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# Turkey: First Steps Toward Independent Monitoring of Police Stations and Gendarmeries

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## Summary

Independent police station visiting is increasingly recognized worldwide as a safeguard for detainees and a protection against abuse. In Turkey such visiting is an innovation. Notwithstanding great improvements in combating torture and ill-treatment, the Turkish government has acknowledged the need for and the usefulness of police station monitoring by signing the Optional Protocol to the United Nations Convention against Torture (OPCAT) in September 2005. The OPCAT sets forth a detailed and rigorous system of independent international and national monitoring of prisons with the aim of preventing torture or cruel, inhuman or degrading treatment.

At least as an interim measure before systems based on the OPCAT are established, the network of provincial human rights boards (coordinated by the Human Rights Presidency of the Prime Minister's Office) are ready and willing to monitor police stations and gendarmeries, and some have already begun making effective visits. As the involvement of human rights boards expands towards countrywide coverage, there is a clear need for boards to work to high common standards, to set themselves a pace of monitoring work that will provide a reasonable frequency of visits, and to overcome an evident reluctance to carry out visits unannounced and in response to reports of ill-treatment in their province.

Provincial governors' close identification with the boards may help to establish the boards in the early stages of their monitoring activities, but already there have been instances where it has undermined the perceived or actual independence of a visiting delegation. In the longer term, the independence of monitoring activities should be enhanced, and the involvement of Turkey's most respected nationwide human rights nongovernmental organizations (NGOs), even in a consultative capacity, may significantly promote credibility and trust. Reporting of the boards' visiting activities is as yet limited, but the Human Rights Presidency has committed itself to detailed reporting in the near future.

Rolling out an interim independent monitoring system based on the human rights boards could ensure that the high standards observed in some police units are applied consistently throughout the country.

## **Introduction: Sustaining Improvement**

On September 16, 2005, Turkey signed the Optional Protocol to the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), thereby committing to participate in “a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.”<sup>1</sup> The signing of the protocol is a very welcome step that acknowledges the need for better supervision of places of detention.

From 1997 onwards the Turkish government introduced a series of reforms to protect detainees against torture and ill-treatment. The shortening of detention periods and the abolition of incommunicado detention dramatically reduced the number and gravity of incidents of torture in police stations and gendarmeries. However, there are still reports of ill-treatment, mainly in the form of beating, slapping, kicking, insults, and threats. These occur particularly where police or gendarmes ignore, bend or “forget” rules about detention periods, registration of detainees, informing detainees of their legal rights, access to legal counsel, and health checks.<sup>2</sup> These are problems that can be tackled by better supervision.

In recent briefing papers and letters,<sup>3</sup> Human Rights Watch suggested three forms of supervision which might improve law enforcement agencies’ compliance with safeguards against torture and ill-treatment:

**1) Effective routine internal supervision of police stations and gendarmeries by provincial governors, sub-governors, and prosecutors.** These visits are already

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<sup>1</sup> **Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted December 18, 2002; opened for signature, ratification and accession from February 4, 2003), Article 1.**

<sup>2</sup> **There are also reports that, in order to escape the controls now in place in police stations, police officers abduct detainees and ill-treat them away from recognized detention centers, e.g. in police cars, on vacant ground, or in unpopulated areas beyond city limits. This is a dangerous pattern, with very real risks of unregistered detainees dying or being “disappeared,” and must be addressed by the Interior Ministry.**

<sup>3</sup> **See Human Rights Watch Briefing Paper, “Eradicating Torture in Turkey’s Police Stations; Analysis and Recommendations,” September 2004, available online at <http://www.hrw.org/background/eca/turkey/2004/torture/>; and “Turkey: Enhanced Police Station Monitoring will Prevent Torture,” Human Rights Watch Letter to Deputy Prime Minister Abdullah Gül, April 2005, available online at <http://hrw.org/english/docs/2005/04/22/turkey10543.htm>.**

happening in some provinces, but since they are not publicly reported, the extent and effectiveness of this supervision is unknown.<sup>4</sup>

**2) Rapid response from the justice, interior, and prime ministries to individual allegations of torture, including sending ministry inspectors.** Interior ministry inspectors were sent to investigate the beating of demonstrators in Istanbul on March 6, 2005, but Human Rights Watch is not aware of any similar high-level response to any allegation of ill-treatment in police stations over the past year.

**3) Visiting of police stations and gendarmeries by an independent monitoring body.** There have been important advances in independent monitoring over the past year, and the purpose of this report is to examine the extent and effectiveness of police station visiting by provincial and local human rights boards.

By signing the OPCAT the Turkish government undertook to establish a system of independent visiting of places of detention within twelve months of signature being ratified by parliament. In practice, there may be a delay of much more than a year before systems under the protocol are up and working.<sup>5</sup> Meanwhile, allegations of ill-treatment continue to emerge from Turkey's police stations, as a consequence of law enforcement agencies' non-compliance with legal safeguards (see below). There is a need for independent police station monitoring now.

