



12.03.2012

REPORT

on human rights violations, torture and sexual abuse against jailed children in
Pozanti M Type Juvenile Prison in Adana, Turkey

by Bunyamin Tamris

Introduction

Reports in the press about rape and sexual abuse of Kurdish children and juveniles held in the Pozanti Children's Prison near the city called Adana, have revealed an important number of outrageous events.

The allegations came out when 7 children aged between 13-17 years, jailed for taking part in political demonstrations and throwing stones at the police, spoke of the sexual and physical abuses, rape and ill-treatment in handwritten notes they sent to the Mersin Branch of the Human Rights Association (IHD) in April 2011. Following the applications of these children IHD reported the claims of the children to the Adana Regional Branch of Human Rights Foundation of Turkey (TIHV) whereupon a commission of volunteer doctors headed by Doctor Alev Aksungur went to Mersin in order to meet those children. TIHV authorities had one on one interview with 7 children who applied to IHD.

The interviewed children reported that they were two by two delivered to the wards of judicial prisoners despite demanding to share the same ward with their friends. Children told that they were during their imprisonment insulted by the prison administrator, the head guardian and other guardians who also dispossessed children of their money, prevented their eating, beat them naked in nooks and expose them to verbal sexual abuse. One of the interviewed children told that a child from the next ward was called to the bed and raped by an ordinary prisoner. According to one other application by children, the prison administrator beat the children with iron bars and hard objects. The children as well as being subject to violence and sexual abuse, are also made to do all cleaning works in wards including washing the clothes of other prisoners. Applicant children said that each ward had an authorized head chosen by ordinary prisoners. While delivering Anti-Terror Law (TMK) victim children to wards, guardians say to these wards staff; "We have brought PKK members. These children are turned over to you." It emerged later that some of these children had recounted the sexual abuse as something that had happened to fellow inmates.

The number of current prisoners in Pozanti juvenile prison is three times more than its capacity. Two or three children have to share the same bed, their demands for medical treatment are not met and they suffer insults while being taken to court for trials. Three doctors compiled a report in June 2011, after 25 children contacted the association over the abuses. Furthermore the applications of children to Human Rights Association in order to be transferred to another cells together with children who were detained on the grounds of political issues, the IHD executives asked to Prison Administration to separate those children and juveniles from ordinary prisoners who were not political prisoners and who physically and sexually abused them. But requests were not met by the Prison Administration.

Human Rights Association Branch of Mersin filed criminal complaints with handwritten letters of the children and the report of the TIHV's volunteer doctors at the Adana Public Prosecutor's Office, the Ministry of Justice Prisons Office and reported the letters to Parliament's Human Rights Commission, which in turn passed them to the Justice Ministry. The Parliamentary Human Rights Commission also prepared a report about the prisons for children and juveniles where noted that the physical structure of the Pozanti Prison was not suitable for juveniles and mentioned the persistent and systematic abuse of inmates and so that it should be closed down. Parliament's Human Rights Commission had sent a second notification to the Justice Ministry about complaints of mistreatment and sexual abuse in Pozanti Prison but this issue has been ignored by the Ministry of Justice and AKP (Justice and Development Party) Government for months until when the issue was reflected to the mainstream media in the most recent days and forced related authorities to find a solution to this issue. However, the Ministry failed to take action for seven months and came under fire for ignoring warnings.

Following the news in the press about the allegations of maltreatment and sexual abuse towards children in Pozanti Prison and the interest of people to the scandal the first reaction of Justice Minister Sadullah Ergin was far away from sincerity and seriousness. He dismissed the claims as a 'fabrication' with reference to the fact that their reason of being arrested (Anti-

Terror Law), to their interest to the Kurdish issue and link to PKK (Kurdistan Workers' Party) and to that the children might have been forced to lie by PKK.

The actions of Ministry of Justice came right after a delegation of opposition lawmakers publicized the incident at the last week of February 2012. On February 29 Justice Minister Sadullah Ergin announced that he had dispatched three inspectors to launch a probe into the allegations of mistreatment and sexual and physical abuses at the prison in the southern town of Pozanti. In the mean time three Republican People's Party (CHP) deputies visited the prison and wrote a report suggesting the allegations regarding Pozanti Prison were "only the tip of the iceberg." They called for immediate dismissal of the then-warden and his deputy. According to the CHP report 25 of the 218 children in the prison had complained of violence, abuse and rape, while questioning a strict military-like disciplinary system in the wards. The report placed the blame on the warden and his deputy and urged for their immediate dismissal.

