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CEZA İNFAZ SİSTEMİNDE SİVİL TOPLUM DERNEĞİ

PREPARED BY

Didem Sağlam & Hilal Başak Demirbaş

CONTRIBUTIONS

Aylin Çelikçi, Berivan Korkut, Cansu Şekerci,
Dadlez Sabak, Ezgi Yusufoğlu, Jiyan Ay,
Mine Akarsu, Serdar Usturumcalı

COPY EDITING/TRANSLATION

Mehmet Fahrettin Biçici

DESIGN

Pikan Ajans

PROOFREADING

Sidar Bayram

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Introduction

This report has been written so as to express the conditions of prisons and prisoners with special needs in Turkey, as part of the "Increasing Quality of Monitoring, Reporting and Advocacy" project funded by the Embassy of the Kingdom of the Netherlands. The report which comprises information about developments took place in 2019 is the first of the reports CISST intend to publish annually. It is envisaged to present comparable inter-annual analyses via the data extracted from the database of CISST which is composed of reports about maltreatments and violations on yearly basis.

CISST is a non-governmental organization which has been conducting right based researches about prisons and prisoner rights since 2006. Whereas its endeavours are centered around activities of monitoring and advocacy, through these activities it aims to produce and generalize valid, verifiable information about prisons and to contribute to the enhancement of prisoners' rights and the transparency of prisons by making prisons "monitorable" and visible, and by reducing rights violations. This report has been penned in accordance with these objectives and in line with the principles and the values of CISST.

The report consists of two parts given the scope of problems and violations in the prisons. In the first part a general view about prisons, the areas right violations concentrated, and the turning points in the history of the prisons and the regime of execution are recounted. First of all the challenges in accessing data about prisons, the data acquisition methodology of CISST, and CISST database which provides the data used in this report will be discussed. Subsequently, a historical background considering the relationship between the current situation and problems of the prisons, and the transitions of the prisons and of the regime of execution will be described. Finally, the current situation and problems will be discussed in regard to the intensfying right violations.

The second part of the report is dedicated to the findings of the research and work done in thematic fields, put into practice by CISST with the project of "Prisoners with Special Needs" in 2012, which investigates the problems of LGBTI+, child, woman, worker, disabled, student, foreigner and aggravated life prisoners distinctively. In that part, specific complaints and needs of the prisoners with special needs, and the right violations frequently experienced by them are scrutinized.

Data Acquisition Methods

2.1 Restrictions in Accessing Data and Information about Prisons[1]

As Goffman said, "modern confinemet spaces" or "total institutions" are institutions which have encompassing tendencies with "barriers which breaks off the relation with outside".[2] Although this encompassing character is directly observable through physical conditions, access to data and information, which is overlooked at first sight but highly important for monitoring and advocacy activities, is also limited in accordance with the main rationale of these institutions.

This situation is especially worrying for non-governmental organizations which conduct activities in the fields of prisons and prisoner rights, since it paves the way for possible right violations. As Foucault puts, the power doesn't need to conceal itself in these spaces.[3] Indeed, the experience of CISST also confirms that the most ominous periods for human rights violations are the ones in which getting access to prisons are the hardest. In addition to that it must be stated that Ministry of Justice, and Directorate General of Prisons and Detention Houses which is affiliated with the former, are responsive to general political climate of the country as much as, or sometimes more than, other state institutions.

In fact, prisons are supposed to be open to civil monitoring and independent researches for the very reason they are places in which human rights violations could possibly take place. Yet unfortunatetly, to be able to conduct independent monitoring activities and share this information with public is considerably difficult. For example, the researchers have to sign a contract which comprises an undertaking that they will obtain approval from the Ministry of Justice before sharing their researches with public. In this sense, it is possible to argue that prisons are restrictive to "independent" and "impartial" researches. Yet again, NGO's entry to prisons so as to conduct research and civil monitoring activities is only possible with the permission of the Ministry of Justice. Although there are a great deal of international regulations and recommendations regarding the monitoring of prisons by non-governmental organizations and collaboration with them, in current conditions to get permission for these researches is almost impossible.[4] To obtain information from the institutions and the commissions which have the authority and responsibility in regard to monitoring,[5] is considerably difficult and they share the reports of monitoring with public only in specific times and periods.

1 At this point access to information is not the only problem. Even when the data and information is accessible, the information acquitted is incompatible and contradictory because of the reasons such as: statistics presented is not updated, anachronistic, and the institutions present information in different periods by using unstandardized data categorizations.

2 "The Characteristics of Total Institutions", Symposium on Preventive and Social Psychiatry, 15-17 April 1957, Walter Reed Army Institute of Research, Washington, D. C.

3 Foucault, M. (1977). Discipline and punish: The birth of the prison. (A. Sheridan, Trans.) London, England: Penguin Books.

4 Even though CISST had been doing prison visits and joint works with Ministry of Justice in different periods since its establishment in 2006, it must be stated that the prisons have been inaccessible to rights based non-governmental organizations since 2015. It can be propounded that it is almost impossible for non-governmental organizations to conduct independent monitoring activities, to report their findings, and to cooperate with the ministry by presenting these findings.

5 Prison Monitoring Commissions, Human Rights Monitoring Commissions of Cities and Districts, Committee on Human Rights Inquiry of the Grand National Assembly, Human Rights and Equality Institution of Turkey.

2.2 Data Acquisition Methods of CISST

Due to the limitations aforementioned, CISST have effectuated and developed its own mechanisms of monitoring. It must be added that these mechanisms of monitoring are indispensable for activities of advocacy. Among these activies are exchanging letters, prisoner hotline, lawyer visits, communication with prisoners' relatives, information acquisition appeals and parliamentary questions.

Since 2014 CISST has been exchanging letters with prisoners and increasing the number of prisoners with whom it is in touch, by way of placing ads on best selling newspapers in the prisons. Accordingly, CISST has reached 3209 prisoners in 283 prisons, including the recently opened ones, by the end of 2019. Moreover, information is obtained about prisoners' problems and right violation allegations by way of lawyer visits, prisoner hotline and communication with prisoners' relatives, and then the cases are pursued.

CISTT benefits from statistics and strategical activity reports of the institutions which works on prisons to access reliable and comparable information, as well as it uses information acquisition appeals and parliamentary questions as means to obtain information.

Information acquisition appeals are regulated by Act of Right of Information Acquirement.[6] Yet another information acquisition method is the parliamentary questions which are filed with similar purposes. While parliamentary questions can be prepared by member of parliaments or their consultants, they can also be the product of collaborative work conducted with associations and activists working in the field. Parliamentary questions are important in the sense of getting involved in decision making mechanisms, making proposals for cooperation and solution, and building a productive ground by benefiting from different points of view. Besides, another purpose is to motivate the nonoperative institutions in the field and to prompt them to increase their capacity. Nevertheless, the determinant factor at this point is the Ministry of Justice's attitude once again, relevant laws doesn't hold institutions in Turkey responsible to give information about an issue which they haven't worked through already. This situation causes a lot of appeals to be left unanswered due to various excuses.[7]

In addition to that the information given may not reflect the current state, and sometimes it may also contain contradictory statements. At other times not responding may be justified with reference to the different articles of the constitution. For example, while in 2013 CISST's question about the distribution of LGBTI+ prisoners in

6 Information acquisition appeals are seen as a means for any citizen to obtain information about acts and operations of state institutions and organizations, and to check and influence the decision making mechanisms. For further information see: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4982.pdf

7 Article 7 (entitled "The Quality of the Information or the Document that can be required") of Law on the Right to Information as follows: "The application for access to information should relate to the information or the document that the institutions which are applied posses or should have possessed due to their tasks and activities. The institutions may turn down the applications for any information or document that require a separate or special work, research, examination or analysis. Where the required information or the document is at an institution other than the one that is applied, the petition will be sent to the relevant institution and the applicant will be notified accordingly. https://www.mevzuat.gov.tr/MevzuatMetin/21.5.20047189.pdf. For nonofficial translation see: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/65889/96377/F919475132/TUR65889%20English.pdf

prisons was not responded "due to the lack of any detailed data", the same question was left unanswered in 2015 with the justification on the grounds of "the right to privacy" principle.

2.3 CISST Database

CISST Database which has been initiated in 2018, was designed for the aim of registering the data via case pursuits and thereby, reporting the human rights conditions of prisons in Turkey. The prepared data sets include the conditions of all the prisons in general, as well as they are sensible to the specific conditions of all the prisoners, the prisoners with special needs being in the first place.[8]

CISST Database is a software which is developed in order to classify the information coming from prisons via correspondence, prisoner hotline, lawyer visits, and to present the comparative reports prepared relying on this data. The system primarily depends on classifying CISST's data about prisons through the indicators prepared for monitoring the allegations of right violations. Thanks to this system, CISST has the feasibility of monitoring the conditions of prisoners, exposing the conditions and the specific problems of the prisons, and observing the violations experienced by the prisoners. Besides, the executive appeals prepared for the violations and executive organs' responses to them can be categorized in the system.

CISTT with its database is not only able to keep up with prisoners' individual conditions but also the changes in these conditions. Therefore, it is possible to identify the featured problems of prisoners with special needs separately and to observe what kinds of complaints have been concentrated in which prisons and how these complaints change over time. Moreover, thanks to the database it is also possible to keep up the results of CISST's human rights appeals about violations and the circumstances in which these appeals remain inconclusive.[9] By this means it becomes possible to discuss different methods regarding the measures to be taken in order not to come across similar situations.

[8] In its project of "Prisoners with Special Needs", conducted with the support of the Embassy of the Kingdom of the Netherlands in 2012, CISST started to approach the problems of LGBTI+, elder, child, woman prisoners, prisoners with health problems, worker, student, and aggravated life imprisoned prisoners in their specificity in accordance with suggestions within UN's "Handbook on Prisoners with Special Needs". Practices in the matter of demands and rights of prisoners with special needs are conducted by experts of the field; workshops are organized and reports are designed with other civil actors, academicians and activists who work on the field. The second part of the report deals with peculiar complaints and needs of the prisoners with special needs.

[9] We call human rights appeals to which we make administrative authorities in compliance with complaints and allegations received through letters. The institutions we make appeals are: the Ministry of Justice, General Directorate of Prisons and Detention Houses (CTE), Committee on Human Rights Inquiry of the Grand National Assembly, Presidency's Communication Centre (CİMER), Human Rights and Equality Institution of Turkey founded on the decrees of The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and affiliated Human Rights Monitoring Commissions of Cities and Districts, Prison Monitoring Commissions of Cities and Districts.

Historical Background

The number of prisoners in Turkey have always been above the capacity of prisons despite the partial amnesties implemented in different periods and at the begininng of 2000's number of prisons have been decreasing while the number of prisoners have been increasing.

3.1 Before 2005

While the prisons built until 1970's consist of big wards for 50-60 people, with 70's one person cell system have been brought up for discussion. At first this proposal was put aside, and "small ward" system in which 10-20 people can stay together were implemented.[10] Subsequent to this process with 1980's the establishment of the first cell type prison has come to the fore and in 1983 with the change in "Code on Administration of Prisons and Detention Houses, and Punishment Execution" it has been decreed that " those convicted of anarchy and terror crimes " would stay in prisons which had rooms for 1 to 3 persons. In 1991 with the "Anti-Terrorism Law" decreed in TBMM (The Grand National Assembly of Turkey), the decision that penalties of those imprisoned due to "terror crimes" would be executed in rooms of 1 to 3 had been reiterated.[11]

In parallel with this process L, T, E, M type prisons whose architectural characteristics and ward sizes differ had started to be built. Although these new types of prisons had different characteristics, they were all designed with the intent of ensuring the interaction of less people by reducing the number of people in wards. These types of prisons are still in service.

3.2 Period Between 2005-2016

After the enforcement of new criminal law Penal Code of Turkey (TCK), the Law on the Execution of Penalties and Securiy Measure (CGİK) in 2004 and of the Law on the Supervised Release Services (DSHK) judicial system has changed, and not only new categories of crime were created but also imprisonment terms were prolonged within this process.[12] The Law on the Supervised Release Services[13] envisages to "rehabilitate" persons by constantly monitoring them instead of imprisoning, solving the psycho-social problems believed to lead to getting involved in crime and executing the penalty not in isolation from the society. Researchers state that whereas the fundamental

[10] Çolak, H. ve Altun, U. (2008) Tarihi ve Kronolojik Perspektifte Ceza İnfaz Kurumları, Adalet, issue 31, May 2008, 2-25, http://www.yayin.adalet.gov.tr/dergi/31say%C4%B1.pdf

[11] Eren, M. (2014). Kapatılmanın patolojisi Osmanlıdan günümüze hapishanenin tarihi. İstanbul: Kalkedon Yayıncılık.

[12] İbikoğlu, A. (2018). Osmanlı'dan Günümüze Türkiye'de Hapishaneler: Üçlü Bir Model Önerisi, Hapsetmenin Alternatifleri, 191-211, TCPS Kitaplığı.

[13] https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5402.pdf

fundamental purpose of supervised release centers was to look out for the benefit of the person and the society during the execution of sentences, over time these centers have become a means for controlling the prison population .[14]

Another turning point which determines the current conditions of prison in Turkey is the closure of small prisons in city centers and their replacement with campus type prisons in remote places after 2000. With this transformation the number of prisons has receded from around 500 in 1990's to 382 in 2016, while the number of prisoners has increased from 50.000 to 170.000. The number of prisoners was 55.870 in 2005, 176.116 in 2015, and 220.000 in 2017. The great increment taken place in 2016, 2017 and 2018 has put Turkey above the world average in prisoner population and while the number of prisoners in Europe was decreasing, the numbers in Turkey took an opposite direction. In 2018, in terms of the total prisoner population Turkey was ranked 8th in world, 2nd in Europe; and in terms of the ratio of the number of prisoners to the total population Turkey was ranked 30th in world, 3rd in Europe.[15]

3.3 State of Emergency (OHAL) Period

The prisoner population which was about 50.000 until 2005, reached 187.000 in 2016 by incresing in a regular fashion. At the same year an important rupture took place for the prisoner population in Turkey and aftermath "the coup d'etat attempt" taken place on July 2016, the number of prisoners reached 214.000. Although 50.504 people were detained with allegation of being members of "Fethullahist Terrorist Organization" (FETÖ), these detainments are not directly visible in statistics.[16] By virtue of the regulation come into force with Decree Law (KHK) 657, a partial, special amnesty was granted, and the prisoner population dropped to 195.000 after 38.000 prisoners were released initially.[17]According to Bekir Bozdağ, the minister of justice at that time, the number of prisoners who would benefit from Decree Law 657 was 93.000.[18] In the response to the member of the parliament Mehmet Parlak's parliamentary question, it was stated that 44.800 prisoners were released on 10.10.2016[19] and remaining 55.000 would be released within the scope of Decree Law.[20] If this partial amnesty would not have been granted, the current number of prisoner would be around 250.000.

