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## A BLANK CHECK

Turkey's Post-Coup Suspension of Safeguards Against Torture





## **A Blank Check**

**Turkey's Post-Coup Suspension of Safeguards Against Torture**

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## Summary

Because of the state of emergency, nobody will care if I kill you. I will just say I shot you while you tried to run away.

-Police officer to a detainee, overheard by family members of another detainee

You won't make it out of here alive. We now have 30 days.

-Police officer referencing the extended period of police detention to a detainee while threatening to rape him with a baton, as told to the detainee's lawyer

We had come a long way. The anti-torture struggle in Turkey was important. But torture is like a contagious disease. Once it starts it will spread. It is painful to see the reversal taking place now.

-Lawyer involved in anti-torture cases in Turkey who was detained together with people he believed were being tortured

On July 15-16, 2016, elements of the military attempted a coup d'état against the elected government of Turkey. Those involved in the coup deployed tanks in the streets of Istanbul and Ankara, bombed the parliament with fighter jets, and opened fire from helicopters on people who took to the street to protest the attempted coup. At least 241 citizens and security personnel died in the fighting.

Shortly after the failed coup the Turkish government declared a state of emergency, a step they are entitled to take in exceptional circumstances. They also have the right – and even the obligation – to protect the public, investigate crimes committed during the attempted coup, including murder and causing bodily harm, and to hold those responsible to account.

However, declaring a state of emergency does not give the government a carte blanche to suspend rights, and in particular there are rights and obligations from which there can be no derogation. Under the state of emergency, the government passed two emergency decrees that removed crucial safeguards that can protect detainees from ill-treatment and torture. The authorities formally announced that they would derogate from the protections of the European Convention on Human Rights (ECHR), without specifying which ones, and later, that they would derogate from 13 articles of the International Covenant on Civil and

Political Rights (ICCPR) including those relating to humane treatment of detainees and the right to a remedy.

Based on interviews with more than 40 lawyers, human rights activists, former detainees, medical personnel and forensic specialists, this report looks at how the state of emergency has impacted police detention conditions and the rights of detainees. It also details 13 cases, in one case involving multiple detainees, of alleged abuse including torture.

Since the failed coup attempt, the police have detained more than 40,000 soldiers, officers, policemen, judges, prosecutors, teachers and others. According to government statements, most of the detainees are suspected of affiliation with the Gülen movement, a religious movement headed by the US-based cleric Fethullah Gülen. The Turkish government describes the movement as “Fethullahist terrorist organization” (also known by the abbreviation FETÖ) and accuses it of being the main group responsible for the coup attempt.

The prohibition of torture in international law is absolute and cannot be suspended even in times of war or national emergency. And yet, the emergency decrees remove crucial safeguards that protect detainees from ill-treatment and torture.

The emergency decrees extend the maximum length of police detention without judicial review from four to 30 days, which render detainees more vulnerable to abuse. Lawyers and a former detainee said that police had in some cases explicitly used the extended detention period to threaten detainees.

The decrees deny detainees access to a lawyer for up to five days, leaving detainees in de facto incommunicado detention since family members were not granted access either. Once the law enforcement agencies allowed a detainee to see a lawyer, they often only allowed legal aid lawyers, whom former detainees and lawyers said were more susceptible to pressure and manipulation because they are often young and inexperienced.

The decrees also restrict detainees’ right to conduct confidential conversations with their lawyers. Lawyers told Human Rights Watch that police officers were often present during their conversations with clients, or they sometimes even recorded the conversations or looked at their notes.



In several cases documented by Human Rights Watch, law enforcement officials and agents violated these rights to an extent exceeding even the permissive leeway granted them under the emergency decrees.

Police behavior and pressure from the authorities have also undermined the integrity of medical examinations for those in police custody and detention by often requiring that medical examinations take place in detention facilities and in the presence of police officers, Human Rights Watch research shows. In addition, the authorities have repeatedly denied detainees and their lawyers access to detainees' medical reports that could substantiate allegations of ill-treatment during arrest or detention, citing secrecy of the investigation.

Law enforcement have applied these provisions not only to those accused of involvement with the coup attempt, but also to detainees accused of links with armed Kurdish and leftist groups, depriving also them of important safeguards against ill-treatment and unfair prosecution.

All of this has taken place in a pervasive climate of fear where lawyers, detainees, human rights activists, medical personnel and forensic specialists told Human Rights Watch they fear that they will be next in the government's extensive purge of alleged coup supporters.

This report focuses on the period of police detention, that is, the period before an individual is brought before a judge. Expert human rights monitoring bodies have repeatedly emphasized that this is the period when detainees are likely to be most vulnerable to abuse. This report does not deal with how the state of emergency has impacted conditions in prison.

Lawyers, medical personnel, recently released detainees and family members of detainees described to Human Rights Watch 13 cases of torture and ill-treatment of detainees to varying degrees of severity. The cases of abuse documented by Human Rights Watch include allegations of the use of methods ranging from stress positions and sleep deprivation to severe beating, sexual abuse and threat of rape. Eight of the cases describe abuse that took place in the immediate aftermath of the failed coup attempt before the emergency decrees were published. In five cases the alleged abuse took place after the adoption of the emergency decrees. These cases are listed in the report.

In most cases, Human Rights Watch has withheld, out of fear of repercussions, names and other details that could be used to identify those interviewed.

Emergency decree provisions and post-coup detention practices have made it difficult to document ill-treatment and torture. Most of those detained after the coup attempt were still in detention during the research for this report and mostly unable to speak freely to their lawyers and family. Several lawyers also told Human Rights Watch that clients released from detention were too afraid to speak about their detention conditions.

Some provisions and practices appear designed to deliberately make it more difficult to corroborate allegations of torture. For example, the practice of denying detainees and lawyers access to the reports from medical examinations done during and after detention appears to have no legitimate justification, but makes it harder to corroborate allegations of abuse. Another obstacle is a September 1 decree dissolving the current prison monitoring boards. Although prison monitoring boards were not an effective inspection mechanism, the government's September dissolution of the boards in the absence of a functioning national preventative mechanism with authority to inspect all places of detention contributes to suspicion that the government is trying to avoid any oversight of places of detention.

As a result, some of cases of alleged abuse detailed in this report rely only on information that the client told his or her lawyer, who in turn recounted this information to Human Rights Watch. Nonetheless Human Rights Watch found these cases credible based on the level of detail provided and internal consistency of the accounts.

Turkish government officials, including President of Turkey Recep Tayyip Erdoğan, declared after the coup attempt that they had zero tolerance for torture, repeating what has been the official position of the ruling party, the Justice and Development Party (AKP), since 2003. However, the authorities have failed to respond appropriately to recent torture allegations, instead often calling those making the allegations biased and accusing them of being coup supporters or of making propaganda for the Gülen movement. The government's summary dismissal of Amnesty International's July 24, 2016 report on allegations of torture is an example.

Other measures also call into question the government's commitment to prevent torture and ill-treatment. A provision in the emergency decrees absolves government officials of any responsibility for duties carried out in the context of the decrees, which cannot but facilitate torture and ill-treatment. In addition, the government postponed a visit by the United Nations Special Rapporteur on Torture to the country, scheduled to take place from October 10 to 14, 2016.

The Turkish authorities should immediately rescind those provisions of the emergency decrees that enable abuse, ensure adequate and independent medical examinations of all detainees, and promptly and impartially investigate all allegations of torture and ill-treatment.

## Recommendations

### To the Government of Turkey:

- Immediately rescind the provisions of the emergency decrees that enable torture and ill-treatment and are inconsistent with the state's fundamental obligations under international law. In particular:
  - Rescind the extension of police detention without judicial overview to 30 days;
  - Rescind the restriction on access to lawyer for up to five days;
  - Rescind the restriction on confidential communication between lawyers and detainees;
  - Lift the extensive restrictions on the right to choose a lawyer; any denial of the right to a lawyer of the detainees' choosing should only be made by a judge providing substantiated reasons as to why the chosen lawyer cannot act as legal representative;
  - Rescind the protection of government officials from accountability when their actions are deemed to have been in the discharge of duties carried out in the context of the decrees.
- Give detainees and lawyers immediate access to all medical examination reports and other information related to potential ill-treatment and torture and permit an examination by an independent doctor should the detainee or his or her lawyer request it;
- Ensure that law enforcement agents do not interfere with medical examinations of detainees. Pursue disciplinary action against those who do;
- Grant access to all police and gendarmerie detention centers and prison facilities for independent monitors, including the U.N. Special Rapporteur on Torture, bar association representatives, representatives of non-government human rights organizations, lawyers, and medical professionals;
- Investigate promptly and impartially all allegations of torture or ill-treatment by security or law enforcement officials of any rank, and prosecute in line with

international standards, any official found responsible for ordering, carrying out, or acquiescing in torture or ill-treatment;

- Ensure that prosecutors investigate the responsibility of commanding officers where law enforcement officials are alleged to have perpetrated serious abuses. Commanding officers who know or should have known of such acts, and who fail to take action to prevent and punish them, should be included in prosecutors' investigations and, where appropriate, face sanctions;
- Ensure that effective and meaningful disciplinary sanctions are imposed on law enforcement officials who commit abuses;
- Suspend from active duty officers under investigation for torture or ill-treatment and ensure their dismissal if convicted;
- Allow the immediate publication of the conclusions and findings of the September 2016 *ad hoc* visit of the European Committee for the Prevention of Torture.

## **To the European Committee for the Prevention of Torture**

Following the *ad hoc* visit to Turkey from August 29-September 6, 2016, undertake a further visit to Turkey at the earliest opportunity.

## **To the United Nations**

UN special procedures mandate holders concerned by the issues covered in this report should closely monitor the situation in Turkey and make their concerns public.

The Special Rapporteur on torture whose visit scheduled for October was postponed by the Turkish government, should press for an extended visit to Turkey at the earliest opportunity before the end of 2016 and insist on full access to any place of detention. The special rapporteurs on freedom of opinion and expression, and on freedom of peaceful assembly, whose visits to Turkey are scheduled for November 2016 and January 2017 respectively, should release preliminary conclusions as soon as possible after their visits. Other UN mechanisms, including the Special Rapporteur on the independence of judges and lawyers, and the Working Group on Arbitrary Detention, should urgently request access to the country.