For however long it takes to establish a system of independent police station monitoring in line with the OPCAT, the network of provincial human rights boards coordinated by the Human Rights Presidency of the Prime Minister's Office can provide a valuable transitional solution. Human rights boards are reasonably well suited to the temporary function of independent police station monitoring. The boards were presented to the

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<sup>4</sup> In its December 8, 2005 report on its March 2004 visit to Turkey the European Committee for the Prevention of Torture emphasized once again the importance of the "compliance monitoring procedure." The CPT visited twenty-one police stations and gendarmeries, and found that most of them had been occasionally visited by prosecutors. The CPT noted that the visits were not frequent (two to three times a year) and "mostly involved perusal of the custody register and a brief tour of the premises." As an example of what might be called an unprobing approach, it describes how two prosecutors visited seven police facilities in Gaziantep on March 12, 2004, but apparently interviewed no detainees. At the time they made their visits, nine children were held at the Juveniles Department. The CPT's recommendation on this matter was that "More robust on-the-spot checks of law enforcement establishments are required." (CPT/Inf (2005) 18) Paragraph 21.

<sup>5</sup> The protocol does not come into force until ratified by twenty states, and there are currently thirteen ratifications. There may be a delay before the Turkish parliament ratifies, and even if the protocol is in force by that time, the Turkish government is still entitled (by means of a declaration under Article 24) to postpone complying with its commitments for up to three years.

public mainly as a body for handling complaints. However, their implementing legislation and regulation authorizes them to visit places of detention,<sup>6</sup> and the composition of the boards (a mix of government officials, representatives of professional bodies, and representatives of NGOs) offers a degree of independence. From their role during this transitional period, the boards may also be able to feed experience and ideas into the design and construction of any future national police station visiting system.<sup>7</sup>

The Human Rights Presidency has said that it hopes to establish a reporting system for police station visits in the near future, but as yet there is no detailed information about the frequency, methods or findings of the visits. Human Rights Watch contacted members of all eighty-one provincial boards between June and September 2005 in order to gain a clearer picture of how, where and how often visits were being made. Another goal was to establish whether, within the work of the boards, bar associations and medical associations (the professional bodies with the most direct interest in making visiting effective) were willing and able to take the lead on police station visiting, and whether they felt there were any structural obstacles that might prevent the boards from making effective visits. Human Rights Watch interviewed the assistant governors who chair the provincial human rights boards, as well as the medical association representatives and bar association representatives serving on human rights boards. Most members of bar and medical associations interviewed were helpful and open, and willing to share their experiences of working with human rights boards. Governors and assistant governors (with one or two exceptions), were similarly helpful and willing to share information.

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<sup>6</sup> Regulation on the foundation, duties and working principles of provincial and local human rights boards, published in the Official Gazette, November 23, 2003. See article 12, paragraphs f, h, and i.

<sup>7</sup> The European Commission's 2005 Regular Report on Turkey's progress toward EU membership stated: "A number of provincial Human Rights Boards have begun to carry out unannounced visits to places of detention in a number of provinces. Although a positive development, NGOs have raised doubts about the independence of such monitoring and of the Human Rights Boards in general ... Nevertheless, it is to be hoped that this monitoring will represent a first step towards establishing fully independent monitoring as recommended by the CPT and the UN." The boards may be suited to police station monitoring notwithstanding that they have failed to impress with their performance in dealing with complaints. They do not have the investigative powers, expertise or sanctions necessary to pursue complaints of human rights violations—and even if they did, they would be no more than a duplication of the judicial process. For a critique of the boards' handling of complaints, see the report of the Special Representative of the U.N. Secretary-General on human rights defenders, Hina Jilani, on her 2004 visit to Turkey (E/CN.4/2005/101/Add.3, 18 January 2005), paras 41-51.

## **The current situation in the police stations: legal safeguards not fully implemented**

The contacts made by Human Rights Watch for this survey provided an opportunity to gather bar associations' views on police compliance nationwide with legal and procedural safeguards for detainees, particularly since the introduction of the new criminal procedure code in June 2005. The picture as presented is of generally good compliance with safeguards, marred by poor performance in some police units in some areas. Bar representatives throughout Turkey were unanimous that police compliance with detention procedures had improved considerably since the end of the 1990s. All confirmed that police rarely held detainees in excess of the four-day maximum detention period, for example.

No bar representative suggested that there was systematic obstruction of lawyers' access to their clients, but lawyers from many provinces said that they are not always granted access during the whole of the interrogation, but rather that access was sometimes delayed until the time when the detainee signed a statement.<sup>8</sup> Several bar association representatives complained that once the lawyer arrived, the process of interrogation and taking a statement tended to become rushed and confused to such an extent that it interfered with the lawyer's ability to assist in their client's defense. Van bar representative Murat Timur recounted the case of a group of eighty students from Van Yüzyıl University, detained in early June, whose lawyers were initially denied access, and held a series of six press conferences in protest before they finally were admitted to their clients.

