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> Written statement* submitted by Maat for Peace, Development and Human Rights Association, a nongovernmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2019]

st Issued as received, in the language(s) of submission only.







Arbitrary detention in Turkey

Laws used to violate human rights

Although the Turkish Constitution includes a chapter on rights and freedoms and recognizes the equality of all its spectrums, article 15 of the Constitution states that "in times of war, mobilization, imposition of martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or totally suspended, Measures that derogate from the guarantees contained in the Constitution may also be taken to the extent required by the necessity of the situation. Conditional on not harming obligations imposed by international law, and therefore under this umbrella, arbitrary detention in emergency periods is considered necessary.¹

Following the failed coup attempt in July 2016, legislation was amended by 32 Emergency Executive Decrees having the same effect as the law. More than 300 amendments have been made based on emergency executive decrees to more than 150 separate laws, many of which have human rights implications. The measures taken violated many rights, such as those on freedom of peaceful assembly, freedom of expression, fair trial, effective remedy and arbitrary arrest of a large number of Turkish citizens

The Turkish authorities have also violated international conventions and conventions relating to the criminalization of the use of arbitrary detention, to which Turkey is a party, including the International Covenant on Civil and Political Rights, the International Convention on the Criminalization of Arbitrary Detention, and the European Convention on Human Rights, article 5 of which states that no one shall be deprived from his freedom and his right to a fair trial.² And it also violated article 9 of the International Covenant on Civil and Political Rights, which states that no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law, shall be promptly informed of the charges against him and the right of any person who has been the victim of unlawful arrest or detention to compensation.

Increased arbitrary arrests in Turkey

According to statistics provided by the Ministry of Interior and the Ministry of Justice, it is estimated that more than 150,000 people were detained by police during the state of emergency, and more than 78,000 people were detained under anti-terrorism laws, of which more than 24,000 remained in pre-trial detention, in 2018. Thousands of criminal cases, including those under laws prohibiting defamation and trumped-up terrorism-related charges, have been instituted on the basis of the peaceful exercise by the people of their rights to freedom of expression during a state of emergency.³ A total of 44,930 people has been convicted of prison terms under anti-terrorism laws, including 31,442 political prisoners accused of belonging to Fethullah Gulen.⁴

The maximum period of pre-trial detention for some crimes related to terrorism and national security was increased, and the constitutional order was increased from 4 days to 30 days. The maximum periods of detention were routinely and arbitrarily carried out, and the maximum period of pre-trial detention was increased from 5 to 7 years in August 2017. According to official statistics, there is an "overload" of tens of thousands of prisoners,

 $^{^{1}}$ دستور الجمهورية التركية، متاح على الرابط التالي:

https://www.constituteproject.org/constitution/Turkey_2011?lang=ar.

[.]http://hrlibrary.umn.edu/arab/euhrcom.htmlالاتفاقية الأوربية لحقوق الإنسان، متاح على الرابط التالي: 2

انتهاء حالة الطوارئ لكن هناك حاجة ملحة الان لاتخاذ إجراءات عاجلة لعكس مسار تراجع حقوق الانسان، منظمة العفو الدولية، 3 /https://www.amnesty.org/ar/latest/campaigns/2018/07/turkey-state-of-emergency-lifted.

ربع مليون شخص في سجون تركيا.. وانتهاكات صارخة بحق معتقلين، سكاي نيوز عربية، 5 يناير 2019. http://bit.ly/300YPEg.

reducing the space allocated to each prisoner, in violation of the rights of prisoners guaranteed by law.

Human rights reports have monitored some of the illegal abuses suffered by detainees in Turkish prisons, including preventing them from having any kind of contact with their families, friends or lawyers. At the Silifri prison in Istanbul, Turkish authorities prevented Gulen members suspected of belonging to the Gulen movement for 565 days from all forms of communicating in, including mailings. There have also been 92 deaths in Turkish prisons and pretrial detention, which are reported to have been the result of ill-treatment, denial of treatment or torture widely practiced in prisons and detention centers.⁵

In May 2017, a teacher, Onder Asan, was taken away and kidnapped in 2017. He spent 42 days in an undisclosed location before being released and ordered to surrender to a police station. Ander's lawyer confirmed that torture methods had been used with him to force him to confess to joining the Gülen group. The effects of torture were evident when Onder was brought before the court and had difficulty walking,⁶ and this is clear violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

On March 4, 2018, a doctor named Marwa was arrested and placed in Bakiroki Prison, when she was eight months pregnant, she was infected with a virus due to lack of medical care provided by international laws. Her life and that of her unborn child were endangered by lack of proper ventilation, resulting in recurrent shortness of breath and she has been infected with a virus due to inadequate health care during childbirth.⁷