The UN High Commissioner for Human Rights, together with a team of UN observers, should urgently consider visiting Turkey and request access to places of detention.

### **To Turkey's international partners**

- Urge the Turkish government to uphold safeguards against torture and to fully investigate allegations of ill-treatment and torture in detention;
- Press Turkey to allow Turkish and international independent observers with human rights expertise access to places of detention;
- Reflect the concerns and recommendations contained in this report, in their contributions to multilateral forums, including the Council of Europe, the Organization for Security and Co-operation in Europe and the UN Human Rights Council.

## **Methodology**

This report is based on interviews with more than 40 lawyers, human rights activists, former detainees, medical personnel and forensic specialists. Human Rights Watch researchers conducted most of the interviews in person in Istanbul and Ankara in August and September 2016. Interviews with lawyers and family members in Urfa and Antalya were conducted over the phone.

All participants were informed of the purpose of the interview, the ways in which the information would be used and offered anonymity if they wanted. Because of the hostile atmosphere in Turkey towards people criticizing the government's actions after the coup attempt, Human Rights Watch decided to not use names of people interviewed except in cases that were already public. To ensure anonymity, Human Rights Watch has also in some cases withheld other information such as the exact location of detention, time of detention, and date of the interview.

None of the interviewees received monetary or other incentives for speaking with Human Rights Watch. All interviews were conducted in English or Turkish, or with a Turkish-English interpreter.

# I. Background

## Coup Attempt and Aftermath

On July 15-16, 2016, elements of the military attempted a coup d'état against the elected government of Turkey, which led to at least 241 deaths among citizens and security personnel. The attempted coup included the use of tanks in Istanbul and Ankara, fighter jets that bombed the parliament in Ankara, and helicopters that opened fire on people who took to the street to oppose the coup attempt. Mass popular opposition to military intervention and the unity of political parties in condemning the coup attempt are widely regarded as having played a critical role in the coup's failure.

Human Rights Watch spoke to several witnesses to the bloody events of July 15-16 in Ankara and Istanbul. One man, 39, working for a travel agency, described being in Ankara's central Kızılay area that night, around the time that the Parliament was hit.

Around 2:40 a.m. a helicopter attacked the parliament. We could hear it. About 10 minutes later, it started shooting at people. It was machine-gun fire. On my left a group of girls were hit. On my right, a father was shot. I could hear his son screaming. Behind me, a guy was hit, his leg was severed. Together with another man I carried the guy with the severed leg. There were many dead people lying on the ground, on the pavement.<sup>1</sup>

Another man described how he first helped carry wounded people to ambulances and was then himself injured when the helicopter opened fire:

I hid next to my car. The helicopter was firing with its machine gun. The strafing hit next to my car and fragments injured me. There were three ambulances about 20 meters away. I walked to them. I don't remember much. Then I woke up in hospital. I had fragmentation injuries to my leg and torso.<sup>2</sup>

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<sup>1</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>2</sup> Human Rights Watch interview, Ankara, August, 2016.



In Istanbul, Human Rights Watch spoke to the elected headman (*muhtar*) in the Çengelköy neighborhood, close to the main military school, where many residents lost their lives. The *muhtar* himself was shot in the chest and survived surgery and 10 days in intensive care.

The Turkish authorities have the right – and even the obligation under international law – to investigate crimes committed during the attempted coup, including murder and causing bodily harm, and to hold those responsible to account.

The Turkish authorities have accused supporters of the US-based cleric Fethullah Gülen for staging the coup attempt. The government has designated the Gülen movement a terrorist organization and refers to it as the “Fethullahist terrorist organization” (also known by the abbreviation FETÖ).

Since the coup attempt, the Turkish authorities have launched a campaign to detain members and supporters of the Gülen movement accused of involvement in the bloody events of July 15. By late September, Turkey’s Justice Minister announced that around 32,000 people had been jailed pending investigation and criminal investigations were underway in relation to 70,000. Among them are soldiers, police, judges, prosecutors, journalists, teachers, academics, bureaucrats and others.<sup>3</sup>

Authorities have also suspended or dismissed from their jobs thousands of public servants who are accused of belonging to or supporting the Gülen movement. On September 1, around 41,000 civil servants and public officials were permanently discharged from their jobs. Alongside 28,000 teachers discharged, another 11,000 were suspended on September 8, 2016. Human Rights Watch has criticized the detentions and other measures for being arbitrary and lacking due process.<sup>4</sup>

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<sup>3</sup> “32,000 arrested in coup probe: Minister”, Hurriyet Daily News, September 28, 2016, <http://www.hurriyetdailynews.com/32000-arrested-in-coup-probe-minister.aspx?pageID=238&nID=104347&NewsCatID=338> (accessed October 3, 2016).

<sup>4</sup> “Turkey Media shut down, journalists detained”, Human Rights Watch news releases, July 28, 2016, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>; “Turkey judges and prosecutors unfairly jailed,” Human Rights Watch news release, August 5, 2016, <https://www.hrw.org/news/2016/08/05/turkey-judges-prosecutors-unfairly-jailed>

## Legal Framework

On July 20, 2016, President of Turkey Recep Tayyip Erdoğan declared a three-month state of emergency, which entered into force on July 21.<sup>5</sup> The state of emergency allows the Council of Ministers, which is led by the president, to pass decrees that have the force of law.<sup>6</sup> Turkey extended the state of emergency for a further three months from October 19.<sup>7</sup>

On July 22, the Turkish government notified the Council of Europe that it was “derogating” from – that is, temporarily imposing extraordinary limitations on – the guarantees under the European Convention on Human Rights (ECHR), to which Turkey is a party. It did not, however, specify from which provisions of the convention it was derogating.<sup>8</sup>

The convention allows for derogation “in times of public emergency threatening the life of a nation,” but says that any measures taken in response must be “strictly required by the exigencies of the situation,” and the measures taken in response to the emergency must be in compliance with a state's other obligations under international law. It is not possible to derogate from the prohibition on torture under the European Convention or other human rights treaties.<sup>9</sup>

On July 23, the Council of Ministers’ first emergency decree 667 was published in the Official Gazette and became law.<sup>10</sup> A second decree, 668, came into force on July 27.<sup>11</sup> Both decrees contained provisions that suspend key safeguards to protect detainees from torture and ill-treatment.

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<sup>5</sup> Announcement of State of Emergency, Official Gazette, July 20, 2016, <http://www.resmigazete.gov.tr/eskiler/2016/07/20160721-4.pdf> (accessed September 21, 2016).

<sup>6</sup> Constitution of the Republic of Turkey, [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf), art. 120.

<sup>7</sup> See e.g. Emre Peker, “Turkey Extends State of Emergency”, *The Wall Street Journal*, <http://www.wsj.com/articles/turkey-extends-state-of-emergency-1475507092> (accessed October 7, 2016).

<sup>8</sup> Notification JJ8187C Tr./005-191, dated July 22, 2016 available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2929966&SecMode=1&DocId=2380676&Usage=2>

<sup>9</sup> ECHR, article 15. [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>10</sup> Decree on Measures to be Taken under State of Emergency, No. KHK/667, July 22, 2016, [http://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2016/08/09/KHK\\_667\\_ENG.pdf](http://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2016/08/09/KHK_667_ENG.pdf) (accessed September 16, 2016).

<sup>11</sup> Decree Law on Measures to be Taken under the State of Emergency and Arrangements Made on Certain Institutions and Organizations, No. KHK/668, July 27, 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168069788a> (accessed September 16, 2016).

With a decision effective from August 2, Turkey also derogated from the International Covenant on Civil and Political Rights (ICCPR) by invoking an article of the convention which – similar to the article included in the European Convention - permits temporary relaxation of the conditions of the convention at times when there is a “threat to the life of the nation.”<sup>12</sup> In its notice of derogation Turkey listed 13 articles of the ICCPR from which it was derogating including the rights to liberty and security, fair trial and privacy. Of particular concern was that Turkey announced it was derogating from the ICCPR articles on humane treatment of detainees (article 10) and the right to a remedy (article 2(3)), even though the Human Rights Committee that oversees compliance with the ICCPR has made clear that the two articles cannot be subject to derogation in any circumstance.<sup>13</sup>

The committee noted that the requirement for humane treatment is “a norm of general international law not subject to derogation” and is closely linked to the absolute prohibition torture, cruel, inhuman or degrading treatment or punishment articulated in article 7 of the ICCPR.<sup>14</sup>

In an unprecedented response to Turkey’s derogation of the convention, 19 UN experts and three UN working groups issued a joint statement reminding the Turkish government that “The derogation provision under Article 4 does not give a carte blanche to ignore all obligations under the ICCPR,” and furthermore “The invocation of Article 4 is lawful only if there is a threat to the life of the nation, a condition that arguably is not met in this case.”<sup>15</sup>

Other applicable international law stipulates numerous safeguards to protect detainees from torture and ill-treatment and to guarantee the fairness of any eventual trial. These include, among others, prompt judicial review of the legality of the detention, prompt access to a lawyer, and the possibility to confidentially communicate with legal counsel.

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<sup>12</sup> Reference: C.N.580.2016.TREATIES-IV.4, available at <https://treaties.un.org/doc/Publication/CN/2016/CN.580.2016-Eng.pdf>.

<sup>13</sup> See Human Rights Committee, General Comment No. 29, paras 13 (a) and 14, CCPR/C/21/Rev.1/Add.11, August 31, 2001 available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en).

<sup>14</sup> Articles 7 and 10 of the ICCPR respectively.

<sup>15</sup> “UN experts urge Turkey to adhere to its human rights obligations even in time of declared emergency,” Statement from UN expert, August 19, 2016: sees <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20394&LangID=E> (accessed August 27, 2016).

## Torture in Turkey

Widespread and systematic torture has been a long-standing problem in Turkey's recent past. The European Court of Human Rights has found that Turkey violated the prohibition on torture, inhuman and degrading treatment under the European Convention on Human Rights (article 3) in hundreds of judgments mainly, but far from exclusively, relating to the period up to 2004. Over the last 25 years, Human Rights Watch published multiple reports on the use of torture in Turkey.<sup>16</sup>

From 2002, when the Justice and Development Party (AKP) first assumed office, to mid-2015 reports of torture and ill-treatment in police custody decreased significantly. While a persistent culture of police violence against demonstrators and against detainees on arrest remained, the general improvement in Turkey's record can be attributed to the introduction of specific safeguards known to reduce ill-treatment, including limited custody periods, much tighter procedures for recording detentions and taking detainees' statements, access to legal counsel from early on in police detention, and obligatory and regular medical examinations of detainees. Despite the improvements in practice, a pattern of impunity for acts of torture and ill-treatment continued and successive AKP governments notably failed to ensure the prosecution of law enforcement officers and members of the security forces implicated in abuses.

