

Written evidence from Freedom from Torture (TUR0019)

Summary

- Immediately following the failed coup of 15 July 2016 the Turkish government under President Erdogan began a widespread crackdown. Beyond those directly implicated in the coup, thousands have been detained and tens of thousands of police, judges, civil servants and others have been removed from their jobs.¹ Reports have already emerged of torture and mistreatment of those in detention.²
- Unfortunately, Turkish survivors of torture receiving clinical services at Freedom from Torture know from experience that torture and mistreatment in response to political dissent is not a new tactic in Turkey. The majority of torture survivors whose medical reports are analysed in this briefing were detained and subjected to ill-treatment due to their participation, or alleged participation, in Kurdish political activity and all were tortured before the attempted coup in July.
- People tortured in the aftermath of the failed coup have not yet reached our services. However, we are concerned that the patterns of torture we have observed are an indication of how the Turkish leadership and security sector will respond to the coup in the coming months and years and the likely tightening of the general security situation.
- Our recommendations for the FCO/UK government include:
 - All discussions with the Turkish government about protection of human rights, minority rights and democratic political participation must not only focus on issues linked to the attempted coup;
 - There should be active monitoring of the treatment of the Kurdish population in the context of counter-terrorism linked to Kurdish separatism, counter-Daesh activity or other anti-terrorism operations and capacity building to support the protection of human rights during such operations;
 - There should be lobbying in the UN Human Rights Council and elsewhere for the Turkish government to allow, without further delay, a visit by the UN Special Rapporteur on Torture; and
 - The Embassy in Ankara and Consulate in Istanbul should revise their business plans to include specific objectives linked to human rights, including a particular focus on torture prevention.

About Freedom from Torture

1. Freedom from Torture is one of the largest torture treatment centres in the world. Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us for rehabilitation or forensic documentation of their torture injuries. For the past five

¹ <https://www.amnesty.org/en/latest/news/2016/07/turkey-crackdown-by-the-numbers-statistics-on-brutal-backlash-after-failed-coup/> and <http://en.tihv.org.tr/to-press-and-public-opinion-torture-is-absolutely-prohibited/>

² <https://www.amnesty.org/en/latest/news/2016/07/turkey-independent-monitors-must-be-allowed-to-access-detainees-amid-torture-allegations/>

years Turkey has been one of the top ten countries of origin for those referred to us for clinical services and last year it moved into the top five.³

2. A number of the issues identified in the terms of reference for this Inquiry are beyond the mandate of Freedom from Torture. This submission is focused around two areas of the Inquiry: the status in Turkey of the rights and values supported by the FCO, including freedom of speech, assembly, minority rights and the status of democracy; and Turkey's policies towards different Kurdish groups, both within Turkey itself and the wider region.
3. This briefing is based on information about detention and torture contained in medico-legal reports⁴ prepared by Freedom from Torture's specialist doctors for Turkish torture survivors over the last four years, where the survivor has provided consent for their report to be used for research. There is typically a significant time difference between the incidence of torture and the production by our specialist doctors of a forensic report. This is due to the time it takes for a torture survivor to escape or otherwise secure release from detention, leave the country, arrive in the UK and be referred to Freedom from Torture.

Background

4. Turkey's record of addressing human rights abuses including torture has been weak. Despite being a longstanding signatory to the UN Convention Against Torture (UNCAT) and a member of the Council of Europe, and therefore bound by the European Convention of Human Rights (ECHR), concerns have been consistently raised by the UN and Council of Europe about the use of torture.
5. Prior to the attempted coup Turkey had taken limited steps towards improving its record on torture, at least on paper. In 2011 Turkey ratified the Optional Protocol to UNCAT, requiring monitoring of its detention facilities. In 2013 a change to the Criminal Code specified that criminal liability for torture was no longer subject to a statute of limitations. In practice, it is unclear what impact these reforms had on the use of torture.
6. In June this year the UN Committee Against Torture (established under UNCAT) expressed serious concerns about torture and ill-treatment, particularly in the context of counter-terrorism operations in the south-east of Turkey. The Committee made a number of recommendations including that Turkey should: investigate promptly all instances and allegations of torture and ill-treatment; ensure that the penalties for perpetrators match the grave nature of the acts; and provide effective remedies and redress for victims, including rehabilitation. The Committee also recommended that an independent authority be tasked with investigating complaints of torture and ill-treatment against law enforcement officers.⁵
7. Unfortunately the scheduled visit by the UN Special Rapporteur on Torture and other cruel, inhuman and degrading treatment or punishment, Juan Mendez, was postponed in

³ <https://www.freedomfromtorture.org/features/9176>

⁴ Medico-legal reports prepared by the Medico-Legal Report Service at Freedom from Torture are detailed forensic reports documenting physical and psychological consequences of torture. While the primary purpose of a Freedom from Torture medico-legal report is to assist decision-makers in individual asylum applications – and for these purposes our doctors act strictly as independent experts – collectively they also represent an invaluable source of evidence of torture that can be used to hold perpetrator states to account.