Moreover, the following examples of allegations of ill-treatment arose when police denied detainees access to legal counsel. Remzi Temel, detained for thirty-six hours under the Anti-Terror Law on May 18, 2005, claimed that police at Ankara police headquarters insulted and beat him when he asked for access to legal counsel.<sup>9</sup> Hacı Çetin, detained on May 26 at Çukurca police headquarters in Hakkari province, reported that he was stripped of his clothes, beaten, and threatened with rape and murder while in

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<sup>8</sup> Human rights watch telephone interviews with Zekeriya Aydın, president of the Batman bar association, June 21, 2005; Ankara bar association representative Süleyman Çetin, July 27, 2005; Gaziantep bar association representative Cahit Şimşek, July 6, 2005; Giresun bar association representative Ahmet Türksal, July 13, 2005; Kayseri bar association representative Uğur Altun, July 12, 2005; and Van bar association representative Murat Timur, June 21, 2005.

<sup>9</sup> Yıldız, Ö. "Asılsız ihbar skandal baskın" ("Scandalous raid after groundless allegation"), *Evrinsel* (Universal) (Istanbul), May 22, 2005.

custody.<sup>10</sup> Shepherds Reşat Bozkurt and Mustafa Taşkıran, detained at Doğubeyazıt gendarmerie headquarters in Ağrı province on July 20, reported that they were beaten and held for two days without access to counsel, and they subsequently received medical certificates from the local hospital documenting injuries.<sup>11</sup>

Bar representatives stated that gendarmes more commonly delayed and obstructed access than police. For example, the representative of Erzincan bar association said that in June 2005 gendarmes denied him access to a client they were holding on the grounds that it was after 5 p.m. and therefore “after business hours.”<sup>12</sup>

Representatives from Adana, Tokat and Niğde bar associations said that although they had access to their clients, police did not provide a suitable room where they could meet clients within the sight, but not hearing, of the police. One lawyer described having to meet with his client in the police station kitchen.<sup>13</sup>

Other complaints about non-implementation of safeguards that were mentioned by bar representatives included police officers and gendarmes in Kocaeli, Sivas and Van provinces sometimes improperly registering detainees, or registering them some hours after their actual time of detention.<sup>14</sup> This potentially dangerous abuse not only extends the detention period, but means that for a period of hours detainees are effectively “disappeared.” Detainees’ right to notify their families is generally respected by police in western Turkey, but in the eastern provinces of Ağrı, Bingöl and Van, bar representatives mentioned that police cannot be relied upon to permit notification of relatives.<sup>15</sup> Several bar representatives reported that gendarmes are less dependable than the police in this matter. Gendarmes’ failure to notify relatives was reported from western provinces such as Afyonkarahisar as well as Erzincan.<sup>16</sup>

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<sup>10</sup> Human Rights Foundation of Turkey, April-May-June 2005 bulletin.

<sup>11</sup> “Sürü başında gözaltına alınan çobanlara işkence iddiası” (“Torture allegation of shepherds detained from their flocks”), *Özgür Gündem* (Free Agenda) (Istanbul), July 22, 2005.

<sup>12</sup> Human Rights Watch telephone interview with Erzincan bar association representative Talip Nayır, July 12, 2005.

<sup>13</sup> Human Rights Watch telephone interviews with Adana bar association representative Fatma Kaymaz Son, July 25, 2005, Tokat bar association representative Nedim Başaran, August 15, 2005, and Niğde bar association representative Ali Altın, August 23, 2005.

<sup>14</sup> Human Rights Watch telephone interviews with Kocaeli bar association representative Mehmet Akay, July 27, 2005; and Sivas bar association representative Hasan Huseyin Yıldız, July 14, 2005;

<sup>15</sup> Human Rights Watch telephone interviews with Ağrı bar association representative Mahmut Kaçan, June 28, 2005; Bingöl bar association representative Abdullah Kaldık, June 21, 2005; and Van bar association representative Murat Timur, June 21, 2005.

<sup>16</sup> Human Rights Watch telephone interviews with Afyonkarahisar bar association representative Fatih Özsoy, August 17, 2005; and Erzincan bar association representative Talip Nayır, July 12, 2005.



Several lawyers affirmed that respect for detained children's rights was good, and three spoke approvingly of the scrupulous operation of the police children's bureaus in Diyarbakır, Trabzon and Şanlıurfa.<sup>17</sup> There are exceptions to this positive picture, however. Human Rights Watch was told of an occasion when gendarmes in Erzincan province interrogated a minor and obtained a statement before referring the child to the prosecutor—and this, though ill-treatment was not alleged, was a clear breach of detention procedures.<sup>18</sup> Van bar association representative Murat Timur mentioned irregularities in police procedure surrounding the alleged beating of minor T.K., detained on September 22, 2004, at the children's bureau of Van police headquarters. Police were present in the room during his medical examination, and consequently open wounds allegedly caused by the beating were not recorded. Murat Timur noticed traces of blood on his client's clothing during interrogation at the prosecutor's office, and had T.K. examined a second time. Three police officers were subsequently charged with ill-treating him.<sup>19</sup>

### **Police Station Monitoring Not Yet Consistent and Countrywide**

By the second half of 2004 the Human Rights Presidency was already reporting that monitoring visits by human rights boards had begun,<sup>20</sup> and at this writing monitoring is happening in around half of all provinces—Human Rights Watch's interviews indicated that by September 2005 thirty-one of the eighty-one provincial human rights boards had visited police and gendarme stations, (see Appendix 1) with another ten reported to be about to begin visits that month.<sup>21</sup>

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<sup>17</sup> Human Rights Watch telephone interviews with Diyarbakır bar association representative Kasım Alpkaya, June 16, 2005; Trabzon bar association representative Ömer Faruk Altıntaş, June 17, 2005; and Şanlıurfa bar association representative Devrim Polat Divri, June 22, 2005.

