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132nd session of the Human Rights Committee

for adoption of the List of Issues Prior to Reporting

for the Republic of Turkey

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# **INTRODUCTION**

The present report drafted and presented by the Journalists and Writers Foundation (hereafter: “JWF”), provides the Human Rights Committee (hereafter: “the Committee”) with information on the Republic of Turkey (hereafter: “Turkey” or “the State party”) for the adoption of the list of issues prior to reporting (LOIPR) during its 132nd session.

Despite few improvements since the consideration of the initial report in 2012, there has been insignificant progress, *if any*, in the human rights situation in Turkey, as the authorities have established a disturbing track-record of suppressing dissent and gradually restricting human rights and fundamental freedoms. Since the July 15, 2016 attempted coup (hereafter: “attempted coup”) and the state of emergency (hereafter: “SOE”) declared in its aftermath, Turkey has experienced a sharp declining trend in almost all human rights indicators, including the rights and freedoms protected by the ICCPR. The attempted coup paved the way to an unprecedented crackdown on all dissent, real or not, which has only intensified. In addition to the oppression in Turkey, using an expansive guilt by association approach, in its transnational repression efforts the Government of Turkey continues to also aggressively pursue dissidents around the world.[[1]](#footnote-1)

**VIOLATIONS UNDER THE ICCPR**

## **Article 3 – Equality between Women and Men**

Under the Justice and Development Party (AKP) rule since 2002, Turkey has experienced a sharp declining trend in almost all democratic indicators, including the rights of women. Women continue to face unique challenges driven by government-promoted discrimination and stereotypes about their so-called “appropriate role”, including frequent demeaning statements about women who do not adhere to traditional roles. Islamist ruling AKP has also encouraged female subservience, with President Erdoğan even calling childless women “*deficient*”.

Since the breakdown of the Kurdish peace process (July 2015) and the attempted coup, Kurdish women and women allegedly linked to the Hizmet/Gülen Movement (hereafter: “Hizmet”) suffer disproportionate multi-faceted discrimination, particularly as regards equal access to political participation, health, education, employment, and justice, both in law and practice. In addition, women belonging to the above marginalized groups face economic hardship, exclusion, and violence, humiliating and degrading treatment in places where persons are deprived of liberty, including in health-care facilities, especially during pregnancy, childbirth, and the postpartum period.[[2]](#footnote-2)

Tens of thousands of women, including housewives, journalists, teachers, academics, physicians, health care professionals and businesswomen, have been detained in the aftermath of the attempted coup, for allegedly having links to Hizmet. Many religious leaders and radical Islamic groups have even made public statements suggesting that, “*women and girls from Hizmet are subjects of the pro-Erdogan supporters*.”[[3]](#footnote-3)

Based on numerous interviews and credible reports, by 2017 the OHCHR identified a particularly alarming pattern of detaining women just before or immediately after giving birth. OHCHR estimated in 2018 that “*approximately 600 women with young children were being held in detention in Turkey as of December 2017*. *In almost all cases, they were arrested as ‘associates’ of their husbands – who were the Government’s primary suspects for connection to terrorist organizations - without separate evidence supporting charges against them*.”[[4]](#footnote-4) The Ministry of Justice announced on March 9, 2021 that 317 mothers were held in prisons, along with 345 children from 0 to 6 years old.[[5]](#footnote-5)

In March 2021, Turkey also withdrew from the Istanbul Convention, a critical safeguard combatting violence against women, which has steadily increased in Turkey. In 2016 - 328 women were killed by men; in 2017 - 409, with 387 children and 332 women sexually abused; in 2018 - 440 women murdered and 317 sexually assaulted; in 2019 - 474 women were murdered; and in 2020 – 300 women were killed by men and 171 women found dead in suspicious circumstances.

Suggestion for questions:

* What are the measures taken to combat discriminatory practices based on sex, political or other grounds against women, perceived Hizmet followers?
* What steps are taken to promote women’s right to equality and combat stereotypes on the women’s “appropriate role”?
* What measures are taken to ensure that health and other services for women purged after the attempted coup are available and accessible on an equal basis?
* What measures are taken to ensure access to preventive and remedial health services for women in prison?
* Has the government taken any measures to allow non-custodial sentences for pregnant women and women with dependent children in accordance with the Bangkok Rules?
* Are there any plans to rescind Turkey’s withdrawal from the Istanbul Convention?

## **Article 4 – Measures under the State of Emergency**

On July 15, 2016, a small group of officers within the Turkish armed forces tried to seize power and overthrow the elected Government of Turkey. 249 individuals were killed and 2,194 were injured during the coup attempt. With the coup attempt still ongoing, President Erdoğan claimed on national TV that Fethullah Gülen, a retired preacher and a vocal Erdoğan critic was the coup’s mastermind. Mr. Gülen himself condemned the attempt while it was in progress and denied any involvement afterwards.

On July 20, 2016, the Government declared a SOE for three months. “*The purpose of the SOE is [was] to take required measures in the most speedy and effective manner in the fight against FETÖ/PDY[[6]](#footnote-6) terrorist organization*.”[[7]](#footnote-7) On July 21 the SOE decision was communicated to the UN and the CoE, along with a notice of derogation from the ICCPR and ECHR.[[8]](#footnote-8) The government notified the UNSG of its invocation of Article 4 of the ICCPR, and that the derogation involved obligations under thirteen articles.[[9]](#footnote-9)

Under Article 4, a State party may proclaim a SOE and take relevant measures therein, if these measures are consistent with State’s domestic and international law obligations and they are not excessively broad; thus, used to restrict the exercise of basic rights in an unjustifiable manner. The declaration of the SOE and measures taken in its context in Turkey between July 2016 and July 2018 were contrary to the Siracusa principles,[[10]](#footnote-10) the principles of legality and proportionality.

Lack of information

The Committee has emphasized that the notification should include full information about the measures taken and a clear explanation of the reasons for them as well as the obligation to notify any changes. The Committee has further asserted its duty to monitor the law and practice of a State party for compliance with Article 4 even where the State party has not submitted a notification.[[11]](#footnote-11) The notification instrument of Turkey submitted to the UNSG under Article 4 contained a list of provisions affected by the emergency measures, but not their description.

Principle of legality

Article 120 of the Constitution provides for the government to declare a SOE in the event “*of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms* […]”. The decision should be published and submitted immediately to the Assembly for approval. Even though the Grand National Assembly of Turkey (hereafter “Parliament”) was on summer recess, it reconvened immediately and approved the SOE declaration on the same day; thus, the domestic procedure for the declaration of the state of emergency was respected.

Article 121 § 3 of the Constitution provides further that, “[The emergency] decree laws shall be published in the Official Gazette and shall be submitted to the Parliament on the same day for approval; the time limit and procedure for their approval by the Parliament shall be indicated in the Internal Regulation”. These decree laws have to be discussed in the committees and in the plenary sessions of the Parliament with priority and urgency.[[12]](#footnote-12) Decree laws not submitted to the Parliament on the day of their publication shall cease to have effect on that day and decree laws rejected by the Parliament shall cease to have effect on the day of publication of the decision in the Official Gazette. The amended provisions of the decree laws which are approved as amended shall enter into force on the day of their publication in the Official Gazette.

From July 1 until October 1, 2016, the Parliament was however on summer recess and unlike the declaration of the SOE, it did not reconvene to approve the SOE decrees issued by the government in July-September 2016, which also constitute an urgent matter. Only after returning from recess on October 18, 2016, the Parliament discussed and accepted the first decree law enacted by the Government (No. 667) and began examining subsequent decree laws. Decree Laws 668, 669, and 671 were approved by the Parliament on November 8 and 9, 2016 respectively, more than 30 days after the end of the summer recess. Decree Law No. 674 was approved on November 10, 2016.

These delays are materially important and shed serious doubts on the lawfulness of the decree laws, which in practice allowed the government to legislate and rule through emergency decree laws without any parliamentary oversight for at least a period of over two months. In addition, even though in practice it had approved earlier the SOE, the Assembly did not give the emergency situation any emergency treatment whatsoever; thus, confirming in practice that the situation did not warrant the adoption of SOE measures.

Principle of proportionality

The situation involving Article 4 § 1 of the ICCPR has been interpreted as “*a threat to the life of the nation is one that: (a) affects the whole of the population and either the whole or part of the territory of the State, and (b) threatens the physical integrity of the population, the political independence or the territorial integrity of the State or the existence or basic functioning of institutions indispensable to ensure and protect the rights recognized in the Covenant*.”

The far-reaching, increasingly repressive, and almost unlimited discretionary powers exercised by the Turkish authorities during the state of emergency endanger the general principles of the rule of law and human rights safeguards, the ones the SOE is designed to protect. Measures taken under the SOE must be derogating from the ICCPR only to the extent strictly required by the situation, and therefore must be proportionate to the aim pursued. This aim, in the context of Turkey’s derogation to the ICCPR, was to counter the severe dangers to public security and order, amounting to a threat to the life of the nation, “*posed by the coup attempt and its aftermath together with other terrorist acts*”.