14 Turhan, F., & Altıkat, A. (2012). Yeni bir ceza infaz usulü olarak denetimli serbestlik ve bu usulden yararlanma şartları. Süleyman Demirel Üniversitesi Hukuk Fakültesi Dergisi, 2(2), 1–46.Turhan & Altıkat, 2012: 43; Yıldırım & Kuyucu, 2017: 872

15 https://www.prisonstudies.org/highest-to-lowest/prison-population-total

16 For Bekir Bozdağ's related statement, see: http://www.harbigazete.com.tr/gundem/15-temmuz-sonrasi-surecinin-tutuklu-sayisi-51-bin-h18288.html

17 According to the plan 93.000 prisoner would have benefited from this amnesty. In CISST/TCPS's 3 November 2016 dated report, this situation was evaluated: http://www.tcps.org.tr/?q=node/354

18 https://bianet.org/kurdi/insan-haklari/180481-turkiye-tutuklama-ve-mahpus-sayisinda-rekor-kirdi

19 https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d26/c028/tbmm26028035.pdf

20 CISST had stated its criticisms in its press release regarding the revision of this partial amnesty which was granted due to the occupancy rate, considering the principle of equality and the public accord. See: http://cisst.org.tr/basin_duyurulari/kismi-ozel-affa-iliskin-dusuncelerimizdir/

State of Emergency was pronounced on 21 July 2016 and extended 7 times in 3 months periods, and the effects of problems on system of execution which arised from it still continue today. Obtaining information about what happens in prisons which was considerably troublesome earlier on, became much more difficult; there has been some problems about prisoners' access to incoming letters and sending letters outside, and the confidentiality of lawyer visits has disappeared completely since then. Decree Laws' imposing restriction on lawyer and family visits prevent access to valid information; and listening lawyer visits, making audio and visual records of the visits has brought forth a situation that prisoners' couldn't bring up their complaints even to their lawyers. This situation has made the detection of torture and maltreatment, the documentation of violations and civil society actors' advocacy activities regarding the complaints difficult.

Experts of CISST observed that in this process prisoners' concerns about legal remedies has increased and they have avoided making complaints and using mechanisms of demanding justice. CISST's letters to prisoners have been confiscated, letters involving complaints were not allowed to be sent, which in turn lead to setbacks in interfering the problems.

Current State and Problems of the Prisons

4.1 Increment of the Capacity and Overcrowding

While looking at the general situation of the prisons, the architectural transformation of the prison system and the corresponding intensification of the problems must be considered, as aforementioned. Despite the increse in prison population over years, one can see the decrease in the number of prisons. While this situation may call forth the perception that there is a decline in the general capacity of prisons, what actually has happened is that the prisons with low capacity were closed, and replaced by campus type prisons with huge premises in which a whole host of prisoners can be detained.

According to most recent data presented by the Ministry of Justice in the parliament on November 2018, the total number of the prisoners was 258.660.[21] The number of the convicted is 199.861, of the pre-trial detainee is 58.799; while the number of men is 245.433, of women is 10.208 and of children is 3.009; and that of right or left wing political prisoners is 44.986.[22] Wherein the budget talks in TBBM on 11 December 2019, it was stated that there were 355 prisons and 294.000 prisoners.[23] The number of the political, women, men or children prisoners was not indicated in particular.

[21] http://www.sbb.gov.tr/wp-content/uploads/2020/02/25-Kasim-2019_PBK_Gorusmeler.pdf

[22] These numbers are quoted in the presentation of Directorate General of Prisons and Detention Houses to Committee on Human Rights Inquiry of the Grand National Assembly on 14 November 2018.

[23] https://www.tbmm.gov.tr/tutanak/donem27/yil3/ham/b03001h.htm

On July 2019 as a response to CHP (Republican People's Party) deputy Onursal Adıgüzel's information acquisition appeal it was stated that there were 353 penal institutions in total. The number of men's open prisons was 75, of women's open was 7, of women's closed was 9, of children's closed was 7, and of children's house of correction was 4. In the same response it was explicated that the augmented capacity of penal institutions was 218.468, while the real capacity was 114.865.[24]

In Turkey, as in many parts of the world, it can be propounded that there has been an overcrowding in the prisons during the recent years[25] and the prisons has performed services with augmented capacities for a long while.[26] Which measures are taken about the capacity increment when the capacity of the prison is exceeded is not clear. Again, it is worrisome that there is neither a course of action for this capacity increment nor a statement by the ministry concerning the subject. Lack of information about how the existent conditions of the prisons change due to such increment, and what are the incidences of these changes on the daily lives of the prisoners, has precluded actors in the field from reflecting on the effects of overcrowding and how to decrease the capacity.

According to the information CISST had acquitted from the prisoners not onyl that new prisons were built for the capacity increment, but also supplementary wards were added to present ones, and the areas which had been used for purpose of courses, ateliers were transformed into wards. The prisoners propound that there were no restrooms, washbasins and shower areas in the supplementary wards due to their inconvenient structure; that one more deck was added to bunk beds, and/or the number of bunk beds in wards were increased, bunk beds and mattresses were conjoined so that three persons can sleep together, mattresses were laid down to the floor, and in some wards the prisoners were obliged to sleep alternately. According to TUİK (Turkish Statistical Institute), the total population of the prisons is 264.842 whereas the total number of mattresses is only 213.862.[27]

The increment in the capacity has caused problems in many issues such as the area reserved per head in the wards, preservation of minimum hygiene and sanitary conditions, and access to sufficient fresh air and water. Due to the overcrowding minimum life standards necessary for prisoners' living spaces were not provided, and the number of tables and seats were not increased as necessitated by the capacity increment. The minimum life standards needed by prisoners with regard to their physical, psychological health and well-being were not ensured in this process, and the square measure of prison yards were not increased in parallel with the increment of number of prisoners in the ward. This situation led to the restriction of prisoners' range of motion, and the unfulfillment of their needs of access to fresh air and privacy.[28] Considering these conditions, it can be seen

24 The response to the information acquisition appeal was forwarded by the deputy to our association.

25 Penal Reform International (2012). 10-Point Plan to Address Prison Overcrowding https://cdn.penalreform.org/wp-content/uploads/2013/05/10-pt-plan-overcrowding.pdf

26 This concept signifies the transformation of different types of prisons' standards and capacities designated in construction stage with increment of the number of additional buildings, wards, mattresses within the process.

27 http://tuik.gov.tr/PreHaberBultenleri.do;jsessionid=TtfddqYKZvnTXWKK2BhR2vvSgMmTXQNyL31PnvThdYFHymQZFyl2!852176764?id=30597

28 In United Nations Standard Minimum Rules for the Treatment of Prisoners it was stated that the spaces where prisoners stay, especially sleep, have to be accommodated pursuant to climatic conditions, and the lighting, heating and ventilation of the room have to be taken care of.

effortlessly that overcrowded wards comprise several hazards and risks of disease. As a side note to further detailed account in the chapter of access to health, there were several delays and violations in transfers to hospitals and infirmaries because of overcrowding.

Yet another important point is that the number of personnel has not increased in parallel with the increment of prisoner population.[29] The correction officers were obliged to take care of more prisoners, and the social workers visited more counselees. This situation has deepened the work load on the prison personnel, and by compelling them to work above their capacities it invited serious setbacks in meeting the needs of the prisoners.

4.2 Secession from City Centers

According to the ministry's response to CHP deputy Onursal Adıgüzel's information acquisition appeal, 27 newly completed prisons were opened in 2018 and in the first 5 months of 2019, there were 114 prisons in process of building by June 2019, and 45 prisons were closed by 24 June 2019.[30]

The closure of the prisons in city centers and their replacement with campus type prisons had a negative impact on the prisoners and their relatives in regard of access to their rights. Relocation of the easily accessible prisons in city centers to unavailable remote places make the transportation of the prisoners' relatives and lawyers difficult. Given the premise that the prisoners are commonly located in prisons which are far away from cities where their relatives reside, relocation of the premises without solving the problem of transportation make the visits of the relatives inconvenient twice as much since they are forced to use both intercity and innercity transportation.

Transportation costs increase as prisoners become distanced from their families and relatives. Besides the prices of airplanes-busses-minibusses, the fact that there is sometimes only one bus service between two towns make same-day visits inconvenient. Under these circumstances the visitors are constrained to cover the expenses of accommodation, so that the economic burden for the relatives of prisoners raises. Yet another hardship is the out of town visitors' innercity transportation because of the distance of bus terminals and airports to prisons. In consequence of all these problems, relatives of prisoners can only make limited visits as much as their financial situation allows.

Yet another problem caused by secession of prisons from city centers is the distantness of hospital premises which prisoners have access. This situation, considering the procedures necessary for the transfer, make prisoners with diseases to get emergency health services inconvenient. Another problem is that to reach hospitals, prisoners have to stay long time in shuttle buses which are unsuitable for health. Moreover, hospitals have risk of falling behind in terms of comprising the needs of prisoners, due to the factors such as, the number

29 According to numbers of 1 November 2019, there are 43.763 correction officers, 448 health officers, 534 medical personnel, 807 psychologists, 395 sociologists, 612 teachers serving in the prisons of Turkey.

30 The response to information acquisition appeal is delivered to our association via e-mail.

of community dwellers in the region and the facility capacity anticipated in respect to this. Prisoners are likely to be transfered to bigger hospitals because the infrastructure and conditions of the facility are not sufficient for providing the services they need.

4.3 Inner Structure and Problems of Prisons

Heating and Illumination

When the prisons are not built by taking geographical and climatic conditions of the region into consideration, it causes various problems. Inefficacy of ventilation systems lead prisoners to get exhausted from heat during summer. Eventhough prisoners may solve the heating problems by purchasing fans, this is not an option for prisoners with financial difficulties. In the prisons which are located in regions with harsh winters, keeping the number of heater cores at minimum calls forth similar problems. In addition to this, prisoners can't make use of enough sunlight and fresh air due to the fact that windows of wards are not big enough.

Hygiene

Problems of increased capacity and overcrowding in prisons make keeping wards clean and taking care of hygiene considerably difficult. Increment in numbers of prisoners using common areas of the ward avert ensuring the stability of sanitary conditions. Moreover, within the scope of "General Order Regarding the Implementation", dated 2016, restrictions were imposed on prisoners' usage of stuff,[31] and this situation brought along obstacles for ensuring hygiene in wards.

Restrooms – bathrooms

Number of restrooms and bathrooms in prisons are unlikely to meet exigences of prisoners whose numbers are substantially above the capacity. Therebeside, limited hours of hot water prevent prisoners from keeping sanitary conditions for both their bodily hygiene and physical cleanness of their living spaces. Experts of CISST observe eminently that in the situations these sanitary conditions are not ensured, prisoners may experience several health problems.

Prisoners in Turkey have to purchase all the cleaning supplies, including the ones used for cleaning the wards, from canteen. As a consequence, financially indigent prisoners experience hygiene problems all the more.

[31] Eventhough full text of "General Order Devoted to Implementation" has not been published, these are some of the practices compiled from appeals to our association: reducement of number of bedlining and bedclothes to one for each person, not giving new bedlinigns and bed-clothes without writing minutes for the old ones, rationing of plastic appointments (such as bucket, washbowl, etc.) one for seven people, reducement of clothesline to 5 meters, rationing of floor squeegee one for each ward, and limitation of height of it to 75 cm.

Nourishment

One of the most important daily problems of prisoners is foods. There are three meals per day in prisons,[32] and it was stated that the budget allotted for three meals in 2019 is 8,5 TL.[33] This means that price of three meals must be 8.5 TL. In every meal, food prepared for prisoners is determined by the limits of this budget. Complaints of prisoners about foods may be listed as: foods are made by using cheapjack and unhealthy fats, prisoners frequently have problems of stomach and intestines due to these fats, the variety and amount of foods are insufficient, the same or similar foods are served ever so often. It must be indicated that nutritive value of foods is not taken into consideration, that vegan and vegetarian prisoners have difficulty for reaching proper meals, and prisoners with special health conditions who have to consume dietary foods can't attain such foods. The fact that prisoners can obtain drinking water for a fee and if they can't afford the fee they have to drink tap water, paves the way for several diseases.

Mattresses - pillows

It is very likely to come across unhygienic situations in the matter of mattresses and pillows. Eventhough mattresses and pillows that are used for a long time can be dirty, they are not replaced on a regular basis. Even if they are new, they can be cheapjack. Because of this situation the persons who have been in prison for a long time may suffer from cervical and spinal disc hernias. From the number of complaints about this issue we can infer that no provision has been made so far.

Due to the capacity increment in wards, mattresses were laid down to the floor and this in turn make it impossible to ensure sanitary conditions for mattresses . There are also some complaints about mattresses which were laid down in front of the restrooms due to the structure of the ward. Prisoners have had to use mattresses, and even more pillows and duvets in common. Replacement of mattresses, pillows and duvets have not been done on a regular basis. It has been cited that there has been a scabies outbreak in open prions within that period. Prisoners were prevented from going out of their wards, they were not transfered to infirmary because of epidemics, so that treatment of prisoners with different diseases were interrupted.

32 In the article 6 of the Code this practice is explained as follows: The daily food of the subsidized is given on three meals per day according to the amount, the kind, and the basis weight in the Article 5 of the Code. The amount of food is determined by the administration of the institution in accordance with the rules in the Article 5." http://www.resmigazete.gov.tr/eskiler/2005/10/20051026-9.html

33 https://www.aa.com.tr/tr/turkiye/cezaevlerinde-yaklasik-286-bin-hukumlu-ve-tutuklu-var/1646397

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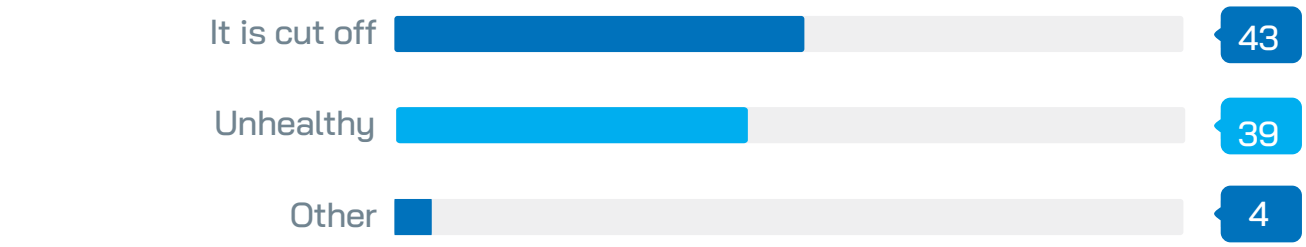
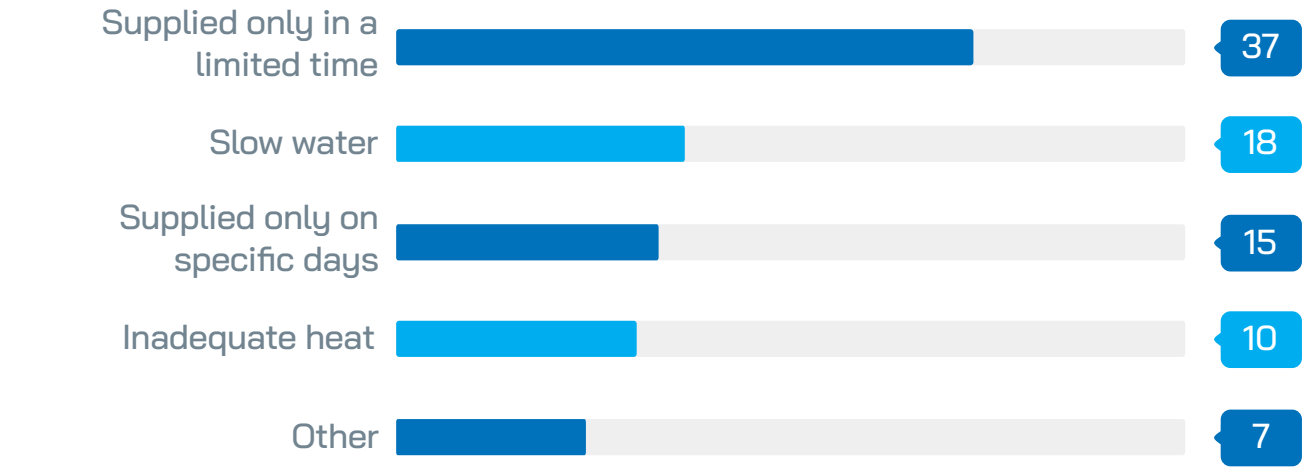


Complaints About Hot Water 87



Complaints About Bathrooms and Toilets 93

Complaints About Provided Furniture (such as bed, wardrobe, desk) 138

* All data refers to 2019.