<sup>18</sup> Human Rights Watch telephone interview with Erzincan bar association representative Talip Nayır, July 12, 2005.

<sup>19</sup> Human Rights Watch telephone interview with Van bar association representative Murat Timur, June 21, 2005.

<sup>20</sup> Başbakanlık İnsan Hakları Başkanlığı, "İl Ve İlçe İnsan Hakları Kurulları, Temmuz-Aralık 2004 Faaliyet Raporu" (Human Rights Presidency of the Prime Ministry, "Provincial and Local Human Rights Boards, July-December 2004 Activity Report").

<sup>21</sup> Human Rights Watch contacted representatives from all 81 provincial human rights boards, but did not make contact with the 849 local human rights boards established in each town district (*ilçe*) and chaired by the local governor (*kaymakam*). There is no information to suggest that local boards are engaged in police station visiting. It seems unlikely that small communities would be able to provide their board with sufficient personnel or expertise to carry out meaningful monitoring activities. More importantly, a board in a small town setting would be unlikely to be sufficiently distanced from the state and security force authorities to carry out proper supervision.

In a small number of provinces, however, information given by governors to the effect that visiting was frequent and regular was contradicted by bar or medical association representatives who could recall no visits having been carried out. Governors sometimes fail to distinguish between their own internal visits and visits by the human rights boards, and this may explain the discrepancy. The Human Rights Presidency recently started regularly recording police station visits in its quarterly activity reports, but the presidency also made no distinction between internal visits (by governors and prosecutors) and visits by human rights boards.<sup>22</sup> The Presidency intends to list internal visits and board visits separately in future reports.<sup>23</sup>

Representatives of boards in provinces where there had been no visits often seemed to feel that visiting a police station other than on the basis of a personal complaint was unnecessary, inappropriate, or even beyond the boards' competence. Indeed, the most common explanation board members gave for not using boards' powers of inspection was that there had been no complaints upon which they could act.<sup>24</sup> Many board members were not even aware that the human rights boards are entitled to carry out announced visits, *ad hoc* (unannounced) visits, or visits in response to media or other reports of ill-treatment in a particular unit.

### **Effectiveness of Board Visits**

Police station visiting by civilians is new for Turkey, and a break with the traditional relationship between state security forces and the public in which supervision was strictly a one-way street. The only precedents for the visiting now being conducted by human rights boards were visits conducted by the European Committee for the Prevention of Torture (CPT) from 1990 onwards, and the visits made by Dr. Sema Pişkinsüt from 1998 to 2000 when she was president of the Turkish Parliamentary Human Rights Commission. Both these mechanisms, operating at a time when torture was pandemic, discovered victims and instruments of torture. On two occasions Dr. Pişkinsüt located secret interrogation rooms, and attempted to initiate prosecutions of alleged torturers. In the current improved climate, one would not expect boards to produce a similar level of

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<sup>22</sup> For example, the Human Rights Presidency's April-June 2005 activity report states that 122 visits were made in that province—54 to gendarmeries and 68 to police stations. The Izmir board carried out no visits during that period. On September 9, 2005, Human Rights Presidency representative Mehmet Altuntaş told Human Rights Watch that the 122 visits were carried out by governors and prosecutors.

<sup>23</sup> Human Rights Watch telephone interview with Mehmet Altuntaş of the Human Rights Presidency, September 9, 2005.

<sup>24</sup> The most consistently reported item of feedback was that boards received few complaints, and that the few that were received were usually "irrelevant." Examples given were applications about electricity supply, water shortages, or complaints on issues about which courts had already given judgments.

findings, but if visits are to have an impact on patterns of ill-treatment, it is essential that they are sufficiently frequent, determined and inquisitive. The general impression gained by Human Rights Watch's research was that while supervisory visits are still very much at the experimental stage, delegates are taking their responsibilities seriously and want to make this form of monitoring work. But with little institutional experience to draw on, or obvious models elsewhere in public life on which to base their efforts, board members are going to have to be prepared to be bold, learn fast, and share experience.