The attempted coup, which began on Friday, July 15 at around 22:00, was quashed by 20:02 on Saturday, July 16, 2016.[[13]](#footnote-13) In the aftermath the attempted coup, by July 17, 2016 both, the government and the Army General Staff announced that they had full and absolute control throughout the country. Three days later however, on July 20 the Government decided that a nationwide state of emergency would be declared as from July 21st for a period of ninety days, pursuant to Article 120 of the Constitution and Article 3 § 1 (b) of the Law on the SOE (Law no. 2935).

In its information notes to the UN human rights system since 2016, the government has held that, “*A total of more than 8,000 military personnel was involved in the coup attempt*.” In responding to the attempted coup however, between July 2016 and February 2021, 622,646 individuals were investigated for links to Hizmet, 301,932 individuals were detained, with 96,782 individuals conditionally released under judicial control.[[14]](#footnote-14) Among those arrested in relation to emergency decrees are tens of thousands are women, including housewives, journalists, teachers, academics, physicians, health care professionals and businesswomen, with no apparent links, even remote, to the attempted coup.

By November 2018, only 45.1% (67,670) dismissed of their positions following the attempted coup were military and police officers, military cadets, and other security personnel. The majority (54.9%) of those dismissed of profession were teachers (34,288), other civil servants (23,480), judges, prosecutors, and other legal professionals (11,640), healthcare workers (7,249) and academics (6,021).

In the aftermath of the attempted coup, there may have been a need to take immediate action in respect of a *very limited number* of persons (according to the government around 8,000 individuals) who, due to their functions (army, police, security personnel etc.), represented a potential security threat, followed by a fair legal process. By contrast, putting tens of thousands of public servants and thousands of legal entities on lists a few weeks after the declaration of the SOE[[15]](#footnote-15) suggests that the cases of those individuals and organizations cannot have been thoroughly considered, and that, consequently, those measures may affect a large number of innocent people and organizations which have nothing to do with the conspiracy.[[16]](#footnote-16)

Almost five years following the attempted coup, hundreds of innocent people continue to be detained, arrested, and tried every week for alleged links to Hizmet and the attempted coup, often, if not always, with questionable evidentiary standards and without full due process provided for under law*.* In July 2020, theMinistry of Justice reported that it had carried out nearly 100,000 operations targeting perceived Hizmet sympathizers in 4 years.

It is estimated that 5,175 mass arrest operations have been carried out in Turkey since 2014, mostly targeting perceived Hizmet supporters. On average, at least three mass-arrest operations have been carried out every single day, with approximately 70 individuals detained daily on bogus terrorism-related charges.[[17]](#footnote-17) Turkish public prosecutors subsequently have filed more than 392,000 charges under Article 314 (membership in a terrorist organization) of the Turkish Criminal Code (TCC) in the last seven years.

Considering the vast number of persons, hundreds of thousands of individuals arrested, detained, suspended and/or dismissed, as well as legal persons disbanded by using emergency powers and procedures, or the post SOE measures, it is inconceivable that the danger demonstrated during the attempted coup, has at present – almost 5 years afterwards has not come to an end.

Measures of a permanent nature

In the context of an emergency situation “*strict limits on the duration, circumstance and scope of such [emergency] powers [of the Government] is essential*”. Other threats to the public order and safety should be dealt with by means of ordinary legislation.

During the SOE and its aftermath, the government has taken permanent measures, which go beyond a temporary SOE. Civil servants were dismissed, not merely suspended, organizations and bodies were dissolved, and their property instantly confiscated. In addition, the government has made several important structural changes to the legislation, which should have normally been done through ordinary legislative process outside of the emergency period.

Thirty-two arbitrary emergency decrees with a sweeping nature were issued during the two-year SOE period targeting members of Hizmet, and severely curtailing human rights and liberties. Most of the measures introduced under the emergency decrees and important changes introduced to key pieces of legislation in Turkey, including criminal procedure law are not confined to the duration of the SOE. New counterterrorism legislation adopted immediately after the end of the SOE (August 2018) contains many of the measures similar to the extraordinary powers vested upon the government during the SOE.[[18]](#footnote-18) With many of the SOE measures effectively remaining into force, the lifting of the SOE in July 2018 is considered largely cosmetic.

Suggestion for questions:

* How the derogations under the SOE meet the strict requirements of proportionality to the exigencies of the situation, relating to duration and material scope?
* What legislative steps are taken to reverse measures of a permanent nature and the changes made to the legal framework during the SOE?
* What measures are envisaged to ensure review of the Turkish Criminal Code, Criminal Procedural Code, the Anti-Terror Law, and other laws used to restrict human rights and freedoms, with a view of repealing or amending them to comply with international human rights standards?

## **Article 6 – Right to life**

Death penalty in Turkey for peacetime offenses was abolished in 2002,[[19]](#footnote-19) and it was replaced with life imprisonment. With the adoption of Law No. 5218 of July 14, 2004, the Parliament abolished death penalty for all offenses. On February 20, 2006, Turkey ratified Protocol No. 13 to the ECHR and few days later,[[20]](#footnote-20) ICCPR Second Optional Protocol.

Over the years the debate for reintroducing death penalty remained theoretical. The government stance however changed on the night of attempted coup, with President Erdoğan vowing to bring back death penalty if parliament passed it.[[21]](#footnote-21) Calls and the debate to reinstate the death penalty were renewed in the first half of 2018, ahead of a referendum for a constitutional package.[[22]](#footnote-22)

The government has made no secret of the group(s), which members would be particularly targeted by the reinstatement of death penalty; since the attempted coup, it has gone to the extreme many times by declaring that Hizmet members do not have a right to life. In short, the reinstatement of the death penalty would provide the government a license to intensify its oppression against members of political and other dissent. A possible reinstatement of the capital punishment would further exacerbate discrimination based on political or other opinion, ethnicity, or other basis.

In addition to the attempts to reinstate death penalty, since July 2016, there has been a dramatic increase of suspicions deaths in custody of “high-profile” detainees, with at least 205 suspicious deaths and suicides.[[23]](#footnote-23)

Suggestion for questions:

* What measures are taken to comply with the ICCPR Second Optional Protocol and Protocols 6 and 13 to the ECHR?
* How many investigations, prosecutions and convictions have taken place following 205 alleged killings of political prisoners since the attempted coup of July 2016, including some high-profile cases?

## **Article 7 – Torture and ill-treatment**

Turkish Constitution prohibits torture and other cruel, inhuman, or degrading treatment. The government has also repeatedly stated its “zero tolerance for torture policy”.

During the reporting period, human rights groups have asserted that individuals with alleged affiliation with Hizmet have been more likely to be subjected to torture and ill-treatment; systematically subjected to torture, using methods firmly prohibited under international law.[[24]](#footnote-24) Brutal interrogation techniques[[25]](#footnote-25) have been documented, in particular in the aftermath of the attempted coup, inside and outside police stations and other facilities, aimed at mainly extracting forced confessions or coercing detainees to incriminate others.[[26]](#footnote-26)

No serious measures have been taken to investigate credible allegations of torture. Reports point out to security officials systematically interfering with medical examinations and many doctors refraining from signing medical reports alleging torture, due to fear of reprisals. This ultimately results in victims being unable to obtain medical documentation that would help prove their claims.

On August 5, 2020, the CoE released two reports on visits to the country by its Committee for the Prevention of Torture’s (CPT) in 2017 and 2019. The 2019 report stated that the delegation received “*a considerable number of allegations of excessive use of force or physical ill-treatment by police and gendarmerie officers from persons who had recently been taken into custody (including women and juveniles). The allegations consisted mainly of slaps, kicks, punches (including to the head and face), and truncheon blows after the persons concerned had been handcuffed or otherwise brought under control*.”

Approximately 100 former foreign ministry employees were detained during the week of May 20, 2019. A detailed report drafted by the Ankara Bar Association and the Lawyer’s Rights Center, Prison Board and Human Rights Center following relevant investigation and interviews with the victims, revealed that at least 20 former diplomats were subjected to torture and ill-treatment, carried out by law enforcement, including members of Turkey’s National Intelligence Organization (MIT).[[27]](#footnote-27)

In its follow-up [report](https://undocs.org/A/HRC/45/13/ADD.4) to the recommendations made by the WGEID on its visit to Turkey,[[28]](#footnote-28) the Group was particularly alarmed by allegations of enforced disappearances reported to have been perpetrated under the pretext of combatting terrorism against actual or perceived members of Hizmet. According to the WGEID, distressing reports of abductions by state agents in broad daylight, followed by months of torture and ill-treatment in clandestine detention sites aimed at extracting confessions for future prosecutions should be investigated as a matter of urgency.