Right Violations

It must be enounced that Decree Laws enacted after State of Emergency paved the way for maltreatments and violations of human rights, and meant restrictions on numerous rights. Impacts of the process began with the declaration of State of Emergency in 2016 and continued in 2019 as well. Lawyer visits were prevented, the policy of confidentiality between lawyers and clients were violated, and prisoners' communication with outside world were restricted. Therebeside, cases of maltreatment and torture has increased, and prisoners were prevented from reporting their complaints to relavant authorities. There has been an increase in disciplinary penalties, and they were used as a means of intimidation about the reports of complaints.

5.1 Communication with Outside World

Transfer

Prisoners demand to be transferred to other prisons so as to be close to their relatives, to see their spouse and children more frequently, to prevent their mother, father or family elders from taking long trips; and for the reason that the financial situation of their relatives is not sufficient to cover necessary expenses of transportation and accommodation. Financially indigent families can't see their prisoner relatives just because they are unable to cover the expenses of long trips. Prisoners are obliged to pay the fee of shuttle buses themselves in case that they demand to be transferred. CISST was able to receive only a few positive feedbacks to appeals it made on behalf of prisoners on this subject.

Compulsory Transfers

Within the period started with State of Emergency, compulsory transfers which had become instrumentalized for maltreatment and discrimation especially towards Kurdish prisoners, started to be implemented gratuitously. In these transfers that were implemented contrary to their volition, prisoners were not allowed to take their purchased TV, radio and fans with them. Additionally, there are several cases in which prisoners couldn't take their personal stuff such as books and diaries with them, and even if they could, these are confiscated in the prisons to which they are transferred. Belongings of prisoners were not sent to them, even though prisoners made an application for attaining these belongings.

It must be enounced that compulsory transfers are controversial in many aspects such as their justifications or ways of implementation. According to information coming from prisoners, Kurdish prisoners are transferred to cities in which they are more open to discrimination and violence, and are in jeopardy because of their ethnic, political identities. Alongside prisoners, their relatives were exposed to discrimation because of their ethnic identities in these cities, and there are some occasions they couldn't even find an accommodation and have to leave the city without making the visit.

When these transfers are implemented instantaneously and without preparations in advance, the health and treatment of prisoners whose treatments and recoveries continue are influenced adversely. There are some cases in which prisoners couldn't reach regular treatment and medication since their health dossiers were not brought with them. In case of the prisoner's disease is not diagnosed yet, compulsory transfers required tests and diagnosises to be remade which in turn impedes the treatment process.

Transfer of prisoners to far away cities from the ones their trials take place cause disruptions in judgment processes. Prisoners have to attend trials through Audio-visual Informatics System (SEGBİS) when they serve their time in prisons which are far from their courts. Prisoners who don't wish to express themselves through this online tool, demand to attend their trials directly (physically). Provided that prisoners' lawyers reside in the cities of court, prisoners can't see their lawyers as often as needed; lawyers have trouble in pursuing the case and can't inform prisoners about the legal process properly. Consequently, all these developments give cause for the violation of prisoner's right of fair trial.

Naked Body Search

Prisoners inform that when they are transferred to another prison either gratuitously or compulsorily, naked body search is imposed on them. There are allegations about being exposed to naked body search coming back from trials and hospitals as well. Even though Article 36 of the Law on the Execution of Penalties and Securiy Measure comprises information about prison search, there isn't any precept about naked search. [34] Albeit methods of search are designated in Article 46 Item 2 of Code on Administration of Prisons and Detention Houses, and Punishment Execution,[35] there are received complaints about these methods are not accorded. In this code it was stated that naked body search can be implemented in case of "reasonable doubt", nonetheless it wasn't designated and left open-ended that how the "reasonable doubt" is called and in which conditions doubt would be regarded as "reasonable". Thus it paves the way for the arbitrary implementation of naked body search and its becoming the routine practice. In this regard naked body search has been used frequently as a means of retribution, humiliation, and domination. The prisoners who refuse the naked body search, and do not accept this practice has been exposed to physical and psychological violence, and been sentenced to for disciplinary penalties. It was reported in appeals that prisoners were humiliated because of their bodies, were affronted, and privacy was not ensured in search cabins.

Freedom of Speech

As stated in CISST's "Freedom of Speech in Prisons" book (April 2019),[36] eventhough number of prisoners corresponded increased in 2018, there was a decrease in numbers of letters received from prisoners. This situation may result from confiscation of prisoners' letters sent to non-governmental organizations, or getting lost of these letters due to various reasons. It must be added that this restriction is not

34 https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5275.pdf

35 https://www.resmigazete.gov.tr/eskiler/2006/04/20060406-1.htm

36 Demirbaş H.B ve Korkut B. (2019). Freedom of Speech in Prisons, TCPS Books. trans. Bayram S.

peculiar to prisoners' letters, it is implemented in case of non-governmental organizations' (CISST) letters sent to prisoners as well, and they are not delivered without any excuse. Although there was a decrease in complaints about this issue in 2019, restrictions on freedom of speech has continued.

Restrictions on Visitations and Phone Calls

Visits are quite important for relations of prisoners with their families and relatives to be maintained properly. CISST has received several complaints in recent period about that visit hours has been used on lower limit (in legislation it is indicated as half an hour minimum, one hour maximum) due to the capacity increment and overcrowding. Considering the aforementioned physical and economical challenges for the relatives of prisoners reside in different cities, it is obvious that keeping visit hours at minimum induces aggrievement for both prisoners and visitors.

Yet another issue with enduring effects has been the search of the families during visitations by being exposed to derogatory treatment. There has been several violations not complied with the purpose of the search,[37] and for this reason the relatives of prisoners who don't want to be exposed to such practices had to decrease the frequency of their visitations.

Prisoners have to testify the relationship by affinity of their family and relatives to use their phone call rights, and have to give these numbers to the administration. Their psychology have been affected negatively because of the requirement of introducing themselves with a specific order (to give an oral report) [38] in every single phone call.[39] According to appeals sent to CISST it has been deduced that political prisoners either minimize the use of or renounce completely their phone call rights since they consider this implementation derogatory. [40]

Restriction on Correspondence and Phone Calls

For prisoners in closed prisons the only way to convey their complaints to non-governmental organisations is correspondence. Herewith, letters are prisoners' most substantial tool of communication with outside world. Restriction or hinderance on this right extinguish the communication with outside world to a large extent. For prisoners to remain in communication with their families and relatives, access to correspondence or other means must not be hindered or restricted.[41]

37 Naked body search was practiced, diapers and sanitary peds were searched.

38 When the prisoner calls the relative and the respondent picks up the phone, the prisoner tells their name initially, and asks for the respondent to say over their name, surname, and phone number. The phone interview can begin only after this process. https://www.tbmm.gov.tr/komisyon/insanhaklari/belge/um_telefon.pdf

39 Ceza İnfaz Kurumları ve Tutukevlerinde Hükümlü ve Tutukluların Dışarıdaki Yakınlarıyla Telefon Görüşmeleri Hakkında Yönetmelik https://www.tbmm.gov.tr/komisyon/insanhaklari/belge/um_telefon.pdf

40 Demirbaş H.B ve Korkut B. (2019). Freedom of Speech n Prisons, TCPS Books. trans. Bayram S.

41 www.cte.adalet.gov.tr/menudekiler/uluslararasi/tavsiye_kararlari.doc

All the letters sent and received by prisoners are inspected by prison administration, and this inspection is carried out by letter reading commission of each prison. The letters found incovenient by the letter reading commission are sent to disciplinary board, and this board has right to confiscate the letter. In this scenario, prisoners must be informed about the confiscation. However, loss and confiscation –without informing- of letters sent and received by prisoners, was one of the complaints CISST received frequently in 2019, just as earlier on. Letters sent to non-governmental organizations by prisoners, and letters sent to prisoners by the former have been hindered on various grounds. Letters not sent with APS couldn't be tracked and get lost ever so often because there is no tracking number on them. In addition, frequent inspection directed to the content of letters has brought forth self-censorship by prisoners.

Restriction on Periodical and Non-Periodical Publications

In the prisons of Turkey prisoners' right to be informed and to connect with outside world is supervised. The first condition of access to periodical and non-periodical publications is that these publications have ISBN-ISSN numbers consigned by Ministry of Culture and Tourism and that there isn't any decision of prohibition or seizure about these publications. Prison administrations have authority to detain publications which are obscene or endanger the security of the prison,[42] yet it must be stated that this authority has conduced toward spreading of censorship. By reason of new regulations and public mandates gone into effect, prisoners have experienced serious problems about access to periodical and non-periodical publications. Books were not given to prisoners even though there isn't any decision of pulling of the shelf about them, and some books were confiscated in ward searches on the plea of being inconvenient. In 2019 several newspapers, such as Yeni Yaşam, Evrensel, Cumhuriyet about which there isn't any decision of confiscation were not given to prisoners despite their requests. In some cases even art and culture magazines were confiscated.

Whereas earlier on publications delivered to the institution during family and lawyer visits were given to prisoners, after 2017 this situation changed and with decisions of Board of Education issued simultaneously in numerous prisons,[43] publications which both come from visitations and through mail has begun to be not delivered. Yet another implementation mostly used for political prisoners is the limitations on number of books they can keep in hand. According to the new implementation put into practice, prisoners can only keep 7 to 10 books with them.[44]

42 http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5275.pdf

43 https://www.resmigazete.gov.tr/eskiler/2006/04/20060406-1.htm

44 Board's decision for the appeal to Human Rights and Equality Institution of Turkey (TİHEK) about the issue including number of books. https://www.tihek.gov.tr/upload/file_editor/2019/10/1571992289.pdf

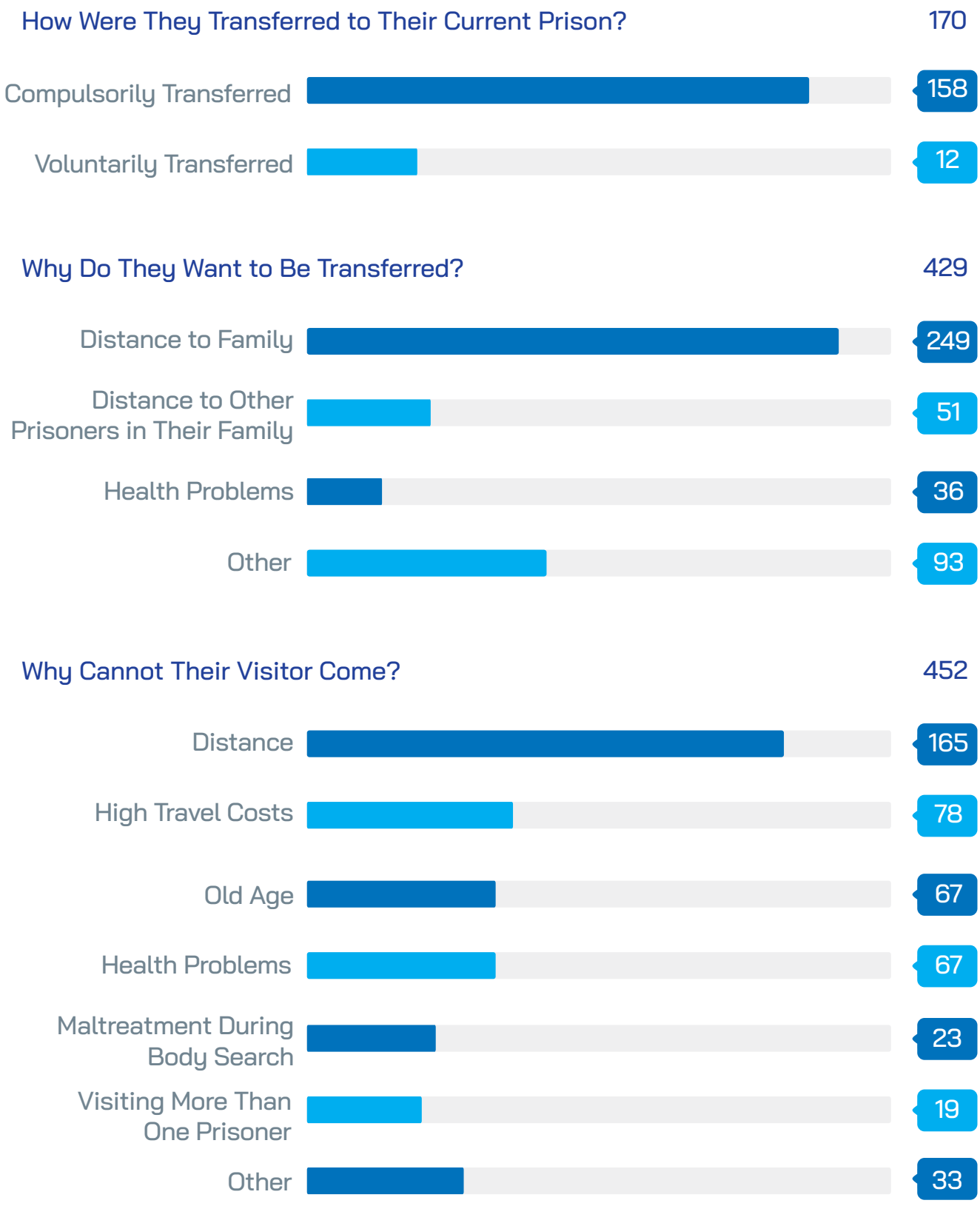
Radio and TV

Yet another restriction that has continued since State of Emergency process is on radios and televisions. Numerous TV channels (Fox TV, CNN Türk, etc.) which could be considered as mainstream and have no broadcast ban, were removed from central broadcast system, and thereby prisoners were prevented from watching in defiance of their wish. In addition to this, radio bands were another field on which restriction has been implemented since State of Emergency process. Radios with longwave AM bands were seized, given back to prisoners by removing AM bands. Prisoners could only access to shortwave FM bands within this process. Hence, prisoners were restrained from following international media. Restriction on AM bands has affected foreign prisoners especially, since the possibility of access to information in different languages in prisons has disappeared.

Restriction on Petitions

Prisoners deliver their complaints and violations they experience to administrative authorities by petitions. Numerous problems about petitions became intensified in State of Emergency process, and their impacts have continued in following period. The numbers of petitions prisoner wrote were not given to them, therefore they were not able to keep track of consequences of petitions. In some cases petitions were not put into process as regards to the initiative of administration, or get lost. Prisoners become exposed to requital due to the content of their petitions, herewith they behaved more cautiously for delivering their complaints, and they didn't make complaints for several issues at all.