⁵ <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/TRIndex.aspx>

October at the request of the government.⁶ This, as the Special Rapporteur himself highlighted, sends the “wrong message” in light of the reports of torture and mistreatment after the attempted coup. Juan Mendez was replaced at the end of September by Nils Melzer, who will hopefully encourage the Turkish government to reinstate the visit without further delay.

8. The Council of Europe will report in November on Turkey’s treatment of those who have been detained since the attempted coup, after conducting an ad hoc visit at the end of August 2016, and will carry out at least one visit in 2017.⁷

Freedom from Torture’s evidence

9. This briefing analyses information contained in 48 cases forensically documented by expert doctors in our medico-legal report service, in accordance with the standards set out in the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Istanbul Protocol”). Although these medico-legal reports were all produced between February 2012 and July 2016, the evidence of torture documented in them covers a broader period, between 1992 and 2015.
10. The 48 medico-legal reports document evidence of torture reported to have taken place in a total of 155 episodes of detention between 1992 and 2015, with the overwhelming majority of people reporting multiple episodes of detention (96%). The most recent detention episodes reported in each case took place between the years 2006 and 2015, with the highest number in the years 2011-2015 (see figure 1 below).⁸ Notably, in a majority of cases where there was more than one episode of detention (63%), the most recent detention was reported to have been directly linked to earlier episodes.
11. The majority of cases involve young (under the age of 40) men (92%) of Kurdish background (92%). There were only four women in the case set. Four of the 48 cases were minors at the time of the medico-legal report (8%).

⁶ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20548&LangID=E>

⁷ <http://www.cpt.coe.int/en/states/tur.htm>

⁸ This pattern reflects the data set we are working with but does not necessarily indicate that torture was more prevalent in this period.

Figure 1: Year of most recent detention episode

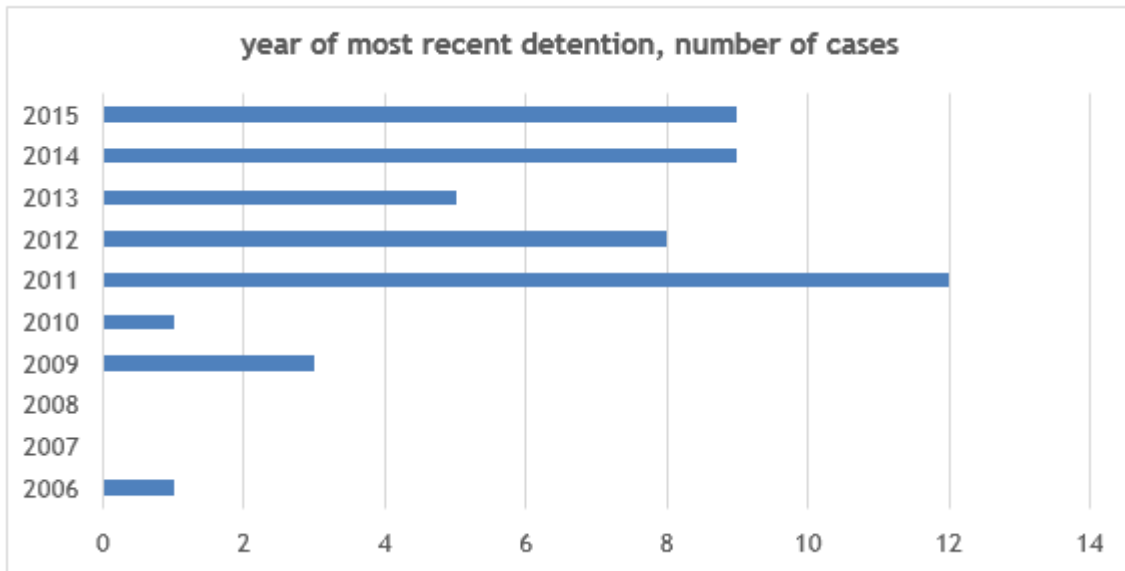
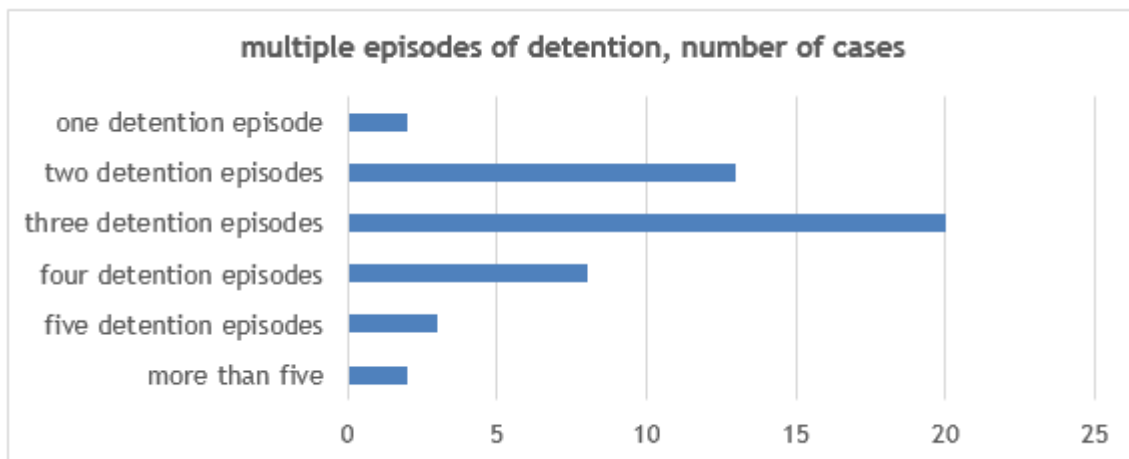
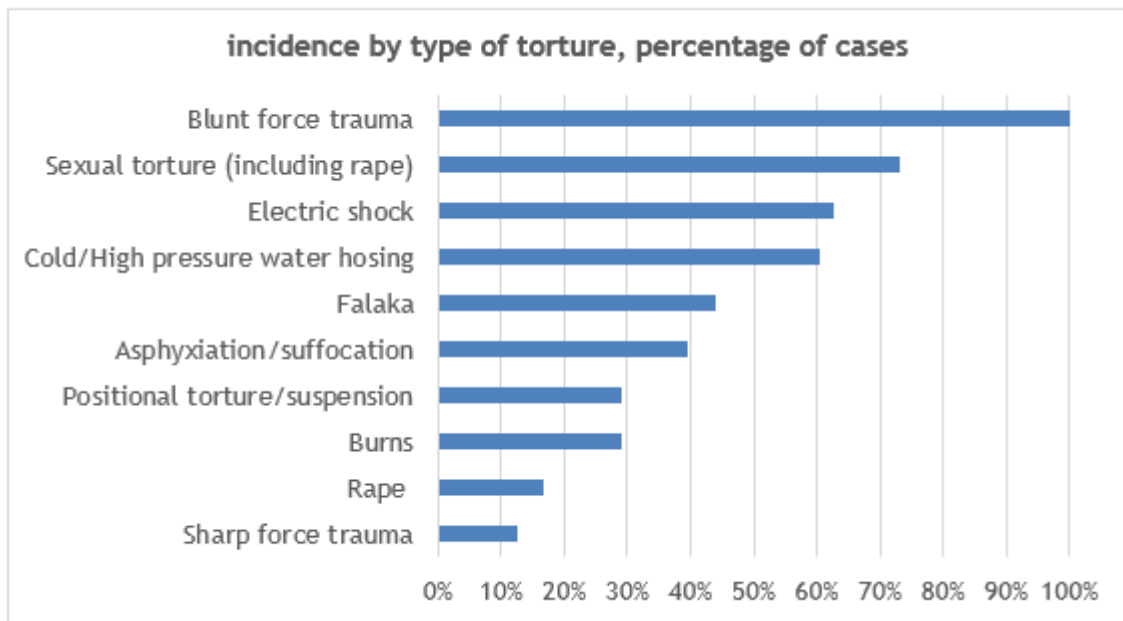


Figure 2: Multiple episodes of detention and number of cases



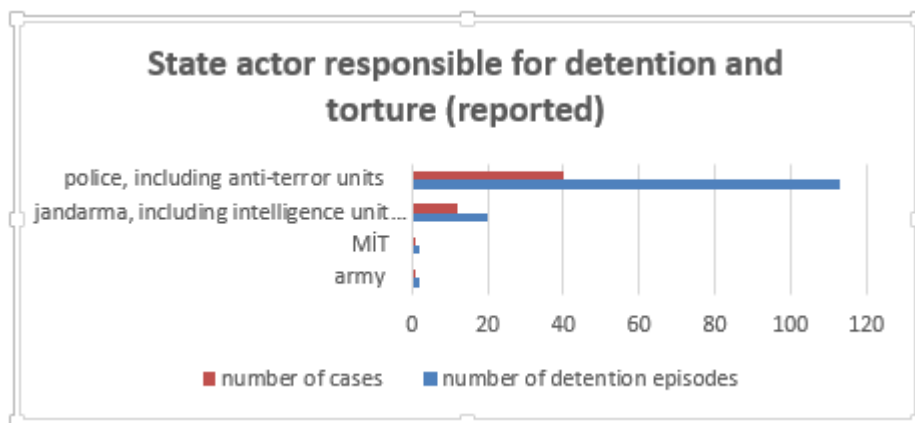
12. A number of torture methods are described across the 48 cases and all the medico-legal reports document evidence of multiple forms of torture, but all 48 people reported blunt force trauma (usually being beaten with an object). Other highly prevalent forms of torture documented in the reports include: sexual torture (73% of all cases) including rape (19%); electric shock (63%); and cold/high pressure water hosing (60%). Other methods of torture reported include falaka (beating the soles of the feet), asphyxiation/ suffocation, burns, use of stress positions and/or suspension and mock execution, including in at least three cases people being taken to the roof of a building and threatened with being thrown to their death.

Figure 3: Type of physical torture documented and incidence in 48 cases.



13. The use of sexual torture, including rape, against men and women is a reoccurring pattern, with nearly three quarters of all cases disclosing this (73%). Of these, eight men reported anal rape with a truncheon and a further six men were threatened with this form of sexual torture. One of the four women reported rape.
14. In the 48 cases, across the 155 reported episodes of detention, the police are most frequently described as the state actor responsible for arrest and torture (113 detention episodes in 40 cases, 73% of all detentions). At least 25 episodes of arrest and detention by anti-terrorist units of the police were specifically described among these cases.
15. The other state actor regularly mentioned in the context of detention and torture was the gendarmerie/ jandarma (including the Gendarmerie Intelligence and Counter-Terrorism unit known as Jitem) (20 detention episodes in 12 cases). The army and the National Intelligence Organization (*Millî İstihbarat Teşkilatı* (MİT)) were only mentioned in two cases (three and two episodes respectively).

Figure 4: State actor responsible for detention and torture (reported)



16. At least 15 different police detention facilities are described, of which the most commonly mentioned is the Istanbul Police Headquarters on Vatan Street. In these cases, the incidence of certain types of torture appears to be higher than in the case set as a whole, including the use of electric shock, sexual torture, and falaka. At least three episodes of torture are reported to have occurred at Gaziantep Police Headquarters. Other police facilities are mentioned only once.⁹
17. The reason for detention, as understood by the individual and/or as stated by the detaining authority, was almost invariably related to perceived or actual political activity. In over half of the cases the reason given by the authorities for the most recent episode of detention was alleged PKK affiliation or activity (54%). In many of these and most other cases the person was involved in political activity at the time of their detention but in most cases (92%) it was legal, pro-Kurdish political activity. Examples include supporting or being a member of the Peace and Democracy Party (*Barış ve Demokrasi Partisi* (BDP)) or the People's Democratic Party (*Halkların Demokratik Partisi* (HDP)), leafletting, attending peaceful demonstrations and rallies (including the Gezi Park protest of 2013) and celebrating Newroz, Kurdish new year.
18. Many survivors report a link between their latest period of detention and earlier incidents (62%). This often involved ongoing accusations of PKK affiliation and warnings from the authorities that they would be detained and/or killed if they continued to participate in political activity.

Turkey's response to the attempted coup in July 2016

19. The abuses documented in our medico-legal reports, particularly over the last five years, take place against a backdrop of increased restrictions and decreased freedoms. In 2015 Freedom House reported a five year decline in press freedom¹⁰ with the authorities continuing to use, amongst other measures, anti-terrorism laws to crackdown on journalists and media outlets. Political activists, lawyers, human rights defenders and others have also faced restrictions on their activities and prosecutions for activity deemed to be critical of the government.¹¹ Earlier this year, Freedom from Torture supported a call by the International Rehabilitation Council for Torture Victims (IRCT) and the Human Rights Foundation of Turkey (HRFT) for the government to release Dr Şebnem Korur Fincancı who appeared to have been arrested for delivering torture rehabilitation services.¹²
20. Since the coup attempt, thousands have been removed from their posts, arrested and/or detained. Amongst them over 2000 judges and prosecutors have reportedly been arrested and around 3500 have been sacked.¹³ It is not yet clear what impact this action will have on the state's ability to implement already weak safeguards to protect those in detention. It is also likely to affect the processing of fair and expedient investigations into the coup

⁹ This includes police stations in: Istanbul - Aksaray, it is unclear whether this is the Vatan Street station or a separate location, and Gayrettepe; in the South East - Elbistan, Kahramanmaraş, Pazarcık, Batman, Genc, Meyan District, Nurdagi and Malatya; in other regions of the country – Ankara, Kizilirmak, Rize and Izmir.

¹⁰ <https://freedomhouse.org/report/freedom-press/2015/turkey>

¹¹ <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/>

¹² <https://www.freedomfromtorture.org/news-blogs/9120> and <http://www.irct.org/media-and-resources/irct-news.aspx?PID=13717&M=NewsV2&Action=1&NewsId=4015>

¹³ <https://www.theguardian.com/world/datablog/2016/aug/19/turkeys-post-coup-crackdown-in-figures>

attempt and also into allegations of torture and ill-treatment. These are areas which Freedom from Torture believes need close monitoring.

21. Non-governmental organisations including Amnesty International are already recording allegations of torture and ill-treatment of those in detention.¹⁴ The patterns described in Amnesty's report, including beatings and rape, sadly echo the torture forensically documented in our medico-legal reports. The Turkish Government is focused on holding the coup plotters accountable for their actions but it needs to extend that focus to those responsible for human rights abuses if it wants to emerge from the current crisis with its reputation as a rights respecting democracy intact.
22. The attempted coup was a serious threat to Turkish national security and democracy and as such the government has properly launched a thorough investigation into July's events. Alongside declaring a state of emergency, the Turkish Deputy Prime Minister announced on 21 July that Turkey was "suspending" the ECHR by invoking Article 15. But the government should be reminded that Article 15 does not suspend states from their human rights obligations or allow for derogations from Article 3 ('Prohibition of torture') and indeed that the prohibition on torture is absolute.

Recommendations

The FCO/ UK government should:

- Raise human rights concerns, including specifically torture prevention, directly and consistently with the Turkish Government;
- All discussions about the protection of human rights, minority rights and democratic political participation with the Turkish Government must not be restricted to mistreatment or restrictions linked to the attempted coup but include previous cases of torture and mistreatment;
- There should be active monitoring of the treatment of the Kurdish population in the context of counter-terrorism linked to Kurdish separatism, counter-Daesh activity or other terrorism operations and capacity building to support the protection of human rights during such operations;
- There should be continuous lobbying in the UN Human Rights Council and elsewhere for the Turkish Government to allow, without further delay, a visit by the UN Special Rapporteur on Torture; and
- The British Embassy in Ankara and Consulate in Istanbul should revise their current business plans to ensure that the protection of human rights, and explicitly torture prevention, is given significant weight across political, defence, economic and other areas of business.

October 2016

¹⁴ <https://www.amnesty.org/en/latest/news/2016/07/turkey-independent-monitors-must-be-allowed-to-access-detainees-amid-torture-allegations/>

Freedom from Torture is the only UK-based human rights organisation dedicated to the treatment and rehabilitation of torture survivors. We do this by offering services across England and Scotland to around 1,000 torture survivors a year, including psychological and physical therapies, forensic documentation of torture, legal and welfare advice, and creative projects.

Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us, and we are one of the world's largest torture treatment centres. Our expert clinicians prepare medico-legal advice (MLRs) that are used in connection with torture survivors' claims for international protection, and in research reports aimed at holding torturing states to account. We are the only human rights organisation in the UK that systematically uses evidence from in-house clinicians, and the torture survivors they work with, to hold torturing states accountable internationally; and to work towards a world free from torture.