With the collapse of a peace process between the Turkish state and the imprisoned leader of the armed Kurdistan Workers' Party (PKK) in summer 2015, conflict in the mainly Kurdish southeast resumed. In the context of security operations against PKK-linked urban militia groups entrenched in cities and neighborhoods of the southeast, Human

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<sup>16</sup> See for example: Human Rights Watch, *Nothing Unusual: The Torture of Children in Turkey*, January 1992, <https://www.hrw.org/report/1992/01/01/nothing-unusual/torture-children-turkey>; Human Rights Watch, *Broken Promises: Torture and Killings Continue in Turkey*, December 1992, <https://www.hrw.org/report/1992/12/01/broken-promises/torture-and-killings-continue-turkey>; Human Rights Watch, *Kurds of Turkey: Killings, Disappearances, and Torture*, March 1993, <https://www.hrw.org/report/1993/03/01/kurds-turkey/killings-disappearances-and-torture>; Human Rights Watch, *Torture and Mistreatment in Pre-Trial Detention by Anti-Terror Police*, March 1997, <https://www.hrw.org/report/1997/03/01/torture-and-mistreatment-pre-trial-detention-anti-terror-police>; Human Rights Watch, *Eradicating Torture in Turkey's Police Stations: Analysis and Recommendations*, September 2004, <https://www.hrw.org/report/2004/09/22/eradicating-torture-turkeys-police-stations-analysis-and-recommendations/human>; Human Rights Watch, *Closing Ranks against Accountability: Barriers to Tackling Police Violence in Turkey*, December 2008, <https://www.hrw.org/report/2008/12/05/closing-ranks-against-accountability/barriers-tackling-police-violence-turkey>.

Rights Watch documented a rise once more in reports of torture and ill-treatment of detainees in police custody.<sup>17</sup>

Methods reported to Human Rights Watch by people later released from detention in the southeast included police beating and punching them, verbally abusing them and threatening them with rape, making them kneel for many hours while handcuffed from behind, depriving them of basic needs such as water, food and sleep.<sup>18</sup> For the most part, however, the reports and descriptions of such abuse came from lawyers since the majority of detainees remained imprisoned pending trial and therefore not accessible to human rights groups.

Even before the coup attempt lawyers in the southeast also reported some relaxation of the usual detention safeguards. After mass arrests, individuals were held in unofficial places of detention such as sports halls and lawyers were often barred from access to them in the midst of continuing armed clashes. Some detainees later reported to their lawyers being forced to sign papers they had not read and being coerced into identifying other suspects from lists of names and photographs.

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<sup>17</sup> “Turkey: Beaten, Threatened With Death by Police,” Human Rights Watch news release, September 2, 2015, <https://www.hrw.org/news/2015/09/02/turkey-beaten-threatened-death-police>; “Turkey: Mounting Security Operation Deaths,” Human Rights Watch news release, December 22, 2015, <https://www.hrw.org/news/2015/12/22/turkey-mounting-security-operation-deaths>; “UN Committee against Torture: Review of Turkey,” Human Rights Watch news release, <https://www.hrw.org/news/2016/04/22/un-committee-against-torture-review-turkey>; “Turkey: State Blocks Probes of Southeast Killings,” Human Rights Watch news release, July 11, 2016, <https://www.hrw.org/news/2016/07/11/turkey-state-blocks-probes-southeast-killings>.

<sup>18</sup> “Turkey: Beaten, Threatened with Death by Police,” Human Rights Watch news release, September 2, 2015, <https://www.hrw.org/news/2015/09/02/turkey-beaten-threatened-death-police>.

## II. Suspension of Safeguards Against Torture and Ill-treatment

Numerous provisions in Turkey's emergency decrees have suspended key safeguards that protect detainees from torture and ill-treatment in ways that violate Turkey's international obligations and place detainees at risk. In practice law enforcement officials and agents have undermined these safeguards to an extent exceeding even the permissive leeway granted them under the emergency decrees.

### Prolonged Detention without Legal Review

Emergency decree 667 increased the maximum period of police detention for terrorism and organized crime from four to 30 days in clear violation of international law.<sup>19</sup> During a previous state of emergency in Turkey, the European Court of Human Rights told the authorities that detention without being taken before a judge—then for 14 days—violated the state's human rights obligations under the convention.<sup>20</sup>

Lawyers and former detainees told Human Rights Watch that the extended detention period allowed by the decree rendered detainees more vulnerable to abuse and that police had in some cases explicitly used the extended detention period to threaten detainees.

One former detainee in the Ankara Police Headquarters, for example, told Human Rights Watch that when the government announced the first emergency decree, a policeman shouted to the detainees that they could now shut up because custody had been extended to 30 days. The detainee understood this as a threat, he said.<sup>21</sup> In another case, a lawyer said that her client had told her that a police officer, while threatening to rape him with a baton, had said that he would never leave the police station alive: "We now have 30 days," he added.<sup>22</sup>

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<sup>19</sup> Decree Law 667, art. 6, a).

<sup>20</sup> In a 1996 case against Turkey the European Court of Human Rights, acknowledging that Turkey then had a legitimate state of emergency and derogation, held that "it cannot accept that it is necessary to hold a suspect for 14 days without judicial intervention." It noted that the period was "exceptionally long, and leaves detainees vulnerable to arbitrary detention and torture." *Aksoy v. Turkey*, Application No. 21987/93, judgment December 18, 1996 paras. 78, 86.

<sup>21</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>22</sup> Human Rights Watch interview, Istanbul, August, 2016.

## Incommunicado Detention and Denial of Right to Choose Lawyer

According to emergency decree 668 the public prosecutor can deny a detainee the right to see a lawyer for up to five days.<sup>23</sup> The European Court of Human Rights has repeatedly held that denial of access to a lawyer during interrogation is incompatible with the right to a fair trial as well as affirming that access to a lawyer in detention is a safeguard against ill-treatment.<sup>24</sup> The court has previously found Turkey in violation of the convention when the detainee was denied access to a lawyer from the first interrogation.<sup>25</sup> The European Committee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CPT) requires states to ensure access to a lawyer immediately following deprivation of liberty as “a fundamental safeguard against ill-treatment.”<sup>26</sup> When Turkey reduced the period during which detainees did not have access to 48 hours, the CPT said it was not sufficient.<sup>27</sup>

Some lawyers said that some detainees had not seen a lawyer even after five days. One Ankara-based lawyer assigned to three mid-level officers suspected of involvement in the coup attempt told Human Rights Watch that one had been in detention for seven days when she met him and the two others had been in detention for ten days. They had not seen a lawyer before. The police initially refused her request to see them in private, but she finally managed to meet them one on one. “I think they were beaten because I saw that they had scars and other injuries, but they didn’t say anything. They didn’t complain about ill-treatment, but they were very afraid,” she told Human Rights Watch.<sup>28</sup>

An Istanbul-based lawyer said that when she met her assigned client, a mid-level officer suspected of involvement in the attempted coup, he told her that he had not seen a lawyer or been able to communicate with his family for 10 days while he was in custody in the main police station in Istanbul.<sup>29</sup>

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<sup>23</sup> Decree Law 668, art. 3, m).

<sup>24</sup> *Salduz v Turkey*, Application no. 36391/02, Judgment November 27, 2008, paras 52 – 55.

<sup>25</sup> *Ibid.* para 63.

<sup>26</sup> In 2001, the CPT described the fact that at the time in Turkey detainees charged with certain offences were denied access to a lawyer during the first four days of their custody as “[p]erhaps the most important shortcoming” in safeguards against torture. The CPT reiterated that all detainees “be granted as from the outset of their custody the right of access to a lawyer”, even if in exceptional circumstances the first lawyer to whom they had access was an independent lawyer not of their choosing. CPT report from November 8, 2001 (CPT/Inf(2001)25), para. 61.

<sup>27</sup> CPT report from April 24, 2002 (CPT/Inf(2002)8), para. 12.

<sup>28</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>29</sup> Human Rights Watch interview, Istanbul, August, 2016.

In addition to the denial of access to a lawyer for up to five days, authorities have imposed severe restrictions on the right to choose a lawyer during police detention. While emergency decree 667 allows the authorities to ban a particular lawyer from meeting with a client if the lawyer is found to have transmitted information to a terrorist or criminal organization, the authorities appear to have implemented across-the-board restrictions that go well beyond that provision.<sup>30</sup>

Lawyers from Ankara, Istanbul, Urfa and Antalya told Human Rights Watch that the authorities had significantly restricted detainees' and their families' ability to hire private lawyers during police detention. With some exceptions, the only lawyers allowed to see detainees in police detention were those appointed by the local bar associations. These lawyers work for the legal aid service of the bar association according to provisions set out in the Criminal Procedure Code (Ceza Muhakemesi Kanunu, CMK). This report refers to them as legal aid lawyers (they are known as "CMK lawyers" in Turkish).<sup>31</sup>

There is an obligation for a lawyer to be provided to detainees who are children or who are suspected of crimes carrying a minimum prison sentence of five years. All detainees also have the right to ask for legal counsel. After being notified by the police, prosecutor or judge, the local bar association randomly selects a legal aid lawyer registered with that bar association. They are paid for doing legal aid work of this kind out of the budget of the Ministry of Justice and they work in shifts to offer legal aid to detainees. Several lawyers told Human Rights Watch that in order to enter detention facilities and court houses they had to present the bar association text message to the police on duty proving that they had been commissioned to represent their clients.

According to lawyers, human rights activists and former detainees whom Human Rights Watch interviewed, legal aid lawyers are often young and inexperienced, many in their first years after graduation, which makes them vulnerable to pressure and manipulation. They are paid a fixed fee which means that most of them cannot afford to spend much time on an individual case. According to several lawyers, after taxes the fee for acting for a detainee testifying before a prosecutor after being in police detention is around 150 Turkish lira (about US\$50) per client.