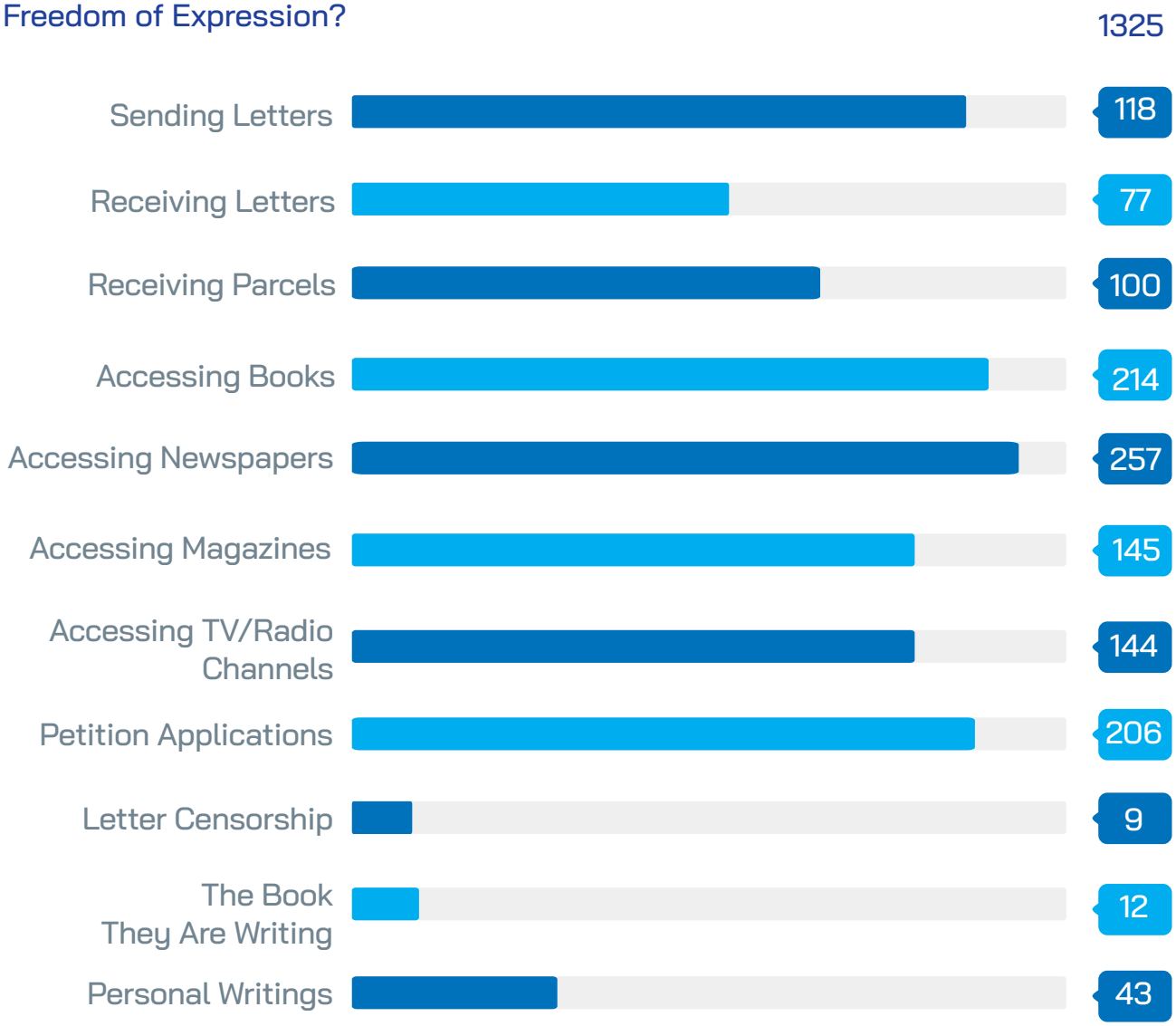
Communication with Outside World*



* All data refers to 2019.

Freedom of Speech*

In Which Areas Are They Facing Problems Concerning Freedom of Expression?



* All data refers to 2019.

5.2 Torture and Maltreatment

Impacts of many violations which became widespread and "normalized" during State of Emergency, has continued afterwards. Within this period wards were searched frequently without any justification and "provocatively" in prisoners' words, and most of these searches were conducted as abrupt busts in late hours.

According to United Nations Standard Minimum Rules for the Treatment of Prisoners searches have to be conducted by respecting human dignity and privacy of the searched, and it must be performed within legal boundaries. Nonetheless, implementations in this process were practiced without complying with minimum standards[45] and arbitrarily, hence this has created adverse impacts on mental states of prisoners.

Violence is an another subject which has increased during State of Emergency, and eventhough it has decreased relatively in afterwards, we witness it frequently in complaints received from prisoners. According to expressions of prisoners, there has been an increase in beating and injuring with tools, impact area and intensity of violence have increased eminently, and there were even somes cases hogtie was used.

Complaints received by CISST about torture and maltreatment were concentrated on physical violence. According to experts of CISST, this is because prisoners were not disposed to report insulting and derogatory behaviours. In as much as deduced from correspondences, especially non-political prisoners didn't make complaints even if they were exposed to verbal and psychological violence acutely. At this point it must be stated how verbal and psychological violence has been normalized within the prison culture. For the reason that non-political prisoners have been accustomed to the use of physical violence as a disciplinary tool, they hardly make complaints about it.

In addition to the physical violence it has been observed that discriminatory, marginalizing, polarizing expressions and behaviours have become intensified in 2019. In as much as deduced from correspondance, experts of CISST indicate that even in conditions they are subject to indiscrimation, prisoners don't identify it as discrimination, normalize it, and that for this reason they don't make complaints about it.

In consequence of the impunity situation stemmed from the fact that prosecutions brought against correction officers remained inconclusive, and that right violations were not detected in responses to these appeals, the way for increment in verbal and psychological violence was paved. Prisoners reported that correction officers frequently insult, swear, and humiliate them.

Crowded prisons have made supervision difficult, and this in turn has largely affected both prisoners and the personnel. Stressed environment that comes with overcrowding, has brought up increment in cases of physical and verbal violence, and in cases of prisoners' injuring weaker prisoners as well. Prisoners consulting CISST alleged that correction officers and prisoners on good terms with the administration, have resorted to violence since they are "encouraged by" this situation.

45 https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

Reasons such as, overcrowding, appeals' going into dead end, oppression from correction officers, have adversely affected the mental states of prisoners who have already problems. Furthermore, there were some cases in which these psychological problems have given rise to situations like self harm or suicide attempt. Attempts of CISST for access to data about this issue have remained inconclusive.

Disciplinary Penalties

It can be stated that effects of disciplinary penalties have increased during State of Emergency period, and their disincentive impact in the matter of prisoners' quest for legal remedies has continued. It has been observed frequently that since prisoners have been threatened with disciplinary penalties, they have been refrained from reporting right violations in 2019 as well. During this process disciplinary penalties, alongside their punitive effect by definition, have been used on prisoners as a pyschological tool of pressure.

Prisoners have been threatened with disciplinary penalties in open prisons as well, and they have to prefer making their complaints anonymously, rather than with their real identities, so as to not be exposed to requital. The fact that prisoners in open prisons would have been transferred to closed prisons in case of being sentenced to disciplinary penalty, has hindered the reporting of numerous complaints. It was evidenced that prisoners who had appealed to CISST with their real names, have been exposed to requital with numerous pretences and transferred to closed prisons. Even if monitoring commissions have visited prisoners to evaluate anonymous appeals as a result of executive appeals of CISST, they usually consult with the prisoners chosen by the administration rather than the complainants, and consequently violations couldn't be disclosed. Tacit statements of the ministry in the matter of an amnesty would be granted in 2019 have risen most prisoners' hopes. Prisoners have not been disposed to report problems and discrimination they experienced to non-governmental organizations, since they didn't want any increment in their penalties by being sentenced to disciplinary penalties.

Important deal of aforementioned disciplinary penalties are directed to communication rights, and because of this, prisoners were detached from outside world. Penalties directed to the use of communication rights have been continuing incrementally since 2017, and caused numerous unjust suffering. There has been an increase in complaints regarding communication penalties which have been used frequently and in long durations, rather than exceptionally, and therefore, prisoners being detached from outside world, have been exposed to de facto isolation.

The solitary confinement regarded as the most severe penalty and which must be fined occasionally,[46] has been put into practice frequently within this process. During the execution of the penalty of solitary confinement several rules stated in the law were not conformed, the doctor in the institution was not consulted, and finally prisoners with report that states they can't be held in solitary detainment were sentenced to solitary confinement.[47]

[46] The law no 5275 article 44 https://www.mevzuat.gov.tr/MevzuatMetin/21.5.2324.pdf

[47] The law no 5275 article 120 https://www.mevzuat.gov.tr/MevzuatMetin/21.5.2324.pdf

Article 17 of Anti-terrosim Law no. 3713 which had been put into practice before 2019, began to be implemented within the process.[48] The article says: "Those who may have been convicted from offenses of escape or insurrection during pre-trial detention or as convicts, or who as a disciplinary punishment have been awarded a sentence of solitary confinement 3 times shall not benefit from conditional release, even if their disciplinary punishment has been lifted". Solitary confinement penalties frequently sentenced in 2019, didn't only isolate prisoners from other prisoners, but also affected the imprisonment time by berefting the right to conditional release.

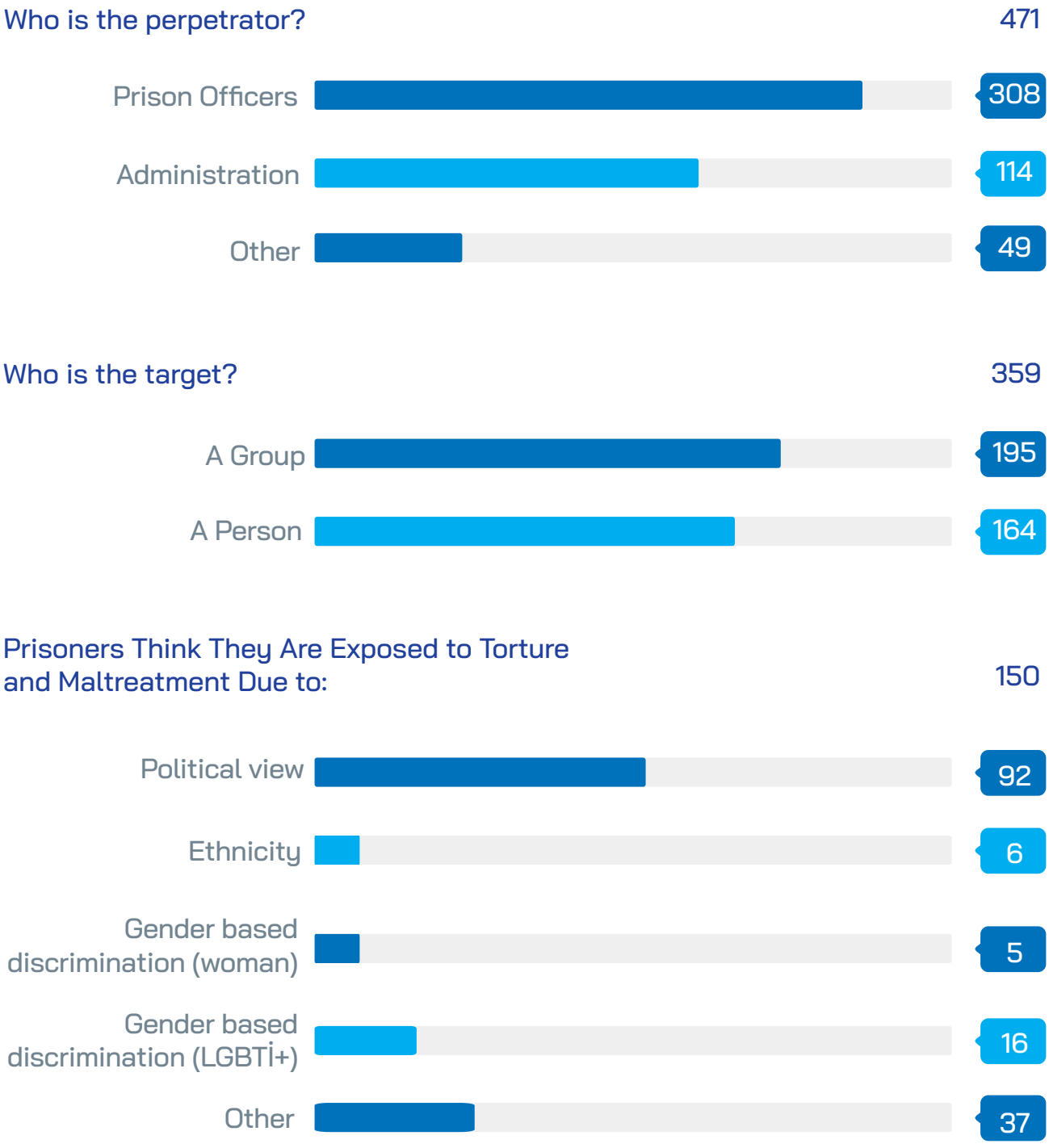
Isolation

It was mentioned that there has not been an increment in number of the personnel in parallel with the increment in capacity of prisons. The initial impact of capacity increment on social and cultural activities was the transformation of workshop, atelier and commune areas into wards. In addition to this, due to the understaffing –since prisoners are authorized to attend these workshops and ateliers in company with correction officers-, the participation of prisoners to social and cultural activities were restrained. Besides the understaffing, the fact that the personnel don't care much about the prisoners' attendance to these activities with regards to their workflow, has precluded the participation of prisoners to these activities. As well as participation to existing worksops were restrained, new workshops which prisoners requested were not opened. Yet again another restraining practice is the reducement or the suspension of prisoners' right to conversation with prisoners from other wards.

It was reported that in some prisons different groups of prisoners were transferred to one person cells without legal justification, and the conditions of aggravated life imprisonment (which will be mentioned below) were implemented on these groups. It was witnessed in some cases that even the prisoners with the report that states they can't be held in solitary detainment were confined into one person cells.

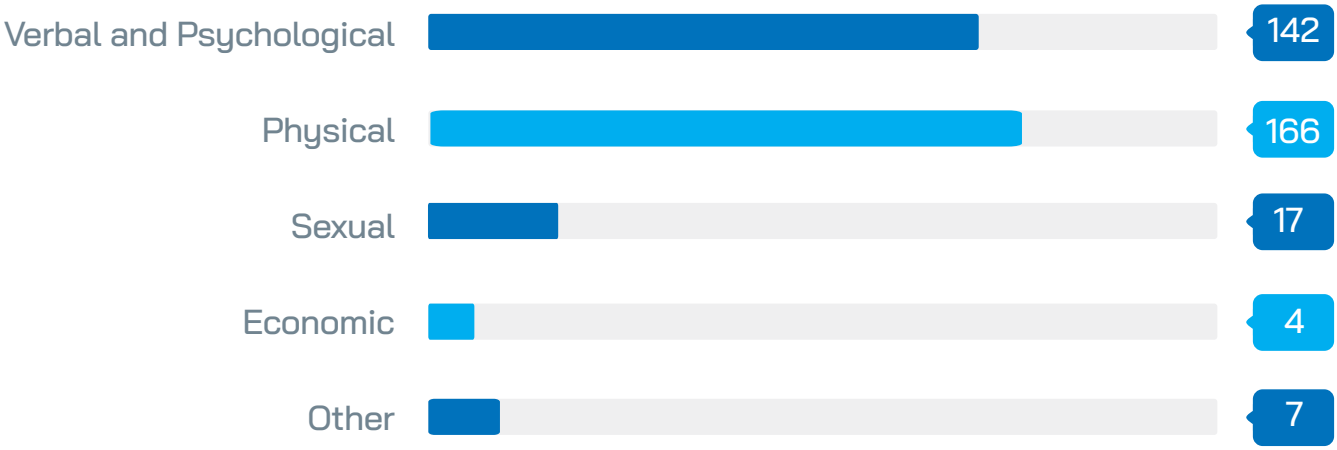
[48] https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf

Torture and Maltreatment*



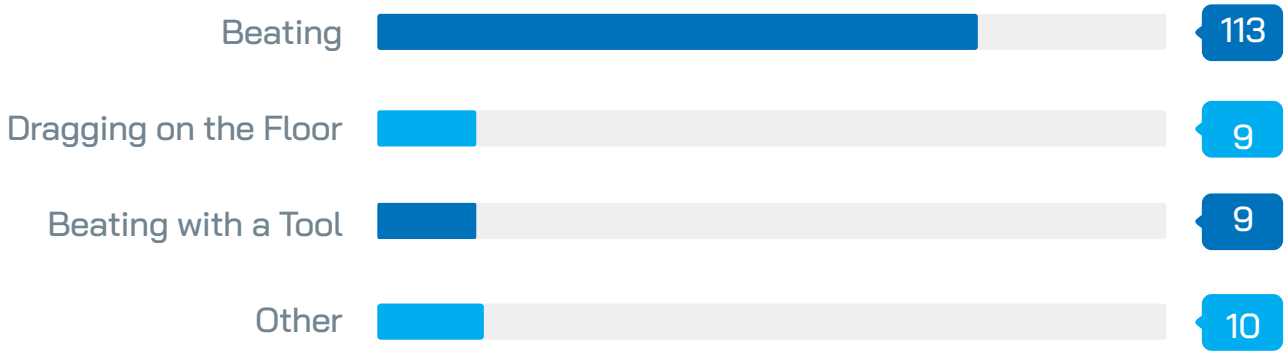
Type of Violence Exposed

336



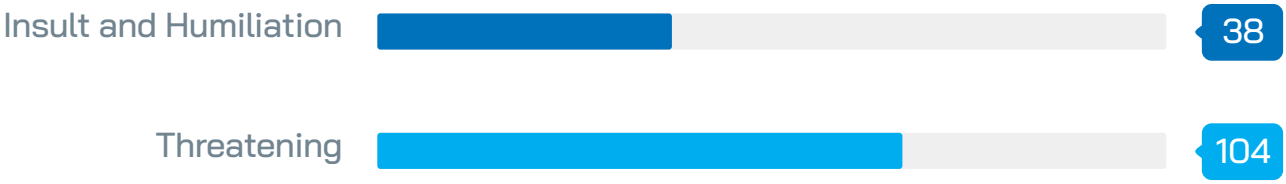
Type of Physical Violence

141



Type of Verbal and Psychological Violence

142



* All data refers to 2019.