At least 33 individuals,[[29]](#footnote-29) most with alleged links to Hizmet have been subject to enforced disappearance in broad daylight throughout Turkey. Many remain unaccounted for, while those released have testified horrific torture in the hands of intelligence services. The most recent enforced disappearances took place on December 29, 2020 and January 20, 2021.[[30]](#footnote-30)

Unlike Hüseyin Galip Küçüközyiğit however, whose whereabouts remain unknown, Gökhan Güneş was released on January 26, 2021, at around 6:00 a.m., and left blindfolded in the same area he was abducted in İstanbul. He was brought in the area in a vehicle with four individuals, with one known as “the Chief”, who made sure to seize his mobile phone SIM card before leaving. With bruises on his face and hands Gökhan Güneş held a press conference, informing on the physical and psychological torture he went through during his disappearance. He described being held in a coffin-like box called “*the grave*.” The building he was held was “*a torture center*,” where he was alternately dazzled by lights and then kept in darkness, unable to see or identify the perpetrators.[[31]](#footnote-31)

The National Human Rights and Equality Institution (hereafter: “NHREI”) is Turkey’s NHRI, which together with the Ombudsman (under the Parliament), serve as government’s human rights monitoring bodies. Under the existing circumstances NHREI cannot effectively and adequately carry out its mandate because it lacks the financial and institutional independence required under the Paris Principles.[[32]](#footnote-32)

Suggestion for questions:

* What efforts have been made during the reporting period to combat the practice of torture and ill-treatment and uphold the zero-tolerance policy?
* How many complaints, investigations, prosecutions and convictions for torture, ill-treatment and deaths in custody have been recorded within the reporting period, including cases of torture and death in secret detention facilities?
* What is the number of judicial proceedings in which forced confessions have been excluded from evidence?
* What are the measures envisaged to ensure full compliance of the NHREI with Paris Principles?

**Article 8 – Prohibition of slavery**

Credible investigation reports in 2015 pointed out to ISIL slave trade of Yazidi women, believed to have flourished particularly in Turkey’s south bordering territory formerly controlled by ISIL in Syria. The government however not only ensured immunity from prosecution for the perpetrators but protected them vigorously by making sure to drop charges and release suspects.

The use of ISIL liaison offices for Yazidi slave trade in Gaziantep was brought to public attention by Germany’s regional public service broadcaster ARD in a major investigative piece. The reporting documented how ISIL fund managers received cash in exchange for selling Yazidi women and children to an intermediary.

The Gaziantep Bar Association and the Progressive Women’s Association filed a criminal complaint with the Prosecutor’s Office, asking the authorities to investigate the claims. Acting on the complaint, the authorities arrested six suspects and found passports, $371,711 in cash and receipts for money transfers in Arabic made on behalf of al-Amir Company. Investigators confirmed ARD’s story and found nothing to substantiate claims by suspects that money was exchanged for legitimate trade with Iraq and Syria. No record of any trade transaction was discovered in the office operating unregistered. Evidence showed that money was transferred to associates in Manbij, Syria when the area was still under ISIL control.

On December 23, 2015, the suspects were charged and indicted on charges of membership in the ISIL terror group and violating financing of terror laws, which carry up to 10 years imprisonment for each violation. At record speed, the 2nd High Criminal Court in Gaziantep held the first hearing in the case on December 31, 2015. The second and final hearing in the case was held on January 15, 2016, during which the new prosecutor surprisingly asked the court to acquit all the suspects, citing lack of evidence. The prosecutor’s motion to move for acquittal came as a shock in light of the serious charges leveled in the indictment. All three judges on the panel agreed with the prosecutor and decided to acquit all suspects, return the confiscated money and equipment, and bill the government for all court-related expenses. The court cleared the suspects within two weeks, record speed for the notoriously slow-moving judiciary in Turkey. The court did not even consider notifying the original plaintiffs in the case. It did not even wait for the Turkish translation of the seized 1,768 money receipts in Arabic, so that they could be properly examined. The Treasury, which is required by law to be notified of any cash seized in a police raid, was not informed by the prosecutor or the court. The authorities even did not file a complaint against the alleged exchange office, which was undisputedly operating illegally.[[33]](#footnote-33)

Suggestion for questions:

* What measures have been taken to investigate allegations of slave trade during the reporting period, including cases affecting Yazidi women and children?
* How many complaints, investigations, prosecutions, and convictions concerning slave trade have taken place during the reporting period?

## **Article 9 – Deprivation of liberty**

Turkish law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of arrest/detention before court. These critical requirements were however rarely observed for the alleged members of Hizmet since the attempted coup. Following the attempted coup authorities have detained, arrested, and tried hundreds of thousands of individuals for alleged ties to the Movement, often, if not always, with questionable evidentiary standards and without due process.

In July 2020 the Ministry of Justice reported that the government had conducted nearly 100,000 operations targeting alleged members of Hizmet since the coup attempt. In July 2020 the government also announced that in the past four years the authorities had initiated legal proceedings against 597,783 individuals, detained 282,790, and arrested 94,975 for alleged ties with Hizmet. In November 2020, the Interior Ministry reported that the government had arrested 292,000 individuals in connection with the coup attempt.[[34]](#footnote-34)

Legal and human rights experts have pointed out the lack of evidence presented by prosecutors in cases concerning alleged Hizmet members, criticized the judicial process, asserted that the judiciary lacked impartiality, and that defendants were sometimes denied access to the evidence underlying the accusations against them. Law enforcement officials who have refused to participate in arbitrary arrests, torture, and other repressive acts, particularly under the SOE, were dismissed or arrested on charges of supporting terrorism.[[35]](#footnote-35)

In May 2020, several special procedures reported that the Government of Turkey coordinated with other states to transfer forcibly more than 100 Turkish nationals since the coup attempt, of which 40 individuals were subjected to enforced disappearance. In August 2020, special procedures of the HRC addressed a communication (Ref. OL TUR 13/2020) to the government, expressing deep concern that Turkey’s anti-terror legal framework in its current form does not conform to international counterterrorism nor human rights standards.

Since 2017, the arbitrary detention of Turkish nationals, both in Turkey and outside Turkey has been subject to scrutiny by the organs of the UN and regional human rights systems, including the UN WGAD. In all the cases considered by the WGAD the latter has found Turkey, and in many cases also other proxy governments, *inter alia*, in breach of Article 9 of the ICCPR.

The WGAD has noted in its Opinions a consistent pattern of cases concerning individuals with alleged links to Hizmet since 2017 and has expressed its concern over the pattern that all these cases follow, recalling that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.

In its Opinions the WGAD has requested the Government of Turkey, and when relevant other proxy governments, to take the steps necessary to remedy the situation of the victims without delay and bring it into conformity with the relevant international norms, including the immediate release of victims. The Government of Turkey is still to comply with those Opinions.

Suggestion for questions:

* Are individuals detained for alleged ties to Hizmet afforded fundamental procedural safeguards, including the use of arrest warrants and the right to be informed of the charges against them, to have prompt access to a lawyer, to have access to a medical assessment and to be brought before a judge in a prescribed time frame?
* What steps have been envisaged to end arbitrary and prolonged detention, and conviction of teachers, activists, human rights defenders, journalists, academics, writers, housewives and politicians for their non-violent activities?
* What measures have been taken to end the practice of extraordinary renditions of Turkish dissidents from abroad and punish the perpetrators?
* What measures are taken to comply and implement relevant decisions by organs of the UN human rights system, including the Committee and the WGAD?

## **Article 10 – Conditions of detention**

Even before the attempted coup, Turkey's criminal system was overstretched, with crowded prisons and backlogged courts. Prisons quickly filled to their capacity in the days and weeks following the attempted coup. Detainees found themselves sleeping in shifts, in communal spaces, often without any bedding. Authorities used sports arenas, temporary tents, and other unofficial detention facilities to house tens of thousands rounded up in connection with the attempted coup. Prison overcrowding remains a significant problem. By the end of 2018, the total prison inmate population was estimated to be 260,144, housed in facilities with a capacity of only 211,766 inmates.

Those deprived of their liberty lack adequate access to potable water, heating, ventilation, and lighting. An estimated threethousand individuals deprived of their liberty because of links to Hizmet are arbitrarily subjected to solitary confinement for extended periods of time, turning it into a second punishment.[[36]](#footnote-36) They also face severe limitations on outdoor exercise and out-of-cell activity, inability to engage in productive work, denial of access to books and media, and denial of medical treatment.

In April 2020, pre-existing structural problems, such as chronic overcrowding and unhygienic conditions, coupled with the lack of proper access to healthcare enabled the rapid spread of COVID-19 in the notorious Silivri Prison in İstanbul, where in November 2019 a Parliamentary Investigation Committee found that 22,781 inmates were deprived of liberty, despite its official capacity of 11,000. Reports from the prison indicated that all inmates in wards B10 and B12 had tested positive for COVID-19.

Amendments to the Law on the Execution of Sentences and Security Measures were approved by the Parliament on April 13, 2020, as the Minister of Justice announced that 17 prisoners in five prisons had contracted COVID-19 and three prisoners held in open prisons had already died. The law enabled the release of up to 100,000 prisoners, however political prisoners convicted in unfair trials under Turkey’s overly broad anti-terrorism laws and imprisoned solely for expressing their peaceful views are not eligible for release.

