensions in the region. This has meant that children at rallies are treated with special suspicion, as they are seen as pawns of the armed groups.

A case involving 10 children from Diyarbakır who protested Prime Minister Recep Tayyip Erdoğan's visit on 20 October 2008 was relayed to the mission. Six of the children who have now been released were detained for two months and then charged with membership of an illegal organisation (PKK). Four of these children were arrested for taking part in the protests based on statements provided by police officers, although they denied participation. According to experts, one of the other two children was not filmed on the police video, and there were serious doubts as to the identity of the other child on the film. Two children remain in detention, and four others, because they are aged 15 to 18, are being tried in front of a Special Heavy Penal Court.⁴³³

In addition, the change in TMK, along with a 2006 ruling of the Supreme Court of Appeal which states that participation in protests is 'a legal proof' of membership in an illegal organisation, enabled courts to treat all participants of a protest as 'members of a terrorist organisation', in cases where 'the terrorist organisation called for that protest'. According to the lawyers of the children, many were arrested purely on statements of police officers stating that they had taken part in protests and without

429 *Ibid.*

430 *Ibid.*

431 *Ibid.*

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

433 Erhan Ustundag, Diyarbakir Police Prevents Release of Children, 26 February 2009, at <<http://www.bianet.org/bianet/kategori/english/112792/diyarbakir-police-prevents-release-of-children>> (last accessed March 2009).

any further evidence.⁴³⁴ Allegations involve police checking the hands of bypassing children to see ‘if they have marks to prove they throw stones or not.’⁴³⁵

v) Criminalisation of Children

Thousands of children have been on trial before Special Heavy Penal Courts since the beginning of 2008. In reply to a motion by an MP Selahattin Demirtas, the Minister of Justice Mehmet Ali Sahin revealed that 724 children have been accused of terror charges in 2006 and 2007, as defined in Turkey’s Anti-Terror Law. Three hundred and nineteen of these children were tried in courts in Diyarbakır; during the same period; another 422 children were tried under Article 220 of the Turkish Penal Code for ‘organising to commit crime.’ Yet another 413 children were accused of ‘membership of armed organisations,’ as defined in Article 314 of the Penal Code.⁴³⁶ İHD Diyarbakır Branch report that approximately 500 children aged between 12 and 17 are on trial for events that happened in 2008 alone⁴³⁷ and according to ‘Call for Justice for Children Initiative,’ 3,000 children had been on trial by September 2009.⁴³⁸ Hundreds of these children have already been sentenced to imprisonment of between six and 24 years for being members of an illegal organisation and for manufacturing propaganda.

The widespread detention of children raises serious concerns about the infringement of their right to liberty. International legal standards and Turkish Law on the Protection of Children stipulate that children should only be deprived of their liberty as a measure of last resort and for the shortest possible time. However, by using the anti-terror legislation children are detained as soon as they are brought before a judge without any other measure being taken into consideration. Some of them are kept in prison for up to one year before trial. Many children detained are between the ages of 14 and 18 years and are therefore at the most important point in their

434 Erhan Ustundag, Diyarbakir Police Prevents Release of Children, 26 February 2009, at <<http://www.bianet.org/bianet/kategori/english/112792/diyarbakir-police-prevents-release-of-children>> (last accessed March 2009).

435 Bianet ‘Rights Activists React as Children Crowd Prisons’ 17 February 2009, at <<http://bianet.org/english/english/112634-rights-activists-react-as-children-crowd-prisons>> (last accessed 12 November 2009).

436 Bianet ‘Act Now, Cease Trying Children with Terror Charges’, 10 March 2009, at <<http://bianet.org/english/kategori/english/113053/act-now-cease-trying-children-with-terror-charges>> (Accessed 12 November 2009).

437 Bianet ‘AKP and CHP Promise Change in Terrorism Law for Children’ 19 February 2009, at <<http://bianet.org/english/english/112659-akp-and-chp-promise-change-in-terrorism-law-for-children>>, (last accessed 12 November 2009).