### **Standards and Methodologies**

The Human Rights Presidency has circulated to boards translations of a section of the Istanbul Protocol<sup>25</sup> concerning police station visits, but Human Rights Watch's research suggests a diversity of approaches being taken by human rights boards, and a highly variable standard of monitoring. Several board representatives said that they wanted guidance on how to carry out visits, including a checklist of criteria, with clear advice down to the level of how much space, ventilation, or light a detainee should have, and what nutrition or hygiene arrangements are acceptable. Others are independently devising their own methodologies, such as the Izmir board, which in August established a Prison and Detention Unit Monitoring Group and developed an eight-point training program for police station monitors in collaboration with Izmir University, and the Mardin human rights board, which has developed its own seventeen-point checklist for police station visits.<sup>26</sup>

Representatives of provincial human rights boards described to Human Rights Watch visits they had undertaken, and in three cases passed on copies of visit reports. Some visits were little more than a courtesy call, while others were comparatively searching. Out of the thirty-one provincial human rights boards that had conducted visits as of September 2005, sixteen had conducted unannounced as well as announced visits. Some delegations used the custody book as a valuable supervision resource. In an unannounced visit in the summer of 2005 the Malatya board, for example, interviewed three detainees and compared the detainees' accounts of their admission with the details

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<sup>25</sup> United Nations, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, submitted to the United Nations High Commissioner for Human Rights, August 9, 1999.

<sup>26</sup> T.C. İzmir Valiliği İl İnsan Hakları Kurulu Cezaevi ve Gözaltı Birimleri İzleme Grubu 22.08.2005 Tarihli Toplantı Raporu (Report of the 22.08.2005 meeting of the Prison and Police Detention Unit Monitoring Group of the Izmir Governorate Provincial Human Rights Board of the Republic of Turkey), and Human Rights Watch telephone interview with Mardin bar president and representative Mehmet Nuri Özgün, September 9, 2005.

appearing in the custody book.<sup>27</sup> Another delegation that examined a custody book reminded the security forces that they must enter the hour, and not just the date, of detention and discharge. Examining the custody book should be standard practice—even if there are no detainees at the time of the visit, the custody book may reveal poor standards of record keeping, or a suspicious pattern in which detainees consistently decline legal assistance.

### ***Scheduling and Targeting Visits***

There are 1,570 police stations in Turkey,<sup>28</sup> and the total number of detention units including gendarmeries is probably more than twice that. Several governors told Human Rights Watch that they were each responsible for more than fifty police and gendarmerie posts. As police station monitoring is new, most boards had carried out no more than one or two visits. If the eighty-one boards are to provide effective supervision they will have to introduce a regular program of visits that, while not imposing a crushing time burden on busy board members, ensures that every unit can expect a visit with reasonable frequency.

Boards should be alert to what is happening in police stations in their provinces, and respond to developments with visits when appropriate. For example, press reports of complaints of ill-treatment are a sign that there may be a pattern of abuse in the police stations in question, and it would be quite appropriate for the board to make a visit to look at practices in that unit, not to rule on the specific incident—which is the business of the judicial system—but to examine police practices in that unit. Unfortunately, many board representatives expressed reluctance to make visits other than on the basis of a formal complaint. In July a former detainee, Cemil Bilgili, held a press conference complaining that he had been insulted and beaten at Çağlayan police station in Istanbul.<sup>29</sup> When Human Rights Watch asked the deputy governor of Istanbul whether the Istanbul human rights board was considering visiting Çağlayan police station in the light of Bilgili's public complaint, the assistant governor stated that they could not visit since Bilgili had made no complaint to the board.<sup>30</sup>

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<sup>27</sup> Human Rights Watch telephone interview with bar association representative (name withheld) July 6, 2005.

<sup>28</sup> "Karakolların yarısı kapanıyor" ("Half of police stations will close"), *Milliyet (Nationhood)* (Istanbul), February 26, 2002.

<sup>29</sup> *Info-Türk Bulletin No. 323*, Brussels, July 2005.

<sup>30</sup> Human Rights Watch telephone interview with Istanbul assistant governor Mehmet Seyman, August 4, 2005.

Similarly, any police unit where there is a death or serious injury in custody deserves close attention from monitoring bodies, quite aside from any judicial investigation that may be under way, but the response from boards has not been systematic. For example, Murat Yavuzer died on the night of June 1, 2005, while detained at Sağlık police station in Diyarbakır for alleged theft.<sup>31</sup> The police's account is that Murat Yavuzer made a noose of his clothing and committed suicide. As of September, Diyarbakır provincial human rights board had carried out no visits to Sağlık police station, or to any other police station or gendarmerie.

It is no coincidence that one of the very few alleged incidents of torture emerging from police stations in recent months were in Ordu province, where monitoring visits have not yet been conducted. On October 2, 2005, four juveniles aged between fifteen and seventeen, and an eighteen-year-old man, reported that police officers at Ordu police headquarters had beaten them, stripped them naked and squeezed their testicles. They also stated that police officers threatened to rape them and to photograph them naked. The juveniles were not immediately referred to the prosecutor or permitted access to a lawyer. Three of the juveniles later received medical reports consistent with their allegations. In another case in Ordu, on October 28 an adult detainee was taken from Ordu police headquarters to hospital for emergency treatment for a heart condition. He reported that he and a fellow detainee had been severely beaten by police. It is not known whether the Ordu governor was carrying out monitoring visits in accordance with the 1999 circular issued by the Prime Minister's office, but the Ordu bar association and medical association representatives told Human Rights Watch that the provincial human rights board had conducted no police station visits.<sup>32</sup> In February 2006 the public prosecution office in Ordu gave a decision not to prosecute police officers in connection with the allegations made by the four juveniles and adult detained on October 2, 2005.

