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Turkish Parliament Passes Significant Reform Package

On August 3rd, after a marathon of intensive debate, the Turkish Parliament voted to pass a democratic reform package aimed at significantly amending many of the nation's rigid laws.

The most notable changes included the abolishment of the death penalty, henceforth replaced with life imprisonment without the possibility of parole, and the permission for minority groups to broadcast and undertake language education in their native tongue. Further alterations to Turkey's Criminal Code also extended freedom of expression and association, limited the repression of public demonstrations and granted minority organisations the right to own property and real estate. Additionally, legal proceedings for criticising State institutions, including the Army, have been eliminated and imprisonment for press offences converted to fines. For Turkey's large Kurdish minority which has been subject to state repression since the Republic's formation in 1923, such reforms, if implemented properly, may to some extent alleviate an otherwise harsh



Kurdish child at a London-based rally demanding the right to Kurdish language education in Turkey, 2002.

While Turkey's new reform package includes the right to mother tongue education, serious concerns remain over whether such rights will be fully realised

existence.

KHRP welcomes the amendments, but emphasises that certain serious concerns remain. For despite the package's democratic exterior, Turkey's Constitution still harbours many oppressive instruments and institutions that could interfere with the correct application of the reforms. For example, to set up a language course in Kurdish, the course must initially receive the approval of the National Security Council (a military body possessing ultimate political authority), after which it will be passed to the Ministers' Committee, and then finally to the Ministry of Education who, should the former two bodies agree, will allow for the opening of the course. Plainly, the implementation of Law no. 2932 amended to "enable the learning of the different languages and dialects used traditionally by Turkish citizens in their daily lives" is fraught with potential impediments. Furthermore, if some language courses do eventually gain approval, most Kurds will not have access to them, as such courses are restricted to expensive, private language institutes.

Perhaps the single greatest impediment to the package's proper implementation, however, is the notorious Anti-Terror Legislation which allow government to ban any activity considered to be against the State. This principle is firmly reiterated throughout the text of the reform package, as in the amended broadcasting law which maintains that minority language broadcasts may be allowed so long as they "shall not contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation." The inclusion of such potentially

repressive clauses effectively allows the government to exercise arbitrary control over which activities approved in the reforms will actually be realised.

The package was hurriedly engineered to demonstrate Turkey's progression towards meeting the Copenhagen criteria for European Union accession, before the December 2002 EU summit which will review Turkey's prospects of joining the fifteen-country bloc. To gain membership in the EU, all applicant states must guarantee "democracy, the rule of law, human rights, and respect for and protection of minorities."

Clearly optimistic about the reform package, Turkey's Prime Minister Bülent Ecevit declared shortly after its passage, "With this series of reforms, Turkey has met all the political criteria that we are going to carry out. No one can claim otherwise... Turkey now expects to be admitted [to the EU] as soon as possible."

Judging by the reaction of many foreign officials, however, it appears that the reforms will not be enough to qualify Turkey to enter into EU accession talks. Turkey's cooperation in the reunification of Cyprus and whether it will allow the European rapid reaction force's access to NATO's military resources are also significant factors which will determine future relations between Ankara and Brussels. Additionally, officials will be carefully watching the outcome of Turkey's General Elections to be held on 3 November, which may alter Ankara's present pro-EU government. In light of these factors, a number of European officials, such as Elmar Brok, President of the Foreign Relations Committee of the European Parliament, have indicated that Turkey remains a long way from meeting EU accession criteria.

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Director's Letter



Dear Friends,

On the eve of our 10th anniversary, KHRP continues to devote itself to the struggle for human rights in the Kurdish regions. While KHRP looks favourably upon Turkey's recent efforts to democratise its Constitution, we remain concerned at how these reforms will be implemented. We therefore await concrete action by the Turkish government to substantiate the legal amendments and perhaps ease the hardship suffered by Turkey's Kurdish minority for so many decades.

In regards to the imminent threat of war in the Middle East, we at KHRP remain firm in our stance that violence will not solve the region's problems and stress once again that peaceful alternatives must be found to avoid what will otherwise be mass destruction to human life. We therefore call upon the international community to monitor the situation in regards to the condition of civilian non-combatants, paying special attention to the Kurds of Iraq whose situation, we feel, must be resolved if there is ever to be stability in the region.

**Kerim Yildiz
Executive Director
September 2002**

Editorial

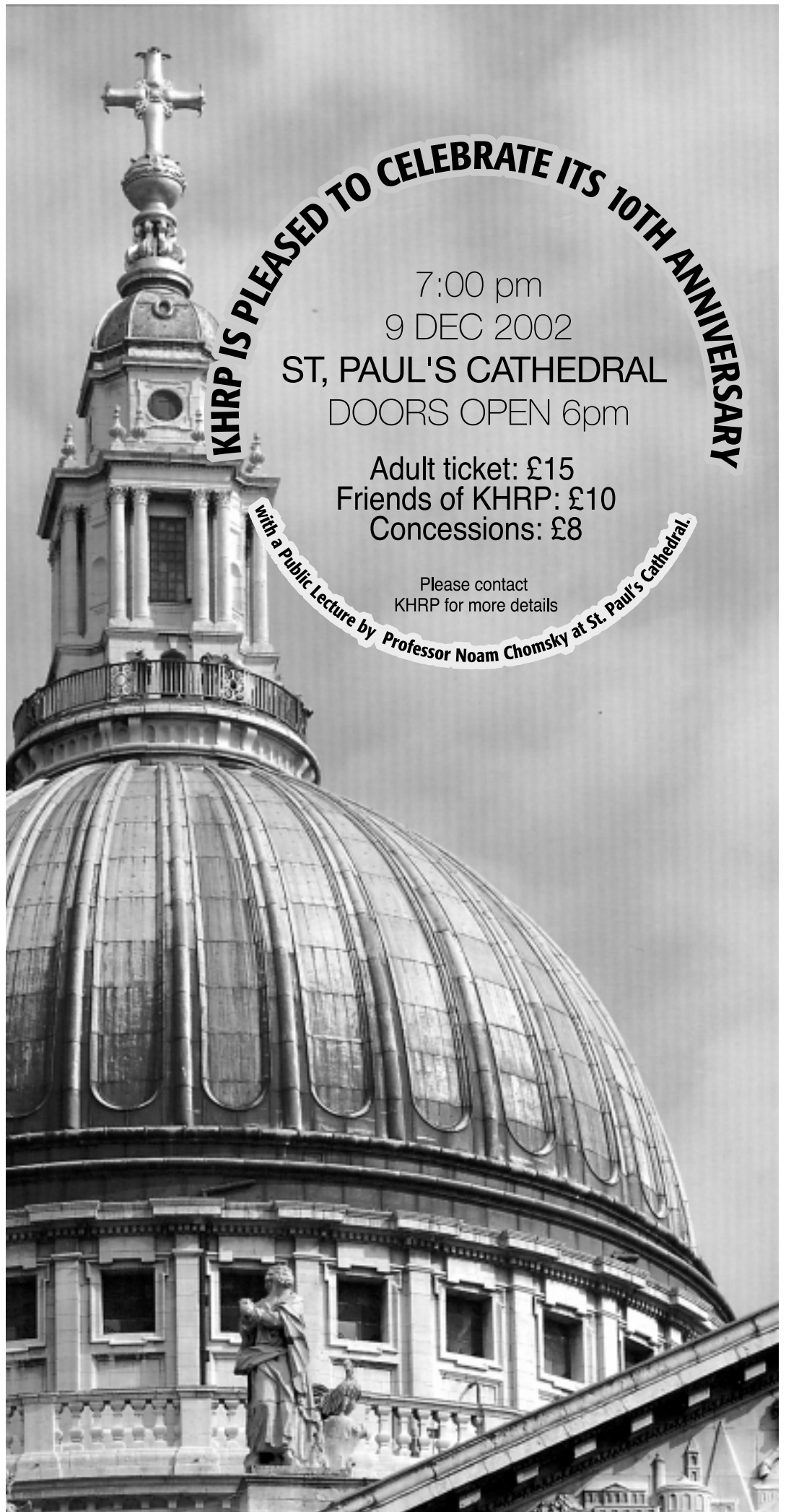
Tremors of change are reverberating throughout the Kurdish regions. Turkey's democratic reform package, if implemented properly, will signify a dramatic departure from the government's traditionally authoritarian treatment of its minorities. Another significant policy shift is the Turkish authorities' decision to lift 'emergency rule' (OHAL) from various regions in the southeast where it had been in place for nearly twenty years.

Iraqi Kurdistan, embroiled in the turbulent geo-politics of a region which may shortly be engulfed in violence, will very likely be subject to radical alterations. As the threat of hostility draws nearer, KHRP's calls to the international community to find a peaceful alternative are becoming increasingly urgent.

Positively, Armenia has recently ratified the European Convention on Human Rights, giving victims of alleged human rights abuses the opportunity to be heard at the European Court of Human Rights (ECHR). KHRP recently travelled to Armenia to conduct its first ECHR litigation training seminar in the region, with the intention to return in the near future. We are pleased to announce the arrival of two lawyers from the region who are participating in KHRP's legal internship program in order to gain a practical understanding of the ECHR and other human rights related issues.