On Friday March 2 at a press conference the Justice Minister Ergin declared that all minors incarcerated in the Adana juvenile Prison will be transferred within a week to Sincan Juvenile Prison near Ankara (five hundred km away from their families) where they will be put in one-person rooms what he described as a requirement for their psychological rehabilitation. He said that Turkey was building facilities to house delinquent kids and that the Sincan prison was currently the most appropriate place to house them. Ergin stated that "no one ever promised a paradise. We are trying to do our best given Turkey's capabilities and the physical capacities at hand." Ergin said that four prison administrators had been removed from office, two deputy directors, as well as its former director and his deputy, and re-assigned to other positions as precautionary measures while ministry inspectors are investigating the allegations. The Justice Minister Ergin said that inspectors will complete their investigation over the allegations by the weekend, after which their findings will be shared with the press in detail, and every measure will be taken following these inspections and no stone will be left unturned.

It has been reported that a total of 199 minors incarcerated in the Adana juvenile Closed Prison have been transferred to Sincan Juvenile Closed prison in Ankara. The transfer began on the 6th of March and has been completed by the weekend. The transfer of children has been criticized by families as well as by human rights associations, lawyers and psychologists. They have pointed out that the transfer of the children to another prison doesn't create a proper solution for their trauma and instead of putting them back into the prison after suffering such abuses, pain and trauma the abused children should be returned to their families and they must receive psychiatric therapy as they go through a rehabilitation process in an appropriate environment which fosters health and rehabilitation where their physical and psychological conditions will be assessed by experts.

The Bar Association of Ankara held a press conference in front of Sincan Prison in Ankara and the Bar Association of Ankara Centre of Children's Rights President lawyer Şahin Antakyalıoğlu stated at the press conference that Sincan prison is almost to its full capacity and overcrowding and the general prison conditions will not help these children who have suffered a major trauma. Furthermore the lawyers asked immediate release of the children who suffered sexual abuse in Pozanti Prison. Transferring of these children to a prison 500 km away from their homes not only cause a new ordeal but also makes almost impossible for their families to visit them because of their economic situation they can't afford to see their children. Most of these children live in Çay, Çilek, Özgürlük and Güneş Neighbourhoods in Mersin where they forced to migrate from their hometowns in the south eastern region in 90's. Majority of the families are poor and they don't have stable jobs. Consequently the transfer of children has been perceived as a new unjust treatment imposed to children and their families.

According to Human Rights Association Executive Sami Yazıcı "the problem of jailed children will not be solved by finding temporary solutions for the issues that have been brought to the agenda only in the recent term. There is a need for a permanent and long-term solution to settle the matter of TMK victim children. The events in Pozanti Prison are neither the first nor the last example to what these children go through." He also noted that the families who will live material and emotional difficulties in seeing their children after their transfer to Ankara

perceive the replacement of their children as an exile and punishment of themselves, not of the authorities responsible for the trauma that children have suffered from.

As debate around the issue continues, Peace and Democracy Party (BDP) Mersin deputy Ertugrul Kurkcu released his report on Pozanti Juvenile Closed prison on 8 March. The BDP deputy has visited the jail and the authorities and has emphasized that unfortunately what was happened in Pozanti, the sexual abuse and harassment of children, is not something confined to the Adana prison, but is something which need to be investigated in other prisons as well. Kürkçü also added that 80 percent of the children in prison are charged under the Anti-Terror Law (TMK) and all of the abused child prisoners were Kurdish. He commented that the jailed children issue was a reflection of the Kurdish issue and the anti-democratic government.

The report's main findings are as follows:

A. Before the visit to prison

- The attack, violence, rape and harassment of children in Pozanti Juvenile Closed prison came along as the last ring of a chain of systematic violations of rights these children suffer from on streets, in the presence of police and army vehicles, in anti-terror detention centres and in courts before being jailed.
- Children told of being oppressed, expelled, abused and mistreated by all public authorities since they first started going to primary school. Only families are not abusing them.
- All the children left schools after primary school because they could not cope with the insults of their teachers and school authorities about their language, identity, origin and personalities, not for "insufficient financial conditions". After leaving school, the children started to work in a workplace or in the street.
- The children are very interested in the "Kurdish issue" and they display a more intense political interest in comparison to their peer age group. Most of these children have been arrested because allegedly they confronted the police, in other words they are accused of "throwing stones" and "participating to illegal demonstrations".
- The majority of the children were taken into custody as a result of operations by security forces. They suffered from "abuse of child rights", they were forced into being "informants", asked to set up their friends, questioned without their parents or lawyers and forced to confess to "crimes".
- In a report by Dr. Didem Gelegen, expert at İştah Women's Solidarity Centre which conducts social trauma group works with children, she defined the child-police relation like this: "Children see the police station and the police officers in their neighbourhood as an object of fear and hate. Throwing stone to a police station is the most attractive activity for children at all ages. The relations between the children and police officers in stations have turned into a "dirty violence game".
- All the children tell that police see them as "enemies" and think that they will "sooner or later go to the mountain" [to join the guerrilla]. The children are kept waiting naked in the cold, they are beaten and tortured by police officers, they say.