438 Bianet ‘31 Children Tried under Charges of Terrorism’, 3 September 2009, at <<http://bianet.org/english/english/116821-31-children-tried-under-charges-of-terrorism>> (last accessed 12 November 2009).

schooling years. Children who have received a prison sentence will face serious and in many cases irreparable interruption in their education if their prison sentence is upheld by the Supreme Court of Appeal.

Most children have been kept in adult prisons which can be detrimental to their social and psychological development. **Malik Ecdar Özdemir**, MP for the Republican People's Party visited around 20 children aged 14-17 who have been detained in Cizre and kept in Diyarbakır prison for more than a year. Mr. **Özdemir stated that:**

There are 20 children staying in a cell made for 5-6 people. They have been separated from their families and their education has been interrupted. They have been taken to court two to three times, their statements have been taken, their identities were verified, and then they were sent back to prison. As this trial is taking so long, it is difficult for these children to believe in justice.⁴³⁹

As a result of extensive campaigning by the Call for Justice for Children Initiative which is supported by many national civil society bodies, the government has introduced a new proposal to change Articles 5, 9 and 13 of the Anti-terror Law, but its submission and debate in Parliament has been indefinitely delayed. However the new proposal has been criticised on the grounds that these amendments will 'fail to protect children as long as other additional amendments in Turkish Penal Code and Anti-terror Law is not included in the proposal.'⁴⁴⁰ In the Initiative's press release, they called on the government to make amendments on Articles 5, 9 and 13 of the Anti-Terror Law and to also amend Article 2 of the Anti-terror law, Article 220/6 of the Turkish Penal Code and Article 33 of the Law on Assembly and Demonstration.⁴⁴¹

vi) Lack of Measures for Children

Of particular concern to the authors is that the active participation of children in demonstrations does not prevent or deter violence between demonstrators and security forces. Furthermore, the authors are disturbed by the failure of state actors

439 Bianet 'One Child Dead, His Friends in Prison- Justice?', 30 January 2009, at <<http://bianet.org/english/kategori/english/112235/one-child-dead-his-friends-in-prison-%E2%80%93-justice>> (last accessed 24 March 2009).

440 Fair Play for Children 'Planned reform not enough to save children, experts say' 26 October 2009, at <http://www.fairplayforchildren.org/index.php?page=HTML_News&story_id=2780>, (last accessed 12 November 2009).

441 Diyarbakır Bar Association, Press Release, 15 November 2009, at <<http://www.Diyarbakırbarosu.org.tr/modules.php?name=News&file=article&sid=132&mode=thread&order=0&thold=0>>, (last accessed 15 November 2009).

to account for the presence of children in their preparation and handling of public demonstrations.

One example given to the mission regarded the death of a 17-year-old boy who was run over by a police vehicle during protests on 15 February 2008. It was highlighted that more children could in fact have been killed or injured given that the vehicle had been moving speedily amongst a crowd comprising a large number of children. In this case, reportedly due to the high level of public outcry, the state hospital's report accurately identified that the boy was run over by a heavy object and that this was the cause of death. This was in apparent contrast to an earlier official statement that suggested a stone thrown by other demonstrators had killed the child. The body was subsequently sent to a hospital in Malatya, and the autopsy report confirmed the state hospital's conclusion. However at the time of writing, the investigation into the incident remains suspended.

State officials suggest that children get involved in and are at the front of demonstrations as a matter of design, in order to paint the authorities in a bad light when they respond against protestors. Yet according to those interviewed, it is a hatred of the state that leads to a genuine desire among children to participate in, and indeed push themselves forward during rallies; this itself fuelled by incidents such as the death of a friend and the treatment they receive at the hands of the state authorities vis-à-vis the conflict.⁴⁴²

The riots of March 2006, provides another example of the degree of violence present at these demonstrations. Three children aged under-10 died (two of them from gunshot wounds),⁴⁴³ another five teenagers were killed, and a further 500 people were wounded. During and after the riots, 180 under-18's were reportedly detained.⁴⁴⁴ Both international and local observers were shocked when the Turkish government's heavy-handedness came through so boldly in the Turkish Prime Minister's statement of that week, which said that Turkish security forces would act against women and children who he said were being used as 'pawns of terrorism'.⁴⁴⁵

442 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

443 Story from BBC NEWS at <<http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/4867934.stm>>, published: 2006/04/01 17:58:47 GMT (last accessed April 2008).