Proposed large-scale infrastructure projects continue to pose significant threats to the social and economic stability of various regions. KHRP has consequently expanded to include an environmental section devoted to exposing the potential human rights and environmental abuses of such projects, as well as the role that international bodies have in funding them.

The Kurdish regions are clearly undergoing a process of change that, in some respects, may result in a significant improvement in terms of human rights, and in others, may lead to an appalling increase of violations. KHRP will continue to monitor the situation in our ongoing struggle to achieve internationally accepted standards of human rights for all living in the region.



KHRP IS PLEASED TO CELEBRATE ITS 10TH ANNIVERSARY

7:00 pm

9 DEC 2002

ST, PAUL'S CATHEDRAL

DOORS OPEN 6pm

Adult ticket: £15

Friends of KHRP: £10

Concessions: £8

with a Public Lecture by Professor Noam Chomsky at St. Paul's Cathedral.

Please contact
KHRP for more details

The Invasion of Iraq and the Kurds

by Anders Lustgarten

Not for the first time, there is a perverse inversion in Middle East politics. On the one hand, Kurdish leaders, who spent most of the last century persuading an ambivalent international community of the existence of the Kurdish people, now take every opportunity to reiterate that not only is an independent Kurdistan not possible, but they wouldn't want it even if it were. Politicians who struggled for years to gain acknowledgement of the moral legitimacy of the Kurdish cause, now emphasise their commitment to existing geo-political divisions.

Thus, for example, Barham Salih, Prime Minister of the part of Iraqi Kurdistan under the control of the Patriotic Union of Kurdistan (PUK), in an interview, significantly, with a Turkish newspaper: "We are seeking a democratic Iraq which we can rejoin. We know there is no prospect for a Kurdish state....I don't want to be boxed into this category of being a Kurd and nothing but a Kurd. I am a democrat, I am a Kurd, and I am proud of my Kurdish heritage, but history has obliged me to be an Iraqi. I have accepted that." PUK leader Jalal Talabani similarly underlines the impracticalities of a Kurdish state.

"Supposing we declared independence. Assuming Turkey, Iran and Syria didn't declare war and invade us, but merely boycotted us: how do we enter and exit from Kurdistan?"

Meanwhile, Turkish politicians and commentators constantly reiterate that a separate Kurdistan is the true goal of Kurdish leaders, and the undisclosed motivation behind their current manoeuvrings. In the wake of the declaration by Turkish Defence Minister (and far right nationalist party MHP member), Sabahattin Cakmakoglu, that northern Iraq actually belongs to Turkey, Foreign Secretary Ugur Ziyal last week complained formally to the US about alleged American support for supposed "attempts to establish an independent state" by Kurdish parties.

Kurdish politicians formally denying an interest in an independent Kurdish state, while Turkish leaders imply that a free Kurdistan is imminent: what can be the cause of such a role reversal among diplomats? At one level, the cause is obvious: the implacable intent of the Bush administration to invade Iraq. The invasion route through southern Turkey is by far the most politically reliable available to the Americans, which puts the Kurds firmly in the spotlight.

Not so long ago, Kurdish leaders were relegated to the margins of world politics; now they are the centre of attention. Donald Rumsfeld tries to whisk Talabani and Massoud Barzani, his counterpart from the Kurdish Democratic Party (KDP), the other principal party in Iraqi Kurdistan, off to Washington for meetings, and even Saddam Hussein finds it politic to proffer gifts. Textbooks being distributed in Iraqi Kurdistan for the coming academic year include an unprecedented Arabic-Kurdish dictionary, new branches of central banks are to be opened in the region for the first time, and Saddam has also pledged to his new-found comrades that if they remain neutral in the upcoming conflict, they will continue to enjoy rights to self-government and the collection of taxes on cargo, principally illicit oil, passing through the region.

Yet there is a paradox at work here. For all the frenetic activity, the protagonists would all be happier with the status quo. None of the alternatives appeal. Turkey has no desire to see Iraq become an ideologically doctrinal, expansionistic Islamic state, nor one embroiled in violent, destabilising domestic power struggles that would affect regional economies, nor a successful oil exporter and economic competitor. It wants least of all to see an officially federated Iraq and a flourishing and permanent Iraqi Kurdistan on its borders, funded by revenues from the oil-rich cities of Kirkuk and Mosul. Such a state of affairs, after all, might well inspire Turkey's approximately 20 million Kurds to demand a similar arrangement.

The same is true of Syria and Iran, the latter in particular, given its large Kurdish population (at least 8 million people) and

recent history of bitter Iraqi conflict. As for the major oil producers of the Gulf, as Julian Lee, senior energy analyst at the Centre for Global Energy Studies, puts it, "The last thing the big oil producers need is a stable government in Iraq. Any new regime will say the country has foregone 12 years of production and turn the taps on, rapidly putting Opec under a great deal of strain." Lee suggests that over five years, a new regime could exponentially increase oil production from the current 2 million barrels a day to between 6 and 10 million, drastically affecting Opec's capacity to regulate oil production and prices.

What few appreciate, apparently not least the US executive itself, is that in almost every way the status quo is also favourable to America. As Christopher Hitchens notes, "From the US point of view, the present regime in Iraq is nearly ideal. It consists of a strong Sunni Muslim but approximately secular military regime. All it needs is a new head: Saddamism without Saddam." Such a state sounds, ostensibly, like the ideal antithesis to the Americans' avowed threat, al-Qaeda. Indeed, al-Qaeda has previously criticised Saddam as a "Muslim apostate", which makes the Bush administration's dogged and spectacularly insubstantial linking of the two all the more spurious.

Nor is America's presumed economic intent, to facilitate access to the world's second largest reserves of oil, by any means guaranteed to ensure Western prosperity. The last time a Bush invaded Iraq, in the aftermath of Saddam's invasion of Kuwait in late 1990, oil had reached \$40 a barrel. As a counterweight to such a strong inflationary impulse, Alan Greenspan, chairman of the Federal Reserve, cut real interest rates to zero. This time around, that latitude does not exist: the Fed Funds rate stands at 1.75% and falling.

Extra Saudi Arabian oil production helped to force prices back down to \$16 a barrel by February 1991. "The nightmare scenario," this time, according to Lee, "is Iraq launching a pre-emptive strike on the Saudi supplies. If these are impaired, it would be difficult to find an upper limit to oil prices." Even without such Iraqi intervention, there is no assurance that the Saudis would prove as malleable as a decade ago. Saudi relations with the US have soured dramatically in the aftermath of September 11, during which it was revealed that 15 of the 19 hijackers were Saudis. Relations were not improved by a recent briefing to the highly influential and hawkish Defense Policy Board in Washington, which described Saudi Arabia as a "kernel of evil" and recommended that the US should treat it as an enemy.

Even the markets, which should be the bastion of history's most corporate president, are wary. Already reeling from the Enron and WorldCom accounting scandals, investor confidence is unlikely to be buttressed by the uncertainties of war in a region of vital significance to the global economy. "Confidence is already fragile," says Bob Semple of Deutsche Bank. "If there is a war, people will stop travelling and consumer spending will grind to a halt. It is already slowing down....Frankly, the whole notion strikes fear into the hearts of investors."

But if the war does go ahead, none stand to lose more than the occupants of Iraqi Kurdistan. None have made more of the status quo for the past decade, of the opportunity, finally, to set up a functioning and autonomous Kurdish society. Yet the concrete achievements of the last ten years, the building of schools and hospitals and electoral systems, are only secondarily of their own doing; they are based on the temporary and artificial maintenance of the no-flight zone, which cannot last forever.

The Kurds are thus caught in a desperate paradox. After all that Saddam has subjected them to, one might assume that the obvious policy would be to reject his overtures and throw in their lot with the US. But as renowned Kurdish historian David McDowall points out, Iraqi opposition to the Kurds is more



Kurdish father Omar and his infant son, victims of Saddam Hussein's poison gas attack on Halapja, Iraq, March 16, 1988. Despite recent pledges from Iraqi authorities to extend greater rights to its Kurdish population, Iraq's brutal treatment of the Kurds will not be forgotten.

pragmatic than intrinsic: "It is a great error to assume that Saddam is the great enemy of the Kurds. He is the great enemy of anyone, regardless of religion or ethnicity, who threatens his regime. And any successor to Saddam will see the Kurdish threat to Baghdad in the same light. In other words, the Kurds should appear to Baghdad as unthreatening as possible." And what we must recall before we expect the Kurds to clamber gratefully into Bush's waiting arms is this: since WWII, the Kurds of Iraq have risen in protest in 1946, 1975, 1987 and 1991, every single time with American encouragement and promises of aid. And every single time, the US has failed to substantiate its promises, and every single time the Kurds have been remorselessly crushed. Henry Kissinger, who made a plaything of the Kurdish cause in 1975, neatly encapsulated US attitudes to the region: "Covert action should not be confused with missionary work." The Kurds expect, and will receive, no blessings. Yet the paradox is inescapable, because neither can they do nothing. Bush's insistence on war has upset the regional equilibrium. The status quo can no longer be sustained, and others are taking advantage of the new dynamics, often at Kurdish expense. Turkey is pouring troops across the Iraqi border under the guise of assisting the US invasion and the Turkmen minority of the region, not necessarily in order to occupy Iraqi Kurdistan (which would add 5 or so million more people to its "Kurdish problem"), but to pre-empt Kurdish efforts at autonomy and perhaps stake its own claim to Kirkuk's oil. There is an extraordinary irony in Turkey's intervention abroad on the ostensible behalf of a minority group when its own constitution explicitly denies that minorities exist and it conspicuously fails to acknowledge the basic human rights of its 20 million Kurds.