B. In prison

- Before the transfer to Sincan Juvenile Closed Prison in Ankara, a total of 218 children were held in Pozanti Juvenile prison. 39 of the kids were jailed in relation to anti-terror legislation.
- Among the violations of rights the children were subject to are;
 - being beaten by police, soldier and guardians with hard objects, sticks and iron bars,

- being insulted, mistreated and kept waiting naked in the cold by police, soldier and guardians on the grounds of being Kurds,
- being forced to share the same wards with ordinary prisoners, being delivered to ward representatives who apparently act in cooperation with the administration and force children to kiss the Turkish flag, to deny their identity and not to speak Kurdish as well as imposing arbitrary punishments on children, depriving them of their clothes and food.
- rape, harassment,
- prevention of their complaints from being conveyed to administrators,
- not being able to receive legal assistance, non-performance of the duties by the lawyers appointed by the bar association.

C. After prison

- After being released from Pozantı Juvenile Closed prison, the children suffer from systematically mobbing by anti-terror branch officers in their neighbourhoods, they are forced to act as informants and to set up their friends after being forcibly detained by patrolling security forces.
- A child who was among those exposing abuses against children in Pozantı Juvenile Closed prison, told that he has recently been detained by police and forced to withdraw his complaint. The child had to withdraw his complaint and then appealed to IHD to file a new complaint.
- Among the main problems the released children face are;
 - gain a place in the society,
 - not being able to move freely in their neighbourhoods,
 - being arbitrarily detained and being exposed to insult and threats by police officers,
 - being deprived of legal assistance during trials,
 - not being able to continue their education.

D. Transfer from Pozantı

- No assurance is given at present that racism, discrimination and violations of rights will end in Sincan prison where there kids are being transferred to. The closure of Pozantı Juvenile Closed prison has in a way affected the discovery of truth about the structure of this institution and the treatment and abuses which went on there. On the other hand, public authorities and the public opinion haven't created awareness towards the violations of rights that the children are subject to before being put in prison.
- It is obvious that the families of these children, poor as they are, will suffer more from now on because of the long distance as they will be forced to spend more time and money to see their children.
- The statements by the Ministry of Justice about a "teleconference" system to be used during the trial of children from now on reveal that the children's right to a fair trial is completely being ignored.
- The transfer of children to Sincan prison in Ankara doesn't remove or resolve the circumstances that lead to their imprisonment. On the other hand, it is not a secret that similar allegations on violations of rights are coming out from all juvenile prisons, as unfortunately they are not peculiar to Pozantı prison.

Conclusions

Despite the Justice Ministry and other relevant authorities including Public Prosecution office and Administratives of Prison have been notified in June last year by the Human Rights Association (IHD) and by Parliament's Human Rights Commission about the allegations of children with a report prepared by IHD and the children's handwritten letters none of the required proceedings have been carried out.

The State, the Ministry of Justice and the authorities of Pozanti Prison have the primary responsibility as turning a blind eye to the allegations. Public authorities haven't handled the matter properly until the events hit the headlines following the public statements to the press made by the children themselves.

Pozanti Public Prosecution office has not concluded neither the criminal investigation into the claims nor any administrative investigation into prison authorities and the children accused. Parliament's Human Rights Commission typed a report about the capacity and the situation of prisons for children and juveniles and noted that the physical structure of the Pozanti Prison was not suitable for juveniles and that it should be closed. However this report also has been ignored by the Ministry of Justice and authorities. The state and government are responsible for the incidents because of the negligence of the authorities who are responsible for providing appropriate imprisonment conditions in conformity with the international law and related conventions that the state ratified encourages the officers of the prisons and security forces to continue torturing or degrading and inhuman treatment.

It has been revealed by the reports of the deputies and human rights associations that 80 per cent of the children in prison are charged under the Anti-Terror Law (TMK) and all of the abused child prisoners were Kurdish. The Kurdish children experience a great trauma both inside and outside the prison because of the lack of solution in Kurdish issue. They are often subject to unjust practices and attacks of security forces on the streets during the demonstrations. The trauma of these children becomes more serious when they are detained and put in prison where they are subject to inhuman and cruel treatment and sexual and psychological abuses. Therefore this problem remains as a result of the lacking peaceful solution in the Kurdish problem, not a sole matter related to jailed children themselves but linked to Kurdish issue.