444 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).

445 Story from BBC NEWS at <<http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/4867934.stm>>, published: 2006/04/01 17:58:47 GMT (last accessed April 2008).

The role of children in the violence which swept the region in 2006 was noted in a *Guardian* report that told the story of Sevder. This 17-year-old Kurd—allegedly because of the deprivation he had suffered throughout his life and having witnessed the shootings of his schoolmates by Turkish security forces—had become involved with PKK activity.⁴⁴⁶ 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.⁴⁴⁷ *The Guardian* report uses Sevder as an example of what the author described as a new wave of militancy among young Kurds in Turkey. 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.’⁴⁴⁸ The brutal response of the Turkish authorities 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.’⁴⁴⁹ 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.’⁴⁵⁰ The latter phrase referred to joining the PKK fighters, estimated in the article to number around 5,000, in their bases nearby northern Iraq. The author reported that an estimated 100 local youths had gone into the mountains in the month of May 2006 alone.

The growing politicisation of children in south-east and eastern Turkey is related to various factors. A long-term source of resentment is the active level of state violence against Kurdish minorities which has played a fundamental role in the disenfranchisement of Kurds. Ian Traynor reports in *The Guardian* article of 5 June 2006 that the Turkish electoral system is structured to keep the Kurdish nationalists out of parliament in Ankara. A party needs 10 per cent of the national vote to enter parliament. The pro-Kurdish DTP, which gained 45 per cent of the vote across much of the south-east in the last election in 2002, cannot obtain 10 per cent nationally. This absence of political channels has resulted in the resort to violence. The article concludes that ‘the children of Diyarbakır are growing up to swell the ranks of the “terrorists”’. Although DTP MPs did end up entering parliament after running as independents, the party was recently outlawed, and the 10 per cent rule remains an in tact barrier to real representation.⁴⁵¹

446 Traynor, ‘Children of the Repression’.

447 *Ibid.*

448 *Ibid.*

449 *Ibid.*

450 *Ibid.*

451 *Ibid.*

Children aged 11 and under who participate in demonstrations are usually admonished on the street but not imprisoned, though not always. However, older children reportedly receive worse treatment at the scene of the demonstrations. On a number of occasions, children have been the victims of physical assault and water cannons are often used.⁴⁵² 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.⁴⁵³

As mentioned already, protestors suffer violence at the hands of Turkish authorities during demonstrations, but also go on to be subject to continuing harsh treatment in detention. Those who are incarcerated often face more abuse under difficult prison conditions. According to a report from the Diyarbakır Bar Association, which is based on witness statements and medical reports, all of the children detained were subjected to severe abuse in detention.⁴⁵⁴ The report says, ‘mistreatment and illegal torture was applied. The unlawful behaviour of the police lent a new dimension to the situation’. 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.⁴⁵⁵

Another problem that arises due to the political situation was particular to Cizre. The mission was informed that a number of landmines and other weaponry have been left lying around in the countryside around the villages, and many children have reportedly died or lost limbs as a result of finding unexploded weaponry lying around.⁴⁵⁶ The mission was surprised to hear that little had been done by the state to address this pressing concern.