So what to do? Kurdish leaders try to get pledges of military protection from America, both in the aftermath of a war and in the not improbable event of a pre-emptive strike by Saddam, perhaps with chemical or biological weapons. No such assurances are given. They deny once again that they want a Kurdish state, even that they think of Kirkuk as a Kurdish city, and they alienate their own people. They disagree amongst themselves: Barzani tries to obtain room to manoeuvre by distancing himself from all sides, while Talabani publicly invites the US to use airbases in Iraqi Kurdistan (and then promptly retracts the invitation the next day). The PUK emphasises the supposed al-Qaeda connection of Ansar al-Islam, a small-scale, ragtag group of Muslim fighters on the Iranian border, in order to encourage America to provide sufficient military presence to deter Saddam from a pre-emptive assault. The US silently thanks the Kurds for helping to concoct a pretext for invasion, and provides them with nothing.

And what will happen? Nobody knows for sure, of course, but it is likely that events will follow a pattern painfully familiar to the Kurds, the usual pattern when the balance of power is so obviously skewed against the weaker party. Turkey has enormous geo-political clout with the US; Iran and Iraq, though notoriously part of the "axis of evil", have critical oil reserves. The Kurds have no leverage beyond the temporary provision of tactically important sites. Even if all goes improbably well and post-Saddam Iraq becomes a functional democracy, there is the strong possibility that other opposition groups will demand a national referendum on a federated Kurdish region, one in which the Kurds' relative paucity of numbers, influence and reliable friends will count against them yet again. It is hard to be optimistic about their prospects.

KHRP Conducts European Convention Training Seminar in Armenia

Following Armenia's ratification of the European Convention on Human Rights on 26th April 2002, KHRP Executive Director Kerim Yildiz and Bar Human Rights Committee representative (BHRC) Ajanta Kaza travelled to Armenia in July to conduct a European Convention Training Seminar and assess and report more generally on the current state of human rights in Armenia.

The seminar was organised in conjunction with the Helsinki Association and was attended by a wide range of local and national NGOs, academics, practising lawyers and students. NGO participation included, amongst others, representatives from the Armenian Young Lawyers' Association, the Civil Society Development Union, the Kurdish Writers Union, and the Avangard Humanitarian Research Centre.

KHRP conducts European Court of Human Rights litigation training in Armenia



The seminar was chaired by Mikael Danielyan, Chairman of the Helsinki Association. Kerim Yildiz briefly introduced the work of the KHRP, giving an overview of its independent status, its plurality of aims, and the structure and funding of the organisation. He then gave a short history of the Convention before outlining the impact of Protocol 11 to the Convention, the restructuring of the control mechanism, the substantive articles of the Convention and their potential relevance to human rights issues in Armenia, the constitution of the European Court of Human Rights. He also addressed procedural issues, in particular issues pertaining to admissibility criteria under Article 35 of the Convention, third party intervention and the importance of the role of NGOs, legal aid and just satisfaction.

Ajanta Kaza spoke of the close collaboration between KHRP and the BHRC which have worked in close collaboration for over ten years, establishing a strong partnership for carrying out a wide range of human rights related work, including trial observations, fact-finding missions, monitoring, training programmes and educational seminars.

Subsequent discussion and questions from attendees generally focused upon KHRP's and BHRC's intentions to commence efforts in Armenia, and included expressions of gratitude for what is perceived to be long-overdue and necessary interest, assistance and advice. The attendees welcomed support from organisations which have brought numerous cases before the Court.

Concerns were voiced at the current lack of institutions monitoring the rule of law in Armenia. Whilst the Constitution includes relevant provisions, there are nonetheless flagrant violations. Co-operation between advocates and the Helsinki Association has resulted in publications exposing judges and serious procedural errors, and has highlighted groundless rulings in criminal cases against innocent people. Reassurance was derived from examples of monitoring work and trial observations carried out by the KHRP and BHRC in other countries.

A second purpose of the trip was to determine the level of knowledge and understanding in Armenia of the Convention, the European Court of Human Rights and human rights violations in order to put in place relevant training, assistance and advice. It was considered vital to absorb the landscape of the local, national and international NGOs operating in Armenia.

KHRP and BHRC conducted meetings with NGO representatives, practising advocates, and the British Ambassador to Armenia. From these meetings, it emerged from advocates that there is a lack of experience in matters of civil society and the relationship between the individual and the State, due largely to the Soviet attitude that prevailed in the preceding era when these were considered to be political, rather than legal, issues. Whilst lawyers in Armenia are deemed to be reasonably competent, they are in short supply, resulting in a backlog of cases before the courts. Those that are in practice have a political, as opposed to a legal, approach to human rights related issues.

As far as NGOs are concerned, the majority operating in Armenia were established following a trend in the 1980s towards the creation of an autonomous civil society. Funding derives principally from foreign sources. Developing a support base in Armenia is considered essential. The absence of co-operation and co-ordination amongst the local and national NGOs in Armenia is a recognised problem.

Based on the success of the first seminar and the broader understanding gained of Armenia, KHRP and the BHRC plan to continue similar European Convention training programmes in Armenia throughout the coming year.

A Short History of the Human Rights Movement in Azerbaijan

By Rena Tahirova and Pervana Mamedova, KHRP Interns from Azerbaijan

The history of the human rights movement in Azerbaijan can be considered a history of dissent—dissent against a long succession of governments who have consistently opposed the establishment of a democratic and plural society in Azerbaijan.

The roots of the Movement began informally in the 1970s, with the spontaneous creation of various disparate activist groups, and gradually gained momentum during the period of "perestroika and glasnost" (political and economic reforms implemented in the Soviet period 1985-1991 by then president Mikhail Gorbachev). By 1988, with the appearance of numerous other human rights groups, in particular the Population Front Initiative Center which aimed to protect the rights of people of Azeri origin expelled from Armenia or those arrested by Soviet authorities for taking part in non-authorized meetings, the Human Rights Movement in Azerbaijan was officially established.

During that time, it was possible to distinguish four general spheres of activity within the Movement. The first sphere was engaged primarily in matters relating to the country as a whole, such as the right to national independence, territorial integrity, and the inviolability of state borders.

The second sphere focused on developing the right to protect refugees. The first flow of refugees of Azeri origin to enter Azerbaijan due to ethnic tensions arrived in 1987 from the town of Kafan in Armenia. This group, who had arrived without a stable means of existence and who had undergone severe emotional and mental damage, eventually developed into a highly volatile group later responsible for pogroms conducted against the Armenian population living in Azerbaijan. The largest migration of Azeri people from Armenia followed shortly after this first flow of refugees and served as the final trigger for numerous acts of violence against Armenians in Azerbaijan.

The third sphere of human rights activity, closely related to that of the second, concentrated on the protection of national minorities. The antagonism and violence arising from the ethnic tension visible in most post-Soviet states has resulted in the forced displacement of national minorities in both Republics of Armenia and Azerbaijan. Such displacements have, inevitably, led to numerous gross human rights violations which have subsequently placed a heavy burden upon peaceful state relations and encumbered the work of those activists dedicated to bringing about a peaceful settlement of conflict in the region.

The fourth sphere of Azerbaijani human rights activity concerned the protection of persons persecuted for their political opinions and beliefs. Ironically, activists working in this area were themselves frequently subjected to persecution at the hands of national security bodies and/or radical nationalistic groups. Despite the extensive efforts of these two groups to discredit these human rights activists, their work continued unabated.

During the course of the Movement's activities, several individual activists have emerged as eminent in Azerbaijan's human rights field. These activists, together with other Azerbaijani human rights organizations established the Human Rights Coordination Committee with the aim of coordinating the various spheres of the Human Rights Movement. During the Committee's existence, the number of member organizations rose from 9 to 30. Despite this broad coalition, however, the Committee only survived one year. This was due to the fact that, during its rapid initial expansion, the organisation came to include members of political parties whose aim was to represent their respective party's human rights concerns. The participation of such members resulted in a political focus to the Committee's activities, shifting it from its main purpose of pursuing objective human rights initiatives.

The Coordination Committee did nevertheless achieve some positive results. Certain state laws were liberalized and the death penalty was abolished. (It should be noted that this latter development occurred in conjunction with Council of Europe pressure exerted on Azerbaijan to abolish the death penalty.) Additionally, the idea of developing an ethical code for human rights activists which was first circulated by the Committee, is still considered a valid objective by activists today.

These positive impacts have encouraged present human rights organisations to continue to try to coordinate their efforts to achieve an internationally recognized standard of human rights

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KHRP conducts training session with Azerbaijan interns.