Suggestion for questions:

* What measures are taken to address overcrowding and conditions in places of deprivation of liberty?
* What measures have been taken to address the prolonged and arbitrary detention of political prisoners, including solitary confinement?
* What are the measures taken to address risks to detained populations in response to COVID-19, including among the most vulnerable detainees and political prisoners, who were not eligible for release under the amnesty law in 2020?

## **Article 12 – Right to freedom of movement**

Article 23 of the Constitution (Freedom of Residence and Movement) provides for the right of everyone to freedom of residence and movement. As for the restrictions on the freedom of movement it provides as follows: “*A citizen’s freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision*”.

As for the issuance of passports to travel internationally, Article 22 of the Turkish Passport Law 5682 of July 15, 1950 enumerates a closed list of conditions, in which cases passports shall not be issued. In this context, “*No passport or travel document shall be issued to those persons travelling abroad who are banned by the courts and to the persons whose departure from the country is ascertained as prejudicial in terms of general security by the Ministry of Internal Affairs*.”

Turkish courts have conclusively and unambiguously interpreted Article 23 of the Constitution and Article 22 of the Passport Law, ruling that “*the right of a citizen to leave the country may be restricted only by the decision of a judge, based on a criminal investigation or prosecution*.” Relevant provisions in domestic law concerning the restriction of the freedom of movement do not intend and do not provide for any restriction or cancellation of passports for individuals residing abroad, covered by other cooperation mechanism, including INTERPOL notices and diffusions, which must in any case comply with INTERPOL’s Constitution and the Rules on the Processing of Data.[[37]](#footnote-37)

Decree law No. 667 of July 23, 2016 provided in its Article 5 for the cancellation of passports of all those subjected to administrative acts, criminal investigation, and prosecution, without any court order and in clear violation of international law and Article 23 of the Constitution. On September 1, 2016, an amendment to the decree extended this power, enabling the authorities to cancel or confiscate the passports of spouses and partners of those under investigation.[[38]](#footnote-38) Article 10(2) of KHK 673 reads as follows: “The following Paragraph has been added to Article 5 of the Decree-Law 667:“(2) The passports held by the spouses of persons, whose names are notified to the relevant passport unit under Paragraph 1, may also be cancelled by the Ministry of Interior on the same date where it is considered as detrimental in terms of general safety.”[[39]](#footnote-39) No legal grounds however, including Constitutional provisions or the 1950 Passport Law justify the cancellation of passports of family members.

From July 23, 2016 to December 2017 Turkish authorities cancelled 234,419 passports,[[40]](#footnote-40) in absence of any individualized review and without providing any explanation on why that was necessary or proportionate.

Following the attempted coup of July 15, 2016, the government also embarked on a global campaign of transnational repression, targeting primarily the members of Hizmet. With a view of achieving its goal in returning the dissidents Turkey, where they face arrest, prosecution and unfair trial, the government has used a variety of illegal means, including by uploading tens of thousands of requests for detention into INTERPOL, arbitrary deprivation of nationality (including to newborns), cancellation of passports for thousands of individuals outside the country and refusal of consular services (refusal to issue or renew passports and other documents).

Passports of those inside Turkey are simply cancelled and in many times their holders understand that fact only when attempting to travel abroad, when their passports are often confiscated.[[41]](#footnote-41) Passports of dissidents abroad are usually unlawfully reported lost or invalid to law enforcement agencies in other countries, through diplomatic and other channels.

In almost all the cases the victims have no knowledge that their passports are considered invalid, because **passports are still in their possession and there is no notice to this effect, official or otherwise. They are fraudulently reported lost/invalid by the Turkish authorities, to practically turn the victims into softer targets, in the overall efforts by the Turkish authorities to secure their deportation, expulsion, extradition or otherwise illegal transfer to Turkey.**

**Without identity or travel documents (sometimes with stripped citizenship), even under UNHCR protection, many teachers and other professionals allegedly linked to Hizmet have become extremely vulnerable and an easier target for abduction and illegal transfer to Turkey – where they risk torture, ill-treatment, and a real risk to their lives.**

Suggestion for questions:

* How many passports of Turkish nationals have been cancelled under SOE decree laws, declared invalid or lost; and restrictions to how many passports have been now lifted?
* How many individuals have been denied consular services abroad since July 2016 and on which basis?
* How many Turkish nationals have been stripped off their nationality under Decree-Law 680 and measures envisaged to combat statelessness?

## **Articles 14 and 15 - Independence of the judiciary and the right to a fair trial**

Following years of relentless assault on the rule of law, in particular following the attempted coup, the judicial system of Turkey has now turned into merely an extension of political authority that thwarts an effective defense and employs partisan and loyalist prosecutors and judges. In turn, the judiciary has embarked on an extremely dangerous path of ignoring the most basic principles of law necessary to ensure, at a minimum, a system of rule of law in the country, such as presumption of innocence, non-retroactivity of offences, res judicata, as well as legal certainty and foreseeability of criminal acts.

This worrying practice has reached such a level that it has now become virtually impossible to assess objectively and in good faith whether a normal activity; such as participating in a legally operating civil society organization, depositing money in a legally operating bank, donating to the largest humanitarian organization affiliated with the UN, residing in legally established dormitories, or attending duly licensed schools, or even acts of dissent or criticism of political authority - will be re-interpreted as criminal activity by Turkish prosecutors and courts several years after. This approach is extremely worrying for the principles of legal certainty, foreseeability of criminal offences and the rule of law in Turkey in general, as anyone can retroactively be considered a member of a criminal organization long after the events in question.

Under the amended Constitution approved in the referendum of April 16, 2017, the High Council for Judges and Prosecutors was reduced from twenty-two to thorteen regular members and the President directly appoints four of them.[[42]](#footnote-42) The government has consistently exerted strong influence over the Board of Judges and Prosecutors, now with the intention to influence recruitment processes replacing the dismissed judges and prosecutors. Since July 2016, at least 4,424 judges and prosecutors in Turkey, roughly one third of the judiciary, have been dismissed and most of them either detained or arrested. In the same period 9,914 new judges and prosecutors had been recruited, a process exclusively controlled by the government. Loyalty to the ruling coalition appears to have been a key criterion for selection.

In its September 14, 2020 Communication to the Government of Turkey,[[43]](#footnote-43) the UN Special Rapporteur on the independence of judges and lawyers concluded that “*In light of the [international] standards, the amendments to the Constitution introduced by Act No. 6771 would fall short of international standards and adversely affect the independence of the judiciary and prosecution service as well as the separation of powers. I [*Diego García – Sayán*] am also worried at the wide discretionary powers that the executive power, through the President of the Republic and the Minister of Justice, would retain in relation to all aspects of the career of judges and prosecutors.*”[[44]](#footnote-44)

The March 2018 report of the Office of High Commissioner for Human Rights found (paras 8-11) that, “[…] *Some 570 lawyers were arrested, 1,480 faced some kind of prosecution, and 79 were sentenced to long-term imprisonment. Moreover, approximately 34 bar associations were shut down on the ground of alleged affiliation to a terrorist organization. OHCHR also identified a pattern of persecution of lawyers representing individuals accused of terrorism offences.*

The Arrested Lawyers Initiative noted in January 2021 that around 1,600 lawyers were prosecuted with 450 among convicted in first-instance courts of membership of a terrorist organization, and more than 600 having spent time in pretrial detention.[[45]](#footnote-45) The majority have been prosecuted and convicted for alleged links to Hizmet.

On August 26, 2020, several human rights experts of the United Nations (Special procedure mandate holders) addressed a communication to the Government of the Republic of Turkey, seriously concerned that “*Turkey’s anti-terror law (No. 3713) does not comply with its international law obligations, and the country’s anti-terror legal framework should be urgently revised*.” The UN expresses, *inter alia*, “*serious concern with the authority granted under the anti-terrorism legal framework to interfere with the individual’s right to counsel […], including (d) the use of terrorism charges against lawyers.*”

One of the most problematic aspects of the changes in the aftermath of the State of Emergency, is a series of limitations imposed on the right to a defense counsel, as well as very severe restrictions to the client-lawyer privilege. The most important change in this respect is that meetings between lawyers and clients, both detainees and convicts, can now be strictly limited in duration, monitored by a prison official (including for documents exchanged between lawyer and client) and recorded in full. Human Rights Watch properly reports that “*this possibility is in practice widely applied and has now become the rule for FETÖ detainees*”[[46]](#footnote-46). These permanent changes alone make it virtually impossible to prepare a defense. In addition, there are other[[47]](#footnote-47) provisions imposing strict limits on the right to retain a defense counsel, which have “survived” emergency measures.

