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Conditions are worsening in Turkey's prisons with respect to the COVID-19 pandemic

Following the announcement of COVID-19 as a global pandemic, the CPT issued a set of principles relating to the treatment of persons deprived of their liberty on 20 March 2020, asking member states of the Council of Europe to follow them. On March 25th, the UN Commissioner for Human Rights, and, on April 5th, the Commissioner for Human Rights of the Council of Europe made statements asking governments to respect human rights, fundamental freedoms, and democratic standards while devising and implementing measures to fight the pandemic. Some of the key recommendations made by the commissioners include improvement of conditions of prisons which are most vulnerable places in the face of a pandemic, release of people detained without sufficient legal basis (including political prisoners), meeting medical and hygienic needs of detainees and convicts, and not suspending fundamental rights within prisons.

Since early March, the government of Turkey has also been implementing various measures to fight COVID-19 within prisons across the country, including a highly contested special amnesty law that enabled release of some 90 thousand convicts. Although the release of these many people helped to significantly reduce prison population, one of the highest in Europe, this amnesty law was utterly unfair and discriminatory at least on two grounds. First, it categorically excluded from its scope all political prisoners facing "terrorism-related charges." Second, as it applies only to convicts, the law also excluded those jailed pending trial. As various legal authorities have underlined, this law is in clear violation of Article 2 (the rule of law) and Article 10 (equality before the law) of the Turkish Constitution as well as Article 14 of the European Convention on Human Rights. These categorical exclusions prevented the release of about an additional 50,000 prisoners; including thousands of politicians, members of parliament, Kurdish mayors, intellectuals, NGO representatives, human rights activists, students, artists, journalists and all other political prisoners arrested or convicted with terrorism-related charges. Some of these political prisoners include Selahattin Demirtaş and Figen Yüksekdağ (former HDP co-chairs), Gültan Kışanak and Selçuk Mızraklı (elected Kurdish mayors of Diyarbakir), Osman Kavala (businessman and philanthropist), and Ahmet Altan (author). (Please see appendix for a recent article by Ahmet Altan on how being in prison feels during the pandemic.)

The main opposition Republican People's Party (CHP) has declared that they will appeal to the Constitutional Court for the repeal or amendment of the amnesty law. As the amnesty law violates the principle of equality before the law, theoretically the Constitutional Court may amend the law so as to make it non-discriminatory and inclusive. Such a fair judgment can restore justice and ensure equality before the law. The CHP did appeal on procedural grounds, but not on substantial grounds, yet. We would not be surprised if the government interferes into the appeal process, as it has almost complete control over the judiciary as a whole.

According to the reports by human rights and prison monitoring organizations, the conditions of prisons have worsened with the pandemic.¹ Turkish authorities had not made any statement about the spread of pandemic in prisons until April 14th, the very day when the amnesty law was passed.

¹ Here we exclusively focus on pandemic-related problems and concerns in prisons, but we should also emphasize that complaints of torture and mistreatment in Turkish prisons are also very much on the rise.

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On that day, Turkish Justice Minister said that there were 17 confirmed cases of COVID-19 in prisons, including three deaths. He added that 79 prison staff and 80 judges, prosecutors, and judiciary and forensic science staff had also tested positive. On April 28th, the Ministry updated that 120 COVID-19 cases were detected in 4 different prisons. And on May 22nd, the Ministry announced that there were a total of 82 COVID-19 cases in Silivri Prison alone, and that one infected prisoner had died. The government has not been transparent about the number of COVID-19 cases in and outside the prisons. Based on reports from families and lawyers of prisoners, we know that the number of COVID-19 cases in prisons is much higher.

Unfortunately there are many problems in prisons that help the spread of COVID-19. According to a report jointly prepared by the Human Rights Association (İHD), the Free Lawyers Association (ÖHD), Contemporary Lawyers Association (ÇHD), and MED TUHAD-FED (a federation set up by families of arrestees and convicts), some of these problems are as follows:

- Wards and corridors are not cleaned regularly.
- Cleaning products are sold in prison canteens with high prices and many inmates cannot afford to buy them.
- Some prisons restrict socializing activities such as sports.
- Masks and gloves are not regularly distributed in prisons throughout the country.
- Some prisons restrict the right of prisoners to access “ventilation areas,” that is, prison courtyards where inmates could see each other and the blue sky.
- Overcrowded wards, limited access to masks and gloves, availability of drinking water only as bottled water for sale, limited access to infirmaries and hospital transfers, and access to healthy food are problems experienced in almost all prisons.

Besides, according to the Human Rights Association (İHD), as of 31 March 2020, there were a total of 1,564 sick prisoners across Turkey; of these 590 of were “seriously sick.” These prisoners are at great risk of getting infected with COVID-19. If the sick prisoner is a political prisoner charged with terrorism-related offenses, then his/her release for medical reasons is next to impossible. To give an example, despite all efforts of his family members, lawyers and the Human Rights Association, Turkish authorities refused to release Kurdish political prisoner Ms Sabri Kaya. Mr Kaya had two open-heart surgeries and over a dozen heart attacks in the past. Most recently, he had a heart attack and cerebral hemorrhage on 25 March 2020. He was hospitalized three times, each time treated under intensive care, and then sent back to prison. Mr Kaya was finally released on May 22nd. He died only a couple of hours later.