5.3 Other Right Violations

Obligation of Carrying Identity Card On

According to another complaint reported, obligation of carrying identity card on which had not been implemented although it is in code, have been put into practice recently. It was made obligatory for prisoners to carry their identity cards while going to infirmary, attending activities such as workshop or sports, and in rooms for telephone calls and visitation. Political prisoners have reported that since they refuse to carry these cards due to expression of "terror" on them, they couldn't go to infirmary and be transferred to hospitals. This situation has caused a de facto isolation situation for them.

Ward Searches

Practice of frequent and arbitrary ward searches has been observed in 2019 as well. Since these searches have been conducted at night, prisoners have been psychologically affected eminently. Thus, the administration has turned this practice into a psychological tool of pressure.

Prisoners reported that their stuff has been scattered, belongings which are not prohibited, and purchased from canteen were confiscated along with notebooks used as diaries or agendas, and other personal belongings. Prisoners have remarked that they have objected to these searches and been exposed to physical violence on several occasions; and called these searches "provocative".

Prison Yards

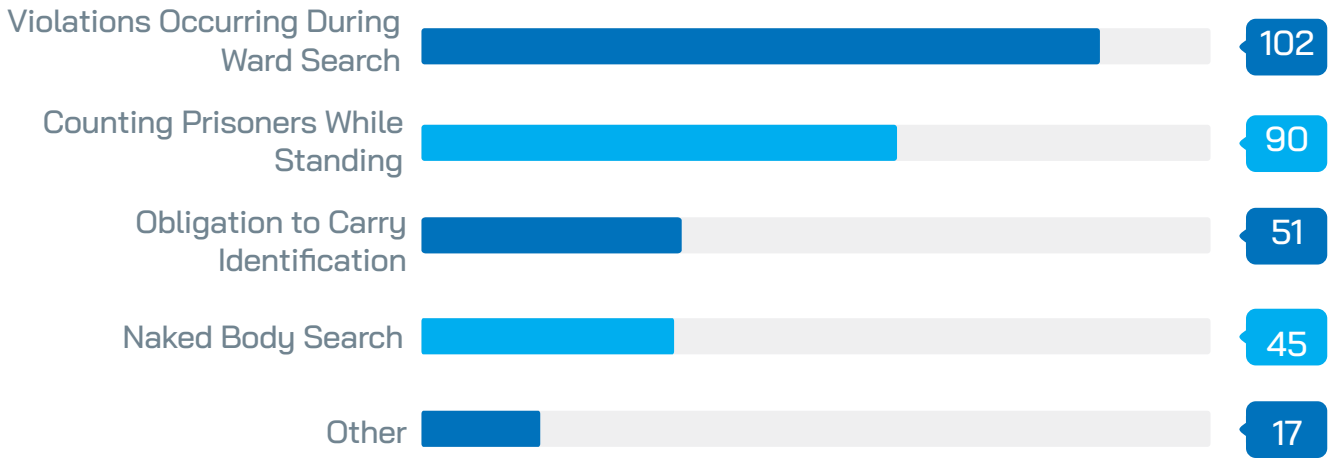
Prisoners' access to prison yards have been limited several times, and the structure of them were transformed due to different justifications. These restraints have hindered prisoners from benefiting from daylight and fresh air. Since top of yards were closed with wire fences, and these wire fences were covered with ice in winters, sufficient air circulation was not provided for prisoners. Yet another problem experienced within the process is that doors of yards' were opened late and shut down early on purpose.[49]

49 It is predicated on times of sunrise and sunset by evaluating geographical conditions of the region: https://www.resmigazete.gov.tr/eskiler/2006/04/20060406-1.htm

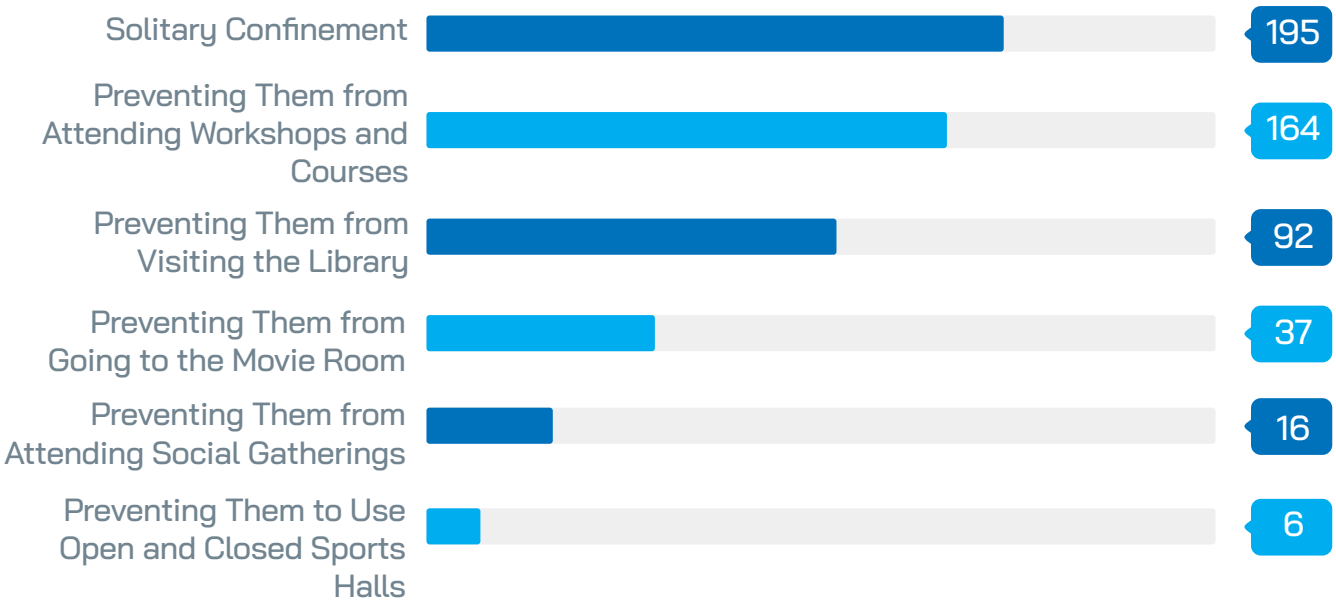
Other Right Violations*

Discrimination 132

Types of Violation 215



Isolation 403



* All data refers to 2019.

5.4 Impunity

As aforementioned, since in appeals of prisoners regarding torture and maltreatment, right violations were not identified, investigations have remained inconclusive and/or without affirmative responses; motivations of prisoners as to pursue their legal remedies have decreased, and this in turn has caused a decrease in appeals. There were no affirmative responses to the appeals of prisoners regarding the disclosure of torture and maltreatment.[50]

Prisoners reported that when they demanded to receive report for battery after torture and maltreatment, their tranfers to the hospital were impeded, thus they couldn't receive battery detection report. According to statements of prisoners, some doctors didn't make battery reports even if they are obliged to report maltreatment medically. Thus, in some cases injury sustained by the prisoners were reported as self harm. Petitions of prisoners intended to the use of video footage as an evidence for the maltreatment were impeded, and were put into process after 90 days (i.e. after video footage was erased).

5.5 Hunger Strikes

3200 people had participated in the hunger strikes which had started in November 2018. 15 prisoners had made public that they started indefinite non-alternate death fast on 30 April 2019, and 15 more on 10 May 2019.[51] There were 7 prisoners who took their own lives in consequence of their demands were not met. Their names are: Zülküf Gezen (Tekirdağ Prison), Ayten Behçet (Gebze Women Prison), Zehra Sağlam (Oltu Prison), Medya Çınar (Mardin Prison), Mahsum Pamay (Elazığ Prison), Yonca Akici (İzmir Prison), Siraç Yüksek (Osmaniye Prison).

Monitoring committees following up hunger strikes and independent lawyers stated that prisoners experience advanced visual and hearing loss, they had high blood pressure and fever, had trouble at fluid intake, and their lives were in critical condition. Prisoners had complaints within this process regarding difficulties about taking vitamins, and obstacles for being examined by independent health committees. Hunger strikes were at end on 26 May 2019.

50 For more detailed information see: "İnsan Hakları İhlalleri Başvuru Cevapları Raporu 01.01.2016 – 31.12.2019" http://cisst.org.tr/wp-content/uploads/2020/06/insan_haklari_basvuru_raporu.pdf

51 "Leyla Güven: I End My Hunger Strike" https://m.bianet.org/bianet/human-rights/208860-leyla-guven-i-end-my-hunger-strike Date Accessed: 28.10.2020

Health

Due to the fact that there has not been any regulation considering the improvement of conditions of prisons in Turkey, persons who were not sick got sick, and conditions of prisoners with illnesses have worsened, their health problems become more serios, and in some cases these eventuated in decease.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has designated a list of priorities regarding prisoners' equal access to health services. These are: access to doctor, equality in nursing, consent and privacy of the patient, prevantive healthcare, humanitarian assistance especially in case of the extremely and deadly ill, independence and competence of medical personnel.

6.1 Primary Healthcare Services

Eventhough prisoners' access to primary healthcare services consists of prison infirmaries, transfer to hospitals, and dental unit services is essential, sometimes these rights may have been restrained. Prisoners have too many troubles in the matter of transfer to infirmaries and hospitals due to the overcrowding in prisons. There are some stages for prisoner patients to be examined. First of all, they have to write petition to the institution, and they are transferred to infirmaries in which primary healtcare services are provided, according to their petition dates.

Since prison infirmaries are inadequate in terms of equipment and personnel, treatment procedure may be hindered. Prisoners reported that they had to wait for weeks, or even months to be transferred to the infirmary. Visitation durations and quality of the service provided decreases, because of the fact that number of doctors in infirmaries is low, while that of prisoners is high. Briefness of visitation times affects the diagnosis and treatment of prisoners' health problem adversely. Yet another point which hinders the regular tracking and treatment of illness is that there is no regular physician based in prisons, and the appointed family physicians are being changed perpetually.[52]

Prison physician can transfer the prisoner to the hospital if he decides that treatment of the prisoner is not possible in the prison infirmary. Eventhough the prisoner demands to see another physician or to receive another treatment, the transfer is not taken place unless the physician approves. There have been several complaints received by CISST in regard to their illness got worsened since the transfer was not taken place or got delayed at diagnosis process.

[52] http://www.cte.adalet.gov.tr/Resimler/Dokuman/292019142507p34.pdf

After appointment is taken for hospital transfer, this information is given to the prisoner and to the gendarmarie who would deliver the prisoner to the hospital. Due to the staff shortage for hospital transfers, shortage of shuttle buses, and sparing of shuttle buses for trial days, hospital transfers would become tardy. Transfer of prisoners to hospital may take months due to these reasons. For prisoners who are extremely sick and dependent on regular examination, on time transfers are vital. Any delay can cause severe damages for prisoners. Health condition of prisoners and envisaged treatment were not shared with prisoners themselves. The process is conducted by infirmary physician and the physician in transferred hospital. Provided that prisoner may have an objection to the health services or the treatment, they must repeat all the procedure from scratch. In addition to all these, due to the fact that health condition of the prisoner is not monitored by the same physician in the transferred hospital, regularity of the treatment is hindered. Moreover, for prisoners with multiple diseases and in need for their examinations to be conducted in different services, to carry out all these process without any flaw is almost impossible.

Prisoners have to use emergency button in the wards in case of serious health problems, and of need for urgent hospital transfers. If this happens when there is no physician in the prison, attendant personnel and their superiors are the ones who would decide whether the situation is urgent, and the ambulance must be called. If the hospital has ambulance service, and convenient for use, the ambulance arrives to the prison. As aforementioned, all this procedure cause prolonging the duration, and the long distance between the prison and the hospital cause severeal problems, as well. The fact that prison personnel decides the emergency of the treatment when there is no medical staff, carry the risk of hindering the use access to right of health.

Shuttle buses used for transfer to hospitals are for 8-12-18 people, and there are compartments for 3 or 6 people inside. Prisoners are transferred to the hospital by being handcuffed in these compartments. New shuttles put into service are designed in the way that prisoners are kept in solitary being handcuffed and can't stand up. It must be stated that these shuttles would endanger the lives of prisoners and can't ensure security of prisoners in cases of accident and fire. Despite there are emergency exits in shuttles, the fact that one person compartments are being locked and that prisoners are kept there being handcuffed, carry the risk of serious results by hindering the evacuation prisoners in cases of emergency.

Prisoners report that air conditioning of shuttles are frequently out of use, they are extremely hot in summers, and cold in winters, unventilated at any time, and stinks. If prisoner waiting rooms in hospitals are full or not available, prisoners have to wait in these shuttles. Waiting for long durations in shuttles worsens the conditions of sick and old prisoners. Unsanitary conditions increase the risk for prisoners to be infected.

Several troubles are being experienced in dental units of hospitals as well. It was narrated that numerous operations can't be performed due to equipment shortage in dental units, and consequently prisoners have to wait for months to be transferred.

In addition to these, because of the shortage of regular medical personnel in prison, needs of injection or medical dressing can't be performed at certain intervals. If there isn't any medical staff, the prisoner may ask support from ward friends for these needs, and this in turn paves the way for numerous serious problems arising from incompetent persons' performing a medical attention.

6.2 Secondary and Tertiary Healthcare Services

Prisoner Waiting Rooms and Wards

When prisoners are transferred to hospital by shuttles, they have to wait in prisoner waiting rooms if conditions are available. Because there may be no waiting room in some hospitals, or present ones are inadequate, prisoners may have to wait in shuttles buses. Prisoner waiting rooms can't be used simultaneously by women-men, adults-minors, LGBTI+-non-LGBT+ prisoners, or political and non-political prisoners. If there is a male political prisoner in the waiting room, only a male political prisoner can be brought to the room. This is also the case for prisoner rooms in the hospitals. The decision about where these prisoner wards will render service is made by the administration. These wards are generally to be found in lessly used and remote locations in the hospital. In some cases they are near the mortuary, or underfloors with inefficient ventilation. These wards may be for one person, or for more than one person.