Newest European Court of Human Rights Judgments in KHRP Cases

Kurdish Woman Emerges Victorious in Case Against Turkey over Husband's Murder

Ekinci v. Turkey (27602/95) (Killing)

This case concerns the killing of Yusuf Ekinci, a lawyer of Kurdish origin. The application was brought by KHRP to the Court in May 1995 on behalf of the applicant, Ülkü Ekinci, the victim's wife who invoked Articles 2, 3, 6, 13, and 14 of the European Convention on Human Rights. On 25 February 1994, road workers found Yusuf Ekinci's body alongside the E-90 TEM highway in Gölbaşı on the outskirts of Ankara, Turkey. A criminal investigation was opened into his death and an autopsy, carried out on 26 February 1994, found 11 bullet entry wounds on his body and concluded that he had died of bullet wounds to the head and breast.

The applicant submitted to the Court that the killing of her husband was one of about 400 so-called "unknown perpetrator" killings in 1994, as documented by various human rights organisations. The principal victims had included prominent Kurdish businessmen and intellectuals. At the time Yusuf Ekinci was killed, the focal point of the campaign against terrorism was the victim's native Lice (southeast Turkey) and its surrounding villages. Moreover, the method used in the killing of Yusuf Ekinci was identical to that used in the murders of intellectuals and businessmen of Kurdish origin in the main Turkish cities in 1994. The applicant therefore alleged that her husband had been killed with the knowledge and under the auspices of the Turkish authorities, and that there was no effective investigation into his killing.

In its decision of 16 July 2002, the Court noted that there were no eye-witnesses to the killing (the witness referred to by the applicant had remained anonymous and, reportedly, was unwilling to give a written statement), and the only forensic evidence available consisted of a number of bullets found at the scene of the crime which a forensic examination had shown bore no resemblance to bullets previously examined. Thus, the Court found there was insufficient evidence to conclude that there had been a violation of Article 2 of the Convention as regards the applicant's allegation that her husband was killed in circumstances engaging the responsibility of Turkey. However, as to the alleged inadequacy of the investigation, the Court noted that the investigating authorities failed to draw a link between Ekinci and Behçet Cantürk, a former client of the victim whose murder one month earlier was strongly believed to have involved State agents. The Court stated that, as it was undisputed that Yusuf Ekinci was a wealthy person of Kurdish origin and that, at least in the past, he had publicly stated that he was a Kurdish nationalist and had been politically active until 1990, it was surprising that the investigating authorities had, from the very outset, failed to see the link between Ekinci and Cantürk. Thus, the Court concluded that the investigation by the Turkish authorities into the circumstances surrounding the killing of the applicant's husband was neither adequate nor effective. There had therefore been a breach of the State's procedural obligation under Article 2 to protect the right to life.

As regards to Article 3, the Court accepted that the inadequacy of the investigation into the killing might have caused the applicant feelings of anguish and mental suffering. However, the Court considered that it has not been established that there were special features which would justify finding a violation of Article

3 in relation to the applicant herself.

The Court also decided unanimously that it was not necessary to examine the applicant's complaint under Article 6 nor to examine separately whether there had been a violation of Article 14.

In regards to Article 13, the Court noted that the authorities had an obligation to carry out an effective investigation into the circumstances of the killing of the applicant's husband, which could not be considered to have been conducted. There had therefore been a violation of Article 13.

The Court awarded the applicant damages and costs of over £15, 000.

Turkey to Pay a Total of £100 000 in Kurdish 'Disappearance' and Village Destruction Case

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

This case concerns the alleged destruction of the applicant Salih Orhan's village subsequent 'disappearance' of his two brothers, Selim and Hasan Orhan, and his son, Cezayir Orhan. The application was brought to the Court on behalf of the applicant by KHRP in 1994.

The applicant alleged that on 6 May 1994, after a large military convoy had gathered the villagers in Deveboyu (also known as Adrok) in Southeast Turkey and given them one hour to clear their houses, soldiers began burning the houses in the village including his home and those of Hasan and Selim Orhan. He also alleged that on 7 May 1994, Selim Orhan and other villagers went to Kulp and complained about the incident to the Kulp District Gendarme Commander who gave the villagers permission to stay in their village in order to harvest crops. On 24 May 1994 the soldiers returned to the village and forced Selim, Hasan and Cezayir Orhan to accompany them as guides. The three men, Salih Orhan claimed, were last seen alive in Gümüşuyu hamlet in the custody of the soldiers.

In its decision of 18 June 2002, the Court noted that the Orhans were last seen being taken away to an unidentified place of detention by Turkish security forces. There was also some direct evidence that the Orhans were wanted by the authorities, and in the general context of the criminal law protection situation in Southeast Turkey in 1994, it could not therefore be denied that detention of such people would be life-threatening. As no information had come to light concerning the whereabouts of the Orhans for almost eight years, the Court was satisfied that they must be presumed dead following an unacknowledged detention by the security forces. Therefore, the Turkish Government was found to be liable for the deaths.

Additionally, the Court found several deficiencies in the investigations into the Orhans' disappearance, among which included the failure to investigate the situation when it occurred, failure to take key witness statements, and failure to obtain information concerning security force activities operative in the region at the time.

The Court also noted that the Orhans' detention was not logged in the relevant custody records and that there existed no official trace of their subsequent whereabouts or fate. This fact enabled those responsible to conceal their involvement in a crime, to cover their tracks and to escape accountability for the fate of the detainees. Given the deficiencies in the investigations into the

applicant's early, consistent and serious assertions about the apprehension and detention of the Orhans by the security forces and their subsequent disappearance, the Court concluded that the Orhans had been held in unacknowledged detention in the complete absence of the most fundamental of safeguards.

Moreover, the Court found that the homes and certain possessions of the Orhans were deliberately destroyed by the security forces in their unlawful attempt to evacuate the village after the harvest. There was no doubt that these acts constituted particularly grave and unjustified interferences with the applicant's and the Orhans' right to respect for their private and family lives and homes.

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

The Court thus found the Turkish State to be in violation of Articles 2, Article 3, Article 5, Article 8, Article 1 of Protocol No.1, Article 13 and Article 34 of the European Convention on Human Rights.

The Court ordered Turkey to pay a total of £100 000 to Salih Orhan.

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KHRP is pleased to welcome Rena Tahirova (right) and Pervana Mamedova (left), researchers from Azerbaijan participating in KHRP's internship program.

in Azerbaijan. These efforts are consistently becoming more effective. This is particularly visible in the amelioration of the situation of political prisoners. The sentence imposed on politician Muzamil Abdullaev, for example, who was condemned to death on charges of corruption, was reduced to life imprisonment, then further reduced to imprisonment of up to 20 years, and then finally dropped in favour of full amnesty after significant efforts by human rights organizations. Due to similar initiatives, prisoners of conscience, Tofik Gasimov, Rasim Agaev, and Talat Najafaliev were also granted amnesty.

Another positive human rights development in Azerbaijan lies in the improvement of prison conditions. While earlier statistics reported by local human rights organizations state that up to 40-45 persons were held in a prison cell intended for 8, presently it appears that the number of prisoners held in any given cell meets the accepted standard. Certain prisons have also undergone reconstruction, creating more bearable living standards for prisoners. However, these improvements have not happened across the board, with the result that severe and inhuman prison conditions remain in many areas.

Human rights organizations have also been active in compelling law-enforcement staff and prison administrators to observe standard rules of behavior with regard to the use of torture during preliminary investigations and prison detention. As well as exerting direct pressure on these officials to discontinue such brutal practices, human rights activists have been instrumental in initiatives to provide legal education to Azeri civil society. A significant number of citizens are as a result better informed of Azerbaijan's obligations to observe certain human rights standards.

Significantly, Azerbaijan ratified the European Convention on Human Rights on 15 April 2002. Following this development, the Kurdish Human Rights Project, in partnership with Helsinki Citizens' Assembly, an Azerbaijani human rights organization, is currently engaged in carrying out litigation training programs for Azerbaijani lawyers and human rights activists on the practice and procedure of taking cases to the European Court of Human Rights. Two seminars took place last May (see Newline Issue 18) and further initiatives are in progress.

The activities of Azerbaijani human rights organizations are almost entirely funded by international institutions, as there is no significant local financial support for human rights work. Most positive outcomes are therefore achieved as a result of an ever-broadening relationship between Azerbaijan's Human Rights Movement and human rights institutions abroad. Due to this collaboration, human rights are slowly beginning to be recognized in Azerbaijan. It is hoped that with sustained effort, progress will continue in a country that remains in great need of such assistance.

Relevant Articles of the European Court of Human Rights

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

Convention

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

Protocol No. 1

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

Protocol No. 2

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

Protocol No. 6

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

Protocol No. 7

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

International Criminal Court Becomes A Reality

On 1 July 2002, the Rome Statute of the International Criminal Court (ICC) entered into force, triggering the jurisdiction of the first permanent international court capable of investigating and bringing to justice individuals who commit the most serious violations of international law, namely war crimes, crimes against humanity, genocide, and once defined, aggression.

The Rome Statute was adopted and opened for signature and ratification at the Rome Conference of Plenipotentiaries on 17 July 1998, by a vote of 120 to 7, with 21 abstentions. Less than four years later, during a historic ceremony on 11 April 2002, 10 states simultaneously deposited their instruments of ratification, crossing the threshold of the 60 ratifications necessary for entry into force of the Rome Statute. Officials of the Court must now be elected and the logistical and other arrangements for the Court finalized; it is anticipated that the ICC will begin its work in the summer of 2003.