### ***Cooperation of the Police and Gendarmerie***

It appears that law enforcement personnel in most cases cooperated well with visiting board delegations, though there were some problems. In Kahramanmaraş, board members expressed an interest in visiting a prison, but the governor insisted that they should first seek permission from the prison prosecutor.<sup>33</sup> In Şanlıurfa, when a human

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<sup>31</sup> Akın A. "Sabıkalı genç gözaltında pantolonu ile kendini astı" ("Youth with criminal record hangs himself with his trousers"), *Zaman (Time) (Istanbul)*, June 6, 2005.

<sup>32</sup> "Ordu'da Neler Oluyor?" ("What is Happening in Ordu?"), *Evrensel (Universal) (Istanbul)*, October 24, 2005.

<sup>33</sup> Human Rights Watch telephone interview with Kahramanmaraş bar association representative Serpil Çeçen, July 26, 2005.

rights board delegation went to the provincial gendarmerie command in June they were bodysearched in what appeared to be a hostile manner, and the delegation decided not to proceed with the visit.<sup>34</sup> When the representative of the Denizli medical association attended Denizli prison with the chairman of the bar association and a psychiatrist in order to investigate a complaint made by a prisoner, gendarmes found a scalpel blade in his wallet, whereupon the prison prosecutor launched an investigation against the doctor on possible charge of smuggling a weapon into a prison. The investigation resulted in a decision not to prosecute, but the board did not intervene on the doctor's behalf when he was summoned to give a statement. Disaffected by the experience, the doctor has not since attended board meetings, and told Human Rights Watch, "it made me regret that I got involved in the board in the first place."<sup>35</sup>

## **Independence of Police Station Visiting Delegations**

### ***The Role of the Governors***

Several board members interviewed drew attention to the boards' lack of independence from the office of the governor, which is in effect a police authority: governors are responsible for policing in their province, and police and gendarmerie chiefs are answerable to the governor. Yet governors are also a dominating presence on the human rights boards: in practice they appoint most of the members,<sup>36</sup> and—such is the power of their position in the provincial landscape—they can also advance or retard the career of any civil servant serving on a human rights board.

In some provinces, board members were extremely pessimistic about the boards' potential for action, and even about the motivation for establishing the boards. One bar association representative had stopped attending meetings because "the boards look as if they were just set up to comply with the law and regulations ... the fact that a public servant chairs its meetings is clearly a handicap."<sup>37</sup> A second bar association representative said that in his view the boards were a dead letter, and "would never be

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<sup>34</sup> Human Rights Watch telephone interview with Devrim Polat Divri, bar association representative to Şanlıurfa provincial human rights board, June 22, 2005.

<sup>35</sup> Human Rights Watch telephone interview with Halil Mihçi, Denizli Medical Association representative to the Denizli provincial human rights board, August 3, 2005.

<sup>36</sup> Regulation on the foundation, duties and working principles of provincial and local human rights boards, published in the Official Gazette, November 23, 2003, Article 5.

<sup>37</sup> E-mail communication to Human Rights Watch from bar association representative, name withheld, July 20, 2005.

able to do anything constructive while under the governors' authority."<sup>38</sup> Another said that his board "is not democratic because some representatives are really scared to talk in front of the assistant governor. If you go to small towns, the anti-democratic atmosphere is even worse."<sup>39</sup>

Several governors and assistant governors who spoke to Human Rights Watch quite frankly admitted that their own highly influential position conflicted with the basic aim of the human rights boards. Two assistant governors, for example, suggested that boards should be recruited by public advertisement and meet in the absence of the governor.<sup>40</sup> Another assistant governor and a governor separately suggested boards are powerless to act unless they conform to the governor's agenda.<sup>41</sup> Several delegates also pointed out that since boards have no dedicated secretariat, premises or funds, they are utterly dependent on the goodwill and cooperation of the office of the governor for these facilities.<sup>42</sup> The representative of the Van bar association mentioned that he had offered to lead some visits to checkpoints and police stations in 2004, but since the assistant governor had not provided transport, the visits never took place.<sup>43</sup>

In most of the visits described by board members, delegations included representatives from bar and medical associations, but governors or assistant governors were usually also present. As one assistant governor pointed out, the inclusion of the governor on visiting delegations may, in the early days, open doors that would otherwise remain closed to delegations, and demonstrates the state's commitment to this form of supervision.<sup>44</sup> However, as time goes on the need to show convincing independence will weigh more heavily, and the ultimate aim should be that the governors will stand back, endorsing the authority of the visitors where necessary, but not participating in or reporting on actual visits. Moreover, close involvement of governors obviously presents potential problems in organizing unannounced visits. One bar association representative

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<sup>38</sup> Human Rights Watch telephone interview with Tekirdağ bar representative Savaş Kayan, June 22, 2005.

<sup>39</sup> Human Rights Watch telephone interview with bar association representative, name withheld, June 14, 2005.

<sup>40</sup> Human Rights Watch telephone interview with Balıkesir assistant governor Sadık İkizler, July 28, 2005.