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 growing in a conflict situation.⁴⁵⁷ Mr. Erbey explained that displacement changed their life; their socio-economic situation worsened causing them to live in poverty; they were unemployed and had limited access to social

452 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürîrevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

453 *Ibid.*

454 Traynor, ‘Children of the Repression’.

455 *Ibid.*

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

457 *Ibid.*

services. These factors and the ongoing conflict created pressure both from wider society and their immediate families that became too overwhelming. Families often force girls to enter into marriage because of this low living standard.⁴⁵⁸

f) Legal Harassment

Ms. Yoleri, Chairwoman of İHD Branch in İstanbul, and other members of her staff told the mission that the social and economic circumstances of Kurdish children lead them to become more involved in crime and gang culture, and thus increasingly brings them into contact with the criminal justice system.⁴⁵⁹ It was strongly submitted by the interviewees that the Turkish courts award heavy sentences for children charged with various crimes, without taking any account of the fundamental underlying problems or looking for ways to approach meaningful reform.

İHD observed that in İstanbul, cases regarding children between 15 and 18 are sometimes joined with those of adults and that this had occurred in cases involving children as young as 14.⁴⁶⁰ 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.⁴⁶¹ 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 s/he was the victim of torture or violence, they write reports and try to follow the case, and they also collaborate with the Foundation for Social Health to obtain medical reports. However, the lengthy passage of time often means that little can actually be done.⁴⁶²

The mission also met with members of the Prisoner's Family Association and the parents of two children who were currently detained in custody.⁴⁶³ The first was a 16-year-old boy who was arrested on 10 March 2008 in İstanbul, after being caught

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

459 *Ibid.*

460 *Ibid.*

461 *Ibid.*

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

463 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.

in possession of a sound bomb (a device that when activated makes 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 over the age of 18. They were sitting in a park carrying the package containing the sound bomb when police saw them. They fled and the officers chased and shot at them until they were eventually captured. During the first 48 hours that the boy was held in custody, his family reportedly had no idea where he had gone, and it was only after the family were eventually informed that they were able to send him a lawyer. Not until the lawyer first gained access to the child did the family then discover that he had been sent to a police station on the other side of town from where they had been told he was being held. The family tried to visit the child at this point but were refused access and had to wait three days to see him.⁴⁶⁴

The mission met with the family of a child who had been arrested in İstanbul. 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.⁴⁶⁵ 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. According to his defense lawyers, the boy was allegedly calling friends on his phone from this office asking them to bring water and other items.⁴⁶⁶ 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.⁴⁶⁷ The family was 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.⁴⁶⁸ The child also has a nickname that the family use, which is not his official name on his ID.⁴⁶⁹ 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.⁴⁷⁰

The ease with which court cases are brought forward on the basis of evidence that is little and of dubious quality, was observed by Mr. Coban, Chairman of Mazlumder. He outlined that the Heavy Criminal Courts always starts cases brought to their

464 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.

465 *Ibid.*

466 *Ibid.*

467 *Ibid.*

468 *Ibid.*

469 *Ibid.*

470 *Ibid.*

attention in respect of political crimes, regardless of the amount and quality of evidence brought before them.⁴⁷¹ 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 to reach the court.⁴⁷² Further, Mr. Coban stated that decisions taken by the Heavy Criminal Courts involving political crimes are subject to an invisible external pressure from the army and security forces, which means that they are not impartial.⁴⁷³

Mr. Coban informed the mission that he has 14 clients linked with the events on and after 28 March 2006.⁴⁷⁴ Although during that time 12 Kurdish people were killed by police officers, no-one has ever been prosecuted. On the contrary, there was chaos in the town with the police 'picking people off the streets,' including some children who were not involved in the demonstrations. Banks were attacked and windows of shops smashed, and the children were accused of committing these acts, but they deny the charges. Once the children had been arrested they were held in a basketball court at a sports centre.

The members of the mission were also part of a team that observed a trial in Diyarbakır on 19 June 2008.⁴⁷⁵ 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 (allegedly adopted as the march of the PKK and sung in front of a PKK flag) 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. 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 2008 and the six younger children were acquitted on 3 July 2008. 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 the court's other cases 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

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

472 *Ibid.*

473 *Ibid.*

474 *Ibid.*

475 A Children's Choir Face Terrorism Charges: Juveniles in the Turkish Justice System, Trial Observation Report, KHRP, London, 2008.

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.

In addition to the heavy handed approach to justice, according to Mr. Coban, all his clients were badly beaten, with some were bleeding from their ears.⁴⁷⁶ 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.⁴⁷⁷ 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.⁴⁷⁸ All 14 of his clients from the 2006 riots were between the ages of 15 and 18 at the time of the incident.⁴⁷⁹ Initially the Children's Court dealt with the case. However, the nature of the charges was changed so that they were then accused with political crimes. Thus, the Children's 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 writing and, even though Mr. Coban believes that there is no concrete evidence against the children, he stated that he expects at least some of the 14 to be convicted. This is because in his view adults and children are convicted regularly despite a lack of concrete evidence.⁴⁸⁰

The charges which are brought against many of these children and the ease with which they are convicted present a worrying situation. In 2008, 228 children were convicted on anti-terror related charges according to the provisional number given by the Turkish Minister of Justice in the Grand Assembly in December 2009. By the end of October 2009, 103 children in Adana alone were convicted for being members of, and making propaganda for, an illegal organisation,⁴⁸¹ (corresponding figures for İstanbul, Cizre and Diyarbakır were unavailable). The fact that many children are tried and convicted as adults is a gross violation of their rights as children. The ensuing psychological and social impact of this abuse of their rights will undoubtedly represent a major social challenge to the Turkish state in future.

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

477 *Ibid.*

478 *Ibid.*

479 *Ibid.*

480 *Ibid.*

481 Gündem Online 'Adana'da 103 çocuğa 475 yıl hapis cezası', 23 October 2009, at <<http://www.gundem-online.net/haber.asp?haberid=80559>>.

g) Physical and Mental Abuse

Ill-treatment inflicted against the children in detention was stated to be rendered more likely in the high security zones or when children are held under anti-terror charges. Most instances of abuse occur during the first 24 hours when s/he does have access to legal representation.⁴⁸² Further, in the high security zones and with the 2006 amendments to the TMK, police powers have increased considerably, especially in relation to which powers they can employ to control demonstrations.⁴⁸³

There have been increased allegations of torture or ill-treatment of street children detained by police. A report by the International Helsinki Foundation for Human Rights noted in its 2006 Annual report that:

Turkish human rights organisations stated that the safeguards provided by the government were not always respected in practice by the security forces despite progressive improvement. Torture and ill-treatment occurred particularly in the southeast, but disadvantaged groups including the IDPs, Roma and children in the poorer sections of bigger cities were particularly vulnerable to torture and ill-treatment. Political detainees still risked torture.⁴⁸⁴

Ms. Yoleri of İHD told the mission that street children and other children held in custody are often subjected to ill-treatment and torture.⁴⁸⁵ 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.⁴⁸⁶ This was but one example of seemingly trivial incidents that can result in children becoming the victims of torture.

The ease with which children are convicted of political crimes is evident in the mistreatment of Kurdish children during the incidents which took place in Diyarbakır in March 2006. 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 EU 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,

482 FFM interview with lawyer, Mr. Rojhat Dilsiz, 23 June 2008, Cizre.

483 *Ibid.*

484 International Helsinki Federation for Human Rights Annual Report 2006 – Turkey, p440, at <<http://insanhaklarimerkezi.bilgi.edu.tr/source/turkce/4.2.5.4/International%20Helsinki%20Federation%20For%20Human%20Rights-Annual%20Report%202006-Turkey.pdf>>.