The 1000-member NGO Coalition for the ICC, which includes KHRP, is greatly pleased at the Court's realisation. However, serious concerns remain related to recent efforts of the US government to convince other countries to grant immunity for US nationals from the Court by threatening to withdraw military aid. "The threat to cut off

military aid, and the coercive actions undertaken recently in the Security Council to get exemption for peacekeepers, are part of a multi-pronged effort of the US government to undermine international justice, international law and international peacekeeping," stated William R. Pace, Convenor of the NGO Coalition. The NGO Coalition has also expressed concerns regarding the nomination process of judges at the Court due to information received from government representatives that many candidates for international judicial positions are nominated at the national level through highly politicised and biased processes involving very few high state officials and almost no public consultation. The Coalition believes that the process should be transparent and inclusive and should involve broad consultation with civil society in order to secure the most highly qualified candidates. Considering the history of the Rome Statute to be a tribute to the success of political courage and leadership, however, the Coalition remains optimistic that the ICC, through the cooperation of governments and civil society worldwide, shall be established on the basis of the highest possible legal, political and moral standards.

Compiled from CICC Press Releases

Situation of Syrian Kurds Remains Bleak

The situation of Syria's large Kurdish population has not improved according to the Annual Report of the Syrian Human Rights Committee (SHRC) which states that the minority is still denied access to basic civil and political rights and are prone to arrest and maltreatment for speaking Kurdish or showing adherence to Kurdish national and cultural identity.

While reporting an overall rise in the number of gross human rights violations committed in Syria during the period from July 2001 till June 2002, SHRC states that, of the twelve unlawful detention cases reported to the SHRC, five of them involved Kurds. Their cases are as follows:

Nuh Ahmad Uthman, a Kurd from Al-Hasaka city was arrested on March 21, 2000 during the Kurdish celebration of the Kurdish Nawruz festival.

Muhammad Shukri Alwash Qadir, a Kurd who died while in police custody in Jandris on May 25, 2001. His corpse was delivered to his family on July 19, 2001.

Muhammad Hammo, a Kurdish writer from Aleppo arrested by the authorities on August 27, 2001, for selling books in Kurdish in his bookshop (Badrkhan) in al-Sharqiyyah neighborhood in Aleppo. He was released thereafter.

Ibrahim Nasan bin Abdu, a Kurd from Afrin, born in 1962, who was arrested in January 2002 for his interest in Kurdish education and rights.

Musallam Sheikh Hasan, a Kurd from Ayn al-Arab near Aleppo, born in 1967, and arrested in May 2002 while in his working place.

Amongst the three victims of death under torture, reported to SHRC this year, is Muhammed Shukri Aloush Qadir, a Kurd who died on the day of his detention in the custody station in Jandiris on May 25, 2001. His corpse was not delivered to his family till July 19. The police who arrested him in the context of investigating a theft claimed that he hanged himself, committing suicide. It is believed, however, that the inhuman treatment led to his death a few hours after his arrest.

In contrast to Syria's harsh treatment of its Kurdish population, SHRC reports that "other national and ethnic minorities in Syria enjoy their own cultural and educational rights." Concentrated pressure must, therefore, be exerted on Syrian authorities to immediately desist from its repressive treatment of its Kurdish minority and to extend to them their requisite rights and privileges.

continues from cover page

KHRP considers the reforms to be a positive step towards transforming Turkey's authoritarian practices.

However, it is highly concerned that the package will not be enough to establish an effective dialogue with Turkey's Kurdish population due to the highly repressive clauses which remain embedded in the country's constitution. KHRP also notes with disappointment that, while the reforms allow nationals

sentenced by Turkish courts to demand a review of the original verdict if the European Court of Human Rights (ECHR) declares it unfair, they deny the right to past applicants. This effectively rules out the remedy for Leyla Zana and other Kurdish former parliamentarians, whose imprisonment in 1994 was declared by the ECHR to be a violation of the right to free elections. The MPs' application had originally been brought by KHRP to the

ECHR in 1994.

Commenting on the reforms, KHRP Executive Director Kerim Yildiz stated, "The Kurdish community in Turkey has, in the past, been presented with reforms that have never left paper. In light of the considerable difficulties surrounding the package's implementation, we remain hesitant to declare them a success. However, we have to view the reforms positively, as we could not have dreamed of them 10 years ago and many people

have paid a very high price for them. It is thus of the utmost importance that the international community remains vigilant and exerts constant pressure on Turkey to live up to the laws which it has passed."

Committee of Ministers Condemn Turkish Security Forces Once Again in Light of Continued Human Rights Abuses

On 10 July 2002, the Committee of Ministers of the Council of Europe adopted a new resolution criticising the severe and ongoing human rights abuses committed by Turkish security forces and urged Turkey to 'accelerate without delay' reforms to its system of prosecuting security force members.

Referring to over forty judgments against Turkey issued by the European Court of Human Rights between 1996 and 2002, the majority of which were brought by the Kurdish Human Rights Project, the Committee noted with deep concern that Turkish Security forces have been continually responsible for acts of homicide, torture, disappearances and destruction of property in direct violation of the European Convention on Human Rights. The Committee also stressed that these violations have been committed in the absence of effective domestic remedies against State agents responsible.

In this new resolution, which follows that made in 1999, the Committee of Ministers welcomed Turkey's latest efforts to adopt necessary reforms. Nevertheless, they were particularly concerned about the continuous stream of new allegations of torture and ill treatment brought against Turkey before the European Court. The Committee stressed that effective prevention of further abuse

required, in addition to the restructuring of the security forces, a genuine change in the attitude of security force members, as well as recourse to effective domestic remedies such as adequate compensation of victims and effective criminal prosecution of those officials who violate the Convention.

The Committee thus called on Turkey to concentrate its efforts on the total reorganization of the police force and the gendarmerie, implement urgently needed penal reforms, and continue to improve the protection of persons deprived of their liberty, with the aim of deterring members of Turkey's security forces from committing further human rights violations.

Commenting on the resolution, KHRP Executive Director, Kerim Yildiz stated, "KHRP welcomes this Resolution on gross human rights violations committed by State security forces in Turkey. We hope that Turkey will promptly and thoroughly implement the Committee's recommendations so as to ensure that such violations come to an end."

The text of the temporary Resolution is available on www.coe.int

The first Interim Resolution on the Action of the Security Forces in Turkey was adopted by the Council of Ministers on 9 June 1999.

Human Rights Situation in Iran Deteriorating

According to a report issued by the International Secretariat of the World Organisation Against Torture (OMCT) dated 29/08/02, the human rights situation in Iran is in further decline, with an increase in reports of actual or prospective serious human rights violations, including mass arbitrary arrests, amputations and public floggings and executions.

As stated in the report, the state-run media in Iran has announced a number of arrests and harsh sentences, including:

August 15th 2002: Iran Daily reports that a religious judge (Mullah) in Shiraz sentenced four people to amputations of their right arms and left legs. Four young men having been sentenced to 74 to 99 lashes in public in Bouhehen, near Tehran.

August 17th 2002: Iran Daily reports that a young man, identified only as Hossein, has been sentenced to execution in Tehran. Syassate Rouz reports that a young girl has been sentenced to 50 lashes in public.

August 18th 2002: Etemad reports that a 17-year old boy called Milad was sentenced to death by a juvenile court in Iran. A man named Hassan was also reportedly sentenced to death. A young girl and her cousin were each sentenced to 130 lashes.

August 25th 2002: Jomhuri Islami reported that Gholam Hossein was sentenced to execution in the southern city of Shiraz. The religious judge Mullah Hayat Moqaddam sentenced Abbas, Ibrahim, Darioush, Hassan and Mohammed Hossein, to amputation of their right arms and left legs, imprisonment and internal exile. It is believed that these young men, all of whom are from the towns of Lamerd and Lar, have been arrested following incidents in which members of the Revolutionary Guards have been killed during several anti-government

uprisings in recent months. In the northern city of Rasht 17 persons, including two women, were arrested, while the State Security Forces in Qom have arrested 83 young men in the city over the past week in an exercise aimed at purging street troublemakers.

August 26th 2002: Mardom-Salsri has reported that two young men have been hanged in Rajau-Shahr prison compound in Karaj (40km west of Tehran) after each having received 70 lashes. Entekhad also reported that a prisoner, identified as Hassan, was sentenced to execution in Tehran. A court in Tehran sentenced 34 persons to 160 lashes, imprisonment, cash fines and dismissal from government employment, for forgery of official documents.

According to the information available, the number of executions that have been carried out in Iran since January 2002 has reportedly risen to 250, which represents a significant increase when compared with the same period last year. The figures given above are those released by official sources, although OMCT sources claim that there are also a significant number of undocumented executions that have taken place during this period.

KHRP is highly concerned about the grave situation of human rights in Iran and shares OMCT's concern regarding the Iranian authorities' use of arbitrary arrests and methods of punishment such as amputations and floggings. Considering that Iran has ratified no less than six major international human rights treaties, including the 1975 International Covenant on Civil and Political Rights, Iran is under binding obligation to refrain from the use of such brutal measures which are in flagrant violation of those treaties.