<sup>41</sup> Human Rights Watch telephone interviews with and with governor, name withheld, and assistant governor, name withheld, August 23, 2005; The latter colourfully summed up the situation with the proverb "at sahibine göre kişner" (the horse neighs according to its owner).

<sup>42</sup> Regulation on the foundation, duties and working principles of provincial and local human rights boards, published in the Official Gazette, November 23, 2003, Article 15.

<sup>43</sup> Human Rights Watch telephone interview with Murat Timur, London, June 21, 2005.

<sup>44</sup> Human Rights Watch telephone interview with Sadık İkizkeç, July 28, 2005.

told of one supposedly surprise visit that was met by a formal police welcome that suggested they had been expecting the delegation's arrival.<sup>45</sup>

The more convincingly independent the make-up of human rights board delegations, the more effective their monitoring will be. Unless they stand well outside the chain of command and influence running from the interior ministry through governors to police and gendarmerie chiefs, delegations are unlikely to ask difficult questions, insist on access, and reliably record negative findings. Certainly any detainees interviewed during a visit will be aware of the relationship between the police and the governor, and will be inhibited if the delegation cannot show persuasive signs of independence.

### ***Uneven Participation of Bar and Medical Associations***

In its monitoring duties, the boards' claim to independence relies heavily on the participation of the bar and medical association representatives who are best qualified in terms of independence (as well as professional expertise and interest) to lead and support the board's monitoring activities. Although bar and medical associations have an automatic right to be represented on provincial human rights boards, they do not always participate. In Kütahya the medical association did not take up its seat because neither the provincial board nor the medical association was aware that the association was supposed to be represented.<sup>46</sup> In summer 2005 the medical association took up its seat on the board and began to attend meetings. The Ankara medical association is currently not participating on their provincial board because they were not satisfied that their contributions were reflected in the proceedings of the board.<sup>47</sup> The Adiyaman bar association told Human Rights Watch that it had not been attending board meetings because its representative had repeatedly turned up for meetings only to find them cancelled at the last moment. The Adiyaman bar association has since revised this stance, and in response to the increased interest in the monitoring role of the boards, now intends to attend to attend meetings in order to participate in police station visiting.<sup>48</sup>

Board members warned that even bar and medical association representatives are not necessarily beyond the governor's influence. If the medical association representative is employed in a local state hospital, for example, it may be difficult for them to propose or participate in challenging visits to police stations which may be embarrassing for the

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<sup>45</sup> Human Rights Watch telephone interview, name withheld, July 12, 2005.

<sup>46</sup> Human Rights Watch telephone interview, name withheld, August 17, 2005.

<sup>47</sup> E-mail communication to Human Rights Watch from Ali Gököz, July 12, 2005, and Human Rights Watch telephone interview with Gököz, July 14.

<sup>48</sup> Human Rights Watch telephone interview with M. Nazım Pektaş, June 29, 2005.



governor, who can affect their professional life in various ways. The response of a medical association board member to a question from Human Rights Watch about the independence of the boards illustrates the pressure that governors can bring to bear on even the more independent members of the commission: “I may be a member of the medical chamber, but I am a state employee, and right now I am responding to your questions [conscious that I am] a state employee.”<sup>49</sup>

### ***Involving NGOs***

Two board members mentioned that the credibility and independence of the boards would be strengthened if the two national human rights organizations, the Human Rights Association (HRA) and Mazlum-Der, were to serve on the boards.<sup>50</sup>

Currently, the HRA and Mazlum-Der do not participate in any activities of the human rights boards. They have various reservations about serving on the boards, but in particular they are unwilling to participate in the process of adjudicating on individual complaints of human rights violations. The HRA and Mazlum-Der do not feel that the boards are a fair tribunal (for various reasons, including their lack of independence). The HRA and Mazlum-Der cannot risk having their status as human rights organizations used to legitimize decisions which wrongfully exculpate state officials. However, Ayhan Bilgen, president of Mazlum-Der, said that his organization “would definitely like to assist the boards in monitoring police stations, on a consultative basis.”<sup>51</sup> HRA president Yusuf Alataş stated that his organization would be “very willing to participate in any truly independent human rights institution established according to the Paris principles, but not with these boards, who have no separate budget, and no powers. However, we would be willing to participate in police station visiting on a consultative basis if invited.”<sup>52</sup>

The HRA and Mazlum-Der could contribute local knowledge, knowledge of international standards and experience of monitoring and reporting human rights violations. Even more importantly, their participation would encourage the human rights board delegations towards greater independence from the provincial governor, and

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<sup>49</sup> Human Rights Watch interview, name withheld, July 14, 2005.

<sup>50</sup> Human Rights Watch telephone interviews with Sivas Bar Association representative Hasan Hüseyin Yıldız, July 14, 2005 and Tekirdağ bar association representative Savaş Kayan, June 22, 2005

<sup>51</sup> Human Rights Watch telephone interview with Ayhan Bilgen, September 9, 2005.

<sup>52</sup> Human Rights Watch telephone interview with Yusuf Alataş, September 9, 2005.

thereby increase the credibility of the boards with the outside world, detainees and victims of ill-treatment.