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<sup>30</sup> Decree Law 667, 6 d).

<sup>31</sup> Article 150, Criminal Procedure Code: <http://www.ceza-bb.adalet.gov.tr/mevzuat/5271.htm>



One young legal aid lawyer told Human Rights Watch that she had felt so intimidated at the Ankara Police Headquarters that even when the police beat her client in front of her during the interrogation, she did not make an official note of this when she signed her client's statement to the police.<sup>32</sup> Another lawyer involved with the assignment of legal aid lawyers said that working conditions were really tense and that many lawyers just wanted to finish their work as quickly as possible.<sup>33</sup> One detained judge told his wife that his legal aid lawyer had not been helpful at all during the interrogation.<sup>34</sup>

Several lawyers in Ankara, including some who helped coordinate the provision of legal aid, also said that during the first days after the coup attempt the police refused to allow some lawyers to represent clients under any circumstances.<sup>35</sup> Lawyers who had previously worked on cases related to the Gülen movement, the group accused of being behind the coup attempt, were not allowed to act for clients even if appointed by bar associations as legal aid lawyers. This list seems to have eventually disappeared, the lawyers said.

While decree 667 stipulates that only a judge can bar a lawyer from acting in a particular case at the request of the public prosecutor, it is unclear whether there was any judicial approval of the near-complete ban on private lawyers acting for detainees in police detention.

Because the legal aid services of bar associations rely on being contacted for lawyers by the police, prosecutors or judges, under the present conditions it is difficult to know whether a detainee has gained access to a lawyer within five days as stipulated by the emergency decree. Since all those detained in connection with alleged association with the Gülen movement are suspected of membership of an armed organization, a crime carrying a prison sentence of over five years, it is obligatory under the Criminal Procedure Code to provide them with legal aid. A lawyer involved in assigning legal aid lawyers at one

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<sup>32</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>33</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>34</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>35</sup> Human Rights Watch interview, Ankara, August, 2016. The use of the list was also report in: Loveday Morris, "Law is suspended: Turkish lawyers report abuse of coup detainees," Washington Post, July 24, 2016, [https://www.washingtonpost.com/world/law-is-suspended-turkish-lawyers-report-abuse-of-coup-detainees/2016/07/24/dc240998-4e9f-11e6-bf27-405106836f96\\_story.html](https://www.washingtonpost.com/world/law-is-suspended-turkish-lawyers-report-abuse-of-coup-detainees/2016/07/24/dc240998-4e9f-11e6-bf27-405106836f96_story.html) (accessed September 16, 2016).

bar association said: “If the police doesn’t call, we won’t know about a detainee. Many didn’t see a lawyer for days.”<sup>36</sup>

One Ankara-based lawyer trying to represent a university employee who was detained following the coup attempt told Human Rights Watch that he had been trying to see his client for more than 20 days, without success. The lawyer believed that the university employee had not seen a legal aid lawyer yet either. His wife had also not had any contact with him, he said. “Maybe he was tortured for 10 days and now they are just waiting for the bruises to heal,” the lawyer said. “We just don’t know.”<sup>37</sup>

The tight restrictions on access for private lawyers to their clients appears only to apply to those in police detention. Several lawyers told Human Rights Watch that they had been able to see clients as private lawyers once a court had placed their client in pre-trial prison detention. In a few cases, private lawyers were able to see clients in the corridor of the court house before their client testified before the prosecutor. With regards to preventing torture, however, prompt access to a lawyer of a detainee’s choosing is most important during the first days of detention.

Decree 667 also significantly curtails, but does not ban, detainees’ rights to family visits and phone calls. In reality, the practice appears to be a blanket ban on any communication with family members during police detention, leaving detainees even more vulnerable. Family members, lawyers, and former detainees said that family members were only able to communicate with detainees once courts had ordered their pre-trial detention. In some cases that meant that family members were not able to communicate with detainees for weeks.

## Interference with Confidential Access to Counsel

Decree 667 stipulates that in cases relating to terrorism and organized crime, communications between a detainee in pretrial prison detention and their lawyer can be recorded, monitored, limited, or stopped at the request of a prosecutor if the authorities

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<sup>36</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>37</sup> Human Rights Watch interview, Ankara, August, 2016.

deem that there is a risk to security, or if such communications may be a means of passing on messages or instructions to “terrorist or other criminal organizations.”<sup>38</sup>

Regarding police custody, information from lawyers indicates that while practice varied, few lawyers had been able to consult with their clients in private. In most cases, the lawyers met their clients for the first time during the interrogation in the presence of police or a prosecutor, or briefly in the corridor of the courthouse before their client testified before a prosecutor. In such instances when lawyers were able to meet with their clients before the interrogation, police were often present and in some cases recorded their conversation.

A lawyer for two clients in Urfa told Human Rights Watch that she had managed to meet with her clients in private once, when they said that the police had tortured them. In all subsequent meetings, however, the police were present, citing orders from the prosecutor. “Whenever I objected they gave me the same answer,” she said. “They said: ‘Don’t you know that we are in a state of emergency?’”<sup>39</sup>

A lawyer who visited a client in Yozgat, a city 200 kilometers east of Ankara, said that two police officers were sitting next to him and his client during the whole meeting, recording their conversation on camera.<sup>40</sup>

A lawyer in Istanbul said that she had managed to meet with her client alone in a room in the police station, but that the door was open and a police officer was standing right outside the door, forcing them to whisper and use gestures.<sup>41</sup> The lawyer managed to take notes during the interview that she then hid in her bra. She said that she had done this because she had observed how one police officer had grabbed the notes from another lawyer after an interview with a client. The police officer had read the other lawyer’s notes before handing them back to the lawyer.

Other lawyers gave similar accounts.

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<sup>38</sup> Decree 667, 6 d).

<sup>39</sup> Human Rights Watch interview, Istanbul, August, 2016.

<sup>40</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>41</sup> Human Rights Watch interview, Istanbul, August, 2016.

## Inadequate Medical Examination

Lawyers, medical personnel and former detainees told Human Rights Watch that while some medical personnel had been able to conduct proper medical examinations, in other cases the police and other authorities had undermined the integrity of the process.

In a break with the normal practice in Turkey of conducting medical examinations in doctors' offices and hospitals, the authorities demanded that medical personnel come to detention facilities to examine those detained after the failed coup attempt. The authorities explained that taking the detainees in and out of detention facilities would pose a risk to the detainees. For some detention facilities, for example where angry crowds were waiting outside during the first few days, this measure appears justified. But the practice also took place in circumstances where there appeared to be no such risk. In one courthouse where detainees were held, for example, the medical examination office was located within the court compound, which meant that the detainees could be taken there without any risk. Nonetheless, the authorities required the medical personnel to conduct the examinations in the basement where the detainees were held, according to a Ministry of Justice employee. In Istanbul, the practice reverted back to normal after about a week, while it appears to have continued for much longer in Ankara, according to those Human Rights Watch interviewed.

Several lawyers and medical personnel told Human Rights Watch that requiring doctors to conduct medical examinations in detention facilities where they were under the watch of security forces undermined their independence and made them more susceptible to pressure.

According to the Istanbul Protocol, an internationally recognized set of guidelines for the documentation of torture, medical personnel should examine detainees in private and police and law enforcement officials should never be present in the examination room.<sup>42</sup>

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<sup>42</sup> United Nations, "Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," Professional Training Series No 8/Rev1, 2004, <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf> (accessed September 16, 2016), para. 124.

Lawyers and medical personnel, however, told Human Rights Watch that police sometimes insisted on being present during the examinations and often remained within earshot of the doctor and detainee.

One forensic specialist told Human Rights Watch:

This is the first time we have faced such challenges to our independence. Even during the hunger strikes in 1999, we managed to keep our autonomy. But now many physicians are concerned about their security. So they accept the presence of security forces during examinations and sometimes don't conduct any physical examination at all.<sup>43</sup>

A lawyer for two detainees in Urfa said that one of her clients had told her that when the police took the two detainees for a medical examination the doctor did not even see them; they remained in the car while a police officer picked up the medical examination report from the doctor. On another occasion, a doctor wanted to conduct a proper examination after seeing their condition. The police, however, took him aside and when they came back the doctor signed the medical examination report without any examination.<sup>44</sup> An Istanbul lawyer similarly reported that his client detained in Istanbul had told him she was made to wait in the police bus while the police went into the hospital to collect the medical report.<sup>45</sup>

A lawyer in Ankara told Human Rights Watch that he at some point accompanied a client as a legal aid lawyer to a medical examination in the Ankara Police Headquarters. There were around 30 people queuing up outside the examination room, the lawyer said, and the doctor was rubber-stamping medical reports without any real examination. About the medical examination of his client, the lawyer said:

The doctor asked him how he was. He said "fine." And that was it. No medical examination. He was in the room for one minute. The police were

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<sup>43</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>44</sup> Human Rights Watch interview, Istanbul, August, 2016.

<sup>45</sup> Human Rights Watch telephone interview, September 20, 2016.

going in and out of the medical examination room all the time. It was all an illusion.<sup>46</sup>

A woman who was detained in the first few days after the coup attempt told Human Rights Watch that there was no real examination, just questions. There were no police inside the examination room, she said, but they were waiting outside with the door open so they could hear the conversation. The woman said that she told the doctor that the police had given her very little food, but she didn't think that the doctor noted this in his report.<sup>47</sup>

## No Access to Medical Examination Reports

The Istanbul Protocol also stipulates that a detainee and his or her lawyer should be able to receive a copy of the medical examination report.<sup>48</sup>

Emergency decree 668 allows the public prosecutor to restrict the defense counsel's right to examine the contents of the case-file or take copies of the documents if the prosecutor deems the purpose of the investigation may be compromised.<sup>49</sup> The authorities appear to have decided to make all documents related to the coup investigation secret. This appears to also include the reports of the medical examinations. All lawyers Human Rights Watch interviewed who had tried to obtain reports of the medical examinations of their clients said that the police and prosecutors had denied their requests, citing the secrecy of the investigation.

The lack of access to the medical reports made it impossible for detainees and lawyers to assess whether the medical examinations were conducted properly and made it difficult for detainees and lawyers to complain about torture and ill-treatment or to provide evidence to substantiate those complaints if they do.