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

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

94 of whom were then arrested. A majority of the children placed in custody were allegedly subjected to mistreatment and torture.⁴⁸⁷ It is believed that 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. Although the children were released after 62 days in detention, there was much discussion about why they were held for such a long period, especially without any trial which violates their special rights as children.⁴⁸⁸

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 2008.⁴⁸⁹ There were widespread allegations of use of excessive force and ill-treatment by police officers in clashes that left three people dead.⁴⁹⁰ A large number of people, including some police officers, were also reportedly injured during the demonstrations.⁴⁹¹ After demonstrations on the 22 March in Hakkari a 15-year-old boy was arrested by police.⁴⁹² He was apparently ill-treated during and after his arrest and was charged with offences including resisting arrest and making propaganda for a terrorist organisation. Television footage apparently shows plainclothes police officers injuring his arm while he was under their control and not resisting arrest.⁴⁹³ He was the subject of an Amnesty International appeal for urgent independent medical examination and appropriate treatment.⁴⁹⁴ 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.

The fact-finding mission found that these allegations were not uncommon. A specific example of children's interaction with the juvenile justice system was related by Mr. Dilsiz, a lawyer in Cizre, who informed the mission about events that took place on 15 February 2008, amid protests to mark the anniversary of the capture of

487 Bia news centre, Kemal ÖZMEN, 01-06-2006 'All Diyarbakır Child Prisoners Released'; 'Torture Investigations in Diyarbakır, at <<http://bianet.org/english/kategori/english/79870/all-diyarbakir-child-prisoners-released>>.

488 *Ibid.*

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

490 *Ibid.*

491 *Ibid.*

492 *Ibid.*

493 *Ibid.*

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

Abdullah Öcalan.⁴⁹⁵ The protests reportedly continued until 20 February, during which time 85 adults and 25 children were arrested and detained in custody for three days.⁴⁹⁶ Mr. Dilsiz represents all 25 of the children.⁴⁹⁷ He informed the mission that although Turkish law states that children cannot be held alongside adults (and should this be the case, then children cannot be arrested or held), the children detained were reportedly held with adults due to the insufficient capacity of the prison.⁴⁹⁸ 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.⁴⁹⁹ It was stated that 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.⁵⁰⁰

Mr. Dilsiz also detailed that initially on 15 February eight children were detained and beaten very badly. These were the children who had witnessed the death of the boy mentioned earlier in this report, who had been run over by security forces. 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.⁵⁰¹ The police have stated that the injuries identified in the medical report were inflicted when the children were resisting arrest.⁵⁰² It was again highlighted to the mission that often doctors are too afraid to state in medical reports that the children are suffering from visible injuries.⁵⁰³ Further, due to lack of modern technology at the hospital many internal injuries are not diagnosed even when children are actually assessed.⁵⁰⁴

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 al-

495 FFM interview with lawyer, Mr. Rojhat Dilsiz, 23 June 2008, Cizre.

496 *Ibid.*

497 *Ibid.*

498 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürirevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

499 *Ibid.*

500 *Ibid.*

501 FFM interview with lawyer, Mr. Rojhat Dilsiz, 23 June 2008, Cizre.

502 *Ibid.*

503 *Ibid.*

504 *Ibid.*

ways the case.⁵⁰⁵ 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 difficult to identify them.⁵⁰⁶ The riot police brought in for this demonstration stayed for seven days and were accused of committing the worst acts of violence towards the protestors and the children in detention.⁵⁰⁷ Mr. Dilsiz stated that after the complaint was made the ill-treatment did not stop, but only became less severe and officers made more effort to avoid leaving any marks.⁵⁰⁸ 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.⁵⁰⁹

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 that 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.⁵¹⁰ This was the kind of behaviour exhibited towards children following the Newroz celebrations. Mr. Dilsiz recounted a case involving 18 children who were arrested following the festival on 21 March 2008.⁵¹¹ As the incident occurred after a complaint about ill-treatment had already been made following the incidents in February (described above), the treatment of this second group of children was reportedly less severe. However although no bones were broken, they were still allegedly beaten up and subjected to verbal abuse and threats.⁵¹² These children have also been charged under Article 7/2 of the anti-terror law.⁵¹³ 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.⁵¹⁴

505 FFM interview with lawyer, Mr. Rojhat Dilsiz, 23 June 2008, Cizre

506 *Ibid.*

507 *Ibid.*

508 *Ibid.*

509 *Ibid.*

510 *Ibid.*

511 *Ibid.*

512 *Ibid.*

513 *Ibid.*

514 *Ibid.*

h) Incarceration and Mistreatment

Allegations of heavy-handedness towards children have resurfaced in desk research as well as during the course of the mission. In addition to the abuse facing children when they are arrested, are the conditions in which they are imprisoned. 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.⁵¹⁵ Interviewees stated that children are often beaten, although officers are careful not to leave marks.⁵¹⁶ They are also allegedly insulted, sworn at, threatened and often kept waiting for hours.⁵¹⁷

Returning to the case described in the previous section, this was 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.⁵¹⁸ 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.

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

515 FFM interview with Ms. İlknur Yokuş Tanış, Head of the Women and Children Commission, Mr. Nürürevan Elai, Chair, and Ms. Rüya Elai, and Ms. Dirşeng Bartan, Şırnak Bar Association, 22 June 2008.

516 *Ibid.*

517 *Ibid.*

518 FFM interview with lawyers Mr. Muharrem Şahin and Mr. Fuat Coşacak, 21 June 2008, Diyarbakır.

another child in the prison was being used to inform on their activities during their imprisonment.⁵¹⁹

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.⁵²⁰ 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.⁵²¹ At the time of writing, all of the children had been charged under the anti-terror law with disseminating propaganda; some had been released pending trial and some had been convicted. It took more than three and a half months before a case was opened against them because the prosecutor in Cizre had not sent his report about the incidents to the prosecutor's office in Diyarbakır; 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 preemptively, undermining the children's right to a fair trial.⁵²²

Mr. Dilsiz informed the mission that in the examples given, the police reports contained testimony obtained unofficially during the children's detention.⁵²³ As this has been held to be acceptable evidence, he has made a complaint to the prosecutor's office, which he believes is highly unlikely to work.⁵²⁴ He has also made a complaint to the Ministry of Justice, which apparently sends investigators sometimes. However, he did not anticipate an outcome that would prevent the use of such evidence.⁵²⁵ Further, he also elaborated that during questioning, the police often employ a 'good cop, bad cop' approach.⁵²⁶ Thus, some will threaten and abuse the children while

519 FFM interview with lawyers Mr. Muharrem Şahin and Mr. Fuat Coşacak, 21 June 2008, Diyarbakır.

520 *Ibid.*

521 *Ibid.*

522 FFM interview with lawyer, Mr. Rojhat Dilsiz, 23 June 2008, Cizre.

523 *Ibid*

524 *Ibid*

525 *Ibid.*

526 *Ibid.*

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.⁵²⁷

In İstanbul, the mission encountered similar experiences from the conditions of incarceration. In an interview in İstanbul with lawyers and the family of a child in detention, the child had 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.⁵²⁸ 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.⁵²⁹ After this period he was taken before a court for heavy crimes and then sent to Bayrampaşa prison.⁵³⁰ In this prison the situation of the child was described as having improved because there was not as much ill-treatment committed against him here.⁵³¹ However, he was subsequently moved to Maltepe prison on the other side of İstanbul after the first prison was closed down. This meant that for the family to visit the boy it would take about three hours and they would have to change vehicles five times.⁵³² Further, it was stated that the child's situation had worsened since the move.

The parents had seen their 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 lesions 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.⁵³³ All of the 10 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.⁵³⁴ The strike was 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.⁵³⁵ However, during this second visit, there was a glass screen between them and their child and they had to

527 *Ibid.*

528 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.

529 *Ibid.*

530 *Ibid.*

531 *Ibid.*

532 *Ibid.*

533 *Ibid.*

534 *Ibid.*

535 *Ibid.*

communicate by telephone.⁵³⁶ 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.⁵³⁷ The last time they saw the child before the mission met with them was on 19 June 2008. 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 as 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.⁵³⁸ Although he has been held since March 2008, the trial was not set to begin until 1 September 2008. By this time he would have been held for nearly six months, even though the indictment had already been released.⁵³⁹ At the time of writing, there had been no update on this situation. 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.⁵⁴⁰

i) Conclusions 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.