Many defense lawyers therefore have been reluctant to represent those accused of links to the attempted coup or Hizmet, because of fear that they would be tainted by association or associated with the Movement if they did. OHCHR has also identified a pattern of persecution of lawyers representing individuals accused of terrorism offences.[[48]](#footnote-48)

Suggestion for questions:

* What steps are envisaged to ensure independence and impartiality of the judiciary, including reversal of dismissal decisions for 1/3 of the judiciary after the attempted coup?
* What are constitutional and legislative changes envisaged to ensure independence of the judiciary, including necessary changes in the composition and the procedure for appointing members of the Council of Judges and Prosecutors?
* What measures will be taken to change country’s anti-terror legal framework, in order to align it with international standards?
* How will the government lift limitations imposed on the right to defense counsel and severe restrictions to the client-lawyer privilege concerning those accused of ties to Hizmet?
* How does the government plan to end the pattern of persecution of lawyers representing individuals accused of terrorism offences?

## **Article 19 – Freedom of opinion and expression**

The Constitution of Turkey provides for the full enjoyment of the freedom of opinion and expression.

Since the July 2016 attempted coup, the authorities have stepped-up efforts to suppress dissent and restrict human rights and fundamental freedoms, including freedom of opinion and expression, both in law and in practice. In 2020 for example, the ECtHR found a violation of Article 10 in member states of CoE in 80 cases. In 31 of those cases the respondent state was Turkey.[[49]](#footnote-49)

The government and its supporters use a variety of means to intimidate journalists, including lawsuits, threats, and increasingly verbal and physical attacks.[[50]](#footnote-50) Under immense pressure and threats, journalists and media professionals have increasingly resorted to self-censorship, in addition to government’s increased direct censorship of news media, online media, and books.

With at least 175 journalists[[51]](#footnote-51) currently deprived of their liberty and 167 journalists at large, Turkey remains since 2016 the biggest jailer of journalists in the world.[[52]](#footnote-52) 149 media and broadcasting organizations were closed down since July 2016, including 72 newspapers and magazines, 5 news agencies, 33 television and 39 radio stations. In 2020 Turkish courts handed down sentences of a total of 103 years to 23 journalists, sentenced on various bogus charges including “*insult*”, “*espionage*” and “*membership in a terrorist organization*.” [[53]](#footnote-53) Forty-eight members of the press were detained in 2020, adding to 430 journalists taken into custody since 2016, with 201 detentions only during 2016. In the last 5 years there were 139 documented attacks against journalists.

Press cards of around 150 international media representatives were not renewed, while at least 27 journalists critical of the government had their press cards canceled in 2020. 215 journalists and media employees were dismissed from their jobs in 2020, mainly due to pressure from government circles, which led to some being forced to resign over ideological differences related to broadcasts, or after their programs were canceled. A total of 3,436 journalists also lost their jobs in the last five years.

Internet publications and access in Turkey are governed by Law No. 5651.[[54]](#footnote-54) A new law adopted by the Parliament on July 29, 2020,[[55]](#footnote-55) introduced sweeping new powers to the government to further censor speech online. The law mandates social media platforms with more than one million daily users to appoint a local representative, something activists consider it will enable the government to conduct even more censorship and surveillance. The law also provides for enhanced powers for Courts to order Internet providers to throttle social media platforms’ bandwidth by up to 90%, practically blocking access to those sites and social media platforms to store users’ data locally, prompting fears that providers would be obliged to eventually transmit those data to the authorities and potentially increase the risks for dissidents. Months into the new law, Twitter, Pinterest, and Periscope were already fined and targeted with advertising bans, after they failed to appoint a local representative to take down contentious posts mandated under the new law.[[56]](#footnote-56)

Turkey has also a long and “consistent” history of Internet censorship. The government regularly blocks tens of thousands of websites, blogs, news websites, civil society organizations and websites of opposition parties. On April 29, 2017 Turkey blocked access to Wikipedia.[[57]](#footnote-57) Turkey's Information and Communication Technologies Authority was quoted as saying that “*After technical analysis and legal consideration based on the Law Nr. 5651 [governing the internet], an administrative measure has been taken for this website*,” without giving any further details.

By the end of 2018 the Interior Ministry reported launching investigations on 631,233 digital materials, 110,000 social media publications, which resulted in 7,000 individuals detained for social media posts. Around 42,000 social media accounts were under surveillance in 2018 over broad terrorism accusations, resulting in at least 2,000 people detained, of which 1,000 placed in pretrial detention.[[58]](#footnote-58) By the end of 2019 Turkey had blocked access to 408,494 websites, 130,000 URLs, 10,000 YouTube videos and 6,200 pieces of Facebook content.[[59]](#footnote-59)

Between 2012 to 2020,[[60]](#footnote-60) Turkey has also consistently led unchallenged Twitter censorship in the world, submitting the largest number of takedown requests and court orders. Twitter received 6,513 court orders and 39,263 non-court order requests from Turkey, which was at the top of the list in both categories. The country also sent 347 information requests to Twitter, which did not comply with any of them. The government specified 99,840 accounts for closure/action under court orders and other legal demands, leading the world in the number of accounts identified for legal action. In terms of accounts withheld by Twitter, Turkey again had the highest number globally with 2,501 withheld accounts, followed by Russia with 340 and India with 238. Upon Turkey’s request, Twitter withheld 12,135 tweets, nearly half the total number of tweets withheld by the company.

Suggestion for questions:

* How many media and broadcast outlets were shut down since July 2016 and on which basis?
* What measures will be taken to ensure reversal of severe restrictions on the freedom of opinion and expression?
* Are there any measures envisaged to release hundreds of jailed journalists; end attacks on them; and end the use of arbitrary and abusive detention and prosecution against journalists and other individuals for exercising their right to freedom of expression?

## **Article 21 - Right to peaceful assembly**

The Constitution of Turkey provides for the full enjoyment of the freedom of peaceful assembly. Domestic legislation however provides for grounds to severely limit that freedom. The law prohibits carrying items that might be construed as weapons, use of symbols linked to illegal organizations (including chanting slogans), and criminalizes covering one’s face during protests. The law also allows police to take persons into “protective custody” without authorization from the prosecutor and gives governors broad authority to ban and forcibly disband protests, something they routinely practice, using tear gas, water cannons and brutal physical attacks. Recently, the authorities ordered the country’s police officers to prevent individuals from recording videos while law enforcement is “carrying out duties”. According to the order, the rationale of banning recordings is to “*protect police officers’ privacy*.”[[61]](#footnote-61)

In the first eleven months of 2019 the police intervened in 962 demonstrations. As many as 2,800 persons claimed being subject to beatings and maltreatment during these police interventions.[[62]](#footnote-62) During 2020 there were reportedly 38 banned demonstrations and events and the police intervened in 753 demonstrations and activities. 2,123 individuals were detained in those events, 44 individuals were arrested and 294 convicted following prosecutions related to the dispersed meetings and demonstrations.

The government routinely and with unwarranted force intervenes into almost all demonstrations organized by human rights defenders dedicated to women’s rights, Saturday Mothers (family members of enforced disappeared), lawyers, journalists, students, academics, pro-Kurdish demonstrators or events organized by the LGBTI community. Governors of Ankara, Istanbul, Izmir, Antalya, Gaziantep, and Mersin have also issued bans on public activities by lesbian, gay, bisexual, transgender, and intersex persons in the past. Peaceful protesters are also routinely taken into custody and imprisoned.[[63]](#footnote-63)

The government generally fully supports the actions of security forces as it regards most of the protests or demonstrations as security threats to the constitutional order. Almost all the protests are dispersed by large numbers of riot police using excessive force, which have resulted in injuries, detentions, and subsequent arrests. Sometimes the police have used its broad discretionary powers to detain persons even before the protests were held, due to the so-called “risk of civil disruption.”

Demonstrations by Hizmet face an absolute ban, since everyone perceived as having the slightest connection with the group faces immediate detention or arrest on bogus terrorism-related charges.

Suggestion for questions:

* How the severe limitations of the right to peaceful assembly are compatible with the relevant provisions of the Covenant?

## **Article 22 – Right to freedom of association**

Pursuant to Article 121 § 2 of the Constitution, the scope of the Government’s emergency powers is defined in the Law on the State of Emergency of 1983. Articles 9 and 11 of the 1983 law contain a *catalogue,* a *closed* list of measures, which may be taken by the government in situations such as the attempted coup. The 1983 Law does not provide for the *permanent dissolution* of legal entities; Article 11(o) only provides for the “*suspension* of the activities of associations for periods not exceeding three months, after considering each individual case.”

Article 2 of Decree Law No. 667 however (issued following the declaration of the SOE) orders liquidation of organizations “*which belong to, connect to, or have contact with*” the “FETÖ/PDY”. These organizations include private health institutions, private education institutions, private dormitories and lodgings for students, foundations, associations and their commercial enterprises, trade-unions, and federations. Under Article 2 (2) all assets of those companies are transferred to the state without compensation. 29 trade unions,[[64]](#footnote-64) 1,419 associations and 145 foundations were permanently closed following the attempted coup. Most of the members of these NGOs were prosecuted on account of being “members of terrorist organizations”. With Decree law 696 of December 24, 2017 the government confiscated all assets of the 29 closed trade unions.