On March 28, 2018, a massive arrest campaign was launched and 70 women were arrested for allegedly providing assistance to individuals belonging to a terrorist organization. While a number of women confirmed that they were providing financial assistance to the families of a number of individuals arbitrarily arrested.⁸

Since August 2016, journalist Aisha Nur has been held in solitary confinement in the women's prison in Sinan, allegedly promoting a terrorist organization because she was a reporter for the Turkish newspaper Zaman, citing his Twitter tweet, without attribution. Charges against the judiciary, without trial or investigation, and stages of detention, in violation of their right to know the charges against them and their right to a fair trial as guaranteed by the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.⁹

The Turkish authorities have also pursued arbitrary detention policies against nationals of other states residing in Turkey, Turkish opponents residing abroad are also prosecuted, On 24 October 2018, the German Foreign Ministry issued a statement confirming that cases of arbitrary detention against its nationals in Turkey were increasing, and that in some cases the content or marking of "admiration" of some opponents of the state became the basis for prosecution. In this regard, the suspect faces a long prison sentence for insulting the Turkish president or propaganda for a terrorist organization. Germany also warned its citizens against traveling to Turkey and taking precautions in cases of having to travel. Germany will not respond to the invitation, and since then Germany has not stopped

مركز نسما للدر اسات الاجتماعية والحضارية، وفيات واعتقالات. حكومة إردوغان تصيب "القطاع الصحي" بالشلل، تم النشر في روفيات وعنقالات-حكومة إردوغان تصيب-(\3https://nesemat.com أغسطس 2019، متاح عب الرابط الآتي:

Steokholm center for freedom700th gathering of 'Saturday Mothers' marred by Turkish police violence, detentions,published at25-8-2029, available via this link, https://stockholmcf.org/700th-gathering-of-saturday-mothers-marred-by-turkish-police-violence-detentions/.

الأمم المتحدة حقوق الانسان مكتب المفوض السامي، برنامج يركز على التنمية وحقوق الانسان متاح عبر الرابط الآتي: " https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20976&LangID=E.

Hazmet movement, Turkish gov't detains more than 70 women over their alleged financial support for jailed Gülen followers, published at 28-3-2018, available via this link, https://hizmetnews.com/24127/turkish-govt-detains-70-women-alleged-financial-support-jailed-gulen-followers/#.XUg7u3lR2qY.

وسوت الأمة، اسطنبول بلا حريات. قصة صحفية تركية معتقلة 3 سنوات في زنزانة انفرادية دون محاكمة، تم النشر في 30 يونيو و السطنبول بلاحريات قصة صحفية -2019http://www.soutalomma.com/Article/882216 متاح عبر الرابط الآتي: بالسطنبول بلاحريات قصة صحفية -2019http://www.soutalomma.com/Article/882216 متاقلة -3 سنوات في

worrying about its citizens in Turkey, where Germany issues warnings permanently to its citizens from being in Turkey, and for the same reason: the lack of minimum freedom of opinion.¹⁰

The same was repeated on May 29, 2019, when the Human Rights Commission in Geneva confirmed that Turkey was arbitrarily detaining two Turkish nationals, who had been living in Malaysia, The Malaysian government pushed for their extradition to Turkey on the grounds of joining the Gülen group. The two men were extradited to Turkey without trial or court order, they are still imprisoned in Denizli prison, without any charges against the two men that could justify their arrest.¹¹

Recommendations

- -Amend the Turkish Penal Code and the Anti-Terrorism Law in line with international standards on the right to freedom of expression.
- -The need to consider cases of torture and complaints about detainees who are tortured in Turkish prisons, which violate of all international conventions.
- -Immediately and unconditionally release all those detained for illogical reasons.
- -The Working Group on Arbitrary Detention at the United Nations should visit Turkey and investigate arbitrary detentions and request the Turkish Government to clarify its position on the above-mentioned cases and bring them to its attention.
- -The Turkish government should amend the constitutional provisions that provide
 for the possibility of an exception by reducing certain rights in emergency and
 similar situations, to avoid the practice of such violations under the umbrella of
 exceptions.

مجلة أحوال تركيا، ألمانيا لمواطنيها: لا تسافروا إلى تركيا، تم النشر في مارس 2019، متاح على الرابط الآتي: 100 https://ahvalnews.com/ar //المانيا-لمواطنيها-لا-تسافروا-إلى-تركيا/حريات

¹¹ أخبار الأمم المتحدة، لجنة خبراء أممية: تركيا انتهكت حقوق شخصين احتجزا تعسفيا وحرما من المحاكمة العادلة، متاح عبر الرابط أخبار الأمم المتحدة، لجنة خبراء أممية: تركيا انتهكت حقوق شخصين احتجزا تعسفيا وحرما من المحاكمة العادلة، متاح عبر الرابط الأتي: