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ENFORCED DISAPPEARANCES IN TURKEY

JUNE, 2017



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Stockholm Center for Freedom (SCF) is an advocacy organization that promotes the rule of law, democracy and fundamental rights and freedoms with a special focus on Turkey, a nation of 80 million that is facing significant backsliding in its parliamentary democracy under its autocratic leaders.

SCF, a non-profit organization, was set up by a group of journalists who have been forced to live in self-exile in Sweden against the backdrop of a massive crackdown on press freedom in Turkey .

SCF is committed to serving as a reference source by providing a broader picture of rights violations in Turkey, monitoring daily developments on fact-based investigative journalism and documenting individual cases of the infringement of fundamental rights. The founders of SCF are top-notch journalists who had managed national dailies in Turkey and worked for leading media outlets before they were forced to leave. They have the expertise, human resources and network on the ground to track events in Turkey despite serious challenges.

ENFORCED DISAPPEARANCES IN TURKEY

INTRODUCTION

Illegal abductions and enforced disappearances in Turkey, often perpetrated by security services or clandestine groups with the approval or knowledge of the authorities, have recently made a comeback just when this abhorrent practice was thought to be a thing of the past, primarily confined to the dark period of the 1990s, when Kurds were victimized by extrajudicial killings.

The brutal regime of president Recep Tayyip Erdoğan has now engaged in depriving many victims of their liberty without acknowledging their unofficial detention. The principle of due process was totally disregarded in these cases under emergency rule, which has been renewed for a fourth time. It looks certain that the European Court of Human Rights will receive a series of complaints of enforced disappearance in Turkey just as it had dealt with numerous such cases arising from a military campaign against the outlawed Kurdistan Workers' Party (PKK) in Turkey's Southeast in the 1990s.

The Stockholm Center for Freedom (SCF) has so far documented 11 individual cases of disappearance since 2016 that show a systematic and deliberate campaign of kidnappings by elements within the Turkish security and intelligence services as part of the persecution launched by Turkish President Erdoğan and his government, primarily against participants of a civic group known as the Gülen movement.

The abductions appear to have been concentrated in the Turkish capital of Ankara and follow a familiar pattern in which gunmen identifying themselves as police officers force victims into a van and disappear in broad daylight. Complaints by family members have failed to locate any of them in detention or in prison, indicating that they were held in captivity in secret and unofficial holding facilities and remained incommunicado, including a lack of contact with lawyers and relatives. In one case in which an abductee was finally located 42 days after he had gone missing, his lawyers revealed that he was kidnapped by men who said they were police officers, was tortured for days and forced to sign a confession before he was eventually handed over to the police for official custody.

The fact that police and prosecutors have appeared unwilling to investigate these abductions despite complaints by family members suggests that authorities knew who was actually involved in these enforced disappearances. No government official has ever issued a statement with regard to these abductions despite public pleas by family members, parliamentary inquiries by opposition lawmakers and media coverage. It feels like a criminal syndicate and gangs have taken over the elected government in Turkey, wreaking havoc in the country with total impunity.

The motivations behind these abductions and disappearances are twofold. On the one hand the Turkish government, led by an autocratic president, keeps up its campaign of

intimidation by amplifying fear in the society. That frightens critics and opponents from adopting a critical position against Erdoğan and his associates in the government. The second motivation on the part of the government is to elicit forced, fabricated and self-incriminating confessions, often written by the police in advance, so that it will help the government case in criminalizing opposition groups and facilitate the mass persecution of dissidents.

Turkey's terrible record in rectifying past occurrences of missing persons and enforced disappearances does not give much hope for the future that these newly emerged cases will result in some sort of closure. The ruling Justice and Development Party (AKP) came to power in November 2002 with a promise of closing that dark chapter in Turkey's history. But successive AKP governments over the past decade under Erdoğan's leadership have proven unwilling to tackle that before resuming this largely abandoned practice and have started resorting to these unlawful abductions and kidnappings.

The report of the United Nation's Working Group on Enforced or Involuntary Disappearances (WGEID), dated July 27, 2016, had scathing criticism of Turkey over this record. It accused the Turkish government of failing to adopt a proactive and comprehensive policy to address "the right to truth, justice, reparation and memory of the victims."¹ It noted that "there has hardly been a single case of criminal responsibility or of civil liability for acts of enforced disappearance."

A WGEID delegation, composed of the chair of the working group, Houria Es-Slami; the vice chair, Bernard Duhaime; and a member of the working group, Henrikas Mickevicius, visited Turkey from March 14-18, 2016. WGEID was established in 1980 by the then-Commission on Human Rights, now the Human Rights Council, which monitors Turkey. The last time WGEID made a visit to Turkey was in 1998.

The working group has conveyed 202 allegations of enforced or involuntary disappearance to the government of Turkey, of which 79 are still outstanding. The UN experts concluded that Turkey represents a particularly difficult case in assessing the real dimensions of the problem and obtaining exact figures on enforced disappearances because Ankara has shied away from fully acknowledging past disappearances and has not properly addressed the issue.

"It is therefore essential, as a matter of utmost priority, to fully recognize the past violations and create a mechanism specifically dedicated to investigating fully the fate and whereabouts of those who disappeared during the 1980s and 1990s in order to finally provide truth, justice and reparation to the families concerned,"² the UN said.

1] UN General Assembly, the Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey, July 27, 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/166/87/PDF/G1616687.pdf?OpenElement>

2] *ibid* p.3-4

According to the Human Rights Association (İHD), there have been 940 cases of enforced disappearance in Turkey. In addition to that, the İHD believes 3,248 people who were murdered in extrajudicial killings are buried in 253 separate burial places.³ The pro-Kurdish Peoples' Democratic Party (HDP) claimed that dozens of people have gone missing in security operations targeting Turkey's predominantly Kurdish southeastern region in the last two years. Lawmaker Meral Daniş Beştaş said in Parliament that many of the deceased were buried in potter's fields as the forensic council failed to identify bodies or took a long time to determine their identities.⁴

1. GOVERNMENT VIOLATES INTERNATIONAL LAWS AND TURKISH CONSTITUTION

There is no justification in the law whatsoever for these abductions and kidnappings even under the emergency rule that has been in force in Turkey since July 20, 2016, immediately after a failed coup on July 15.

Article 15 of the Turkish Constitution allows the government to suspend rights and freedoms under certain circumstances, but these derogations cannot be in conflict with international law. It states that "In times of war, mobilization, martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated."

This provision was amended in May 2004: "Even under the circumstances indicated in the first paragraph, the individual's right to life, the integrity of his/her corporeal and spiritual existence shall be inviolable except where death occurs through acts in conformity with law of war; no one shall be compelled to reveal his/her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties shall not be made retroactive; nor shall anyone be held guilty until so proven by a court ruling."

Since the Turkish Constitution recognizes international treaties to which Turkey has acceded as having the same force as the constitutional article, UN and Council of Europe conventions limit the Turkish government's room to maneuver for restricting rights and freedoms.

Turkey submitted official notification to the UN on July 21, 2016 stating a derogation of its obligations under Article 4 of the International Covenant on Civil and Political Rights (ICCPR) by declaring emergency rule. But mass persecution, torture, unlawful

3] "Kayıplar Bulunsun; Failler Yargılansın ve Cezalandırılınsın!" İHD, May 17, 2017, <http://www.ihd.org.tr/kayıplar-bulunsun-failler-cezalandırılınsın/>

4] TBMM 1. Oturum, May 24, 2017, <https://www.tbmm.gov.tr/tutanak/donem26/yil2/ham/b09601h.htm>

detentions, enforced disappearances and other human rights violations, widely reported and documented in Turkey by credible organizations, are not covered by this exemption. Article 4 of the ICCPR, which Turkey invoked, notes that “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other



Parliamentary Assembly of the Council of Europe concluded measures taken by Turkish government have gone far beyond what is necessary and proportionate under emergency rule.

obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.”⁵

Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance clearly states that “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.”⁶

On July 21, 2016, Turkey also informed the Council of Europe of a formal notice of derogation to the European Convention on Human Rights (ECHR) as foreseen under Article 15 of the convention. CoE Secretary-General Thorbjørn Jagland and the human rights commissioner warned Turkey that there can be no derogation from the following articles: Article (right to life), Article 3 (prohibition of torture and inhumane or degrading treatment or punishment), Article 4 para. 1 (prohibition of slavery) and Article 7 (no punishment if not specified by law).⁷ The European Court of Human Rights (ECtHR) will still decide whether the application meets the criteria set out in the convention, notably the criterion of the proportionality of the measure taken.

In its resolution adopted on April 25, 2017, the Parliamentary Assembly of the Council of Europe (PACE) concluded that “unfortunately, eight months after the attempted coup, the situation has deteriorated and measures have gone far beyond what is necessary and proportionate. The authorities have been ruling through decree laws going far beyond what emergency situations require and overstepping the parliament’s legislative competence.”⁸ PACE also ruled to place Turkey under a formal monitoring mechanism to track rights violations.

5] International Covenant on Civil and Political Rights, December 16, 1966, <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

6] International Convention for the Protection of All Persons from Enforced Disappearance, OHCHR, December 18, 1992, <http://www.ohchr.org/Documents/ProfessionalInterest/disappearance-convention.pdf>

7] Derogation in time of emergency, Fact Sheet on Article 15, ECHR, February 2017, http://www.echr.coe.int/Documents/FS_Derogation_ENG.pdf

8] “The functioning of democratic institutions in Turkey,” April 25, 2017, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23665&lang=en>

By engaging in deliberate and systematic abductions specifically targeting an ethnic group as in the case of Kurds or a social group as in the case of the Gülen movement,⁹ the Erdoğan government risks being charged with committing a crime against humanity. Article 5 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance (1992) states that “the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.”

2. IMPUNITY OF PERPETRATORS

Unfortunately, Turkey does not have a stand-alone law in its criminal code that covers enforced disappearances. Instead, a limited number of reported cases are being investigated under other criminal offenses such as murder, torture or arbitrary deprivation of liberty. The UN monitoring group lamented that only two individuals have been sentenced thus far for committing crimes that included acts of enforced disappearance. Among these were the cases of Mehmet Şerif Avşar, who was forcibly disappeared in the province of Diyarbakır on April 22, 1994, and Şeyhmus Yavuz, who was forcibly disappeared in the province of Diyarbakır on March 11, 1994. The suspects in these cases were convicted on charges of murder and deprivation of liberty.

More troublesome is that authorities involved in past enforced disappearance cases all the way up the chain of command have been protected by the government. The UN monitoring group’s position on this issue is very clear. It said: “The criminal offence of enforced disappearance should include various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance. It should also expressly provide for the application of command responsibility or superior individual criminal responsibility for such crime.”



**Cemal
Temizöz**

A failed prosecution involving the first high-profile murder and enforced disappearance in Turkey, in which Col. Cemal Temizöz was a defendant, reinforced the lingering impunity in such cases despite overwhelming evidence submitted to the court. In January 2012, the commissioner for human rights of the Council of Europe described the trial as “a unique opportunity to shed light on a period of systematic human rights abuses in south-east Turkey, which feature prominently in the case law of the European Court of Human Rights.”¹⁰ Temizöz was indicted in relation to the enforced disappearance and extrajudicial execution of 21 persons between 1993 and 1995, but he, along with seven other defendants, was acquitted by the Eskişehir 2nd High Criminal Court in November 2015.

9] Hizmet (“service” in English), popularly known as the Gülen movement, was inspired by US-based Turkish-Islamic scholar Fethullah Gülen, whose teachings focus on science education, civic participation, community involvement and interfaith and intercultural dialogue.


10] “Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visit to Turkey from 10 to 14 October 2011,” January 10, 2012, <https://rm.coe.int/16806db70f>

the 1993 disappearance of six residents of a village in Şırnak.

With the resumption of clashes in Turkey's Southeast between the security forces and the Kurdistan Workers' Party (PKK), listed as a terrorist organization by Turkey, the US and the EU, since July 2015, there have been fresh reports about extrajudicial killings and enforced disappearances. The UN working group concluded that "the current situation in that part of the country is in fact dramatically similar to that described in the 1998 report of the Working Group."¹²

3. STATUTE OF LIMITATIONS

In addition to the lack of an exclusive law in the Turkish Penal Code about enforced disappearances, relatives of the missing also suffer from the statute of limitations of 20 years for crimes under which enforced disappearances are usually investigated and prosecuted. Authorities often look into disappearances involving charges of murder, torture or arbitrary deprivation of liberty. Turkey abolished the application of the statute of limitations for the crime of torture with Law No. 6459, which was published in the Official Gazette on April 30, 2013.¹³ In other words, if the disappearance is investigated as a crime other than torture, it has a statute of limitations.



Turkey's Constitutional Court, effectively controlled by the executive branch, dismissed enforced disappearance case on statute of limitations.

But cases before that date still face a statute of limitations problem. For example, in the case of the enforced disappearance of Nurettin Yedigöl, who went missing on April 10, 1981 after his reported detention under a military regime, Turkey's Constitutional Court

ruled unanimously on December 10, 2015 that it did not have a mandate to review the case because its authority to review individual complaints on rights violations started in 2012, and it therefore rejected the application, which had already been dropped by Turkish courts on the grounds of the statute of limitations.¹⁴

This is against Turkey's commitments under international human rights law. The Declaration on the Protection of all Persons from Enforced Disappearances, which was approved by the UN General Assembly in 1992, is very clear on this. Article 17 of the declaration states that "acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the

12] "UN General Assembly, the Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey," July 27, 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/166/87/PDF/G1616687.pdf?OpenElement>

13] "İnsan Hakları Ve İfade Özgürlüğü Bağlamında Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun," Resmi Gazete, April 30, 2013, <http://www.resmigazete.gov.tr/eskiler/2013/04/20130430-1.htm>

14] "Genel Kurul Kararı, Zeyna Yedigöl Başvurusu," Resmi Gazete, December 12, 2015, <http://www.resmigazete.gov.tr/eskiler/2016/01/20160114-9.pdf>

whereabouts of persons who have disappeared and these facts remain unclarified.”

When the effective remedies provided for in Article 2 of the International Covenant on Civil and Political Rights are no longer effective, “the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.” It also added that statutes of limitations shall be substantial and commensurate with the extreme seriousness of the offense and shall be counted only as starting from the moment at which light is shed on the fate or whereabouts of the person.¹⁵

The UN is also crystal clear in that the statute of limitations cannot be applied in cases of enforced disappearance amounting to crimes against humanity. The problem with respect to Turkey, however, is that Turkish law does not include acts of enforced disappearance in the definition of crimes against humanity. The UN working group has urged Turkey to include the practice of widespread or systematic enforced disappearance in its definition of crimes against humanity.

4. ENFORCED DISAPPEARANCES TARGETING THE GULEN MOVEMENT

There has been a new campaign of enforced disappearance in Turkey since 2016 that specifically targets members of the civic Gülen movement. SCF has documented at least 11 cases of enforced disappearance so far. From one specific case in which the abduction of a victim resulted in an unofficial detention in a secret place for over a month by intelligence elements before he was turned over to the police for formal detention, SCF has been able to map out the modus operandi of this string of clandestine and unlawful kidnappings that primarily took place in the Turkish capital. It was clear that members of the security forces, especially elements linked to the intelligence agencies, were involved in these enforced disappearances and that government officials including prosecutors have been unwilling to investigate such incidents.

Lawmaker Sezgin Tanrikulu from Turkey’s main opposition Republican People’s Party (CHP) said in Parliament on May 24, 2017 that he had raised seven recent cases of enforced disappearance and talked to the wives of the missing.¹⁶ He said the relatives told him that when they visited prosecutors’ offices and the police to inquire about the fate of their loved ones, they were told to not pursue these matters or otherwise they too could end up in the same situation, leaving their children behind.

A Peoples’ Democratic Party (HDP) motion to set up a parliamentary investigation commission to look into enforced disappearances was rejected on May 24, 2017 by the votes of the ruling Justice and Development Party (AKP) and its nationalist partners.

15] “Declaration on the Protection of all Persons from Enforced Disappearance,” OHCHR, Dec.18, 1992, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/EnforcedDisappearance.aspx>

16] TBMM 1. Oturum, May 24, 2017, <https://www.tbmm.gov.tr/tutanak/donem26/yil2/ham/b09601h.htm>

4.1. CASE OF DURMUŞ ALİ ÇETİN DISAPPEARED ON MAY 17, 2017 LOCATED ON MAY 30, 2017



Durmuş Ali Çetin

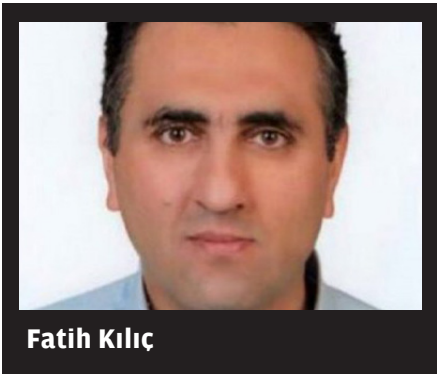
Durmuş Ali Çetin, a police officer who was earlier fired from his job under a post-coup emergency degree, has been missing since May 17, 2017, with his family concerned for his life. Çetin's family has not heard from him since he left home on the morning of May 17.

The father of three moved to the Afşin district of Turkey's eastern Kahramanmaraş province after he was dismissed from his post in İstanbul over alleged links to the Gülen movement seven months ago. Suffering from financial and physiological problems since he lost his job, Çetin went outside on May 17, leaving his cell phone at home. Family members have been mobilized to follow Çetin's trail, voicing concerns for his safety.

According to the report by DHA on May 30, 2017, Durmuş Ali was found in Hatay province and reported to have suffered psychological problems.

4.2. CASE OF FATİH KILIÇ MISSING SINCE MAY 14, 2017

Fatih Kılıç, a teacher who was dismissed from his job under post-coup emergency rule, disappeared on May 14, 2017 in the Turkish capital. He has not been seen anywhere since the last CCTV footage he appeared in shows him getting on a subway bound for Ankara's Kızılay district.



Fatih Kılıç

"My husband is a victim of a post-coup government decree. He has been unemployed for seven months. We have no source of income. We depend on assistance from our families. I was together with my husband and four children on May 14. We had a lovely Sunday. Then we prepared for our trip. He took us to AŞTİ (the Ankara bus terminal) in the evening. I was going to visit my grandparents along with our children. He was to join us after a while. He left us, waving goodbye at around 22:50," Fatih Kılıç's wife, Nihal Kılıç, wrote in a series of tweets on May 19, 2017.

4.3. CASE OF MUSTAFA ÖZBEN MISSING SINCE MAY 9, 2017

Mustafa Özben, a lawyer, was reported missing on May 9, 2017. Emine Özben said there have been several witnesses who came forward about the kidnapping and CCTV

video camera recordings were available on the area where the abduction took place. She lamented, however, that authorities are not taking the case seriously and fail to pursue an effective investigation.

Mustafa Özben, also an academic at Turgut Özal University that was shut down by the government in July 2016 over alleged link to the Gülen movement, was abducted by three people on the corner of Güven Street and Kıvanç alley in Şentepe district of Ankara.



On May 9, he departed from his home at 12:30 pm on his car with plate No.06 GBL 51 to drop his daughter at Şehit Mahmut Özdemir Elementary school. After school, he stopped by the ATM to withdraw cash and went for a shopping. As he walked towards his car from the store, he was abducted by three people.

Emine Özben filed a missing case with the Şentepe police department 24 hours later but was shocked to learn that her husband was a wanted man on alleged links to the Gülen movement. “We heard that for the first time,” she said, recalling that police told her the husband may have fled. “Police did not believe that my husband was kidnapped.” She said police knew all the details, the abduction, how it happened and where it

happened before she filed the missing report. They told her to take the case to celebrity TV host Müge Anlı who has a TV program on unsolved murders and missing cases.

Emine Özben has done her own investigation in the area and listed her findings in the complaint she filed with the prosecutor’s office. According to her investigation, witnesses said there was a Volkswagen Transporter van parked before the Kaşıkçı Pharmacy, waiting for her husband to come out from the store. As he walked towards his car, three men pushed him to the van. According to the witnesses, one man was wearing a black ski mask.

Police showed up at the scene as Emine Özben was talking to the witnesses, and told the people in the neighborhood that her husband was a fugitive. When she returned to the scene few days later, witnesses were unwilling to talk to her.

Two days later, she received a mysterious call from her husband around 22:00 pm at night. The call originated from phone number 0537047... and her husband’s voice sounded cracked and exhausted. “His sound was not good, sounded worn out and hesitant. He was afraid of his life. He was trying to understand if anything happened to us,” she said, before the short conversation was cut-off.

In the meantime, a witness statement from a white appliance store owner identified with names only as E.A. has emerged, stating that he saw a man carrying a plastic shopping bag was forced to get on the black Transporter van. “The doors of the van was shut and sped away before the man get a chance to shout,” he said, recalling that somebody in the neighborhood called the police to report the abduction. He stated that he did not see the faces of abductee and the men who kidnapped him.

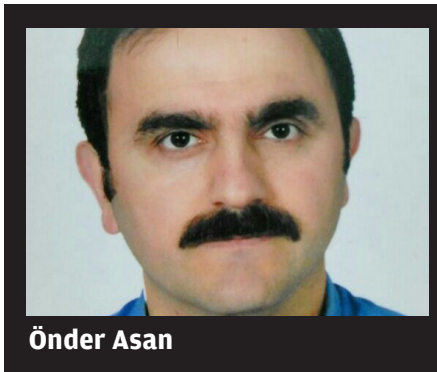
Emine Özben and her lawyers talked this witness and was able to collect more detailed description on what happened on that day. The lawyers were surprised that E.A.'s original testimony was not fully entered into police records, suggesting police is trying to hush-up the investigation. Özben also noted that there were dozens of CCTV video surveillance cameras in the area but police did not thoroughly investigate those recordings.

Özben appealed Ankara prosecutor's office to find out about the black van, trace the mysterious phone call she received and collect witness testimonials in the area.

She said she has a hard time to explain her three daughters, aged 5 months, 4 years and 10 years, about what happened to their father. "My kids are going through a trauma," she noted.

4.4.CASE OF ÖNDER ASAN **DISAPPEARED ON APRIL 1, 2017; LOCATED ON MAY 12, 2017**

Önder Asan (41), a philosophy teacher who was abducted in broad daylight in the Turkish capital in April and reported missing by his wife, turned up at the Ankara Police Department traumatized and tortured 42 days later. He mysteriously disappeared in Ankara's Şentepe neighborhood on April 1, prompting his wife to file a missing persons report and pleading with authorities to find her husband. Asan was working at a secondary school that the government shut down over its alleged links to the Gülen movement, which has been subjected to unprecedented persecution in Turkey led by autocratic President Erdoğan.



His wife, Fatma Asan, said she found her husband's car parked near Şentepe with its tires slashed. Worried about the well-being of her husband, she filed petitions with the police and prosecutor to investigate a possible kidnapping. Yet the authorities were reluctant to look into his case and have not even bothered to check CCTV cameras around the neighborhood where the incident took place. She filed a criminal complaint with the public prosecutor's office and launched a social media campaign appealing to the public to help her locate her husband. She was frustrated that nothing came of her efforts.

On May 12, Fatma Asan received a phone call from the Ankara Police Department notifying her that her husband was in detention in the Organized Crime and Smuggling Unit (KOM). She was very happy to learn that her husband was alive after 42 days of being missing and rushed to the police station to see him. But she was denied permission to see her husband and was told to come back the next day. Only the family lawyer was granted access for 20 minutes.

According to Önder Asan, who was able to tell of his abduction in the brief meeting with the lawyer, on the day he went missing he saw his car's tires slashed in Şentepe and had to take a taxi to get to his destination. "On the way, the cab was cut off by four vehicles on Vatan Street.



A Black VW Transporter van that reportedly used by intelligence was spotted in several abductions.

The people who got out of the cars said they were with the police and forced me to get into a Volkswagen Transporter van. I was blindfolded and beaten on the way to a place that I did not know. Then I was handcuffed and put in a cell. The torture went on there for days,” he said.

“On May 12, I was put in a van, again blindfolded. When we stopped, I was taken out of the van and they removed my blindfold. I realized we were near Lake Eymir [some 20 kilometers south of Ankara]. They called the Ankara Police Department and forced me to say on the phone “I am Önder Asan, a member of Fethullah Terrorist Organization [FETÖ], I want to surrender myself. Please come and take me in.” Then they compelled me to sign a paper stating that I wanted to take advantage of the repentance law. The police officers subsequently came and picked me up.”

When Önder Asan was brought to the police station, he had great difficulty in standing and walking. He could barely walk to the room to meet with his lawyer, holding on to the walls for support. Although the police were present during his brief meeting with the lawyer, he had the courage to tell some parts of his story and asked for treatment. “My psychological wellbeing is so terrible,” he told the lawyer.

Burak Çolak, a lawyer representing Önder Asan, was also detained for refusing to sign false testimony prepared by the police on behalf of his client Asan after he was handed over to the police by thugs who tortured him for 42 days. Police tried to force the lawyer to sign the document, which included false testimony by his client. He was later released from detention.



Cengiz Usta

4.5. CASE OF CENGİZ USTA MISSING SINCE APRIL 4, 2017

Cengiz Usta, a 44-year-old teacher in the district of Torbalı in Turkey’s western İzmir province, was dismissed from his job by the government on September 1, 2016. He has been missing since April 4. Usta was a teacher at the Cumhuriyet Primary School in Torbalı.

“My brother left his daughter at home and went out to pay the elevator maintenance fee. He has not yet come back home. A witness claims that my brother was forced into a car by two men on Abdulkadir Street. This was recorded in police records as well,” the teacher’s elder brother, Selim Usta, told local media.

4.6. CASE OF TURGUT ÇAPAN MISSING SINCE MARCH 31, 2017



Turgut Çapan

Turgut Çapan, a former employee of Turgut Özal University, which was shut down by the government over its alleged ties to the Gülen movement, was abducted on March 31, according to his wife, Ülkü Çapan, who opened a Twitter account in order to speak up.

Ülkü Çapan released a video clip in which she explained the story in detail. She said a friend of her husband’s stopped by her home on April 1 to say that Turgut Çapan had been abducted.

Turgut Çapan was the head of the Culture, Sport and Art Affairs Department at the university until it was shuttered by the government.

4.7. CASE OF MESUT GEÇER MISSING SINCE MARCH 26, 2017

Mesut Geçer worked at the National Intelligence Organization (MİT) until he was dismissed as part of the government’s post-coup crackdown.

His car was stopped and he was reportedly abducted in the Çakırlar quarter of Ankara’s Yenimahalle district on March 26, 2017. His family members have been having difficulty even in submitting petitions to ask about Geçer’s whereabouts as officials often refuse to cooperate with them.

4.8.CASE OF HÜSEYİN KÖTÜCE MISSING SINCE FEB. 28, 2017

Hüseyin Kötüce, an employee for the government-run Information and Communication Technologies Authority (BTK), was reportedly abducted in the parking lot of the Batıkent subway station in Ankara after he got off work on February 28, 2017. Family members found his winter coat and a cake he had bought in the back of Kötüce's car, parked in the lot.

Despite successive requests, family members have so far failed to get police to dust the car for fingerprints, while no CCTV footage was collected from nearby locations with a view of the park.

4.9.CASE OF MUSTAFA ÖZGÜR GÜLTEKİN MISSING SINCE DEC. 21, 2016

Mustafa Özgür Gültekin, a Competition Authority employee, was followed by at least four cars to a convenience store in Ankara's Beştepe neighborhood at 18:15 on December 21, 2016.

Immediately after Gültekin left the store, he was surrounded by a group of men who later forced him into a Volkswagen Transporter van with tinted windows.

Family members have so far managed to obtain nearby CCTV footage in which Gültekin is seen being forced into the car. The family complained that police did not investigate the incident despite the fact that the footage showed kidnappers clearly identifiable from their facial features.

4.10. CASE OF AYHAN ORAN MISSING SINCE NOV. 1, 2017

Having started work at MİT in 2005, Ayhan Oran was dismissed over alleged ties to the Gülen movement on August 2, 2016.

He was last seen leaving the compound he was living in at 12:38 on November 1, 2016. The signal on his cell was active only before 16:00 the same day. While he had no money in his pocket, he did not even bid farewell to his wife before he went out. Oran worked in Turkey's Şırnak and Diyarbakır provinces as well as in Greece. He reportedly has intimate knowledge of the assassination of three Kurdish activist women, Sakine Cansız, Fidan Doğan and Leyla Şaylemez, in Paris on January 9, 2013. The murders were alleged to have been perpetrated by MİT.



A Competition Authority
employee has gone missing.

4.11. CASE OF SUNAY ELMAS MISSING SINCE JAN. 27, 2016

An Ankara resident named Sunay Elmas is reported to have been abducted on January 27, 2016 at Ankara's CEPA shopping mall while he was returning from dropping his children at home in Sincan. Elmas also had been forced into a Volkswagen Transporter van with tinted windows. His family has not heard from Elmas since then.

4.12. CASE OF CEMIL KOÇAK MISSING SINCE JUNE 15, 2017

Cemil Koçak, an engineer who was dismissed from a government position at Turkey's Agriculture Ministry over his alleged links to the Gülen movement, was abducted according to the Twitter account that is reportedly managed by his wife.

Koçak's car was followed by four cars (a black and a white Ford Focus, a VW Transporter van and a Fiat Doblo) at around 5:30 pm near his home in Ankara's Altındağ district on June 15, 2017. One of those cars hit Koçak's own car to stop him in the middle of the day and he was forced into the black van just before the eyes of his 8-year-old son, the Twitter account said.

The abduction took place in a blind spot not covered by any of the four CCTV cameras in the area, according to the account. The wife also posted some photos from CCTV footages that showed the cars in pursuit before the kidnapping.

5. DISAPPEARANCES OF MIGRANTS

There have been reports that some migrants have been disappeared in Turkey while hosted under temporary protection status or during transit. The UN working group said it had received reports of women and children disappearing into trafficking networks, particularly Yazidi women and girls being trafficked from the Syrian Arab Republic to Turkey and sold by the Islamic State in Iraq and the Levant (ISIL) in Gaziantep in the south of Turkey.¹⁷ It noted that "these acts most often take place with the complicity, or at least the connivance, of local authorities," adding that "these very serious allegations deserve a thorough and independent investigation by the Turkish authorities."

The allegations of trafficking and the sale of Yazidi women and children in Gaziantep led to an investigation, indictment and trial of suspects. Yet all of them were acquitted in a speedy

17] "UN General Assembly, the Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey," July 27, 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/166/87/PDF/G1616687.pdf?OpenElement>



The ISIL suspects who were indicted for the Yazidi slave trade in Turkey's city of Gaziantep were acquitted in a speedy trial of two weeks.

trial phase, suggesting a hush-up by authorities, according to Abdullah Bozkurt, who wrote extensively on the subject in an article published on online news website Turkishminute.com on January 24, 2017.

Here is the full text of his article:¹⁸

“The deep hostility harbored by Turkey’s Islamist rulers against non-Muslims has reached a point of blind hatred that often rears its ugly head in the official narrative adopted by the fanatic president, Recep Tayyip Erdoğan, and his overzealous religious brethren in the government. The case of the Yazidi religious minority presents a perfect example of how this poisonous rhetoric has had far-reaching implications on the ground which contributed to further persecution of this vulnerable group at the hands of thugs who acted with impunity.

On Oct.16, 2016, addressing thousands of die-hard fans in his hometown of Rize on the eastern Black Sea coastline, Erdoğan erupted with anger towards Iraq’s Yazidis (Ezidi), accusing them of conspiring with the terrorist enemies of Turkey and being involved in wrong moves. With a condescending attitude, he said Turkey had opened its doors to Yazidis who were fleeing the killing campaign of the Islamic State in Iraq and the Levant (ISIL). He wrongfully claimed that Yazidis are Christians, adding that Turkey, a predominantly Muslim nation, accepted them nonetheless. This was not the first time Erdoğan had targeted the Yazidi minority but certainly was the most vicious one on record.

18] “Erdoğan’s hatred of Yazidis takes a toll in Turkey,” Abdullah Bozkurt, Turkish Minute, January 24, 2017, <https://www.turkishminute.com/2017/01/24/Erdoğan-hatred-yazidis-takes-toll-turkey/>

This mindset, deeply rooted in the Turkish political Islamists, takes a toll on state institutions, predisposing government employees against Yazidis. A botched criminal case against alleged traffickers of Yazidi women and children in Turkey's southeastern province of Gaziantep, a hotbed of ISIL's Turkish network, is a perfect case study showing how the judiciary, effectively controlled by Islamists in the government, takes its cues from political signals.

The use of ISIL liaison offices for the Yazidi slave trade in Gaziantep was first brought to public attention by Germany's regional public service broadcaster ARD in a major investigative piece. The secret camera recording documented how ISIL fund managers in an unregistered currency exchange house received cash in exchange for selling Yazidi woman and children to an intermediary. After the investigative piece was aired, the Gaziantep Bar Association and an NGO called the Progressive Women's Association filed a criminal complaint with the public prosecutor's office, asking authorities to investigate the claims.

Police raided the currency exchange house operated by the al-Amir Company, located on the third floor of a commercial building on Muammer Aksoy Boulevard in the İncilipınar neighborhood of the Şehit Kamil district in Gaziantep. Six suspects, identified as Manhal Dabbas (30), Mohamed Dabagh (55), Omer Dabagh (25), Yahya Faham (37), Hecham Hadad (49) and Yusuf Kurdi (48), were detained in the raids. All suspects are Syrian nationals, with Kurdi having Turkish citizenship as well. Police found passports, cash in the amount of \$371,711 and receipts for money transfers in Arabic made on behalf of the al-Amir Company. Police 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 business office that was operating unregistered. The evidence showed money was transferred to associates in Manbij in Syria when the area was still under ISIL control.

On Dec. 23, 2015, the suspects were charged and indicted on charges of membership in the ISIL terror group and violating financing of terror laws, which require up to 10 years of jail time for each violation in the event of conviction. The indictment was submitted to the 2nd High Criminal Court in Gaziantep. At record speed, the court, presided over by a panel of three judges — Lutfi Türk, Elif Sülün and Mehmet Nur Ergül — held the first hearing in the case on Dec. 31, 2015. All three suspects were present at the hearing. The second and final hearing in the case was held on Jan. 15, 2016 during which the new prosecutor, Ömer Tuncay İpek, surprisingly asked the court to acquit all the suspects, citing a lack of evidence. Judge Sülün, who was on the bench for the first hearing, was replaced by another judge, Büşra Kuru. The public 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 case left many questions unanswered. For one, the court

did not even bother notifying the original plaintiffs in the case, which included an NGO and a bar association. It did not wait for the Turkish translation of the seized 1,768 money receipts in Arabic so that they could be properly examined. The official translations of the receipts arrived at the court on Jan. 25, 10 days after the court acquitted the suspects.

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 court did not file a complaint against the currency exchange house, which was found to be operating illegally. Neither the prosecutors nor the judges have sought to identify the senders and receivers of the large amount of money exchanged, or for what purpose. The case looked to be a hush-up operation by the government. By law, the court should have written a reasoned decision within two weeks of the acquittal, yet that was only delivered on April 8, 2016.

Opposition lawmaker Mahmut Tođrul from Gaziantep province filed a motion in Parliament on May 13, 2016, asking Justice Minister Bekir Bozdađ for an explanation of all these bizarre happenings in the case. By law, the government should have provided a response to the eight questions asked by the opposition. Yet the justice minister took his time and responded on Sept. 6, 2016. Citing judicial independence, Justice Minister Bozdađ did not answer any of the eight questions posed by Tođrul about the case of Yazidi women and children sold via a Turkish province. Adding insult to injury, Bozdađ said the Justice Ministry had no knowledge of the case at all and did not know what happened with it.

Perhaps this case represented a smoking gun on how the Turkish government facilitated the transfer of funds to ISIL, al-Qaeda and other radical jihadists fighting in Syria, and turned a blind eye to the trafficking of Yazidis. If those money receipts had been investigated, we would have known who was involved in these transfers. For example, one seized receipt showed a one-time illegal money transfer in the amount of \$500,000 between Turkey and Syria.

The investigation, launched after the exposé, was thwarted in the trial phase by the invisible hand of Erdoğan and his company of Islamists, who were terrified of liability if those allegations were to be proven in a court of law. That is why so many ISIL cases in Turkey ended up releasing militants under the protection of the political authorities. Erdoğan has high stakes riding in the terror game, and that is the reason he personally intervened in securing the release of arms-laden trucks bound for Syrian radical groups in January 2014. All the police and military investigators as well as prosecutors who intercepted his illegal arms shipments to Syria at that time were later punished and arrested under the orders by Erdoğan. The Yazidis were simply collateral damage, and Erdoğan, who did not hide his dislike of the Yazidis, did not care about them at all.”

6. RIGHT TO TRUTH AND JUSTICE

The Turkish government has also been in breach of the right to the truth and justice, which are effective remedies in preventing future violations and providing closure and some sort of relief to relatives of victims of enforced disappearance. The right to the truth is the right to know about the progress and results of an investigation, the fate or the whereabouts of the disappeared persons and the circumstances of the disappearances, and the identity of the perpetrator(s).¹⁹ The right to justice requires the state to guarantee to victims effective remedies that include a thorough and impartial ex officio criminal investigation with a view to identifying those allegedly responsible for the disappearance, and imposition of the appropriate criminal penalties.



Mehmet Metiner, the head of the Prison Subcommittee of the Human Rights Investigation Commission in Parliament, refused to probe allegations of torture.

In both remedies, Turkey fell short of complying with the requirements as was documented by the UN monitoring group. Many families still do not know the truth about what happened to their loved ones as no mechanism has been created to search for those who were disappeared back in the '80s and '90s, according to the UN. Even in fresh cases of enforced disappearance, police and prosecutors are unwilling to launch probes or undertake effective investigations because these cases involve members of the Gülen movement, who were viciously demonized and vilified by President Erdoğan and other government officials. For example, authorities failed

to collect CCTV security footage in and around the areas where the reported abductions took place despite pleas from relatives. Many family members launched social media campaigns on Twitter and Facebook to appeal to the public to help them locate their missing loved ones.

The Human Rights Investigation Commission of the Turkish Parliament, which should inquire about these cases as part of its mandate, avoided investigating cases involving members of the Gülen movement, which has been effectively declared a pariah group in Turkey by its current rulers. Mehmet Metiner, the head of the Prison Subcommittee of the Human Rights Investigation Commission in Parliament, officially announced that they would not investigate allegations of torture for members of the Gülen movement.²⁰ The Parliamentary Assembly of the Council of Europe (PACE) slammed Metiner for these scandalous remarks in a

19] “The UN Working Group on Enforced or Involuntary Disappearances General Comment on the Right to the Truth in Relation to Enforced Disappearances,” accessed on June 11, 2017, http://www.ohchr.org/Documents/Issues/Disappearances/GC-right_to_the_truth.pdf

20] “AKP’li Metiner’den vahim sözler: İşkence’ye inceleme yok,” Cumhuriyet, October 3, 2016, http://www.cumhuriyet.com.tr/haber/turkiye/608880/AKP_li_Metiner_den_vahim_sozler__iskenceye_inceleme_yok.html

resolution that was approved on April 25, 2017.²¹

There is no political will to devise a real and concrete policy or establish a specific mechanism to research and investigate cases of disappeared people in defiance of the recommendation made by the UN special rapporteur on extrajudicial, summary or arbitrary executions.²² Turkey also lacks a mechanism for conducting investigations in compliance with the Model Protocol for a Legal Investigation of Extralegal, Arbitrary and Summary Executions (Minnesota Protocol) prior to the initiation of any criminal proceedings.

The massive purges also dealt a heavy blow to the staff of the Council of Forensic Medicine, an agency attached to the Ministry of Justice, when many employees including professors and doctors were purged based on illegal profiling by the government and some hundred employees were formally arrested. Many of the dismissed or arrested experts used to be involved in investigating cases of enforced disappearance such as the exhumation of burial sites and identification of body remnants. Forensic experts who specialized in such cases were removed from their positions by the government without any evidence of criminality.



**Turkish president
Recep
Tayyip
Erdoğan.**

According to the information provided by to the UN by the Turkish government, criminal investigations have so far been opened in 14 cases concerning the enforced disappearance of about 80 persons. Seven of these cases, concerning the

disappearance of 34 people, reportedly resulted in acquittals; five of them, involving the disappearance of 47 individuals, are pending, while only two cases, concerning two individuals, resulted in a decision for conviction.

The prosecution of enforced disappearances has become especially difficult with the judiciary now being tightly controlled by President Erdoğan, who consolidated his grip on judges and prosecutors after an April 16, 2017 referendum on constitutional amendments that gave him sweeping powers to reshape the judiciary. The mindset is to protect Erdoğan and his government's interests in such cases that were deemed to be damaging to the reputation of the political party or political leaders. As a result, the interests and the rights of individuals were sacrificed to protect the political authorities.

The unprecedented attack on human rights defenders, lawyers and journalists who work on cases of enforced disappearance also presented a major challenge in addressing these cases

21] “The functioning of democratic institutions in Turkey,” April 25, 2017, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23665&lang=en>

22] “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions,” Christof Heyns, March 18, 2013, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/122/89/PDF/G1312289.pdf?OpenElement>

in Turkey. As of June 11, 2017, SCF identified cases of 454 lawyers who were formally arrested in Turkey, while 1,101 have been under prosecution in the last 10 months alone. All of them were charged under the country's abusive anti-terror laws based on no evidence but rather on trumped-up charges. Human rights advocacy groups have also come under immense pressure as part of the government crackdown. For example, lawyer Taner Kılıç, the chair of Amnesty International Turkey, was detained on June 6 along with 22 other lawyers.²³ He was later formally arrested on farcical charges. As of June 6, 2017, SCF identified 264²⁴ journalists who are locked up in Turkish prisons as part of the government crackdown on freedom of the press. Some of these jailed journalists used to be top investigative reporters who covered cases of missing people and enforced disappearance.

This means Turkey has been violating Articles 13 (3) and (5) of the declaration,²⁵ which states that all involved in the investigation of cases of enforced disappearance shall be protected against ill-treatment, intimidation or reprisal, and steps shall be taken to ensure that any such act on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

7. REPARATIONS AND MEMORY

Although the UN Convention for the Protection of All Persons from Enforced Disappearance specifically emphasized that all victims of enforced disappearance and their relatives have the right to full reparation, which includes compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition, as provided for in Article 19, the Turkish government has not only disregarded the pain and anguish suffered by the relatives of victims but also further stigmatized them by calling the victims terrorists or their relatives terrorist supporters. This is especially true when the victim appears to have been linked to civic group the Gülen movement, which the government claims is a “terrorist group” although the movement has never committed any violence and in fact has remained staunchly opposed to any violence or terror for decades.

The UN monitoring group noted for Turkey that “the frequent stigmatization of relatives of the disappeared as terrorists or terrorists’ supporters rather than as victims is a matter of concern and goes in the opposite direction to that required for their full rehabilitation and recovery.” SCF has received information from relatives of recent cases of enforced disappearance that authorities mocked them when they queried the fate of their loved ones by saying, for example, that the person may have

23] “Turkey: Imprisonment of Amnesty Chair Is a Devastating Injustice,” Amnesty USA, June 9, 2017, <https://www.amnestyusa.org/press-releases/13058/>

24] “Jailed and wanted journalists in Turkey – Updated List,” SCF, June 06, 2017, <http://stockholmcf.org/updated-list/>

25] “International Convention for the Protection of All Persons from Enforced Disappearance,” OHCHR, <http://www.ohchr.org/Documents/ProfessionalInterest/disappearance-convention.pdf>

fled the country or gone into hiding in Turkey. They were called supporters of terrorists and discouraged from pursuing their cases.

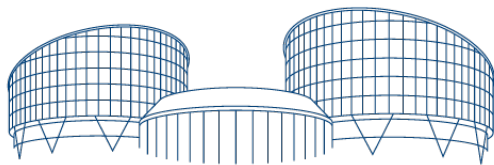
In all the recent cases of enforced disappearance that SCF documented, women are the ones who are left behind and suffer the most from the economic, psychological, emotional and social consequences of the enforced disappearances of their loved ones. The UN developed a special recommendation for such cases,²⁶ which stated that “the effects of enforced disappearances are lived and faced in different ways by women and girls due to gender roles, which are deeply embedded in history, tradition, religion and culture.”

It further noted that “women play a fundamental role in securing and advancing the rights of disappeared persons. In particular, from its experience the Working Group recognizes that women are often at the forefront of the struggle against enforced disappearances.” For example, the Saturday Mothers group in Turkey, made up of the mothers of people who have disappeared under state custody in Turkey in recent decades, first launched a sit-in on May 27, 1995 to raise awareness about missing family members who disappeared after being detained by security forces, or who died in unsolved murders. The group continued its sit-ins despite the fact that the statute of limitations expired in 2015 after the government failed to provide closure and reach a conclusion on most of these cases over the course of 20 years.

8. EUROPEAN COURT OF HUMAN RIGHTS

Turkey has become a notorious country when it comes to the case law of the European Court of Human Rights (ECtHR). It has led the pack in the violation of articles of the European Convention on Human Rights (ECHR) with respect to enforced disappearances. Although the ECHR has no explicit provision that mentions enforced disappearance, the ECHR’s relevant articles are interpreted in such a way as to encompass certain aspects, in particular Article 2 – the right to life; Article 3 – prohibition of torture; Article 5 – the right to liberty and security; Article 6 para. 1 – the right to a fair trial; and Article 13 – the right to an effective remedy. Recent cases may also end up in the Strasbourg-based rights court.

In the case of *Kurt v. Turkey*,²⁷ concerning Üzeyir Kurt, who disappeared after being taken into custody by Turkish forces in the Kurdish village of Agilli in November 2003, the ECtHR ruled that Turkey violated Articles 5, 3 and 13 in respect of the disappeared person.



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

26] “General comment on women affected by enforced disappearances adopted by the Working Group on Enforced or Involuntary Disappearances at its ninety-eighth session,” 31 October-9 November 2012, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/112/57/PDF/G1311257.pdf?OpenElement>

27] “Case of *Kurt v. Turkey*,” May 25, 1998 <http://hudoc.echr.coe.int/eng?i=001-58198>

In the case of *Kaya v. Turkey*,²⁸ the ECtHR found a violation of Article 2 in the disappearance of a medical doctor, Hasan Kaya, who was known to have treated PKK members and who had received death threats before his disappearance. While there was insufficient evidence for finding beyond a reasonable doubt that state officials had killed Kaya, the ECtHR held that the Turkish authorities had failed to take reasonable measures available to them to prevent a real risk to the life of Kaya.

In the case of *Taş v. Turkey*,²⁹ the court found violations of Articles 2, 5 and 13 of the convention. Muhsin Taş, a PKK member, disappeared after he was shot in the knee and taken into custody by Turkish forces. The court did not find the explanation of the Turkish authorities plausible, that he had escaped from security forces a few days later while assisting them in an operation in the mountains to find PKK shelters. The court also found a violation of Article 3 of the ECHR (prohibition of torture) in respect of the suffering of Taş's father because of the investigation into his son's disappearance, which was "neither prompt, adequate or effective."

There are more similar cases where Turkey has been found to be in violation of several articles of the convention with respect to enforced disappearances.

9. CONCLUSION AND RECOMMENDATIONS

It is clear that the Turkish government has resumed the practice of enforced disappearances, which involved elements of the security and intelligence services. The unwillingness on the part of authorities to investigate recent cases suggests these are being perpetrated by people who are known to the government and that they continue to act with impunity. Almost all cases follow a familiar pattern, confirming the view that this is part of a systematic and deliberate campaign of intimidation by the regime of President Erdoğan to stoke fear in society and intimidate opponents and dissidents.

The monitoring groups, including those of the UN and the Council of Europe, should closely follow these cases, apply pressure on the Turkish government to cease and desist in these practices and urge Ankara to investigate such cases effectively and thoroughly. Erdoğan must be reminded of the fact that the battle against enforced disappearances is first and foremost a responsibility of his government and that he cannot simply get away with this. It should also be recalled that no order or instruction from any superior may be invoked as a defense to justify an act of enforced disappearance and that all those involved, from the lower ranks all the way to the top political authority, must be held accountable for such crimes.

Turkey not only needs to investigate past disappearances but also look into recent cases

28] "Case of *Kaya v. Turkey*," March 28, 2000, <http://hudoc.echr.coe.int/eng?i=001-58523>

29] "*Taş v. Turkey*," November 14, 2000, <http://hudoc.echr.coe.int/eng?i=001-58976>

of enforced disappearance in a comprehensive, independent and impartial manner. There should be no statutory limitation on such crimes. Turkey urgently needs to adopt legislation that will recognize enforced disappearances as separate crimes and establish criminal liability for those involved.

SCF remains concerned that the current political and security environment in Turkey is very much conducive to human rights violations, including enforced disappearances that especially single out members of the Gülen movement, which has been stigmatized by the hateful narrative of top officials, including President Erdoğan. The shameful remarks made by Erdoğan, who said Gülen movement participants “have no right to life”³⁰ and that “people will punish them in the streets even after they serve time in prison,”³¹ further encourage crimes including enforced disappearances for the peaceful and law-abiding members of the Gülen movement.

SCF is worried that the reluctance of authorities to investigate past enforced disappearances has now become a source of further violations. Turkey must adopt a comprehensive policy and a solid mechanism to fully address enforced disappearances at all levels, insure that the victims’ rights to the truth, justice, reparations and guarantees of non-recurrence are granted. Not only cases of Turkish nationals but also non-Turks such as migrants and refugees – especially Syrians and Yazidis -- who were disappeared while in Turkey under suspicious circumstances must be thoroughly investigated.

Erdoğan and his ruling party should immediately stop preventing Parliament from investigating enforced disappearances by blocking opposition motions to set up a commission to examine such allegations. Emergency rule, which has given rise to serious human rights violations in Turkey, including enforced disappearances, must be lifted. The immunities granted by the government to members of the security and intelligence services must be revoked so that they can be investigated for crimes. The government should stop implementing incommunicado detentions, halt the denial of access to detainees and do away with the practice of using secret locations for detention.

30] “We will eradicate this cancer [the Gülen movement] from the body of this country and the state. They will not enjoy the right to life. ... Our fight against them will continue until the end. We will not leave them wounded,” said Turkish President Recep Tayyip Erdoğan on April 4, 2017 during a campaign speech in Zonguldak province, See “Erdoğan says Gülen followers in Turkey will not enjoy right to life,” Turkish Minute, April 5, 2017, <https://www.turkishminute.com/2017/04/05/video-erdogan-promises-not-grant-right-life-gulen-followers-turkey/>

31] “If they [followers of Gülen] are released after completing their prison sentences, every time they see them in the streets, my people will punish them. They will spit in their faces. And they [followers of Gülen] are going to drown in my people’s spittle,” Erdoğan said on June 7, 2017 during an iftar with internal security units at the Police Special Operations Department headquarters in the Golbasi district of Ankara. See “Erdoğan says people will punish Gülen followers in the streets if they ever get out of jail,” Turkish Minute, June 8, 2017, <https://www.turkishminute.com/2017/06/08/erdogan-says-people-will-punish-gulen-followers-in-the-streets-if-they-ever-get-out-of-jail/>

It is high time for the European Court of Human Rights (ECtHR) to issue pilot judgments on recent cases of complaints filed, in line with its case law of past enforced disappearances in Turkey.

Turkey must also ratify the International Convention for the Protection of All Persons from Enforced Disappearance without delay and without reservations and recognize the competences of the Committee on Enforced Disappearances.

Prominent
Islamic scholar
Fethullah Gülen.



ANNEX: BACKGROUND NOTE ON THE GÜLEN MOVEMENT

The Gülen (formally known as Service, or Hizmet in Turkish) movement is inspired by US-based Turkish Muslim intellectual Fethullah Gülen, who advocates science education, poverty reduction, community contribution and interfaith and intercultural dialogue. The movement promotes a moderate version of Islam with a heavy emphasis on public service and volunteer work for the community. It remains staunchly opposed to any violence or terrorism in the name of religion or nationalism. The movement runs schools, universities and other institutions in 180 countries.

Gülen has been a vocal critic of the Turkish government and Turkey's autocratic President Recep Tayyip Erdoğan over massive corruption in the government as well as Turkey's aiding and abetting of radical jihadist groups in Syria and other places. Erdoğan launched an unprecedented persecution against Gülen and his followers in December 2013 immediately after a major corruption probe went public and implicated Erdoğan's family members.

Erdoğan and Turkey's ruling AKP's Islamist leaders labeled the movement as "FETÖ," a terrorist organization, although Gülen, a 75-year-old cleric, and his followers have never advocated violence but rather have remained firmly opposed to any violence, radicalism or terror in the name of religion for decades. Gülen has a consistent track record of being an outspoken cleric condemning al-Qaeda, the Islamic State (IS), Boko Haram and other violent radical Islamist groups.

Erdoğan, who described the botched military coup attempt of July 15, 2016 that killed over 240 people as a gift from God, immediately pinned the blame on the Gülen movement despite the lack of any evidence to that effect. Although the Gülen movement strongly denies having any role in the putsch, Erdoğan escalated a witch-hunt against the group that had been under way since the revelation of corruption in December 2013. The government initiated a widespread purge aimed at cleansing sympathizers of the movement from within state institutions, dehumanizing its popular figures and putting them in custody.

Contrary to accusations made by Erdoğan and the Turkish government, the Foreign Affairs Committee of the UK Parliament has concluded that Fethullah Gülen and the movement he inspired as a whole were not behind the failed coup in Turkey on July 15. The head of Germany's Federal Intelligence Service (BND), Bruno Kahl, said Turkey could not convince them that US-based Turkish-Islamic scholar Gülen was behind the coup attempt. Similarly, Devin Nunes, chairman of United States House Permanent Select Committee on Intelligence, said he has not seen any evidence showing Gülen's involvement in the putsch, either. German intelligence expert and author Erich Schmidt-Eenboom said Erdoğan was behind the failed coup attempt based on intelligence reports from the US Central Intelligence Agency (CIA) and the BND.

In the currently ongoing post-coup purge, 154,694 individuals have been detained and 50,136 have been jailed due to alleged Gülen links since the failed coup attempt, according to a report by the state-run Anadolu news agency on May 28, 2017.

According to Interior Minister Süleyman Soylu, a total of 7,317 academics were purged as well as 4,272 judges and prosecutors who had been dismissed due to alleged links to the movement or involvement in the failed coup. Turkey has imprisoned 2,575 judges and prosecutors, and 208 governors or other senior public administrators. The number of jailed civilians, including handicapped people, housewives and the elderly, is 26,177.

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ENFORCED DISAPPEARANCE IN TURKEY

SCF stockholm
center for
freedom