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<sup>46</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>47</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>48</sup> Istanbul Protocol, <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>, para. 126.

<sup>49</sup> Decree Law 668, art. 3, I).

## No monitoring of places of detention

In a September 1 decree, the government dissolved all the current prison monitoring boards whose members are appointed by justice commissions operating in provincial courthouses. The decree instructs that the boards be reestablished from scratch. These prison monitoring boards have to date not been an effective instrument for examining prison conditions: they lack independence; the appointment of their members is not a transparent process; and they have no public reporting function.<sup>50</sup> Nonetheless, the dissolution of the boards in the present circumstances sends a message that the government is seeking to prevent the monitoring of places of detention rather than to promote it in the face of serious allegations of abuse. It is also noteworthy that the decree announcing the dissolution of the prison oversight boards coincided with an *ad hoc* visit to Turkey of the Council of Europe’s Committee for the Prevention of Torture from August 30 to September 6.<sup>51</sup>

Although Turkey in 2012 ratified the Optional Protocol to the UN Convention against Torture, providing for the establishment of a national preventative mechanism to conduct visits to all places of detention, with the government’s January 2016 dissolution of the Human Rights Institution of Turkey and the establishment of a Human Rights and Equality Institution, there is currently no such functioning national preventative mechanism in place.

The fact that there is neither an official body nor an independent body in Turkey able to conduct regular rather than *ad hoc* monitoring of any place of detention in Turkey in the present circumstances is a matter of serious concern and should be rectified promptly.

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<sup>50</sup> The composition, functions and reporting processes of the Prison Monitoring Boards are spelled out in a regulation: “Ceza İnfaz Kurumları ve Tutukeveleri İzleme Kurulları Yönetmeliği”: see <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.5027&MevzuatIliski=0&sourceXmlSearch=> (accessed October 7, 2016).

<sup>51</sup> Council of Europe Committee for the Prevention of Torture Newsflash, September 2, 2016, <http://www.cpt.coe.int/documents/tur/2016-09-07-eng.htm> (accessed September 9, 2016).

### III. Climate of Fear

The rhetoric of government officials about those suspected of supporting the coup attempt or alleged to have links with the Gülen movement combined with thousands of arbitrary detentions, dismissals and suspensions have created a climate of fear in which lawyers are afraid to defend those accused of being behind the coup, and lawyers, medical personnel, human rights activists and others fear they may be targeted if they criticize the government.

For example, Turkish media reported that 29 staff from the Istanbul Forensic Medicine Institute were detained on July 30.<sup>52</sup> On August 10, media reported the detention of another 63 forensic specialists in Istanbul.<sup>53</sup>

Lawyers have been targeted too. The Union of Turkish Bar Associations informed Human Rights Watch that 79 bar associations had reported that in total 202 lawyers had been placed in pretrial detention on suspicion of involvement in the coup attempt or links to the Gülen movement.<sup>54</sup>

Lawyers appeared to be particularly reluctant to defend high-ranking officers accused of being behind the coup. One human rights lawyer told Human Rights Watch that he had tried to find a lawyer for a colonel who had been detained:

We don't know where he is. We think he might have been tortured. But all the lawyers we contacted refused to take the case. This is unprecedented. It is like they are cursed. It is partly because people hate those behind the coup, but also because the government has created this atmosphere.<sup>55</sup>

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<sup>52</sup> "Adli Tıp'ta FETÖ operasyonu: 29 gözaltı" ("29 detained in Forensic Medicine Institute FETÖ operation"), Anatolian Agency, July 30, 2016, <http://aa.com.tr/tr/15-temmuz-darbe-girisimi/adli-tipta-feto-operasyonu-29-gozalti/618590> (accessed September 21, 2016).

<sup>53</sup> "Adli Tıp'ta FETÖ operasyonu!.. 63 uzman doktor gözaltında" ("63 specialist doctors detained in Forensic Medicine Institute FETÖ operation"), *Sabah* newspaper, August 10, 2016, <http://www.sabah.com.tr/gundem/2016/08/10/adli-tipta-feto-operasyonu-63-uzman-doktor-gozaltinda> (accessed September 21, 2016).

<sup>54</sup> Human Rights Watch phone interview with representative of the Union of Turkish Bar Associations, September 20, 2016.

<sup>55</sup> Human Rights Watch interview, Ankara, August, 2016.



Several lawyers also complained that they felt alone with little support from the bar associations. One lawyer said: “We are afraid. The bar association is afraid. It’s all political and everybody is afraid of being detained and arrested.”<sup>56</sup>

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<sup>56</sup> Human Rights Watch interview, Ankara, August, 2016.

## IV. Allegations of Ill-treatment and Torture

Lawyers, medical personnel and former detainees recounted to Human Rights Watch allegations of torture and ill-treatment in police detention, that is, the period before an individual is brought before a judge. From police custody, which under the state of emergency can last 30 days, an individual is brought to testify before a prosecutor who will decide to release the person or refer them to a court with a request for a judge to place them in pretrial prison detention pending completion of criminal investigation and trial. The court then rules on whether to jail or release the individual.

The cases of alleged abuse include allegations of mistreatment ranging from use of stress positions and sleep deprivation to severe beating, sexual abuse and threat of rape. Some of the alleged abuse took place in the immediate aftermath of the failed coup attempt, while other alleged abuse took place later.

The abuse took place in *ad hoc* detention facilities such as a sports hall that was used to hold detainees immediately after the coup attempt and in established detention facilities such as the Istanbul Security Directorate in Vatan Street, and the Ankara Security Directorate. Human Rights Watch recorded allegations of abuse in Istanbul, Ankara, Urfa and Antalya.

Emergency decree provisions and post-coup detention practices have made it difficult to corroborate these allegations. Several of the incidents described below are based only on what the lawyers told Human Rights Watch that their clients had said to them. But based on the level of detail and internal consistency, Human Rights Watch found the accounts to be credible. The allegations underscore the urgent need to restore effective safeguards against torture and ill-treatment in detention as described above.

In most cases Human Rights Watch has withheld the names of the detainees, the lawyers and other information such as dates, times, places of detention, profession and rank to protect people against repercussions. Some sources provided information about more than one incident. The list below is based on information from 17 different sources. In a few cases, other sources corroborated the information.

While injuries and bruises on some detainees in photographs and videos published on the internet and broadcast on Turkish television in the immediate aftermath of the coup attempt might be the result of attacks by crowds during the night of the coup attempt, some photographs and video footage appear to show ill-treatment and injuries sustained in custody.<sup>57</sup>

For example, one video published on YouTube on July 18 shows dozens of soldiers and officers sitting on the floor of what appears to be a sports hall with their hands tied behind their backs. An officer, whose name is given in the description of the video, hits one of the detainees in the head with his gun.<sup>58</sup>

## Incident 1

One Istanbul-based lawyer told Human Rights Watch that police had detained her client, an officer, from his home several days after the coup attempt and he told her that he had not put up any resistance during the detention. When Human Rights Watch met with the lawyer she had seen her client three times. During the interview with Human Rights Watch, the lawyer consulted handwritten notes that she had taken during her meetings with her client. She shared a copy of the notes with Human Rights Watch.

The lawyer said that when she saw her client for the first time in the Istanbul Security Directorate in Vatan Street, six days after his detention, she saw a bruise on his left shoulder, scars and marks on his face, and marks on his wrists from the handcuffs. She said her client told her the police had blindfolded him and taken him to one of the upper floors of the police station on three occasions together with other detainees. There, police officers had accused them of being members of the Gülen movement. If they denied the accusations, the client had told his lawyer, the police had started to insult them, then they had started beating and kicking them. They had also threatened to rape them and their wives, the client told his lawyer. “You can’t trust that they won’t do this,” the lawyer said.

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<sup>57</sup> One forensic specialist, for example, told Human Rights Watch that he examined dozens of detainees with bruises and other injuries on the first day after the coup attempt, but that the injuries appeared to stem from attacks by public crowds and not from ill-treatment in custody. Human Rights Watch interview, Istanbul, August, 2016.

<sup>58</sup> “Binbaşı Barış Dedebeği ‘ Pezevenk tökezleyerek merdivenden düştü Komutanım ‘,” (“Major Barış Dedebeği ‘The bastard tripped and fell downstairs, commander’”) [n.d.], video clip, YouTube, <https://youtu.be/VTEbX7kvZ6E> (accessed September 16, 2016).

“Once I saw a child and a mother whom the police had detained as hostages to force the husband to turn himself in.”<sup>59</sup>

The client told his lawyer that a doctor had come to the detention center, but that he had only asked them a few questions and not conducted any real examination.

At one point, the client told his lawyer, he had been in so much pain from the beating that he had insisted on going to the hospital. A police officer was in the room during the examination, he said. The doctor had not recorded any of his injuries apart from noting that the patient had complained about ill-treatment. The police officer then took a photo of the report with his phone and sent it to somebody, the client told his lawyer. When they came back to the police-station, the client told his lawyer, the police took him straight to the office of a senior police-officer who started beating him, saying that it was in retaliation for complaining about ill-treatment to the doctor.

The lawyer had tried several times to obtain copies of her client’s medical reports, she said, but without success.

By the time Human Rights Watch met with the lawyer, her client had spent 22 days in police detention without being brought before a court.

The lawyer, who had other clients held at the Istanbul Security Directorate in Vatan Street as well, told Human Rights Watch that the police threatened the detainees if they requested to see a doctor. One of her clients told her that one man had a broken hand, but that he was too afraid to ask for a doctor. “They are so scared,” the lawyer told Human Rights Watch. “There is no law here any longer.”

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<sup>59</sup> Human Rights Watch interview, Istanbul, August, 2016.

## Incident 2

One lawyer who was assigned a high-ranking officer as a client in the first few days after the coup attempt told Human Rights Watch that when she first saw her client in the Ankara Security Directorate he had marks and injuries on his forehead and neck, scratches on his arms, bruises from the hand-cuffs, scratches and bruises on top of his feet. She said he also had a wound on his leg that looked like a piece of flesh was missing.<sup>60</sup>

The lawyer told Human Rights that she requested a private meeting with her client, but that the police refused, threatening to investigate her as well for being a member of the Gülen movement. The prosecutor also denied her request. The lawyer also demanded to see the medical examination report, but the prosecutor said that he could not find one.