The Lifting of Emergency Rule and other Democratic Reforms in Turkey from the OHAL Fact-Finding Mission

By Ajanta Kaza



OHAL Fact-Finding delegation members Laurence Lustgarten (Left) and Ajanta Kaza (Right) with the Mayor of Tunceli

From 13th to 20th August, KHRP in conjunction with the Bar Human Rights Committee of England and Wales (BHRC) sent a fact finding mission to investigate the human rights situation in the South East Turkish provinces of Tunceli, Bingöl, Muş, Van, Hakkari and Diyarbakir. They met with Governors, political parties, Mayors, bar associations and lawyers, human rights associations, trade unions and individuals victim of human rights abuses.

The object of the mission was to evaluate the effect of recent legal and administrative changes in the Kurdish regions, principally the recent lifting of Emergency Rule, known locally as OHAL, in certain districts. The mission also looked at the enactment of Turkey's recent democratic reform package which, if properly implemented, may significantly liberalise certain provisions that have long been a source of conflict and complaint by those subject to them. Moreover OHAL is to be lifted in its entirety in the region in November, thus at least symbolically and formally opening a new era in what has been for the past 15 years effectively a war zone.

The wider context of the Mission was the evolution of Turkey's relationship with the European Union. Accession necessitates the fulfilment of the basic requirements of a modern democratic state which means among other things, that its political institutions function in a manner approximating that of the electoral democracies of Europe, and that respect for Human Rights meets at the very least the requirements of the European Convention on Human Rights. In addition, the critical question facing the South East is its economic future in the aftermath of the displacement of three and a half million people from their homes as a result of widespread village destruction and evacuations.

The delegation's experience of almost continual low-level harassment ranging from constant surveillance to hostile comments, and numerous checkpoints (notwithstanding the lifting of OHAL many years ago in some areas) indicated that in many aspects the region remains literally a police state. What was found

was less a matter of gross and systematic Human Rights violations of the kind that has led Turkey to be condemned at the European Court of Human Rights on numerous occasions, but instead more a pattern of low level abuses of power, experienced by the population as a manifestation of an authoritarian mentality and set of institutions. The right to freedom from fear is not a legal concept, but that is what ultimately is violated by these practices.

A matter which particularly occupied the delegation was the question of how genuinely the democratic process functions in Turkey. This has particular salience in light of the

forthcoming election in November, but also because of deep grievances about past official conduct. For example during the 1995 elections The People's Democracy Party (HADEP) witnessed threats to and killings of its candidates, intimidation of its voters, the disappearance of its votes, and the prevention of its officials and candidates from free campaigning, all in an attempt to prevent HADEP from achieving the 10% threshold of votes cast nationally, required for representation in Parliament. What seemed apparent to the delegation is that the Turkish State does not accept the legitimacy of organisations engaging in democratic politics outside the control of agencies of the State.

It is widely believed that the forthcoming elections will again see many measures taken to minimise the HADEP vote in its strongholds. Already it has been reported that HADEP candidates in the Muş area have been threatened and its candidates employed in the public sector have been forced to resign on announcement of their candidacy. The delegation believes that intensive monitoring by independent, foreign observers would be the single most effective measure to ensure the fair and free conduct of the elections and indeed take the view that without it the legitimacy of the eventual result will be highly questionable.

The delegation interviewed trade unions representing public sector employees (KESK) to discover that their employers place considerable obstacles in the way of membership in and effective exercise of their right to become members of trade unions. These take the form of threats of dismissal and the most severe sanction available to the employer, called 'internal exile' of activists – in effect the compulsory transfer of an employee to another part of the country – which is used or threatened as a way of discouraging trade union activism. A national strike of public sector employees on 1st Dec 2001 revealed other practices such as a reduction in salary, imprisonment and the investigation of 300 people as potential criminals, apparently under a power exercised by the governor to characterise a strike as "a collective crime". One of the most severe problems and greatest grievances concerns the forced evacuation of

millions of people from their villages. The delegation was informed, for example, that as much as 70% of the population of Hakkari faced particularly severe internal displacement. Any significant re-settlement will inevitably require major financial assistance from the government, which raises the contentious question of compensation, which in turn depends upon issues of attributing responsibility for the destruction of villages. A matter that urgently requires further investigation is whether appropriate legal procedures and remedies exist to allow the displaced villagers to have a fair hearing and effective remedy for claims of compensation

Thus, unsurprisingly, there is strong support for Turkey's accession to the European Union. There are certainly grounds for optimism; however, the delegation felt that it is, as yet, much too early to see what the concrete result of Turkey's efforts will be.

Among the issues that require long term attention are restrictions on the use of the Kurdish language; the freedom of political associations to carry out legitimate activities; the freedom of trade unions to protect the economic interests of their members without retaliation or other restrictions or penalties; the conduct of elections; police conduct; freedom of movement; detention,



Fact-Finding Mission Delegation with Kesk, the Confederation of Public Servants' Trade Unions in Turkey

from the State.

One official response to this problem was provided to the delegation by the Governor of Tunceli province, Mr. Mustafa Erkal, in relation to the 'pilot village' scheme – approximately fifty concentrated villages which would replace the nearly 400 villages that had previously existed – has apparently benefited from the investment of 400 billion TL by the authorities and will benefit from a further 1 trillion TL for this year, a scale of spending that is apparently to continue over the long term. However, despite Mr. Erkal's statements, all other respondents in Tunceli without exception claimed that no evidence of such spending exists. Such a scheme is liable to criticism in that it could be said to be motivated by the need to keep these populations under greater surveillance and controls and deprives displaced persons of a return to their homes.

The Turkish authorities have suggested that villagers are now free to return to their home areas as OHAL has been lifted. However, gendarmes and Village Guards – residents of Kurdish villages who have been recruited (often forcibly) into an organised state militia and who, acting as proxies for the Turkish security forces, are allegedly responsible for many human rights abuses, as well as drug trafficking, rape, corruption and theft - have threatened or physically impeded people from returning. It may well be that there is a resistance to national or regional policy taking place, which will need to be controlled by the authorities. More generally, the issue of how to re-integrate and reconcile the returning villagers with Village Guards is a most pressing one.

Without exception every respondent regarded recent developments as welcome steps forward. They were particularly encouraged by the democratic reform package as a symbol or a statement of intent by the Turkish government to move forward in the direction of democracy and the rule of law. Their emphasis lay upon the positive psychological impact both on the population and, it is hoped, on the attitudes of those exercising the power of the State. Respondents were unanimously convinced that the only way to propitiate the EU is for the government to take measures to curb some of the worst abuses of the long history of Emergency Rule.

treatment in custody, and effective system of complaint of misconduct, and prosecution of those who on credible allegation may be said to have violated Human Rights; the protection of those seeking to return home to their villages, with attendant issues of compensation; reform of the penal code and criminal procedure and changes to criteria for appointment of public prosecutors.

Human Rights and democracy are central to the accession of any state to the European Union. The issue, because of the critical role that the EU plays in the evolution of the Turkish State and democratic institutions, is that of strategy. The EU cannot simply demand full compliance with the set of standards, nor can it merely accept the word of the Turkish government that matters have improved, nor can it be content with mere changes in formal law. It is vital to realise that this is not merely a matter of formal, legal compliance such as statutory or even constitutional amendments. There is a significant dichotomy between announced policies and actual practice.

It must be accepted that a continuous audit and assessment of progress will be required in relation to the wide range of State activities which in the past have given rise to abuses of Human Rights and denial of democratic principles. Only if there is a clear EU commitment to and investment in such an effort can anyone be confident that the recent signs of progress will produce permanent results. Clearly there is a fine line to be drawn between respecting Turkish sensibilities and insistence upon effective change, but the successful negotiation of that path is the single most critical element in the evolution of Turkish relations with the EU and of the establishment of a regime of democracy, the rule of law, and a dialogue with the Kurdish population in the South East.

Interning at the KHRP

by Moithur Rahman

I was a legal intern at KHRP for two months, from July to the beginning of September. It has been a great experience as I have not only learnt a lot about the violations of fundamental human rights suffered by the Kurdish population, I have also gained a better appreciation of how the European Convention on Human Rights operates, in both its substantive and procedural elements.

One of the things I'll remember about my experience here is not feeling the urge to check my watch every hour; rather time passes easily and productively, whether it's working on an article for the KHRP Legal Review, doing some legal research or writing up a case report. I also found the staff at KHRP enthusiastic and willing to talk about their particular fields of expertise, which I think is an important part of any internship programme as it contributes greatly to one's understanding of how an organisation functions as a whole. The small size of the office helped create an informal atmosphere where information and ideas could circulate freely and creatively. I have worked before in large open plan offices where, despite the large number of people, the atmosphere is oppressive and people talk in whispers and barely touch each other in spirit. Personally I'm sure this has led to the increase in stress and discontentment in offices generally. Consequently, it's great to work in an environment which allows people to be what they are.