There are complaints regarding the fact that waiting rooms and wards are dirty, they are not cleaned decently, and there is no provision for materials such as soap and toilet paper. In consequence of prisoners sharing the same room without regarding their sickness, and the risk for contagious diseases, several problems may occur.

Prisoners waiting in rooms or shuttles, see the physician in their turn. Task description of the gendermarie is definite.[53] In cases of the physician's demand gendermarie can enter to the examination room. Prisoners narrated that the gendermarie waited on door or close to examination location during their examinations and complained about this situation. Herewith, expected privacy between the physician and the patient is violated by the gendermarie, and in most cases physicians don't intervene this situation. Due to physician's attitude, the prisoner can't express their condition in detail, and can't engage in a trust relationship with the physician. Prisoners are exposed to maltreatment such as discriminatory behaviors and handcuffed examination by the family physician in the prison or the physician in the transferred hospital due to their types of crime, ethnic background, sexual orientation, or sexual identity.

53 According to Protocol on the Management of Prisons and Detention Houses, External Protection, Dispatch and Transport and Implementation of Health Services of the Convicts and Prisons Article 38 Item 1: "In hospitals where there is a directorate of penal institution, guarded examination rooms with fences against escape are made up." According to Item 2: "Examinations of the convicted and the detainee are conducted in guarded rooms with fences against escae. The gendermarie stands outside the room during examination and takes the necessary security measures. In case of the physician's demand, the gendermarie is to be present in examination room."

In addition to these violations, there are some cases prisoners are examined by being handcuffed eventhough it is stated in İstanbul Protocol otherwise.[54] Prisoners may be kept in examination room being handcuffed due to the gendermarie's demand, as well as the physician's. The prisoners who reject these practices are brought back to the prison without being examined.[55]

"Reprievement" of prisoners with health problems in Turkey is regulated by Article 42 of Law on the Execution of Penalties and Securiy Measure no. 5275. For reprievement of the execution due to sickness, the report must be compiled by Institute of Forensic Sciences or full-fledged public hospital, and it must be appealed to the office of chief public prosecutor. If the latter grants approval, the person is treated in the hospital, and the time spent there is substracted from the sentence. When the treatment is over, prisoners go back to the prison so as to complete their sentence.

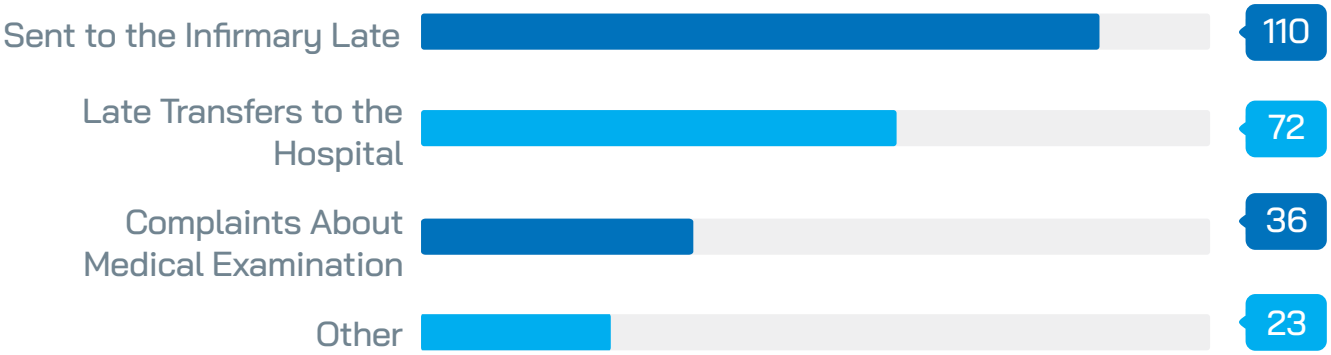
Seriously ill prisoners who are old and with chronic multiple diseases can only receive the report to that states they can't be held in solitary detainment from Institute of Forensic Sciences, and this situation causes tardiness. Prisoners have narrated that interviews in the institute last a short time, and that their conditions are not examined in detail. Despite numerous prisoners who have right to "Reprievement of the Execution", receive the necessary report from Institute of Forensic Sciences, the Office of Chief Public Prosecutor doesn't suspend the sentence, and prisoners are continued to be kept in prison.

54 In İstanbul Protocol it is stated about carrying out of medical examination: "Examination must be practiced in conditions without any restraining tools, handcuff or likewise."

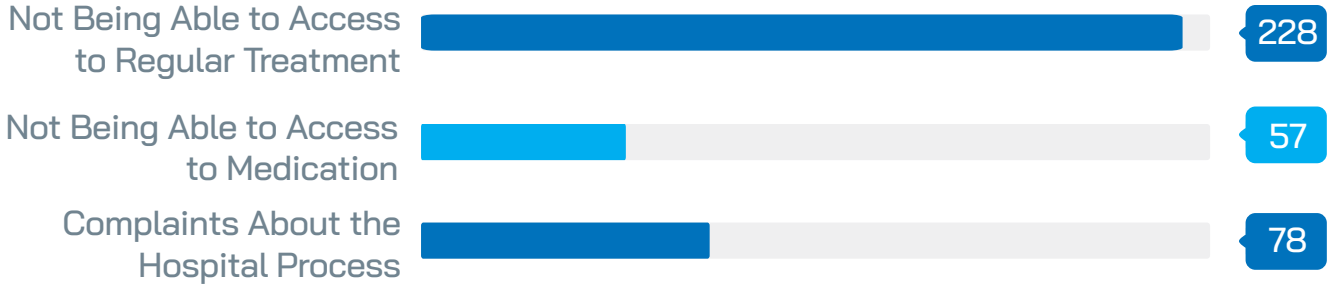
55 For more detailed information about handcuffed examination see: Korkut, B. (2018). Türkiye'de Hasta Mahpus Olmak, TCPS Kitaplığı.

Health*

Complaints About Infirmary 241



Complaints Arising from Access to Health Care 363



Complaints Arising from Chronic Diseases 134

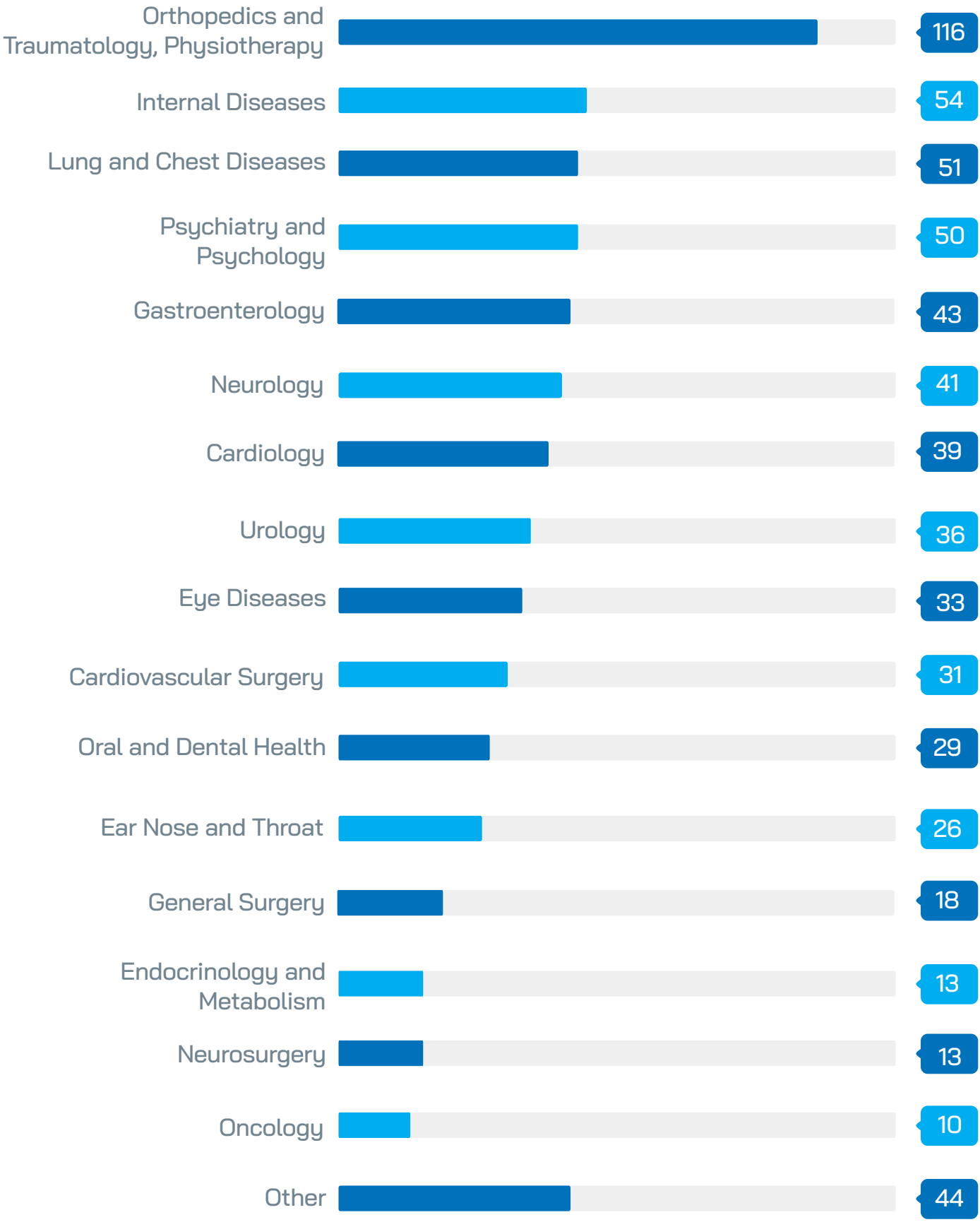
Complaints Arising from Multiple Diseases 83

Complaints Arising from Serious Diseases 20

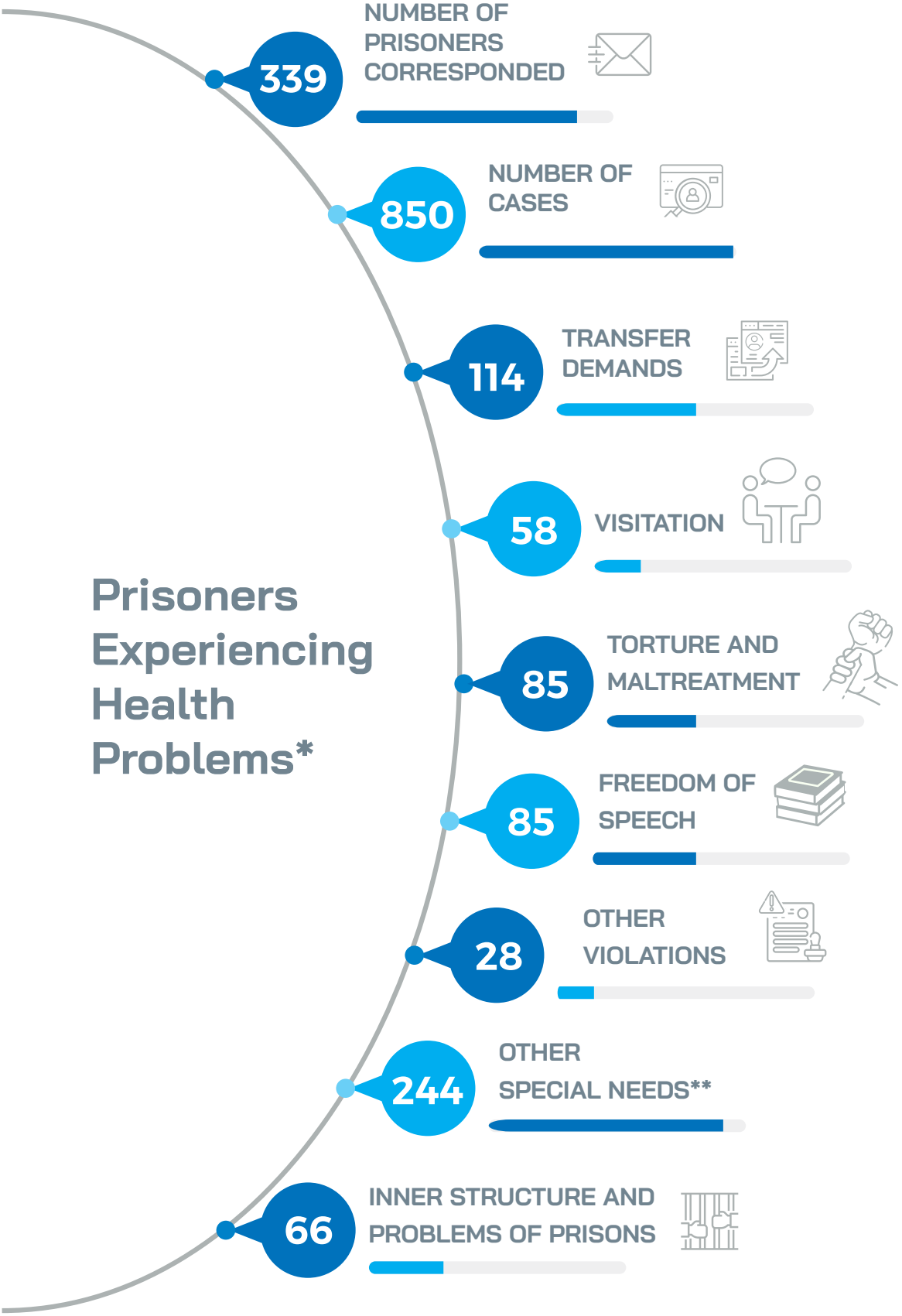
* All data refers to 2019.

Distribution of Diseases

338



Prisoners Experiencing Health Problems*



* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

Thematic Fields

7.1 Juvenile Prisoners

Context

In criminal justice system of Turkey criminal liabilities begin at 12 years old. There are two types of institution formed for children in Turkey. In child and youth closed penal institutions there are juveniles detained prior to their trials and the convicted children with disciplinary penalties waiting for being sent to closed prisons. Indeed almost sole difference of these institutions from adult prisons is their design in which each child has a seperate room. Notwithstanding, houses of correction are penal institutions similar to structure of open prisons in which convicted children are confined.[56] Nonetheless, half of the juvenile prisoner population are held in children wards of adult prisons. Therefore, not all the children may benefit from facilities of juvenile prisons which have relatively better conditions for children. According to most recent statistics shared by Directorate General of Prisons and Detention Houses (CTE), there were 3.019 children between 12-18 years old, and 743 children between 0-6 years old in prisons by 20 November 2018.[57]

It can be observed that effects of confinement specific to juvenile prisoners may have more serious results compared to adult prisoners, and this kind of confinement may cause further right violations. In accordance with United Nations Convention on the Rights of Child's one of the fundamental principles, the principle of "considering the best interests of the child", children must be protected in every circumstances.[58] Rights such as the protection of family life, access to education, the right to development, the principle of being taken into consideration, which each children should have access are restrained in conditions of the prison, and this means quite contrary conditions to that principle.

56 By year of 2019 there are 7 children and juvenile closed penal institutions in Ankara, Diyarbakır, Hatay, Kayseri, Mersin, İstanbul, İzmir; and 4 children houses of correction in Ankara, Elazığ, İstanbul ve İzmir.

57 These statistics were submitted in the presentation of General Directorate of Prisons and Detention Houses in Committee on Human Rights Inquiry of the Grand National Assembly on 14 November 2018. The deputies who attended the meeting shared this information with CISST via e-mail.