In April 2021, the ILO Committee on Freedom of Association and an *ad hoc* committee concerning Convention No. 158 held that, “*the closure of trade unions and dismissal of workers violated ILO Conventions, and requested the Turkish government to undertake a full, independent and impartial review with regard to all those workers on whom sanctions were imposed for their membership in the dissolved unions*.” ILO further considered unlawful the designation as a terrorist for individuals simply being a member of a trade union and recalled that closed trade unions had been constituted and were operating lawfully until the state of emergency.[[65]](#footnote-65)

In addition to significant limitations on the right to Freedom of Association, on December 24, 2020, the Parliament adopted a new law, significantly increasing the powers of the Ministry of Interior to limit CSOs activities and seriously threatening this freedom. The law[[66]](#footnote-66) arbitrarily curtails legitimate activities by CSOs and its implementation is expected to seriously impair this right. 475 nongovernmental organizations signed a statement[[67]](#footnote-67) calling on the government to withdraw provisions of the law relating to the associations, foundations, and fundraising.

Out of its forty-three articles amending seven existing laws, only six aim at combating financing of terrorism. The remaining (37) articles of the law give the Interior Ministry and the President wide authority to restrict the activities of CSOs and diminish their role. The bill for example introduces annual inspections of nongovernmental groups; severe fines for online fundraising activities; suspension of organization’s entire board or activities; suspend a member of the CSOs; absolute lifetime exclusion of anyone convicted of crimes relating to drug trafficking or financing terrorism from being elected to executive positions in nongovernmental groups; inspection of groups that collaborate with or have links with a group under inspection; the authority to compel lawyers representing individuals or organizations to disclose any document or information relating to illegal income; and criminal prosecutions against individuals for peacefully exercising their right to freedom of association.

The Law No. 6356[[68]](#footnote-68) regulates the procedures and principles regarding the establishment, management, operation, inspection, running and organization of employee and employer's unions and confederations.[[69]](#footnote-69) In its Article 35, Decree 678[[70]](#footnote-70) provides for the following restrictions to the Law 6356: “The first paragraph of Article 63 of the Collective Bargaining Act has been amended as follows: (1) *A legal strike or lockout that has been decided or started; If the general health or national security of the metropolitan municipalities disrupts the urban public transportation services, economic or financial stability in banking services, the Council of Ministers may postpone the strike and lockout for sixty days in this dispute. The delay period begins on the date of publication of the decision*.”

Exploiting procedural flaws in the rules and misusing its membership of relevant UN bodies, the Turkish government extended its massive crackdown on civil society organizations accredited to the United Nations, namely JWF, the Confederation of Businessmen and Industrialists of Turkey and Kimse Yok Mu, all of them pursuing important programs and platforms for the empowerment of women, including at the United Nations.

Suggestion for questions:

* On which legal basis the government has decided to permanently close and seize assets of thousands of CSOs shut down since July 2016?
* Why former membership in closed CSOs and trade unions, established and operating legally, is considered retroactively as evidence of terrorist activity?
* What are the measures envisaged to ensure that entities and individuals affected by the closure of thousands of CSOs and trade unions are afforded due process of law?
* What measures are envisaged to comply with relevant decisions by the ILO and other UN organs concerning violation of the right to freedom of association?

## **Article 23 - Right to marriage and family life**

In July 2016, Turkey's Constitutional Court rescinded part of the criminal code, which classified sexual acts with children under 15-years-old as sexual abuse. The move was designed to clear the way for the government to put forward and adopt its highly contested “child rape bill.”[[71]](#footnote-71) The bill provided for those who rape underage children to be pardoned for the crime, as long as they marry the victim after the act.[[72]](#footnote-72) UNICEF emphasized in a statement[[73]](#footnote-73) that the bill would weaken Turkey’s ability to combat sexual abuse and child marriage.[[74]](#footnote-74) Following fierce criticism from opposition parties and the public, just hours before a final vote in parliament,[[75]](#footnote-75) the Prime Minister informed that the draft was withdrawn and sent back to a commission for review and seek the opinion of the opposition and civil society.[[76]](#footnote-76)

A new draft-law along the lines of the 2016 bill was debated in the Parliament on January 16, 2020. The draft provided for suspended sentences against men for child sex offences if the “two parties” get married and the age difference between the parties is less than 10 years. In essence, the bill encourages the practice of taking child brides and legitimizes statutory rape.

In late November 2016 Turkey’s Ministry of Family and Social Policy announced that authorities may remove children from homes if their guardians are found to be supporters of the coup attempt [Hizmet].[[77]](#footnote-77) Following the policy, boys and girls across Turkey were separated from their foster families, as the adoptive parents are under investigation over alleged links to Hizmet, however there are no accurate statistics how many children may have been subject to this heinous practice.

Suggestion for questions:

* Does the government plan to abandon its plans in adopting the *marry-your-rapist law*?
* What are the measures envisaged to ensure that girls and boys in Turkey are better protected from sexual abuse, exploitation, and child, early and forced marriage?

## **Article 24 – Rights of the child**

Children of individuals allegedly linked to Hizmet face direct and indirect discrimination; the latter also based on their families` economic hardship, exclusion, violence and humiliating and degrading treatment, particularly in places where individuals are deprived of their liberty and in health-care facilities. Children feel rejected, avoided, and feared by other children and their families. They often face bullying at schools because a parent is in prison or simply labeled as “terrorist”, and sometimes feel treated as if they were the delinquent.

The denial of the right to life has been “extended” to include children born in discriminated families, through intentional, targeted discriminatory policies in the provision of health care and other necessary services to children. In many cases, unborn children have not survived due to government's victimization and the psychological pressure on their parents.

Children of individuals accused of being close to Hizmet have increasingly resorted to changing their last names, for them not to be associated with Hizmet and avoid, *inter alia*, discrimination, harassment, and pressure at schools, in their neighborhoods and beyond.[[78]](#footnote-78) In several cases children have succumbed to the immense psychological and other pressure. Some also appear to have committed suicide.[[79]](#footnote-79)

Members of the education system in Turkey have been target of false accusations, including for allegedly spreading “terrorist propaganda,” “inciting people to hatred, violence and breaking the law,” and “insulting Turkish institutions and the Turkish Republic.” In the aftermath of the attempted coup, 1,064 private education institutions, 360 study centers, 847 student dormitories, 47 healthcare centers and 15 private foundation universities were permanently closed.

From July 2016 to February 2018, the government canceled teaching licenses of 20,932 teachers and closed down the private schools they used to work, over their alleged links to Hizmet.[[80]](#footnote-80) Educators Union Egitim Sen estimated in July 2018 that the number of individuals removed from their jobs reached 41,705 in the education sector and 15,584 in the military,[[81]](#footnote-81) concluding that education sector rather than military was targeted following the attempted coup.

The magnitude of repression by the government on teachers and other education personnel, without providing a single proof on any wrongdoing by those affected suggests a systematic and widespread effort to suppress any perceived threat to the government - in clear infringement of the right to education and internationally recognized standards of academic freedom. Massive dismissals of teachers and academics, accused of links to Hizmet have significantly affected the education sector and thereby the right to education.[[82]](#footnote-82)

Using antiterror legislation, the government has also targeted family members and children to exert pressure on wanted individuals with perceived ties with Hizmet. In thousands of cases, Turkish consulates have declined to provide consular services to Turkish nationals outside the country and cancelled, refused to extend, or issue passports to minor children of individuals who were wanted for or accused of ties to Hizmet. Hundreds of children of Turkish nationals have therefore been born stateless.

Suggestion for questions:

* What is the impact of extensive arbitrary purges in the education system on the right to education?
* How many Turkish children abroad have been denied consular services and why?
* How many children to Turkish nationals have been born stateless abroad and why; what are the measures to combat statelessness?

## **Article 26 – Non-discrimination**

Between December 21, 2013 and May 1, 2017, civil society organizations have identified 240 insults by President Erdoğan against alleged members of Hizmet. His favorite set of insults includes: “*Ignoble, traitors, scoundrels, Hashashin, blood-sucking vampires, false preacher, tomb raiders, malignant tumor, impostors, mean*.” [[83]](#footnote-83) Each derogatory phrase and instance of hate speech has been voiced by President Erdoğan dozens and even hundreds of times, repeatedly employing it in public speeches, and asking the public to use them.

Following the attempted coup of July 15, 2016, across Turkey, large banners displayed in public offices, other public facilities, restaurants, and stores state that “*Parallels and sympathizers of parallels [Hizmet] are not allowed inside*.” See for example: <https://turkeypurge.com/parallels-not-allowed-banner-hung-on-turkish-restaurants>

Other examples are given below:

Are you also pro-FETÖ?,” read two banners hung on a pole in Ankara’s Altındağ district.