The lawyer saw her client next during the court hearing to sanction his arrest. He was the only defendant in court. Nonetheless, the lawyer said, there were about 12 police-officers from the anti-terror department in the court-room. Normally, she said, there would only be a few members of the gendarmerie there. The police-officer sitting next to her client had placed his gun on the table, in a move that the lawyer interpreted as a threat.

During the court hearing, the lawyer said, she told the judge that her client had been detained for 48 hours without food and water and that he had bruises, scars and other injuries, but that there was no medical report. At that point, she said, one of the police-officers left the room and returned with a senior police-officer who started taking notes. At some point during the hearing, she said, the police-officer sitting next to her client went up to the judge and started whispering something to him that made him visibly upset.

According to the lawyer, her client said during the hearing that he had first been detained in a sports hall where police had pushed and beaten him, causing the scratches on his arms and body. They had banged his head on the floor, causing the marks and bruises on his head. He did not, however, offer any explanation for the injuries on his legs and feet, including the flesh wound, the lawyer said.

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<sup>60</sup> Human Rights Watch interview, Ankara, August, 2016.

During a break before the judge announced his decision, the lawyer said, the senior police-officer who had arrived when she started complaining about ill-treatment came up to her and threatened her, saying that it would be very easy for him to have her arrested as well. The judge sent her client to pre-trial detention.

For the next ten days, the lawyer was unable to see her client, she said.

### Incident 3

A legal aid lawyer sent to the Ankara Security Directorate in the first few days after the failed coup attempt told Human Rights Watch that police repeatedly beat one of her clients, an officer suspected of involvement in the failed coup, during interrogation.<sup>61</sup> She recounted a chaotic scene in a corridor where she witnessed police interrogate several people at the same time. Her client, she said, wanted to exercise his right to remain silent. She told Human Rights Watch:

Several policemen were standing behind him. He was sitting on a chair in front of a table. To make him talk they whipped him with plastic strips that are normally used as hand-cuffs and punched him with their fists in the head and his upper body. He couldn't do anything to protect himself as he was hand-cuffed.<sup>62</sup>

The lawyer tried to intervene to stop the beating, but to no avail. She said:

At some point I just turned away. I don't know how many times they hit him. I couldn't look at it anymore. I knew I couldn't do anything to stop it. In the end he gave a statement....<sup>63</sup>

The lawyer told Human Rights Watch that she would normally refuse to sign an interrogation report given under such conditions, or would make a note of the conditions on the report, but that she was too afraid to do either.

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<sup>61</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

I was the only lawyer there at the time. There was violence everywhere and the police were not happy to see me there, saying, “What do these people need a lawyer for?”<sup>64</sup>

The lawyer said that the officer did not mention the ill-treatment during the court-hearing that sanctioned his arrest and sent him to pre-trial detention. The lawyer has since refused to accept new clients as a legal aid lawyer.

## Incident 4

A high-ranking officer suspected of involvement in the failed coup told a judge during a court-hearing that resulted in him being placed in pretrial detention that police had beaten him during his detention at the Ankara Security Directorate, according to a legal aid lawyer who attended the hearing.<sup>65</sup> The lawyer said that her client showed the judge a large bruise on his upper shoulder and said that he had other bruises on his body.

The lawyer said that she had seen her client in the Ankara Security Directorate a few days earlier during his interrogation. She was only allowed to speak with him for three minutes behind a curtain in a corridor full of police and other detainees, she said, so she had only been able to explain his rights to him. She doesn’t know whether he had the bruises at the time of their meeting.

The judge sanctioned the arrest. The lawyer said that the court transcript of her client’s testimony says that he complained about ill-treatment, but leaves out details of the ill-treatment, including him showing the bruises to the judge.

## Incident 5

A legal aid lawyer told Human Rights Watch that when she met her client, an officer suspected of involvement in the attempted coup, in the Ankara Security Directorate, he told her that he had been ill-treated in the police-station and lifted his shirt to reveal a large bruise on his lower back.<sup>66</sup>

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<sup>64</sup> Ibid.

<sup>65</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>66</sup> Human Rights Watch interview, Ankara, August, 2016.

The officer repeated the complaint about ill-treatment to a police officer during the interrogation in the presence of the lawyer. The police officer dismissed the allegation, however, saying that he had probably sustained the injury in fighting during the night of the coup. The lawyer said that the interrogation report did not mention her client's complaint about ill-treatment, and she was too scared to make a note about it on the report.

The officer did not complain about ill-treatment during the court-hearing to sanction his arrest and the judge sent him to pre-trial detention, the lawyer said.

## Incident 6

Gülhan Kaya, an Istanbul-based lawyer, told Human Rights Watch that police in Urfa had tortured two of her clients during detention.<sup>67</sup> The two had been detained on suspicion of being members of an armed outlawed organization, the Marxist-Leninist Communist Party.

Around noon on July 23, security forces in Urfa detained Mehmet Ali Genç and Metin Kösemen on the street.<sup>68</sup> The family of one of the detained contacted Kaya who asked lawyers in Urfa to immediately meet with the detainees. The lawyers were not able to do so, however.

Kaya said that she flew to Urfa herself on July 25 and finally managed to see her clients around 2 p.m., more than 48 hours after their detention. On that day she spoke with her clients in private, she said. During subsequent meetings, however, the police was present following the prosecutor's instructions.

The detainees told Kaya that police had taken them to three different police-stations before taking them to the anti-terror department. "Their stories were unbearable, like a throwback to the 1990s," Kaya said.

Kaya said the detainees told her that the police forced them to undress, left them out in the baking sun for hours, severely beat them, and threatened to rape them with a baton. The police also squeezed their testicles. According to Kaya, the detainees told her that a

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<sup>67</sup> Human Rights Watch interview, Istanbul, August, 2016.

<sup>68</sup> [The case and most of the details have been reported in the media. <http://www.birgun.net/haber-detay/30-gunluk-gozalti-suresi-aym-ye-tasindi-122878.html>



policeman had said that they would not leave the place alive because the police could now keep them for 30 days, referring to the extended period of police detention under the emergency decrees. Human Rights Watch also heard from other detainees the allegation that police specifically intimidated them with reference to the extended period of police detention.

Kaya said she observed that her clients had bruises on their stomachs, backs, and shoulders and scratches on the side of the face. One detainee had a mark on one of his shoulders that looked like a burn wound, she said.

At some point, Kaya said, the detainees asked if they could speak with a male lawyer so that they could tell all the details. Kaya said it was not possible, however, to get them a male lawyer.

The detainees told Kaya that they had been brought to medical personnel for examination on several occasions. On one occasion, however, the doctor didn't see them at all. They remained in the car while the police picked up the medical examination report from the doctor. On another occasion, a doctor wanted to conduct a proper examination after seeing their condition. The police, however, took him aside and when they came back the doctor signed the medical examination report without any examination. They received a thorough medical examination the day before the court hearing, which took place 12 days after their detention, they said.

When the lawyer tried to obtain a copy of the medical examination report, the police told her, after consulting with the prosecutor, that she could not see the document because of the state of emergency.

Kaya was able to consult the case file for five minutes before the interrogation of her clients, learning that they were accused of being members of the Marxist-Leninist Communist Party.

The prosecutor denied Kaya's request to meet with her clients to prepare them for the court hearing to sanction the arrest. During the hearing the judge said that they were accused of belonging to an illegal organization, but neither he nor the prosecutor presented any evidence.

During the hearing, the two detainees told the court that they had been tortured in detention, but the judge stopped them after a few sentences, saying that this was not relevant and that it was not his business, Kaya said. Kaya said that marks of apparent ill treatment were still visible on her clients at the time of the court-hearing, 12 days after their detention.

Kaya has filed a complaint with the prosecutor regarding the alleged torture of her clients by the police.

## Incidents 7 and 8

A forensic specialist described to Human Rights Watch his examinations of two detainees who bore signs of having been beaten.<sup>69</sup>

The forensic specialist said that one detainee, an officer suspected of involvement in the failed coup, told him that the police had forced him to sit on his knees, bent forward so his forehead touched the floor, with his hands tied on his back, for 36 hours. Whenever he tried to move, the police hit him on the head and the back with a belt. Afterwards, the detainee told the specialist, the police placed him in a cell with several enlisted soldiers who severely beat him.

“There was not a part of his body that was not covered in bruises and he suffered from a frozen shoulder from the stress-position,” the forensic specialist said.<sup>70</sup>

In the second case, the forensic specialist examined a businessman suspected of having links to the Gülen movement each day for four days. During the first two examinations he saw no signs of injuries. During the third examination, however, he saw bruises on his back. “He said that the bruises stemmed from sleeping on a hard surface, but there is no way that this was the cause of the bruises,” the forensic specialist said. “Somebody had hit his back with something blunt.”<sup>71</sup>

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<sup>69</sup> Human Rights Watch interview, Istanbul, August, 2016.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

Neither of the detainees wanted the specialist to record the injuries, but he did it anyway, the forensic specialist said.

## Incident 9

An Ankara-based lawyer told Human Rights Watch that when he met with a client, an unemployed teacher who was detained around July 25 on suspicion of having links to the Gülen movement, but was now in pretrial prison detention, the client told him that police had abused both him and a friend.<sup>72</sup>

According to the lawyer, the client said that the police had first detained his friend and then tortured the friend who informed on him. After the police brought his client to the police station, they also severely beat him, the lawyer said. When the police threatened to bring the client's wife to the police station to rape her, he agreed to confess to their accusations. When he accepted, the police brought in a different legal aid lawyer to record his confession in his presence. The client told his lawyer that when he refused, the police again threatened to rape his wife and in the end the client confessed to the accusations.

The client, who saw his medical report although the lawyer didn't, told the lawyer that a doctor had examined him in the police station, but that the medical report said that he was fine.

## Incident 10

A woman who was detained for three days shortly after the failed coup attempt told Human Rights Watch that during her detention police did not give her enough food and water, made her sit in the same position for long periods of time, and deprived her of sleep.<sup>73</sup>

After police brought her to the police-station, they placed her in a room with several other women. She said:

The police wanted us to sit in the same position all the time, straight up and down on the chair, without talking to each other. If we tried to change

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<sup>72</sup> Human Rights Watch interview, Ankara, August, 2016.