Human right organizations report typical problems experienced by sick prisoners as follows:

- Prisoners do not have adequate access to infirmary services and hospital transfers. When they file a complaint, it is either ignored or may turn into an investigation against them.
- There are not enough doctors and specialists in prisons. Many prisons have doctors only two half-days per week.
- Medical treatments are mostly symptomatic, that is why diseases become chronic.
- Although some seriously sick prisoners are required to have a companion during certain types of surgeries, their demands in this regard are not met. This puts their lives at risk.
- Appeals for stay of execution are not accepted for many sick prisoners who are unable to maintain their lives on their own. This further aggravates their health conditions.

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As these brief notes on conditions in prisons with respect to the global pandemic reveal, Turkish authorities do not follow many principles and guidelines specified by the World Health Organization, the CPT as well as human rights commissioners of the United Nations and the Council of Europe. The lives of prisoners are at risk. Their hearts in their mouths, tens of thousands of prisoners in their cells and their families are closely following the debates on the appeal to the Constitutional Court regarding the recent amnesty law.

In closing, we would like to make an invitation to the Council of Europe authorities -- the CPT, the Commissioner for Human Rights, and the Monitoring Committee of the PACE in particular, the UN High Commissioner for Human Rights, the Office of European Union External Action, our sister parties across the world, and all other democratic institutions and persons concerned with the rights and health of prisoners in the context of the COVID-19 pandemic: Please closely monitor prisons in Turkey, follow the debates on the appeal process regarding the amnesty law, be the voice of vulnerable prisoners and their families, and mobilize the mechanisms and resources at your disposal to protect the rights and health of prisoners in Turkey and beyond.

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Appendix

The Washington Post published the following article by Ahmet Altan on 24 May 2020. Ahmet Altan is a famous Turkish novelist and journalist. He is the author of the smuggled-out-of-prison memoir “I Will Never See the World Again” in addition to nine other novels. He has been in Silivri Prison since 23 September 2016 (temporarily released for a week in early November 2019).

I’m watching the coronavirus crisis unfold from a Turkish prison. This is why I’m hopeful.

These days being in an actual prison while everyone else is confined inside their homes feels like sitting in a fish tank at the bottom of the ocean.

I can see (by reading the old newspapers the guards give us and watching some of the channels we’re allowed to watch) that you’re worried to death. Well, I’m 70 years and I’m in a prison where covid-19 cases are spreading fast, all for offending, with alleged “subliminal messages,” the government of Turkish President Recep Tayyip Erdogan. As someone who knows more about sitting at the bottom of the ocean and being the target of death than most, I’d like to tell you this: Don’t give in to self-despair.

We’re witnessing history break along a gigantic fault line that is making life itself tremble. This rupture promises us a hopeful future.

I’m aware of the horrors everyone is experiencing. Like billions of antelopes that had to cross a river filled with crocodiles, we are struggling madly to stay alive and reach the other side. The passage is hellish. But in a few months, this disaster will be over and humankind will arrive at a new era.

This is the order of this strange planet. Better circumstances are achieved only through disasters. Wounded in wars and pandemics, we make progress.

This disaster has shown us many truths we’ve long ignored; it has also given us directions to our destination. I think the 21st century will begin once this pandemic is over. For a little while, it might look as if we’re skidding backward, but that won’t last long.

This pandemic has shown us that constructs called “states” are good for nothing. The whole structure of states has clearly expired. It’s against nature that an administrative system from the time of horse-drawn mail coaches is still in place. States prevent human progress. The pandemic got out of control because of the blunders states and their administrators made out of greed for power. If China had not lied in the first place, and if the leaders of other countries had not remained unconcerned, the scourge would not have achieved such enormity.

In a not-so-distant future, the world will become a federation of city-states — it will realize that it has no other choice. Nations, borders and flags work against the good of humanity during common disasters, as we’ve experienced during this crisis.

We saw yet another truth: The ability to win elections and the ability to lead a society are entirely different skills — skills at war with each other. Elections are often won by those who lie the most, those who play the epic soundtrack louder than others. But those same people cannot lead with wisdom. We have seen many examples of this phenomenon.

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This disaster has also been the dress rehearsal of a major change in history: workers stepping out of their traditional place in the chain of production. Thanks to the Internet, people's mental contribution to production has increased while their physical role has significantly diminished. In the 21st century, people will not be limited to physical work. We are grasping the inevitability of change as we live through this episode, discovering a new economic order.

We are learning that some people having more money than they can spend while others remain penniless and without shelter can create a "common" disaster. If you can't save a market worker in China, you can't save the prime minister in Britain.

This could lead to a major mutation. If you want to protect yourself, you have to protect others. Selfish acts will kill you. People have realized perhaps for the first time and in such clear consciousness that they are part of a great flow called humanity.

This virus not only knocks down old men like myself but also all kinds of aged concepts, beliefs and ideas. We are painfully crossing the threshold of a new world and, even more important, a new kind of human being.

In the midst of this great trauma, I am optimistic about the future. What I've been talking about here is not utopia. It isn't the meliorism of a fool. I believe what I'm saying will happen, and I know I won't be around to see it happen. I'm writing this as I await in a prison cell the fierce attack of a virus that kills people my age. I am not optimistic for myself, but for the humanity of which I am a part.

In November, we were given a radish along with our meals at lunchtime. My cellmate put that radish in a paper cup and left it beside the iron bars at the window. The radish began to rot. Recently, a green sprout emerged from it. It grew and grew. Little white flowers blossomed at the end of the sprout. Each morning, I get up and look at those flowers. I witness that great cliché: The radish is dying and becoming alive at the same time. A miserable radish creates flowers out of its own decay. Without giving up its optimism, it reaches out to the future as it dies.

Perhaps I will have fallen sick by the time you read this. But what difference does it make? If a radish dying in a paper cup can blossom, an old man in prison can be optimistic.

We aren't going to be more despairing than a radish now, are we?

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