<https://turkeypurge.com/are-you-gulenist-banner-hung-on-street-asks-education-director>

“*We will execute Gulen, his followers*,” reads AK Party banner in Taksim. Available at:

<https://turkeypurge.com/we-will-execute-gulen-his-followers-reads-ak-party-banner-in-taksim>

Anyone listed in the decree-laws faces discrimination in the community, prospective employment, social participation etc. Dismissed public sector workers are barred by decree from employment in private security companies, effectively barring among other dismissed police and military officials from being employed in similar work or industries in the private sector.[[84]](#footnote-84)

In particular in the aftermath of the attempted coup of July 15, 2016, persons with disabilities have become subject to an unprecedented and wholesale attack, aimed at suppressing all dissent among them, real or not. Among the most deplorable in the long list of violations and abuses in the post-coup Turkey are the extensive punitive measures against persons with disabilities and their family members - detained, arrested or dismissed over their alleged links to Hizmet, in flagrant breach of the obligations of Turkey under CRPD.

Suggestion for questions:

* What are the measures taken to combat hate speech, discriminatory decree-laws, and harmful practices based on political or other opinion, against perceived members of Hizmet?
* What are the steps taken to end discrimination of perceived Hizmet members imposed by decree-laws and the post-state of emergency measures, including in their communities, prospective employment, judicial system, and social participation?
* What are the measures taken to prohibit and end discrimination on all relevant grounds, and ensure equal access to government services?

1. See also: <http://jwf.org/jwf/wp-content/uploads/2019/10/JWF-Report-2019-Erdogans-Policies-A-Threat-to-Global-Peace-and-Security.pdf> [↑](#footnote-ref-1)
2. A postpartum period or postnatal period is the period beginning immediately after the birth of a child and extending for about six weeks [↑](#footnote-ref-2)
3. See also: <https://www.turkishminute.com/2018/06/18/opinion-erdogan-govt-turns-to-rape-as-a-political-weapon-in-turkey/> [↑](#footnote-ref-3)
4. OHCHR, “*Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East (January – December 2017), March 2018*, paras 12 and 78. The report is available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>. [↑](#footnote-ref-4)
5. <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708> [↑](#footnote-ref-5)
6. FETÖ (Fethullahçı Terör Örgütü) or Gülenist Terror Organization is a derogatory term used by President Recep Tayyip Erdoğan and his political associates to refer to the Hizmet Movement [↑](#footnote-ref-6)
7. Committee against Torture, *Concluding observations on the fourth periodic report of Turkey, Addendum Information received from Turkey on follow-up to the concluding observations* (CAT/C/TUR/CO/4/Add.1), November 8, 2016, para 70 [↑](#footnote-ref-7)
8. Journalists and Writers Foundation, *Post-Coup Turkey: State of Emergency, Torture and Impunity*, Oct 2016, p. 7 [↑](#footnote-ref-8)
9. OHCHR, *UN experts urge Turkey to adhere to its human rights obligations even in time of declared emergency*, August 19, 2016 [↑](#footnote-ref-9)
10. [http://www.refworld.org/docid/4672bc122.html](%20http://www.refworld.org/docid/4672bc122.html) [↑](#footnote-ref-10)
11. CCPR General Comment No. 29, para. 17 [↑](#footnote-ref-11)
12. See Article 90 § 1 of the Rules of procedure of the Grand National Assembly of Turkey: “*Bills of empowering acts and decrees having the force of law shall be debated in line with the rules set in the Constitution and the Rules of Procedure regarding the debate of laws, but immediately and before all other bills in the committees and the Plenary*” [↑](#footnote-ref-12)
13. Pursuant to the information by Anadolu Agency (AA). See also <https://www.tccb.gov.tr/assets/dosya/2016-09-22-15temmuz-tr.pdf>, p. 6 [↑](#footnote-ref-13)
14. Statement by the Minister of Interior of Turkey, February 20, 2021. Available at: <https://www.aa.com.tr/tr/turkiye/icisleri-bakani-soylu-garaya-giden-hdpli-vekili-acikladi/2151784> [↑](#footnote-ref-14)
15. Decree Law no. 668, which contained the list of military personnel to be dismissed, has been enacted on 25 July 2016; Decree Law no. 670 which contained list of civil servants to be dismissed was enacted on 17 August 2016 [↑](#footnote-ref-15)
16. Which may affect their right to be presumed innocent, guaranteed by Article 6 § 2 of the ECHR, and Article 14 § 2 of the ICCPR [↑](#footnote-ref-16)
17. See for more: <https://tr.solidaritywithothers.com/mass-detentions>. [↑](#footnote-ref-17)
18. These powers include broad powers of the executive to restrict freedoms of assembly and movement; three-year executive authority to dismiss public officials by administrative decisions; and expanded police powers including custody periods for up to 12 days. [↑](#footnote-ref-18)
19. Law No. 4771, on August 3, 2002. The Law (On changes made to various laws) published in the *Resmi Gazette* No. 24841 of August 9, 2002 [↑](#footnote-ref-19)
20. March 2, 2006 [↑](#footnote-ref-20)
21. Interview with CNN International on July 18, 2016. See also <https://uk.reuters.com/article/uk-turkey-security-anniversary/defiant-erdogan-attacks-eu-backs-restoring-death-penalty-idUKKBN1A10EM> [↑](#footnote-ref-21)
22. The Referendum aimed at vesting extraordinary powers with the Turkish President [↑](#footnote-ref-22)
23. Stockholm Center for Freedom, “Suspicious Deaths and Suicides in Turkey”, February 2021. See for more: [*https://stockholmcf.org/suspicious-deaths-and-suicides-in-turkey-updated-list/*](https://stockholmcf.org/suspicious-deaths-and-suicides-in-turkey-updated-list/) [↑](#footnote-ref-23)
24. <http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT_CAT_NGS_TUR_25838_E.pdf>. [↑](#footnote-ref-24)
25. More details and statistics are available at the report by the JWF report, “*Post-Coup Turkey: State of Emergency, Torture and Impunity*,” October 2016. Available at <http://jwf.org/jwf/wp-content/uploads/2018/05/Torture-Report-in-Turkey-2017.pdf> [↑](#footnote-ref-25)
26. Allegations of torture include blunt force trauma and severe beatings, *falaka*, sexual torture, including anal penetration with foreign objects, electrocution, and pressure on sexual organs, starvation, denial of water and medical treatment, positional torture/suspension and stress positions for up to 48-hours, sleep deprivation, verbal abuses and threats, including mock execution, Palestinian hanging, electric shock, nail extraction, cold/high pressure water hosing, asphyxiation / suffocation, air-conditioning torture, exposure to icy water, dripping molten plastic on the extremities, sharp force trauma etc [↑](#footnote-ref-26)
27. Allegations of torture included both, physical and psychological torture, forcing many to “confess” their alleged crimes. According to the report former diplomats were “*pushed against the wall, blindfolded, handcuffed behind the back, forced to kneel, dragged around the floor for a period of time, hit with batons in heads and threatened with anal penetration with foreign objects (batons)*.” Many were often given one to two minutes to “*confess*”, after which the perpetrators claimed they would “*move to the next stage*,” simultaneously pouring some sort of lubricant and moving batons around their anuses. In August 2019, the Prosecution’s Office decided not to pursue prosecution based on the allegations, citing “*insufficient evidence*.” [↑](#footnote-ref-27)
28. The visit took place from 14 to 18 March 2016. A/HRC/45/13/Add.7, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/222/22/PDF/G2022222.pdf?OpenElement> [↑](#footnote-ref-28)
29. See for more details: https://stockholmcf.org/enforced-disappearences-in-turkey-2/ [↑](#footnote-ref-29)
30. Hüseyin Galip Küçüközyiğit went missing on December 29, 2020, while Gökhan Güneş on January 20, 2021 [↑](#footnote-ref-30)
31. Gökhan Güneş stated that, “*I could not move my hands. I was kept blindfolded for hours. They tortured me from time to time. This included electric shocks, beatings and pouring ice-cold water over me. They did this to me either while I was naked or wearing only my underwear. They also threatened me with rape*.” His torturers also asked him to cooperate by serving as an informant. Güneş added, “*They asked me whether I knew who they were. When I told them, they were probably from [Turkish] intelligence, they remained silent. Sometimes they told me they were the invisibles*.” [↑](#footnote-ref-31)
32. Principles relating to the status of national institutions for the promotion and protection of human rights. [↑](#footnote-ref-32)
33. Please see <https://www.turkishminute.com/2017/01/24/erdogans-hatred-yazidis-takes-toll-turkey/> [↑](#footnote-ref-33)
34. https://www.sozcu.com.tr/2020/gundem/bakan-soylu-acikladi-feto-operasyonlarinda-96-bin-kisi-tutuklandi-