<sup>73</sup> Human Rights Watch interview, Ankara, August, 2016.

position, the guards and police yelled at us, threatening to put us in the detention cells where conditions were much worse. They brought in a walkie-talkie that was making noise all the time and turned the volume of the television all the way up to prevent us from sleeping.<sup>74</sup>

The woman told Human Rights Watch that she was given a piece of bread and a small piece of chocolate only towards the evening of the first day of detention. She had been detained shortly after midnight. The woman said that she was not physically abused in other ways.

## Incident 11

On July 24, police in Antalya detained teacher Eyüp Birinci and his father-in-law, according to Birinci's wife.<sup>75</sup> Birinci's wife told Human Rights Watch what happened and shared with Human Rights Watch a detailed account of her husband's and father's detention that she had written.<sup>76</sup>

Birinci's wife tried to see her husband and father several times in the days following their detention without success. On two occasions the wife brought clean underwear for her husband to the police-station. On July 30, the police called her, asking her to urgently bring clean underwear again and slippers.

On August 1, six days after his detention began, a lawyer tried to visit Birinci, but was denied access, according to Birinci's wife. When the lawyer tried to see him again on August 2, the police told him that he was no longer there. The lawyer was able to meet with Birinci's father-in-law, however. When the lawyer asked about the condition of other detainees, the police ended the meeting. The conversation lasted for two minutes.

A prosecutor eventually informed the lawyer that Birinci had been taken to a hospital, but refused to say why and to which one. Birinci's wife started calling various hospitals and

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<sup>74</sup> Ibid.

<sup>75</sup> Human Rights Watch phone interview, August, 2016. The case has been reported in the media. "Antalya Emniyeti'nde korkunç işkence" ("Horrific torture at the Antalya Police Headquarters"), Zaman Australia newspaper, August 7, 2016, <http://www.zamanaustralia.com.au/2016/08/antalya-emniyetinde-korkunc-iskence/>

<sup>76</sup> On file with Human Rights Watch.

eventually located her husband. When she went there, however, the police refused to let her speak to him. After having seen the prosecutor again, who now said that he had been taken to hospital because of a stomach ache, the wife went back to the hospital. She said:

I just stormed into my husband's room. There was nobody around. I asked him what happened. He told me that the police had beaten him very badly, that it had destroyed his intestines and that he had had surgery. He also said that his trousers were ripped and that he needed new ones. I quickly left before the police returned.<sup>77</sup>

The next day, the wife asked a doctor at the hospital about his condition. The doctor told her that they had operated on her husband on July 29, removing 10 centimeters of his small intestines. When the wife asked for more information and a written report the doctor referred her to the chief doctor, who eventually said that the family could not have any more information or see any of the medical documents.

Birinci's wife said that her husband had no prior medical problems. Human Rights Watch has not been able to verify whether the operation was necessitated by injuries from Birinci's alleged ill-treatment.

On August 10, Birinci's wife, along with two other relatives, visited her father in the prison, where they were separated by glass and spoke over a telephone. According to Birinci's wife, her father told her that he had seen the police beat her husband, that his nose was bleeding, and that they took him to the hospital several times.

In a statement to the prosecutor on August 24, which Human Rights Watch has seen, Eyüp Birinci described in detail how when he was first detained on July 24 and taken to the Police Department of Smuggling and Organized Crime he was made to shout at the top of his voice expletives against what the Turkish government calls "FETO" (the Fetullahist terrorist organization), was beaten on the head with a rolled up newspaper, had his face hit against a cupboard until his nose bled, was punched and beaten in the face and made to sign a paper without being able to read it. He reported that he was beaten again when taken for police interrogation on July 28:

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<sup>77</sup> Ibid.

My eyes were blindfolded. I felt there were three or four people in the room. But it was the police chief who detained me that spoke... “Tell us what you know, what’s your business in Antalya,” he said as they stripped me naked... The police chief who detained me and whose name I don’t know began to slap me in the face and eyes...They beat me on the soles of my feet, on my stomach, then squeezed my testicles, saying things like they’d castrate me... They made me lie face down and twisted my left and right arms behind me... Then they turned me on to my back, wet my feet and began to beat them. Then they beat both arms with the baton. They wet my neck and beat me there....They even put the baton in my mouth and rotated it....They made me stand up and they punched me with fists. They punched my stomach for several minutes, each time telling me to stand up straight.<sup>78</sup>

He reported that the first time he was examined by a doctor at the police station on the day he was detained, the doctor dismissed the evidence he had been beaten as “basic, not serious.” He reported being examined on subsequent days and after the interrogation on July 28 fainting and being hospitalized when the doctor identified internal bleeding.

## Incident 12

One Ankara-based lawyer told Human Rights Watch that her client had not complained about ill-treatment when she met with him in detention.<sup>79</sup> After his release, however, her client told her that police had stripped him and subjected him to ill treatment amounting to torture, as a result of which he suffered from internal bleeding. The lawyer did not want to disclose further details out of concern for potential repercussions for the client.

The lawyer said they had obtained a medical report confirming the injuries, but that the client has decided to not complain about his ill-treatment until the investigations and trials related to the coup are over. The client was too afraid of repercussions to speak with Human Rights Watch directly.

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<sup>78</sup> Copy of August 24, 2016 statement to Antalya prosecutor on record with Human Rights Watch.

<sup>79</sup> Human Rights Watch interview, Ankara, August 2016.

## Incident 13

Three Istanbul-based lawyers told Human Rights Watch that in the context of a wider operation against a group allegedly linked to the Kurdistan Workers' Party (PKK), 19 Kurdish men and women of ages ranging from 18 to 35 were detained on August 11 and held in police custody for 17 days. They were detained on suspicion of being PKK members.<sup>80</sup> All were initially held in police custody in the Esenler district of Istanbul at the Atışalanı Police Station and five were transferred on the tenth day of detention to the anti-terror branch of the Istanbul Security Directorate in Vatan Street. Three women detainees were transferred to the Gayrettepe Security Directorate.

One lawyer told Human Rights Watch that he had seen seven of those held in the Atışalanı Police Station on the sixth day of their detention. They had reported to him that a team of police officers from the special forces had beaten them, sworn at and threatened them and that they had been given little food for the first three days of their detention. Held in overcrowded cells without beds, the detainees reported that they were sleeping in rotation on blankets on the floor. The lawyer said that on a second visit to his clients, they reported the beatings had stopped.

A second lawyer reported to Human Rights Watch that the five detainees held in the Istanbul Security Directorate in Vatan Street had had no access to a lawyer during their detention there until he saw on them on the 17th day of their detention. He first visited one of them and then saw all five. They reported to him that they had been beaten repeatedly, individually taken to a darkened room and stripped naked, beaten on the testicles with a baton and threatened with rape with a baton. They said the police made the threats to get them to break their silence and give statements. As a result of the threats and fear of repercussions if they did not give statements to the police, the five had decided to give statements to the police in the presence of the lawyer.

İ.B., one of the five, wrote an account for his lawyer of what had happened in police custody at the Vatan Street Security Directorate from prison:

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<sup>80</sup> Human Rights Watch telephone interviews with three Istanbul-based lawyers, September 8, 19, 20, 22, October 2, 2016.

Telling me I would see a lawyer, they took me to interrogation every day for three days (in Vatan). Pulling the clothes off me and tearing them, they threatened me while squeezing my sexual organs and beating me in disgusting ways. One said, I brought your mother here and if you don't talk I will rape her in front of you. They put a bag over my head with my hands tied behind my back and laughed at me, hitting my head on the ground and the wall, making me bend over and shouting, "Is there no strong guy to rape this one!" They left marks of beating all over my body... They cursed and kicked me, trying to get me to say I knew people I'd never seen in my life and to admit a crime I hadn't committed and said they'd do a lot more to me if not and would get seven or eight people to testify about me before a court so I'd never get out of prison and if I didn't accept and give names they'd ruin my life. Every day I got a medical report mentioning beating they would beat me again. They said, get whatever report you like, everything's in our hands.<sup>81</sup>

Detainee F.P. reported similar treatment, describing at length being beaten and having his throat squeezed, being taunted and threatened with rape with a baton by a police officer whom the other officers referred to as "Uncle Haydar." Describing the night after the first interrogation, he wrote:

According to what my friends said, I talked in my sleep till morning saying things like "Don't do it, don't hit me." On the second day they came again and told us our lawyer had come and then did the same things to us. We were psychologically finished.... The only thing on our minds was that they shouldn't do bad things to our families because at this point they had done everything to us.<sup>82</sup>

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<sup>81</sup> Handwritten testimony given by I.B. to his lawyer, September 26, 2016. Full copy in the possession of Human Rights Watch.

<sup>82</sup> Handwritten testimony given by F.P. to his lawyer, September 26, 2016. Full copy in the possession of Human Rights Watch.



Detainee K.U. reported:

Because I told the doctor [at Haseki hospital] I had an internal infection, the doctor wanted to send me to another hospital to be checked. When the police heard this, they bundled me into the police car and punched me in the face and slapped me and verbally abused the others with me, asking us what our religion was... They didn't take me to hospital. No hospital for you, they said, swearing at me..... In the middle of the night they took us to interrogation telling us our lawyer had come. They beat us, swore at us and even sexually abused us.<sup>83</sup>

The third lawyer reported that he was only able to see one of the detainees when she was brought to the courthouse on August 28 from Gayrettepe Security Directorate where she had been held in custody for 17 days. He said that at the courthouse she told him she had been beaten when she was first detained and had sustained an injury to the head although there was no obvious visible sign of it when he saw her. She told him that while on occasion she had undergone a medical examination it was extremely cursory and that on other occasions she was kept in the police bus outside the hospital while a medical report was written. The lawyer said his client told her she had been continually threatened with rape and that she was repeatedly subjected to verbal abuse. She had been able to see a legal aid lawyer appointed by the bar for a couple of minutes and had signed a long statement at the police station in the presence of that lawyer although she could barely read. The legal aid lawyer had not turned up at the courthouse when she was brought before a prosecutor and then a court.

All detainees complained before the court where they were brought on August 28 that police officers had tortured and otherwise ill-treated them during detention. Of the 19 detainees, 14, including four of the five held at the Security Directorate in Vatan Street, were remanded to prison pending investigation. A fifth detainee held at Vatan was released and later rearrested and jailed. The three lawyers are planning to lodge formal complaints about the torture and ill-treatment in police custody on behalf of their clients.