Another interesting development reported on 7 March that journalists Ali Buluş, Hamdullah Keser and Özlem Ağuş from Dicle News Agency (DİHA) Adana office who first exposed the child sexual abuse incidents in Pozanti Prison have been arrested in an operation carried out on 6 March within the scope of the KCK (Union of Kurdistan Communities) operation. The arrests of the journalists have raised the worries and questions about the torture and sexual abuses in Pozanti Prison. .

Nevertheless the legal arrangements on stone throwing (anti-terror law victim) children issue, the law enacted in 2010 which was criticized by lawyers and human rights activists for being consisted of provisions that could be used against children and proposed the amendment couldn't solve the problem. According to the IHD reports almost all of 21 people who benefited from this law in Mersin were again taken into custody and arrested for various allegations as the jailed children told of that they were forced to confession under custody.

There is an immediate need for a permanent and long-term solution to settle the matter of TMK victim children as attention drawn also in the European Parliament (EU) 2011 Progress Report to the wide margin of interpretation and application allowed by the Anti-Terror Law and the Criminal Code. The report noted that EP is concerned regarding continuing reports of torture and ill-treatment in police stations and in prisons, the excessive use of force by police officers during demonstrations and the lack of progress in bringing State officials to justice for alleged human rights abuses and urged Turkey to review the Anti-Terror Law and Turkish Penal Code as a matter of priority and to comply rigorously with its international human rights obligations by amending its relevant legislation.

According to the report European Parliament is alarmed by the high number of juvenile prisoners, amounting to 2500, in the age group between 12-18 years. The report also criticized

that judicial procedures have still not been sufficiently improved in efficiency and norms to ensure the right to a fair and expeditious trial. As also noted in the EP's 2011 Progress Report Turkey shall review the compatibility of Turkish legislation with international agreements which Turkey has ratified, such as the European Convention on Human Rights etc. It is also mentioned in the report that Turkey should give international observers access to its prisons.

The number of juvenile prisons in Turkey also gives us the idea that children were held in prisons for adults. There are three juvenile prisons whereas more than 2,000 children are jailed in Turkey. According to the experts from human rights associations the imprisonment conditions in Sincan Prison in Ankara don't promise a better and healthier environment to children and for their physical and psychological rehabilitation and treatment as they will be held in one-person wards, which is not an appropriate environment. The transfer of kids makes almost impossible for their families to go and visit children if we consider financial difficulties and the life conditions that the families live in. The real solution is to transfer these children to suitable places where they will be close to their families and where they will be observed by the psychologists and psychiatrists and all necessary measures to be taken to promote their physical and psychological recovery and social reintegration.

Furthermore thousands of children are held in prisons should be provided with all kinds of opportunities, including psychological and physical assistance for development of the children and their reintegration with society. Therefore the environment and structure of prisons for children should be changed into schools in order to reintroduce them to society and promote children's assuming a constructive role in society.

In addition it is understood that the matter of sexual and psychological abuse and harassment against jailed children is not only the problem of Pozanti Prison alone, the Human Rights Associations' executives were noting that they received similar applications from other prisons in the region as well. The same sensibility and interest on the subject should be displayed towards the problems of all jailed children in all prisons. The situation and problems of all jailed children who are held in prisons as victims of the state's fight against terror should be monitored carefully by unbiased and independent experts.

Turkey as a country that ratified UN Convention on Rights of Child , European Convention on Human Rights and recently UN Convention against Torture (OPCAT) on 27 September 2011 needs to step up efforts to fulfil the obligations and implement the provisions stemming from the Conventions and Agreements. As stated in the UN Convention on Rights of Child Turkey has responsibilities and obligations to ensure necessary conditions for child to live with in health, self-respect and dignity. The articles 19, 34, 37 and 39 of the UN Convention on Rights of Child have clear statements on the issues regarding violence, torture, abuse, degrading and inhuman treatment against child and rehabilitation of child who is victim of rights violations. As stated in the articles 37 and 39 of UN Convention on Rights of Child, State parties should ensure;

- That no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

- To take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Lastly, Turkey has to review Turkish legislation on child and human rights and proceedings of the prisons and ensure fully alignment of Turkish legislation with the European Convention on Human Rights and the UN Convention on Rights of Child without further delay. *(end)*