    6141845%20. [↑](#footnote-ref-34)
35. See also OHCHR, “*Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East (January – December 2017*), March 2018, para 75. The report is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>. [↑](#footnote-ref-35)
36. See also <https://www.dw.com/en/turkey-holds-thousands-in-solitary-in-erdogans-prisons/a-48640213>. [↑](#footnote-ref-36)
37. See for example Decision No. 2013/314 of the Council of State relative to case No. 2008/921, Plenary Session of Administrative Chambers, February 31, 2013 [↑](#footnote-ref-37)
38. Human Rights Watch, Turkey, *State of emergency provisions violate human rights and should be revoked,* - Joint NGO Letter, October 20, 2016 [↑](#footnote-ref-38)
39. Decree with the force of law No. 673, Article 10(2), September 1, 2016. Available from: <http://www.turkishpedia.com/2017/01/25/decree-with-force-of-law-no-khk-673-english/> [↑](#footnote-ref-39)
40. # Turkish interior minister: 55,665 jailed, 234,419 passports revoked since coup attempt, available at: <https://turkeypurge.com/turkish-interior-minister-55665-jailed-234419-passports-revoked-since-coup-attempt>

    [↑](#footnote-ref-40)
41. For more see for example the case of Dilek Dündar, spouse of the Ex- Chief Editor of the Cumhuriyet newspaper, available at <https://cpj.org/2016/09/award-winning-editors-wife-banned-from-leaving-tur.php> [↑](#footnote-ref-41)
42. The Minister of Justice and his/her Undersecretary, who are members of the High Council for Judges and Prosecutors, are also appointed by the President. The remaining seven members of the Council are appointed by the Grand National Assembly. Prior to the amendments, the President was responsible for appointing 3 out of 22 regular members of the High Council for Judges and Prosecutors, but the majority of the members of the Council were appointed by their peers. [↑](#footnote-ref-42)
43. The Communication is available here: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25533 [↑](#footnote-ref-43)
44. Ibid, page 3. [↑](#footnote-ref-44)
45. # The Arrested Lawyers Initiative, “Mass Prosecution of Lawyers in Turkey (2016-2021),” January 18, 2021. See: https://arrestedlawyers.org/2021/01/18/report-update-mass-prosecution-of-lawyers-in-turkey-2016-2021/ (accessed January 20, 2021).

    [↑](#footnote-ref-45)
46. Human Rights Watch, “*Turkey: Mass Prosecution of Lawyers*,” April 10, 2019. Available at <https://www.hrw.org/news/2019/04/10/turkey-mass-prosecution-lawyers> [↑](#footnote-ref-46)
47. Widened powers for courts to bar certain lawyers from acting as defense counsel for a particular client (for up to two years) (TCCP Article 151); Limiting lawyers under criminal investigation, from accessing their clients; Limitation of the maximum number of lawyers during court proceedings to three in organized crime cases (TCCP Article 149); Possibility for courts to hear defendants and pronounce sentences, even in the absence of a lawyer (TCCP Articles 188 and 216). [↑](#footnote-ref-47)
48. Please also see: OHCHR, “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East (January – December 2017), March 2018, Para 9. [↑](#footnote-ref-48)
49. See for more: http://www.samanyoluhaber.com/aihm-kara-listesini-acikladi-ifade-ozgurlugu-ihlalinde-turkiye-birinci-sirada-haberi/1362569/ [↑](#footnote-ref-49)
50. <https://pen-international.org/news/turkey-international-groups-condemn-attacks-against-journalists>. [↑](#footnote-ref-50)
51. The number of journalists deprived of liberty varies based on the different methods used to account for detained, arrested and imprisoned journalists [↑](#footnote-ref-51)
52. See for more details: <https://stockholmcf.org/updated-list/> [↑](#footnote-ref-52)
53. BİA Media Monitoring Report 2020 [↑](#footnote-ref-53)
54. Law No 5651 “On Regulation of Publications on the Internet and Suppression of Crimes Committed by means of Such Publication” was published on the Turkish Official Gazette on 23.05.2007, No. 26030 [↑](#footnote-ref-54)
55. The law entered into force on October 1, 2020 [↑](#footnote-ref-55)
56. See for more: <https://www.turkishminute.com/2021/01/19/ankara-punishes-twitter-pinterest-over-new-censorship-law/> [↑](#footnote-ref-56)
57. [http://www.theglobepost.com/2017/05/05/wikipedia-is-latest-victim-of-turkeys-frenzy-over-isis-reporting/](%20http://www.theglobepost.com/2017/05/05/wikipedia-is-latest-victim-of-turkeys-frenzy-over-isis-reporting/). [↑](#footnote-ref-57)
58. See also: <https://www.aa.com.tr/tr/sanal-dunyanin-gercek-tehditleri/klavye-teroristleri-siber-polislerden-kacamadi/1421296> [↑](#footnote-ref-58)
59. According to research carried out by the Freedom of Expression Association’s (İFÖD) EngelliWeb initiative [↑](#footnote-ref-59)
60. According to Twitter Transparency Report Data. See also: <https://transparency.twitter.com/en/reports.html> [↑](#footnote-ref-60)
61. https://www.turkishminute.com/2021/04/30/police-ordered-to-stop-people-from-recording-videos-during-use-of-force/ [↑](#footnote-ref-61)
62. According to the Human Rights Association and Human Rights Foundation of Turkey. See here: https://ihd.org.tr/en/ [↑](#footnote-ref-62)
63. See for example: <https://www.france24.com/en/20200218-turkish-mother-fights-to-free-cadet-son-from-life-sentence>. [↑](#footnote-ref-63)
64. These trade unions were affiliated to two Confederations [↑](#footnote-ref-64)
65. https://www.turkishminute.com/2021/05/01/closure-of-trade-unions-dismissal-of-workers-over-gulen-links-violated-freedom-to-associate-right-to-organize-un-body-says/ [↑](#footnote-ref-65)
66. Law “On Preventing Financing of Proliferation of Weapons of Mass Destruction” [↑](#footnote-ref-66)
67. See <https://siviltoplumsusturulamaz.org/> [↑](#footnote-ref-67)
68. Law “On Trade Unions and Collective Bargaining Agreements” of November 7, 2012 [↑](#footnote-ref-68)
69. See for more: <http://www.mondaq.com/turkey/x/213386/employee+rights+labour+relations/Law+Of+Trade+Unions+And+Collective+Bargaining+Agreements+Has+Entered+Into+Force> [↑](#footnote-ref-69)
70. Decree-law 678 was issued on December 19, 2016 [↑](#footnote-ref-70)
71. The draft-law would have enabled the release from prison of men guilty of assaulting a minor if the act was committed without “force, threat, or any other restriction on consent” and if the aggressor “marries the victim”. [↑](#footnote-ref-71)
72. According to the ruling Justice and Development Party (AKP), the bill intended to benefit men who have had sex with a minor they are in a relationship with, and deal with the complications of child marriage within the country. The Turkish government said the bill would have applied to at least 3,000 men already in prison. Critics noted that it would legitimize statutory rape and encourage the practice of taking child brides. [↑](#footnote-ref-72)
73. The statement is available here: [https://www.unicef.org/media/media\_93338.html](%20https://www.unicef.org/media/media_93338.html). [↑](#footnote-ref-73)
74. According to the United Nations, the bill would create a perception of impunity in favor of perpetrators of such child rights violations. In addition, it would increase the risk for further victimization of the child if she marries the perpetrator of the sexual abuse. The international community was outraged over the ruling, which also led to diplomatic rows between Turkey and several European Union member states. [↑](#footnote-ref-74)
75. The bill was withdrawn in November 2016. [↑](#footnote-ref-75)
76. According to the Prime Minister, the withdrawal would have allowed for “broad consensus” and to “give time for the opposition parties to develop their proposals.” [↑](#footnote-ref-76)
77. According to the Ministry of Family and Social Policy, “would not be right for a child to remain with a foster family if links to the Movement are confirmed as a result of investigations.” [↑](#footnote-ref-77)
78. See e.g.  [https://turkeypurge.com/imprisoned-journalists-children-changes-surname-amid-peer-pressure](%20https://turkeypurge.com/imprisoned-journalists-children-changes-surname-amid-peer-pressure). [↑](#footnote-ref-78)
79. B.N.M., a high school student committed suicide on October 24, 2016 by jumping to her death from the walls of the Boyabat fortress (Northern Turkey) - after being reportedly bullied by classmates and lecturers over her father’s alleged links to the Hizmet movement. [↑](#footnote-ref-79)
80. <https://turkeypurge.com/education-ministry-cancels-licenses-1272-educators-terror-charges-report> [↑](#footnote-ref-80)
81. <http://egitimsen.org.tr/wp-content/uploads/2018/07/E%C4%9Fitimde-ve-Y%C3%BCksek%C3%B6%C4%9Fretimde-OHAL-Raporu-19-Temmuz.pdf> [↑](#footnote-ref-81)
82. See also OHCHR, “*Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East (January – December 2017)*,” March 2018, para 8. The report is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>. [↑](#footnote-ref-82)
83. See for more: <http://stockholmcf.org/wp-content/uploads/2017/06/Erdogans-Vile-Campaign-Of-Hate-Speech-Case-Study-Targeting-Of-The-Gulen-Movement_2017.pdf> [↑](#footnote-ref-83)
84. Decree no. 667 22 July 2016, Article 4.3 and subsequent decrees [↑](#footnote-ref-84)