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<sup>83</sup> Handwritten testimony given by K.U. to his lawyer, September 26, 2016. Full copy in the possession of Human Rights Watch.

## V. A Climate of Impunity for Torture and Ill-treatment

In a very troubling provision, emergency decree 667 states that “individuals who make decisions and perform their duty in the context of this decree bear no legal, administrative, financial or criminal responsibility for those duties performed.” This sends a clear signal to police officers and other officials that they can abuse detainees and violate their rights without fear of legal or other consequences. It also is a clear breach of Turkey’s non-derogable duty under international law to prevent and punish acts of torture and ill-treatment.

Responding to allegations of torture and ill-treatment after the coup attempt Turkish government officials, including President Erdoğan, has said that Turkey has zero tolerance for torture. However, officials have also often dismissed allegations of torture and ill-treatment as lies and propaganda, failing to adequately respond to the allegations.

In response to a July 24 Amnesty International report detailing allegations of torture and ill-treatment Minister of Justice Bekir Bozdağ, for example, said in a television interview, the transcript of which was later posted on the ministry’s website, that “Whoever says that there is torture in Turkey’s prisons is lying, defaming. There is no possibility that we have torture in our prisons.”<sup>84</sup> A July 25, 2016 press release on the ministry’s website strongly refuted Amnesty’s findings and accused the group of being made “a tool of the Gülenist Terror Organization.”<sup>85</sup>

Prime Minister Binali Yıldırım likewise denied allegations by human rights groups that detainees were mistreated.<sup>86</sup>

Some government officials have even appeared to encourage ill-treatment. Economy Minister Nihat Zeybekci said of the coup plotters in a speech on August 1: “We will put

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<sup>84</sup> “Bozdağ: Cezaevlerinde İşkence Kesinlikle Yoktur” (There is definitely no torture in prisons” ), Ministry of Justice website posting, August 2, 2016, <http://www.basin.adalet.gov.tr/Etkinlik/bozdag-cezaevlerinde-iskence-kesinlikle-yoktur> (accessed September 21, 2016).

<sup>85</sup> “Basın Açıklaması (25.07.2016)” ( “Press statement (25.07.2016)” ), Ministry of Justice website, July 25, 2016, <http://www.basin.adalet.gov.tr/BasinAciklamasi/basin-aciklamasi-25072016> (accessed September 21, 2016).

<sup>86</sup> “Turkish Premier Demands US Help with Gulen”, *Wall Street Journal*, July 26, 2016, <http://www.wsj.com/articles/turkish-premier-demands-u-s-help-with-gulen-1469555265> (accessed September 21, 2016).

them into such holes [jails] for punishment that they won't even be able to see the sun of God as long as they breathe. They will not see the light of day. They will not hear a human voice. They will beg for death, saying 'just kill us.'"<sup>87</sup>

The Turkish government's decision to postpone a visit to the country by the United Nations Special Rapporteur on Torture further calls into question the government's commitment to prevent torture and ensure accountability for abuse.

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<sup>87</sup> "Economy Minister Says Government will Make Coup Plotters Beg For Death", Turkish Minute website, August 1, 2016, <https://www.turkishminute.com/2016/08/01/economy-minister-says-govt-will-make-coup-plotters-beg-for-death/> (accessed September 21, 2016).

## VI. Response of International and Domestic Organizations

Several domestic organizations and associations have expressed concerns about the emergency decrees, the weakening of safeguards against ill-treatment in detention and the nature of the state response to the coup.

The Turkish Medical Association, the Forensic Medicine Specialists' Association, and the Human Rights Foundation of Turkey have all expressed concern over the requirement to conduct medical examination in detention facilities.<sup>88</sup> The Human Rights Association and the Human Rights Foundation of Turkey have also expressed concern over photographs of detainees with bruises and other injuries.<sup>89</sup> In a joint statement, Helsinki Citizens Assembly, the Human Rights Association, the Human Rights Research Association, the Human Rights Agenda Association, and Amnesty International Turkey expressed concern about the suspension of key safeguards against torture and ill-treatment.<sup>90</sup> The president of the Adana Bar Association expressed concerns about reports of negative treatment of lawyers by the police as they attempted to discharge their professional duty to offer legal counsel to detainees and reminded the Ministry of Justice of the principle of the right to legal representation for all suspects. The Adana bar association president also criticized some of the provisions of the emergency decrees and said the bar association had received reports of violations.<sup>91</sup>

International actors have also expressed their concern. On July 20, the Human Rights Commissioner of the Council of Europe condemned the coup attempt, but expressed

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<sup>88</sup> See "İşkence Yasası, İşkenceyi Önlemeyi de İçerir" ("Prohibition on Torture also Includes Preventing Torture"), Bianet news website, August 9, 2016, <http://bianet.org/bianet/insan-haklari/177654-iskence-yasagi-iskenceyi-onlemeyi-de-icerir>

<sup>89</sup> "İşkence Mutlak Olarak Yasaktır!" ("Torture is absolutely prohibited!"), Press statement by the Human Rights Association and Human Rights Foundation of Turkey, July 19, 2016, <http://www.ihd.org.tr/basina-ve-kamuoyuna-2/> (accessed September 21, 2016).

<sup>90</sup> "Ortak Açıklama" ("Joint Statement"), press statement by five rights organizations, July 26, 2016, [http://www.rightsagenda.org/index.php?option=com\\_content&view=article&id=801:ortak-acklama&catid=128:takma2008basacak&Itemid=257](http://www.rightsagenda.org/index.php?option=com_content&view=article&id=801:ortak-acklama&catid=128:takma2008basacak&Itemid=257) (accessed September 21, 2016).

<sup>91</sup> "İçişleri Ve Adalet Bakanlığı'na Duyuru (26/07/2016)" (Notification to the Ministries of Justice and Interior" (26/07/2016), Adana Bar Association website, July 26, 2016, <http://www.adanabarasu.org.tr/haberler/icisleri-ve-adalet-bakanligi-na-duyuru-26072016.html> and Bianet news website interview with Mengücek Gazi Çıtırık, Adana Bar Association website, August 10, 2016, <http://www.adanabarasu.org.tr/haberler/dusman-hukukuyla-degil.html> (both accessed September 21, 2016).

alarm about images showing torture and ill-treatment in custody of those suspected of involvement.<sup>92</sup> Commenting on the first emergency decree on July 26, the commissioner expressed deep concern about some of the provisions in the decree, among them the provision to extend police detention to 30 days and the restrictions to the right of access to a lawyer, including the confidentiality of the client-lawyer relationship for persons in detention.<sup>93</sup>

Following the coup attempt, the United Nations High Commissioner for Human Rights and a group of independent UN experts, including the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on the Turkish government to abide by its human rights obligations. Among other things, the high commissioner stressed the importance of respecting the presumption of innocence, due process and fair trial guarantees, and of allowing independent observers to access places of detention.<sup>94</sup> In an interview the commissioner said that he had received allegations of torture and mistreatment of detainees in Turkey and was seeking a visit by independent monitors to investigate.<sup>95</sup>

In response to allegations of torture following the coup attempt, the UN Committee Against Torture expanded its follow-up requests to Turkey and accelerated its follow up procedures. In a 31 August 2016 letter to the government of Turkey, it raised concerns at the Emergency Decree No. 667 and on the ability of the Government to ensure the independence of the judiciary.<sup>96</sup>

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<sup>92</sup> "Situation in Turkey," Council of Europe Commissioner for Human Rights, July 20, 2016, <http://www.coe.int/en/web/commissioner/-/situation-in-turkey> (accessed September 16, 2016).

<sup>93</sup> "Measures taken under the state of emergency in Turkey," Council of Europe Commissioner for Human Rights, July 26, 2016, <http://www.coe.int/en/web/commissioner/-/measures-taken-under-the-state-of-emergency-in-turkey> (accessed September 16, 2016). See also the memorandum by the Council of Europe Commissioner for Human Rights after a September 27-29, 2016 visit to Ankara <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2942050&SecMode=1&DocId=2386132&Usage=2> (accessed October 3, 2016).

<sup>94</sup> "UN human rights chief urges Turkey to uphold rule of law in response to attempted coup," UN News Service, July 19, 2016, <http://www.un.org/apps/news/story.asp?NewsID=54492#.V694VPl97ak> (accessed September 16, 2016).

<sup>95</sup> Stephanie Nebehay, "U.N. rights boss decries purge in Turkey, voices concerns on China," Reuters, August 10, 2016, <http://www.reuters.com/article/us-turkey-security-un-rights-idUSKCN10L1WR> (accessed September 16, 2016).

<sup>96</sup> Letter from UN Committee Against Torture to Government of Turkey, August 31, 2016, [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT\\_CAT\\_FUL\\_TUR\\_25040\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT_CAT_FUL_TUR_25040_E.pdf) (accessed September 16, 2016).

# A BLANK CHECK

## Turkey's Post-Coup Suspension of Safeguards Against Torture

On July 15-16, 2016, elements of the military attempted a coup d'état against the elected government of Turkey, which led to at least 241 deaths among citizens and security personnel. Shortly after the failed coup, the Turkish government declared a state of emergency and adopted emergency decrees that significantly weaken safeguards against abuse in detention.

While the government has the right to declare a state of emergency as an exceptional measure, to investigate crimes - including murder and bodily harm - committed during the attempted coup, and to hold those responsible to account, it should do so within the framework of its legal human rights obligations, including the absolute prohibition against torture and ill-treatment.

Based on interviews with more than 40 lawyers, human rights activists, former detainees, medical personnel and forensic specialists, A Blank Check documents how the weakening of safeguards against abuse has negatively affected police detention conditions. It details 13 cases of alleged abuse in police detention since the coup attempt, including the use of stress positions, sleep deprivation, severe beatings, sexual abuse and rape threats.

Human Rights Watch calls on the Turkish authorities to immediately restore safeguards against abuse in detention by rescinding relevant provisions of the emergency decrees, to ensure adequate and independent medical examinations of all detainees, and promptly and impartially to investigate all allegations of torture and ill-treatment.



*The Istanbul Security Directorate in Vatan Street where some of the cases of police torture and ill-treatment documented by Human Rights Watch took place.*

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