58 United Nations Convention on the Rights of Child, Article about Considering the Best Interest of the Child 3-1.
"1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision."

Outstanding Problems

CISST conducted 173 correspondances in the thematic field of juveniles in 2019. Human rights appeals made in the light of the information received directly from children or acquired through relatives of children's getting in touch with CISST by mediums such as hotline, have predominantly concentrated on children's transfer demands, allegations of violence, and disciplinary penalties. In addition to these appeals, 114 appeals were made in the matters of not being able to attend to activities, acces to health, and conduct correspondance free of charge.

Demands for Transfer to Open Prisons

Disciplinary penalties envisaged for juvenile prisoners in laws are different from those of adults. The penalty of remanding to closed prisons is implemented for children as remanding convicted children in correction houses to the closed prisons for 6 months due to reasons envisaged in the act. The juvenile is remanded to the house of correction after serving his/her 6 months penalty in the closed prison. At this point, if the juvenile turns 18 during serving 6 months sentence in the closed prison, his/her statue is changed into adult prisoner. Therefore conditions of demands for transfer to open prisons for him/her are determined as of adult prisoners, and this means that the person's sentence will be determined according to his/her served time by considering general judgments. It is an erroneous implementation decreed by law that the person who is sentenced to disciplinary penalty as a child can't benefit from the rights of child statue after the penalty is served. Eventhough CISST has received an affirmative response to one of the appeals considering this issue, it couldn't be pointed to a precedent since no document was given to the prisoner regarding this.

Demands for Transfer

Children must be held in juvenile prisons other than exceptional conditions according to law. Albeit it is more appropriate for children to be held in institutions formed according to specific needs of them, this may lead for them to become distanced from their families in some instances. Therefore, numerous children demand being transfered so as to be close to their families.

(Non)Investigation of Violence Allegations

The neglect and abuse that children experience in prisons is not disclosed due to reasons such as: letters sent are supervised by letter reading commission; convicted children can't take legal advice since their lawyers are off duty; children in pre-trial detention are not visited especially by lawyers appointed by the bar. Moreover, children's fear of being exposed to requital, their inability to identify violence, or that they are dissuaded by more reliable correction officers so as to give up their complaints, constitute an impedement for investigation of violence allegations.

Girls

Number of prisoner girls are far less comparing to prisoner boys. In this respect prisoner girls become invisible in juvenile judicial system due to their numbers and the fact that girls are held in child wards of women prisons instead of in juvenile prisons. CISST information acquisition appeals sent to the Ministry of Justice about in which prisons prisoner girls are held, what are their numbers, and their conditions of convicted-detainee, were left unanswered.

Juvenile Prisoners*

- **49** NUMBER OF PRISONERS CORRESPONDED
- **35** NUMBER OF CASES
- **5** TRANSFER DEMANDS
- **8** VISITATION
- **4** TORTURE AND MALTREATMENT
- **5** FREEDOM OF SPEECH
- **5** OTHER VIOLATIONS
- **4** OTHER SPECIAL NEEDS**
- **4** INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

7.2 Woman Prisoners

Context

The number of women and girls incarcerated[59] has increased across the world and rose to 714.000 in 2017. Women and girl prisoners are 6.9% of total prisoner population.[60] According to most recent research on the issue, number of women incarcerated had increased 53.3% between 2000-2017.[61]

The most updated resource about women held in prisons in Turkey is the statistics used in the presentation made by Director General of Prisons and Detention Houses (CTE) in Committee on Human Rights Inquiry of the Grand National Assembly on 14.11.2018 and the official reports of the same date. According to these statistics the total number of prisoners held in prisons of Turkey was 258.660 as of the date 14.11.2018; and 10.208 of them are women —the convicted are 7.111, the detainee are 3.097.[62]

The fact that the number of women is always less than men in penal systems leads to general neglience of women's gender specific needs.[63] On the other hand, the discrimination that the women already exposed to in the society proceeds crescively with their incarceration.

According to information acquitted from prisoners contacted, most of the problems experienced by woman prisoners are general problems such as, restriction of right to health, and prevention of freedem of speech. In addition to these there are gender specific problems such as troubles about lawsuits of divorce, custody, and alimony; and access to menstrual ped.

Outstanding Problems

Health Problems

Numerous prisoners have difficulties in accessing to health services independently of their gender identities. All the aforementioned problems experienced by all the prisoners were expressed by women prisoners as well. In addition to these, women prisoners have difficulties in accessing to health services which stems from their gender identity as women. The most frequent complaints are such as: accompaniment

59 The terms women is for including 12-18 old girls for the rest of the text unless it is indicated otherwise. Yet, conditions of girl prisoners, the difficulties they experience, and propositios for the solution of these go beyond the scope of this chapter. For detailed information about girl prisoners you can see the chapter of children prisoners.

60 Roy Walmsley, Institute for Criminal Policy Research, World Female Imprisonment List, 4th edition, 2017, p. 2. (https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf)

61 Global Prison Trends 2019, Penal Reform Internatioal ve Thailand Institute of Justice p. 4. (https://cdn.penalreform.org/wp-content/uploads/2019/05/PRI-Global-prison-trends-report-2019_WEB.pdf)

62 TÜRKİYE BÜYÜK MİLLET MECLİSİ İNSAN HAKLARINI İNCELEME KOMİSYONU TUTANAK DERGİSİ (14 November 2018), https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2216

63 There are 15 women prisons in total, 9 closed, 6 open. Yet, most of the woman prisoners are held in women wards of the men prisons.

of men gendermarie during transfers to hospital, male gendermarie's presence during gynaecology examination, the usage of prisoner wards in hospital by men in general, and that gynaecological follow ups, routine controls such as Pap smear which must be conducted regulary are not performed.

Access to Menstrual Ped

CISST advocates that menstrual peds must be provided free of charge as a part of access to health.[64] Woman prisoners corresponded since 2017 were apprised about the campaign and were informed so as to make their written applications to the administration.[65] Notwithstanding that access to menstrual peds was not identified as a right in legislations, we may deduce that access to peds was de facto enabled since complaints about this issue had decreased in 2019.

Access to Daily Exigences

Prisoner women especially those who are held in women wards of men prisons, have complaints about the exiguousness of provisions in the canteen. It was reported that cosmetics, wax, tweezers, etc. are not supplied in the canteen.

Surveillance of the Prison and the Body and Ward Searches

Prisoner women have to deal with male personnel in quotidian routine or during entrances and exits to prisons, and they sometimes feel this as an element of oppression. Moreover, women feel themselves more open to masculine violence on account of the fact that body searches in entrances and exits, searches of rooms, etc. are conducted by soldiers and male personnel. CISST has received complaints from many women about body searches which are conducted pretty much as harassment. Moreover, the surveillance of wards and common areas by male personnel is another topic of complaint expressed by women. To this respect women have to live under the threat of being exposed to sexual or psychological violence at any moment.

Conditions of Prison Transfers

Prisoner women have reported to CISST that they had numerous gender specific problems during their compulsory or voluntary transfers. Since these travels take too many hours, it is possible for prisoners to have numerous needs such as replacing the ped, going to restroom, changing clothes. Accordingly, they need a woman gendermarie to express these needs, and meet these needs in her supervision. Nonetheless, even these long trips are conducted by all-male gendermarie teams. These difficulties taking place during transfers are among the most frequent complaints reported by prisoners.

64 http://tcps.org.tr/sites/default/files/kitaplar/ucretsizpedbrosur.pdf

65 After the appeal of women prisoners General Directorate of Prisons and Detention Houses in its response letter to Ankara Office of Chief Public Prosecutor, with General Directorate's 07.11.2017 dated 95895915-010-E. 4126/142848 numbered letter it stated that all the prisons were made noticed via Offices of Chief Public Prosecutors, and that hygiene materials and peds must be given to all the prisoners, financially indigent prisoners being in the first place.

Problems of Tutelage, Divorcement and Judicial Assistance

Many prisoner women have no contact with their tutelars, the tutelar may be in a different city or he/she abstains from taking action in behalf of the prisoner. All of these reasons avert women from taking judicial actions especially in cases of divorcement and custody, and make it impossible to benefit from judicial assistance services of the bar. Numerous women who aspire to sue for divorce, to contact with her kid outside, to make a stride in cases of custody or alimony, had brought complaints in the matter of access to justice. CISST has made several appeals and treated with judicial assistance services of the bar to solve the problems of women due to civil code.

Women with Children

Since there has been an increase in the number of women who are held with children in the prison lately, it has been frequently stated that living environment in prison is not appropriate for the development of children. Corresponded women with children have narrated their complaints about their children's communication with outside world, as well as problems of addressing their children's basic needs, such as health and aliment.

Woman Prisoners *

- **150** NUMBER OF PRISONERS CORRESPONDED
- **271** NUMBER OF CASES
- **34** TRANSFER DEMANDS
- **18** VISITATION
- **27** TORTURE AND MALTREATMENT
- **56** FREEDOM OF SPEECH
- **50** OTHER VIOLATIONS
- **41** OTHER SPECIAL NEEDS**
- **45** INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

7.3 LGBTI+ Prisoners

Context

Prisoners in Turkey have to be held in facilities which are built predicated upon binary gender model. A trans woman is incarcerated in men prison until she completes her gender transition process and acquires official woman identity card; and a trans man is incarcerated in women prison until he completes his gender transition process and acquires official man identity card. Trans women, openly gay men who are brought to men prison are not held in the same wards with heterosexual men. They are held in special wards, as long as these are to be found in prisons; and in case that the number is inadequate they are held in one person cells. If prisoners' identities are not open, their assigned identities in the identity cards are taken into consideration. Prisoners who come out of the closet to the administration may demand to be transferred to prisons/wards compatible with their sexual orientation and gender identity. Most of the openly LGBTI+ prisoners figured in the statistics of Directorate General of Prisons and Detention Houses are trans women and gay men. The main reason for this situation is their "visibility" and self-id which would affect the settlement in process of entrance to the prison. Therefore, it is quite arduous to reach lesbians, bisexual women and men, and trans men by correspondance as well.

While it is arduous to reach the up to date quantitative statistics about the conditions of prisons, this toil has been doubled in case of LGBTI+ prisoners. In virtue of our association's information acquisition appeals and of parliamentary questions, some information has been reached –even it is limited- about LGBTI+ prisoners' number and their distribution in prisons. Yet their reliability is disputable. In the meeting of Committee on Human Rights Inquiry of the Grand National Assembly, Şaban Yılmaz, Directorate General of Prisons and Detention Houses, stated that there were about 200 LGBTI+ prisoners and gender transition operation of one trans person had been conducted.

Outstanding Problems

LGBTI+ prisoners have difficulties to reach their exigences if they can't stay in prisons compatible with their sexual orientations and gender identities due to the general structure of the prison. Thus, since the personnel in men prisons interact with men and have no understanding or comprehension about the issue, they don't know how to interact with trans woman prisoners. Herewith, discriminatory practices and attitudes are brought along. Visibility of trans women and gay men identities are supposed to be assimilated into masculinity performances displayed in the prison. They are supposed to behave, live and dress in accordance with codes of hegemonic masculinity. Heteronormative perspective doesn't only affect LGBTI+ persons in men prisons adversely, but also trans men in women prisons. This very approach establishes the ground for justification of the discrimination and the maltreatment in prisons. CISST has been conducting endeavors devoted to LGBTI+ prisons for a while, the efforts to solve the most basic problems and complaints remained inconclusive as there hasn't been any general improvement about the conditions of LGBTI+ prisoners in the penal system. One of these problems is

that LGBTI+ prisoners can't have access to personal needs such as tweezers, wax, women's underwear, high-heel shoes, cosmetics, etc. from the canteen. These exigences are not given to them albeit their wishes; and packages sent from their families, friends and non-governmental organizations are not let into the prison.

Trans women and gay prisoners in men prisons are supposed to dress and behave in heteronormative patterns, eventhough it is quite slight chance for them to encounter with other prisoners. LGBTI+ prisoners don't have only difficulties in reaching to private needs; they also can't benefit from courses, activities and workshops on plea of security, other prisoners benefit; and can't enjoy the right of being transferred to open prison. It is the fundamental requisite to concentrate on specific needs in case of regulations about LGBTI+ prisoners. These needs may be about medical support, as well as about aforementioned daily exigences.

Gender Transition Process and Access to Health

Provided that trans prisoners had initiated the gender transition process before being put into prison, they can resume the process during their incarceration. Trans woman prisoners who intend to initiate the transition process in prison can have the operation only after they carry out legal procedures and receive medical report. There are LGBTI+ prisoners in gender transition process whom CISST keeps track of and consults.[66]

Trans prisoners have right to access to prescriptive hormone medication which SGK recompense free of charge. Nevertheless, even the medication under coverage of SGK has adverse impacts, they have nothing but to use these medications. Moreover, it is not possible for them to benefit from regular medical service concerning the side effects of the hormone medication and the probable complications.

Augmentation mammoplasty, rhinoplasty, chin augmentation and glottoplasty are considered to be aesthetic operations, and expenses of them are supposed to be met by prisoners themselves. Moreover, since hormone therapy may cause complications for trans women and trans men, it must be accompanied with regular medical checks. Since change in hormone levels may cause psychological fluctuations in addition to physical effects, alongside physicians pyschologists of the prison must get involved in the process as well.

In previous years, prisoners have troubles to reach their hormone medications, while some prisoners couldn't get hormone medication despite their demand, some were given more medication than they need. In current state it is possible to indicate that trans women have relatively less difficulty for access to hormone medication. Nonetheless, no group therapy or any other psychological support was given to prisoners during or before the gender transition process whatsoever. All the troubles and right violations experienced by trans prisoners may cause self harm in case of absence of psychological support. Therebeside, in some cases prisoners staged hunger strike or death fast to attract attention to the problems they experience within the process.

66 For example a trans woman began her gender transition process with endevaours of lawyers of LGBTI+ associations in the prison, make two hospitals to open prisoner wards and completed her operation.

CISST exclusively has witnessed 9 LGBTI+ prisoners staging hunger strike and/or death fast due to different reasons. 4 trans prisoners staged hunger strike/death fast due to constraint they experienced, by the end of 2018 and through 2019, and caught public attention. It was observed that prisoners in hunger strike also practiced self harm. [67]

All the trans prisoners, the political ones being in the first place, are held in one person cells instead of wards due to reasons such as their numbers' fewness or the prison capacity. In this regard for LGBTI+ prisoners held in one person cells, it is quite of an issue to have their gender transition operations and to be transferred to prisons compatible with their self-id by taking official identity cards as to benefit the same rights with other prisoners and as to be freed from the isolation.

Discrimination; Transphobic and Homophobic Attitudes

CISST makes regular appeals to monitoring commissions to make them visit LGBTI+ prisoners. Eventhough in some cases these appeals and one-to-one contacts bring to succesfull outcomes, it is not uncommon that commission members adopt homophobic and transphobic manners in these monitorings.

It is possible for LGBTI+ prisoners to be held in isolation for years because of their identities independently of their sentences. Isolation results in serious physical and psychological outcomes for prisoners.[68] Eventhough the reason for LGBT+ prisoners to be held in seperate and single wards is their own security, this condition of isolation make them more open and vulnerable to possible maltreatments from the personnel.

LGBTI+ prisoners are among the groups who are mostly exposed to violence, discrimination, humiliation and sexual harassment in prisons. Besides the fact that there isn't any policy specific to the needs of LGBTI+ prisoners, programmes devoted to the training of administrative personnel, correction officers and social workers are inadequate in respect to work with LGBTI+ individuals. Appeals of LGBTI+ prisoners regarding right violations and assaults they experience, remained inconclusive due to homophobic, transphobic positions, and rooted prejudices.