As to the work, I have really enjoyed working on the first and second issues of the KHRP Legal Journal and was happy with the amount of responsibility given to me. Working on the case summaries and commentaries gave me a broad understanding of the KHRP's past litigation work and taught me the basics of the Convention system, while doing research allowed me to learn about current legal developments in the Kurdish regions. If anyone is considering being an intern I would advise them to consider the size of the organisation they are thinking of working with. Whereas large organisations have the kudos, I think smaller ones give greater responsibility day to day and also have a much more relaxed atmosphere

There has recently been a lot of media coverage about Kurdish refugees and asylum seekers, but it is I think indicative of a national mood that hardly ever is a moment spent on discussing exactly what it is that these Kurdish people are fleeing from. While here, I have learnt a lot about the injustices that the Kurdish people have suffered and continue to suffer. I have read of distressing cases where entire Kurdish villages have been razed with impunity, leaving villagers to be further humiliated when the Turkish authorities refuse to acknowledge responsibility, or even sometimes that it happened. There have been other cases where Kurds have been tortured and killed by police, sometimes without even the barest of excuses. And though the relatives of the victims instigate criminal proceedings within Turkey, invariably either prosecutions never take place or the officers are acquitted. By taking their cases to the European Court the relatives of the victims, victims themselves of a blinkered justice system, can at least have their allegations taken seriously. Wherever a person lives, whether it is in England or Turkey, and whatever his or her political beliefs, that person needs at the very least the sense that he or she is part of a system that will treat all its citizens equally and fairly. The European Court of Human Rights, by the very fact of its sweeping jurisdiction, is such a system.

Through its efforts, the KHRP has allowed some Kurds to have the satisfaction of their allegations against the Turkish State be proven to be true. As both Azerbaijan and Armenia have recently ratified the Convention, KHRP is concentrating on Kurds and

non-Kurds in these countries to render them similar justice.

While working at KHRP, I have had the opportunity to meet a person who had to leave his country for fear of his life, due to his belief in the right to freely express his views. To move from paper reports and judgments and meet someone directly affected by Turkey's discriminatory and unjust law is a humbling experience. Hopefully, one day our rights to live freely as an expression of our heritage and individual spirit will not need to be fought for.



Vice-president of Mazlum-Der (centre) and President of the Law Association in Turkey (right) visit KHRP.

Publisher Sentenced in Turkey for Publishing American Author's Book on Kurds

On 31 July, the Istanbul State Security Court (DGM) sentenced publisher Abdullah Keskin to a five month jail term, commuted to a fine of 830,466,000 Turkish Lire for publishing American author Jonathan Randal's book "After Such Knowledge, What Forgiveness? - My Encounters with Kurdistan". The Court considered that the book was "aimed against the indivisible unity of the Turkish nation and State" because it mentioned the

existence of a distinct Kurdish nation within the Turkish Republic.

The American author and former Washington Post war correspondent, recognised for his professionalism and called as a witness by the International Criminal Court for ex-Yugoslavia, flew to Istanbul to attend the trial, declaring that, "We are doing all we possibly can to avoid the imprisonment of the Turkish publisher."

KHRP Compels House of Lords to Debate Kurdish Issues: Excerpts from Recent Parliamentary Sessions

23 May: Lord Hylton asked Her Majesty's Government: Whether they are discussing with the Government of Turkey allegations of the use of torture in that country and of the denial of education in Kurdish to members of that minority.

Baroness Symons of Vernham Dean: My Lords, our officials in Ankara discuss human rights issues regularly with the Turkish authorities and raise specific cases, including those highlighted by your Lordships. In June this year senior officials will launch a human rights dialogue with Turkey. Turkey's human rights record was discussed at the EC-Turkey Association Council in April and...last Friday 17th May at a meeting of political directors from Turkey and the European Union.

Lord Hylton: My Lords, I thank the noble Baroness for her reply. Can she say whether the Government had any success in their discussions with the Turkish Government? Has the noble Baroness read recent reports by Sir Nigel Rodney on torture in Turkey, which include, for example, falaka or bastinado and rape, and his comments on impunity for those who have inflicted torture?

Will she ensure that recent arrests and prosecutions of students who have asked for lessons in the Kurdish language, together with the comments of the OSCE, the Council of Europe and the Inter-Parliamentary Union, are brought to the attention urgently of the EU Commissioner with responsibility for expansion and enlargement?

01 July: Baroness Cox asked Her Majesty's Government: What assurances can they

give to the Kurdish people living in the Iraqi Kurdistan region of northern Iraq that their security will be protected in the event of the outbreak of military offensives in the region.

Lord Ahmed: My Lords, does my noble friend agree that 13 per cent of the oil-for-food programme has helped the Kurdish people enormously in their lives? What assurance can Her Majesty's Government give to the Kurdish people that even if the sanctions were lifted, they would have 13 per cent of the oil revenues? Finally, will my noble friend tell the House whether the Government will support a permanent solution for the Kurdish people within Iraq?

President of Turkish Union Dismissed for Supporting Mother Tongue Education

Abdullah Demirba_, President of Turkey's Trade Union of Education, E_itim-Sen, was recently dismissed by the disciplinary council of the Ministry of National Education for issuing a statement in support of mother tongue education. The Union, established in the early 1990s, has consistently supported efforts to democratise Turkey.

As a consequence, its members have suffered repeated persecution.

The Union considers the dismissal of Demirba_ to be particularly alarming as it was carried out at the very time the democratic reform package was passed. It issued a statement stating, "We believe that this act indicates that the mentality of the bureaucracy has not changed and that it will continue to ignore public opinion and the work done by civil society organisations for democracy."



Behçet Avşar visits KHRP Offices. In 1994, KHRP took Mr Avşar's case regarding the abduction and killing of his brother, Mehmet Serif Avşar, to the European Court of Human Rights.

In its judgement of July 2001, the Court found Turkey to be in violation of the right to life for its failure to investigate the incident properly.



In June, KHRP and BHRC sent a delegation to Turkey to observe a trial of university students prosecuted by the state authorities for requesting optional Kurdish language lessons. Pictured above are delegation members Miriam Carrion Benitez (right) and David Lawson (third from right) with the students' team of defence lawyers. Please see KHRP New Reports section on page 14 for a summary of the delegation's report entitled, "The Trial of Students: 'Tomorrow the Kurdish Language will be Prosecuted'".

New KHRP Reports

Internally Displaced Persons: The Kurds in Turkey



Akdivar v. Turkey (Case no. 99/1995/605/693) was the very first in a series of judgments dealing with destruction and evacuation of villages handed down by the European Court of Human Rights in cases brought with the assistance of KHRP together with the Human Rights Association of Turkey (IHD), Diyarbakir branch. Since then, KHRP has received all too many similar appeals for help and have now submitted a large number of cases to the European Court on behalf of Kurds from Southeast Turkey forced to flee their homes.

Despite the favourable judgements in many individual cases, however, the people who won their cases have not been allowed to return to their villages.

Displacement is subsequently one of the harshest aspects of Turkish State policy towards Kurds in Southeast Turkey over the past 20 years and remains one of the most significant issues for the community today. It stems not only from the long term discrimination against the Kurds in Turkey, the policy of Turkification and the armed conflict with the former Kurdistan Worker's Party (PKK), but also from large scale infrastructure projects such as the Ilisu Dam that are often pursued without regard to the interests and the wishes of the local population. The manner in which forced evacuations have been carried out, accompanied by extreme brutality and total disregard for the dignity and physical and psychological integrity of the affected populations, and with flagrant disregard for the rule of law, has resulted in multiple violations of human rights and involved Turkey breaching both domestic and international law.

Today, the question of return or resettlement of the displaced is still not resolved and remains one of the burning issues for the Kurds. As Turkey attempts to negotiate membership of the EU, KHRP believes that Turkey's record on the question of displacement is among the most crucial tests of its commitment to reform its human rights record and of its intentions regarding relations with the Kurds of Turkey. This report aims to update previous KHRP reports on village destruction and internal displacement in Southeast Turkey, to evaluate Turkey's current programmes for return and resettlement of the displaced, and to set Turkish practice against international standards in an effort to provide a comprehensive view of this brutal yet ongoing practice.

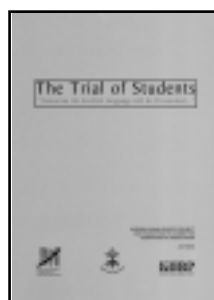
(ISBN 1 900175 44 4)

The Trial of Students: "Tomorrow the Kurdish Language will be Prosecuted..." –A KHRP, BHRC and IHD Joint Trial Observation

On 9 January 2002 over 500 students presented a petition to the Rector of their university. They sought additional and optional language lessons. They did so individually as the Rector had requested. They language they asked to study was Kurdish and they sought to do so through the medium of Turkish. The consequences on the students have been devastating.

Gendarmes arrested and questioned several hundred of them as they presented or attempted to present the petitions. Dozens were held in police custody for 4 days, mistreated and forced to sign confessions of support for terrorist organisations. All of those who presented petitions have been subject to punishment from the university authorities. On 21 June 2002, after most of them had been held in custody for more than 5 months, 24 of the students appeared for trial.

KHRP sent a delegation to observe the first substantive hearing



against these students. The report produced by the delegation sets out to portray a detailed and accurate description of the facts of this prosecution and, so far as possible, of the Turkish system. It also lists a number of recommendations informed by the culture of rights reflected in international human rights instruments and by the delegation's experience of relevant steps to achieve the aims avowed by the Turkish state in endorsing these human rights texts.