When considering what a proportionate response is, 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,

536 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.

537 *Ibid.*

538 *Ibid.*

539 *Ibid.*

540 *Ibid.*

as particularly under the Convention on the Rights of the Child, Turkey has an obligation to give special protection to children.

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 than it does at present, on the need for Turkey to reach a democratic solution to the Kurdish question.

The 2006 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).⁵⁴¹ As stated above, legislative reform does in many ways appear to comply with these international standards, but the problem lies in ineffective implementation.

It was suggested by Mr. 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.⁵⁴² 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.

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 within the 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.

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 severity of the violence the children are reported

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

542 *Ibid.*

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. This was 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 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. CONCLUSIONS 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 related recommendations have been made, which flow from the need to address the problems identified. However, there are a number of recurrent themes that this report draws on when considering the overall picture of the situation of Kurdish children in Turkey that must be highlighted again here.

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 İstanbul, huge numbers of IDPs also continue to suffer setbacks 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. This is particularly so in the east and south-east where this is sometimes completely lacking. 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. There is little evidence across all of the areas covered of collaboration between the various relevant actors such as government agencies, local and international NGOs and so on, 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, in the areas covered by this report, are not given separate and special attention in Turkey.

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 İstanbul. 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 children's 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 the 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;
- 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.

APPENDIX I: LIST OF QUESTIONS PUT TO TURKISH AUTHORITIES

The following questions were posed to following members of parliament in Turkey's Grand National Assembly.

- As an MP from İstanbul, are you aware of the destruction of houses in Maltepe and Başbüyük neighbourhood, which started in March and April 2008?
- How much do you know about such projects of the government?
- Have you been informed in advance about the project?
- Are you aware of any project that plans to provide any housing for the affected people?

Sebahat Tuncel (MP representing İstanbul from the DTP, which was closed down by the Turkish Constitutional Court on 11 December 2009).

These questions were put forward to Ms. Tuncel by fax and email on 29 September 2009. Her adviser responded on 2 October 2009, stating that they will get back to us and we should be able to receive the answers before 20 October 2009. No responses were received.

Mehmet Ufuk Uras (an independent MP representing İstanbul).

These questions were put forward to Mr. Uras on 26 September 2009 by fax and email. No responses were received.

Kemal Kılıçdaroğlu (MP representing İstanbul from the main opposition Republican People's Party).

These questions were put forward to Mr. Kılıçdaroğlu on 26 September 2009 by fax and email. No responses were received.

Reha Çamuroğlu (MP representing İstanbul from the ruling Justice and Development Party).

These questions were put forward to Mr. Çamuroğlu on 26 September 2009 by fax and email. No responses were received.

The following questions were submitted to the İstanbul Governor's Office.

- It has been reported that due to EU-supported restoration projects planned in Taksim and the surrounding areas, a number of IDPs will be affected and forced to leave their homes in the area. It has been reported that these people will be re-located to live on the outskirts of the city. This will mostly affect children, especially those still in education. Is there any project planned to address this issue by the Governor's office or the government? If yes, could you please outline the details of the plan?
- It has been reported that the quality of schools where the IDP families live is low, as compared to other areas. Could you please comment on this claim?
- It has also been claimed that the Governor's office has cancelled the Green Cards of IDP families that had refused to move from their homes. According to the information that we have obtained, in order to force these families to leave their homes their water supply was first cut-off, and then their Green Cards were cancelled. Could you please comment on these claims?
- It has been claimed that there is no planned project to provide housing to the affected families. Does the Governor's Office or the government have any plan to provide housing for the affected communities?

These questions were put forward to the the İstanbul Governor's Office on 28 and 29 September 2009 by fax and email. We also requested a meeting with the Office to put these questions directly to them. KHRP spoke to representatives of the Office several times by telephone, during which they confirmed receipt of KHRP's faxes and stated that they would get back to us. No responses were received.

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