Closed institutions of all kinds present a risk of the psychological, physical and sexual abuse which were so long pandemic in police stations in Turkey. Following a visit to Saray Rehabilitation Center, a psychiatric institution in Ankara, in January 2005, the human rights commission of the Turkish Grand National Assembly reported that it had discovered children tied to their beds and imprisoned naked in cold rooms. A report by Mental Disability Rights International (MDRI) in September<sup>53</sup> suggested that such ill-treatment and neglect may be widespread in psychiatric hospitals. MDRI's report described, for example, how children were subjected to electroconvulsive therapy (ECT), and had their hands and feet bound to their beds for long periods. MDRI recommends that Turkey should move from an institution-based to a community-based model of care for people with disabilities. In the meantime, its report urges that institutions should be opened up to public oversight, and that an independent human rights monitoring agency should be created to inspect institutions holding psychiatric patients and minors, and report publicly.

## Conclusions

Police station visiting by human rights boards is a valuable addition to the existing safeguards against torture and ill-treatment. An innovation in Turkey, independent police station visiting is increasingly recognized worldwide as a safeguard for detainees, and a protection against abuse. The Turkish government has acknowledged the need for and the usefulness of police station monitoring by signing the Optional Protocol to the United Nations Torture Convention in September 2005. At least as an interim measure before protocol-based systems are established, human rights boards are ready and willing to monitor police stations and gendarmeries, and some have already begun to carry out effective visits. Less than half of boards have yet carried out visits, and remaining boards should be encouraged to make a start on this work. Many boards are holding back from carrying out *ad hoc* visits, believing that they should not intrude on gendarmerie or police premises unless a victim of a human rights violation has made a formal complaint. Such complaints are rare, and certainly do not match the frequency of allegations of ill-treatment. Boards must set themselves a pace of visiting that will provide a reasonable frequency of visits. As well as carrying out random unannounced and announced visits,

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<sup>53</sup> ***Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey/Kapalı Kapılar Ardında: Psikiyatri Kurumları, Türkiye'nin Rehabilitasyon Merkezleri ve Yetimhanelerinde Yaşanan İnsan Hakları***, Mental Disability Rights International, September 28, 2005.

boards should be alert to reports of ill-treatment in their province, and respond accordingly. Provincial governors' close identification with the boards may help to establish the boards in the early stages of their monitoring activities, but could in the longer term undermine the independence of visiting delegations. The independence of delegations must soon be enhanced – in particular, by providing dedicated resources, by governors standing well back from the monitoring process, and by the inclusion of HRA or Mazlum-Der representatives, acting on a consultancy basis if necessary. Delegations, currently working out their own working and training methods, are keen to receive information and training about how to carry out their duties properly, by ensuring that places of interrogation and detention are run in conformity with international standards. Reporting of the boards' visiting activities is as yet limited, but the Human Rights Presidency has committed itself to detailed reporting in the near future.

**Human Rights Watch's recommendations to the Human Rights Presidency of the Prime Minister's Office:**

- Encourage provincial human rights boards countrywide to participate in police station monitoring.
- Enhance the independence of police station monitoring by provincial human rights boards by:
  - Encouraging bar and medical chamber delegates to take the lead in monitoring activities;
  - Providing boards with a budget and resources sufficient to conduct their monitoring activities independent of the provincial governor's office;
  - Encouraging human rights NGOs such as Mazlum-Der and the Human Rights Association to assist boards in visiting as consultants.
  - Begin posting information about police stations and gendarmeries visited, including dates and composition of delegations, on the Human Rights Presidency's website.
  - Begin posting the findings of monitoring delegations in the form of quarterly reports containing meaningfully detailed information on methods, findings and recommendations.
  - Work with the Council of Europe, and particularly the European Committee for the Prevention of Torture, to support the training of police station visitors, in particular by developing inspection criteria based on international human rights provision of simple training materials.

## Appendix

<b>Appendix: Visits to police stations carried out by provincial human rights boards (by September 2005)</b>	
Province	Visiting details
Adana	July 2005
Aksaray	last visit more than a year prior to September 2005
Antalya	June 2005
Aydın	last visit four or five months prior to September 2005
Bartın	last visit early 2005
Batman	last visit March 2005
Bolu	last visit more than eighteen months prior to September 2005
Burdur	July 2005
Çanakkale	May 2005
Cankırı	last visit some eighteen months prior to September 2005
Çorum	June and July 2005
Düzce	last visit three or four months prior to September 2005
Elazığ	June 2005
Gaziantep	last visit some two years prior to September 2005
Giresun	last visit some two years prior to September 2005

Iğdır	visit carried out in 2005
Isparta	last visit three months prior to September 2005
Karabük	July 2005
Karaman	visited July 2005
Kayseri	August 2005
Kilis	June 2005
Kırıkkale	June 2005
Malatya	June 2005
Mardin	last visit early 2005
Mersin	June 2005
Nevşehir	August 2005
Şanlıurfa	May 2005
Sinop	last visit more than a year prior to September 2005
Sivas	last visit some two years prior to September 2005
Trabzon	July 2005
Tokat	last visit a year prior to September 2005