Lying behind the prosecutions is the issue of language rights. Until 1991, Kurdish was banned. The Turkish state appears to link Kurdish culture automatically to separatism and a form of separatism serious enough to require repression. Despite this, the Turkish state is ready to sign international treaties intended to establish basic rights and seeks admission to the European Union. It is not clear which of these strands of government activity will emerge as dominant. A substantial overhaul of practice and procedure is needed before the legal system can be seen as compliant with international best practice.

The defendant interviewed by the delegation reduced the issue to its core: "Kurdish is the language of our people and we are denied access to it ... Tomorrow the Kurdish language will be prosecuted, not the students".

(ISBN 1 900175 46 0)



Sadak & others v. Turkey: The Right to Free Elections—A KHRP Case Report

On 11 June 2002, in a ground-breaking judgment, the European Court of Human Rights found the Turkish government to be in violation of the right to free elections to the European Convention on Human Rights, based on the governments 1994 dissolution

of the pro Kurdish Democracy Party (DEP) and further imprisonment of the Party's MPs. The MPs' application had originally been brought by KHRP to the European Commission of Human Rights in 1994. This publication, the final instalment in KHRP's Case Report series (to be replaced by the KHRP Legal Review) provides a brief political background of DEP, the complete legal proceedings of the trial, and an analysis of the Court's judgment.

As the applicants in this case were all lawfully elected members of the Turkish Grand National Assembly prior to the State Constitutional Court's dissolution of their party, this case represents a violation of rights and freedoms which form the basis of the principle of democracy: the right of the electorate freely to choose their parliamentary representatives, and of those elected representatives to enact their mandate.

Furthermore, the dissolution of the Democracy Party represents only one in a series of actions by the Turkish Government aimed at suppressing the political voice of its Kurdish minority, including the disbanding of several other pro-Kurdish parties. The judgment may therefore have profound political consequences as all of the former MPs who were applicants in this case are Kurdish and represent a large swathe of Turkey's Kurdish minority in the southeast. In the course of reviewing Turkey's candidature for accession to the European Union, it is thus considered likely that EU institutions will bring significant pressure to bear on the Turkish authorities to reform Turkey's political system to ensure free and democratic elections.

(ISBN 1 900175 47 9)

Downstream Impacts of Turkish Dam Construction in Syria and Iraq: Report of Fact Finding Mission to Syria and Iraq—

A KHRP, The Corner House, and Ilisu Dam Campaign Joint Report

A delegation from the Kurdish Human Rights Project along with two other UK non-governmental organisations - the Ilisu Dam Campaign and the Corner House - travelled to Syria and Iraq from 29th January to 4th February 2002 on a Fact-Finding Mission, to

conduct research and interviews on the potential downstream impacts of the proposed Ilisu Dam, scheduled for construction near the ancient town of Hasankeyf in southeast Turkey.

Despite the fact that the principal members of the original consortium to build the Ilisu Dam, the British construction company Balfour Beatty and the Italian company Impreglio, both withdrew from the project prior to the Mission, the Ilisu Dam Campaign was still concerned over the possible impacts of the project as it was only one component of a far larger venture with much wider-reaching implications: the vast and ambitious Southeastern Anatolia Project, known as GAP after its Turkish title (Güneydogu Anadolu Projesi). Ilisu's anticipated repercussions are therefore merely a microcosm of the projected consequences of the full GAP project, a network comprising 22 dams and 19 power plants.

In an effort to provide an in depth assessment of the potential downstream impacts which such projects may have on Syria and Iraq, the Mission report analyses the extent to which international financial backing for dams in Turkey has destabilised water politics in the region, the extent to which Turkey is abiding by international law governing shared rivers, and the known impacts of dams already constructed and of those proposed in Turkey, on the downstream agriculture, public health and environment of the relevant regions. The report also details the positions of the Turkish, Syrian and Iraqi governments regarding the proposed future shared use of the Euphrates and Tigris rivers which may have significant repercussions on various communities, and in particular the Kurds. Taking into account the mission's conclusion that the threat to future water supplies in Syria and Iraq is a real one, the report also lists a series of recommendations urging the international community to press Turkey to halt further GAP projects until international standards related to dam construction have been met.

(ISBN 1 900175 48 7)

Taking Cases to the European Court of Human Rights: A Manual

The European Convention on Human Rights (ECHR) was the first Convention adopted by the Council of Europe in 1950 and is integrally linked with the founding principles of the organisation. These principles, which are implicitly stated in the Council of Europe Statute are the promotion of pluralist democracy, the respect of the rule of law and the protection of human rights and fundamental freedoms. The Convention created a right of individual petition - the right of individuals and organisations to challenge their Government through the Strasbourg process, by taking their case to the European Commission of Human Rights, and then to the European Court of Human Rights. The Court's judgments are binding on the State parties to the Convention.

An indication of the growing importance of the Convention system within Europe can be given by providing the amount of applications to the Court: In the first 30 years of the Convention, less than 10,000 complaints were filed with the Commission. Since then, the number of applicants has grown rapidly - in 1995, 10,201 communications were received and in 1996 12,143, of which 2,236 concerned countries of Central and Eastern Europe. For 1996, the number of applications registered was 4,758 of which 852 were brought against countries of Central and Eastern Europe. In 1999, there were more than 47,000 provisional files pending at the Court. By September 2001, there were 18,000 pending registered cases.

These figures do not necessarily illustrate that human rights abuses are multiplying, but rather they show that awareness of the Convention is improving and with the assistance of non-governmental (NGO) human rights groups, individuals are more readily able to pursue their cases to Strasbourg.

This manual provides commentaries on the practice and procedure of the European Court, as well as including key texts such as the Convention itself, the Court's application form and a table of legal aid rates. It has been produced in order to complement the on-going training seminars being held in Armenia and Azerbaijan, Turkey and other parts of Europe, which have been designed to provide very practical advice about taking cases to the European Court of Human Rights. This manual was prepared by KHRP



Executive Director Kerim Yildiz and Solicitor and Lecturer of Law Philip Leach and is published jointly with KHRP and BHRC.
(ISBN 1 900175 50 9)

The Kurdish Human Rights Project Legal Review

This is the first edition of KHRP's new Legal Review to be published twice a year. The Review will replace KHRP individual case reports and include summaries of and commentaries on cases taken by KHRP to the European Court of Human Rights (as well as cases against Turkey, the journal will in future include Court cases brought against Armenia and Azerbaijan, both of which ratified the European Convention on Human Rights in April 2002). This will include reports on cases not only at the admissibility stage and the judgment, but also where possible at the earlier stage where a case is first 'communicated' by the Court to the Respondent Government. It is intended that the journal will incorporate a practical focus, providing lawyers in the region with clear guidance on how to be most effective in taking human rights cases.

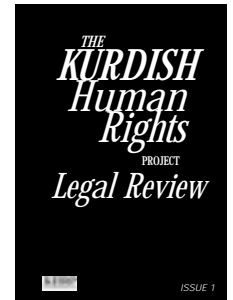
The journal's scope will be wide-ranging, including legal human rights developments in the region in which KHRP operates, including Turkey, Armenia, Azerbaijan, Iran, Iraq and Syria. The journal will also incorporate important Court judgments against other Council of Europe states which have relevance to the 'KHRP region', as well as significant human rights developments within other regional and international human rights systems.

The format of the journal will be to cover new human rights developments in the first pages, followed by the case summary and commentary section, which will form the main part of the journal. There will also be occasional articles providing a more in-depth analysis of newsworthy topics written by members of KHRP's respected legal team, including lawyers and human rights commentators from the region itself.

As we recognise that the dissemination of case reports and information on human rights in languages other than in English or French is still very limited, the journal will be published initially in both English and Turkish. It is also planned to publish future editions in Armenian and Azeri.

In this first edition, we cover Court admissibility decisions and judgments from May 2000 to December 2001. A second edition to be published later this year will cover the period from December 2001.

(ISBN 1 900175 51 7)



Upcoming KHRP Reports

- Internal Displaced Persons: The Kurds in Turkey (Turkish Translation)
- 'Damning Indictment': A Report on the Yusefeli Dam
- Turkish Dam Construction in Syria and Iraq (Turkish Translation)
- Some Common Concerns: Imagining BP's Azerbaijan-Georgia-Turkey Pipelines System
- KHRP Legal Review - 2nd Issue

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(off Regent Street) Fax: 020 7734 4927
London W1S 2HP Email: khrp@khrp.demon.co.uk

Calendar of events

17 October

UN International Day for the Eradication of Poverty

18 October

World Food Day

24 October

United Nations Day

6 November

*UN International Day for Preventing the Exploitation of the Environment
in War and Armed Conflict*

11 – 22 November

UN Committee against Torture, Twenty-ninth Session

16 November

UN International Day of Tolerance

25 November

UN International Day for the Elimination of Violence against Women

25 November – 4 December

*UN Commission on Human Rights, Working Group on Arbitrary
Detention, Thirty-fifth Session*

1 December

World AIDS Day

9 December

KHRP Tenth Anniversary Lecture By Professor Noam Chomsky

10 December

Human Rights Day 2002

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Please note that KHRP has changed offices.

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KHRP is pleased to be affiliated with UNISON – Kirklees Branch.

Project information

The organisation

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

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

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

Aims

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

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

Methods

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