67 Despite a medical conclusion about a political trans prisoner that gender transition operation is "a necessity in terms of mental health" has been reached in 2019, the lawyer narrated that the Ministry of Justice indicate that operation would take place in case of the prisoner's covering the expenses.

68 In some prisons LGBTI+ prisoner are held in one person cells albeit their demands to be transferred to wards.

LGBTI+ Prisoners*

82 NUMBER OF PRISONERS CORRESPONDED

205 NUMBER OF CASES

30 TRANSFER REQUESTS

6 VISITATION

39 TORTURE AND MALTREATMENT

31 FREEDOM OF SPEECH

41 OTHER VIOLATIONS

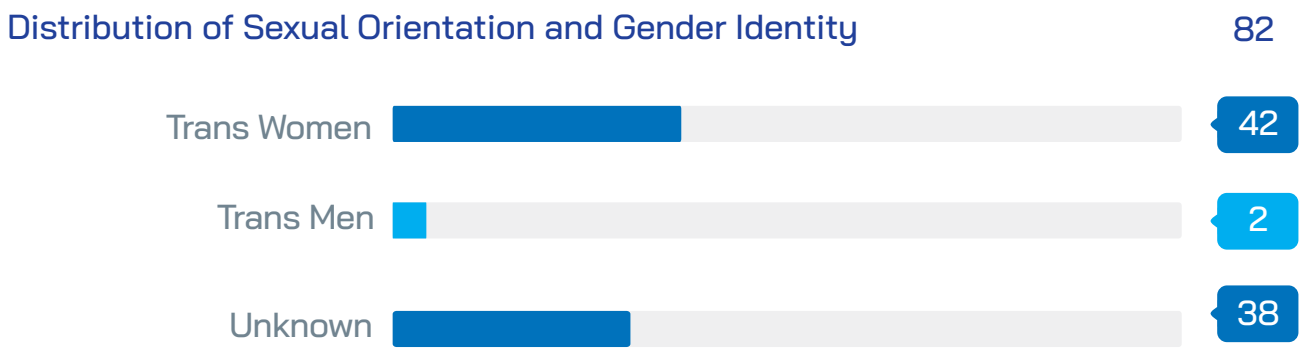
38 OTHER SPECIAL NEEDS**

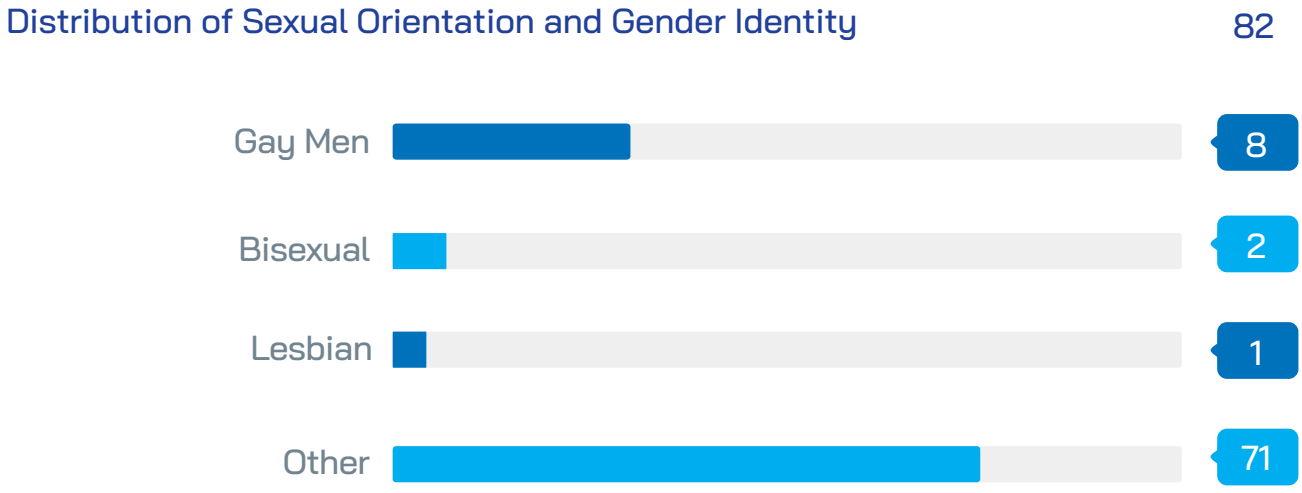
18 INNER STRUCTURE AND PROBLEMS OF PRISONS

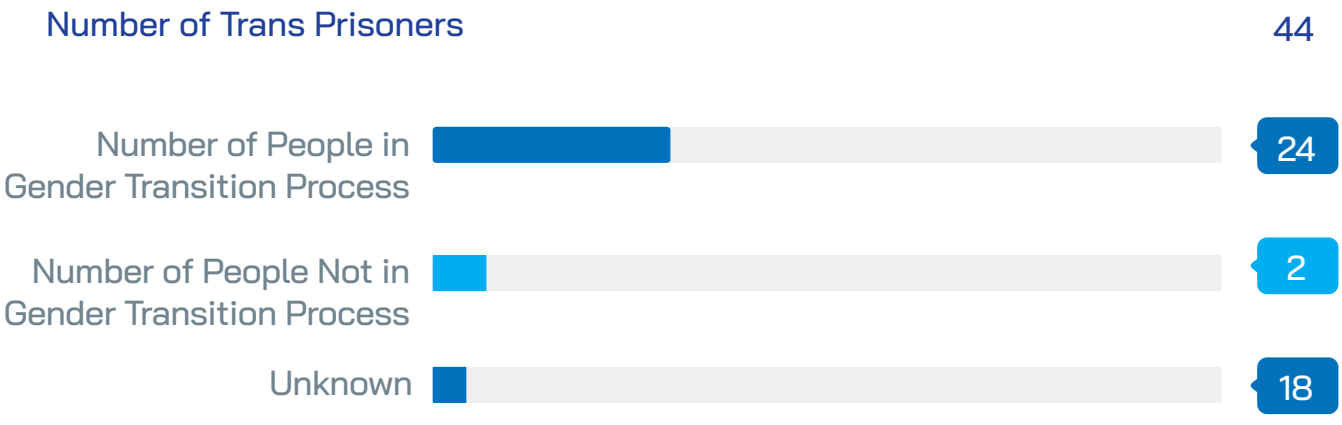
* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

LGBTİ+ Prisoners*







* All data refers to 2019.

7.4 Disabled Prisoners

Context

It is a well known fact that prisons have tough conditions for its residents and are organized below the minimum life standars of the outside world. As for that it can be stated that disabled prisoners experience these hardships twice as much profoundly. In this sense, sentences of the disabled individuals are executed in settings in which their needs and rights are disregarded.

According to a statistics presented in The Grand National Assembly of Turkey's budget talks, there were 248 disabled prisoners in prisons of Turkey by year of 2018.[69] Albeit the official numbers is 248, it is highly easy to estimate that the actual numbers is much more than that. This is because prison administrations treat disabled people by disregarding their impairment, unless these are effortlessly observable ones (loss limb, etc.) or that sensory losses such as, visual impairment or hearing loss are severe.

Outstanding Problems

Discrimination

CISST has ascertained in its sustained communication with disabled prisoners that systematic discrimination they face is the most uttered problem. Disabled individuals who have already encounter with numerous "artificial" obstacles, are among the most vulnerable ones to maltreatment and discrimination.

The first obstacle experienced by the disabled prisoners is on their way to the prison. Disabled prisoners are sent to prisons with shuttle buses compulsory for all the prisoners. Yet these shuttle buses are not convenient for meeting the needs of disabled individuals, since both the personnel is not trained on the subject and physical conditions of the shuttles buses are not arranged accordingly. Security measures taken after shuttles arrive prisons come to mean another obstacles and challenges for these prisoners. The steps to be completed in entrance of prisons (x-ray machines, retinal scan, fingerprint sensor, body search) are not designated considering the impairments of disabled prisoners. These discriminatory practices hold true not only for disabled prisoners but also for disabled visitors.

69 The statistics are taken from official report of first sitting of the meeting of Committee on Human Rights Inquiry of the Grand National Assembly dated on 14/11/2018.

Accessibility

Existence of accessibility, one of the first topics remembered in every field when disability is brought up as a subject, in prisons is highly problematic. Accessibility means the availability and attainability of every medium –real or virtual-, services, rights, goods, and facilities by everybody regardless of their physical competences. The first question sprung to mind in this respect is that whether disabled individuals who were treated as equals before the law, were incarcerated in equal conditions with other prisoners.

According to reports of disabled prisoners, prisons are far away from being accessible in terms of architectural and physical conditions. Some of the problems prisoners face are that stairs are to be found in places like wards, rooms, restrooms, infirmaries and on way to these places, the lack of tactile paving, and that bathrooms and restrooms are not designed according to needs of the disabled. Considering the occupancy rate of prisons in Turkey, inadequacies regarding the regulation of physical conditions deepen the problems experienced by disabled prisoners further. Moreoever, financially indigent disabled prisoners have trouble at access to appliances such as prosthesis, eyeglasses, hearing aid which they need due to their impairments. The only thing to access these appliances for prisoners is to write a petition. All the processes, including putting into process and keeping track of the petition, have to be conducted by the prison administration. Thereby, waiting duration to reach these appliances for prisoners is at prison administration's mercy. Therewithal, appliances procured is inadequate and cheapjack in terms of meeting the needs.

Inasmuch as the disability is experienced differently by individuals with different impairments, it implies differentiated necessities. We can infer that various needs of disabled prisoners are not met from the following instances: lack of documents, books, printed materials written with Braille; that the number of audio books are insufficient or null; that television screens is not big enough; the shortage of correction officers and medical personnel acquianted with Braille; that education of Braille and sign language is not provided either for prisoners or the personnel; that no alternative mode of communication is developed for the prisoners with hearing or speech impairment; that there was no alternative solution for the use of rights such as correspondance.

R Type Prisons

There are 2 rehabilitation (R) type prisons allegedly built by paying regard to the needs of disabled prisoners, with a total capacity of 314 prioners. According to the information acquired from the letters sent by disabled prisoners, most of the appeals demanding to be transferred to R type prisons are rejected due to the reason of capacity insufficiency. Alongside the lack of capacity, it is dubious to what extent conditions of R type prisons are accessible. Some prisoners state that various problems experienced in other prisons hold on R types as well.

Disability Allowance

Even if disabled prisoners have proper conditions, they are less likely to work than other prisoners. In this sense, if their families are financialy indigent or if they can't get support from their families, they experience serious difficulties in satifying their needs. Therefore, one of the issues which prisoners mostly ask for support from CISST is the disability allowance.[70] This is because the process of application and afterwards is long and challenging for disabled prisoners.

Disability allowance is a legal right for the disabled prisoners as well. Yet, disabled prisoners who make this already toilsome application face with various challenges. The prisoner initially must have a medical board report of disability, and for this the prison physician has to refer the patient in the first place. Nevertheless, these transfers may not be permitted due to the gratuitous decisions made by the prison physician or the prison administration. In this case, access to this allowance is hindered in the first place. On the condition that the prisoners receives the report indicating 40% or more disability rate from the medical institution; he/she is supposed to make application to registered Social Assistance and Solidarity Foundation (SYDV) with necessary documents. At this step, the residence adress of the prisoner must be the prison's he/she is staying at that time. If the residence address is on another prison he/she previously stays or on his/her dwelling house, the appeal is rejected on the ground that it must be made to the district of residence. Yet another frequently encountered problem is the prisoner's application being rejected since the financial situation of prisoner's family whom he/she is detached or gives no financial support to the prisoner, is not indigent. Moreover, due to the fact lawful authorities don't inform prisoners about procedures sufficiently, the access for some prisoners to the disability allowance almost becomes impossible.

70 Disability allowance is regulated by "Law on Enpension of Turkish Citizens Who Turned 65 Years Old, Destitute, Helpless and Forlorn" and by "Code on Enpension of Turkish Citizens Whot Turned 65 Years Old, Destitute, Helpless and Forlorn, and of Turkish Citizens Who are Disabled and Destitute"" which determines the procedures and principles regarding the allowances designated in the former.

Disabled Prisoners *

89 NUMBER OF PRISONERS CORRESPONDED

195 NUMBER OF CASES

33 TRANSFER DEMANDS

6 VISITATION

32 TORTURE AND MALTREATMENT

27 FREEDOM OF SPEECH

24 OTHER VIOLATIONS

54 OTHER SPECIAL NEEDS**

19 INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

7.5 Prisoners Sentenced to Aggravated Life Imprisonment

Context

Aggravated life imprisonment replaced the capital punishment after the latter was abrogated in 2002, and it is the heaviest sentence to which one can be condemned according to laws of Republic of Turkey. This regime of execution which was regulated with the act decreed three years later, in 2005, is exclusively anomalous among other forms of incarceration. The aggravated life imprisonment, which is "an extraordinary regime of execution" owes this hallmark to two elements: The first is that it envisages life imprisonment for those being convicted of crimes falling into the scope of Anti-Terror Law, 36 years jailtime for organized crime, and 30 years for others. The second is envision of a life which prisoners spend 23 hours of their day alone. These two elements, coming together with all other restraints, means a kind of "double punishment" as stated frequently by prisoners.

In Directorate General of Prisons and Detention Houses' dated 21.02.2014 response to CISST's appeal regarding the number of prisoners sentenced to aggravated life imprisonment in prisons of Turkey, it was stated that "there are 1453 convicted, of terror and organized 126, of other crimes 1327". Yet other appeals with similiar or different contents hereafter, has been left unanswered on the grounds that "(appeal) couldn't be realized since requested information entails a special work, research and investigation". Besides the information acquisition appeals, parliamentary questions submitted to the Ministry of Justice regarding the statistics of the prisoners sentenced to aggravated life imprisonment have been left answered as well.

The terms of the aggravated life imprisonment are specified by the Article 25 of the Law on the Execution of Penalties and Securiy Measure no. 5275 dated 13.12.2014. According to items of this article, definite rights prisoners have are following: 1 hour of going outdoors and doing exercise (in the meanwhile); 10 minutes long phone call once in 15 days only with first degree relatives; maximum 60 minutes of meeting once in 15 days only with first degree relatives. The every other right given to the prisoners sentenced to aggravated life imprisonment may be given by the prison administration on the condition of good conduct of the prisoner; and may be retrieved due to the forfeiture of good conduct, or due to the conditions of security and the institution. The prison administration is not liable of but has authority for providing these conditions.

Outstanding Problems

Isolation

Prisoners sentenced to aggravated life imprisonment spend 20-23 hours of their days in 8 square meters cells in which there is only a toilet, a mattress, and a cabinet. The prisoner may procure refrigerator, table, plastic vegetable bowl, radio and television by purchasing. It is not possible to keep any other belonging apart from that due to the magnitude of space.

There are only three places that the prisoner sentenced to aggravated life imprisonment has access during his/her execution: cell, recreation areas and visiting room. Except these, he/she can go to the infirmary in case of sickness; and go to the hospital for diagnosis and treatment if the prison physician suggests. The life of the prisoner sentenced to aggravated life imprisonment is boxed in these spaces.

Health Problems

The prisoners sentenced to aggravated life imprisonment have numerous health problems due to both aforementioned sanitary problems arising from physical conditions of wards and being incarcerated in cells up to 23 hours itself.

Because of the smallness of wards and the impossibility to move in them, numerous prisoners sentenced to aggravated life imprisonment spend most of their time sitting in their cells. Standing still up to 20-23 hours, induce semptoms like, trembling, shivering, sweltering, palpitation, as well as problems like, osteoarthritis, arthralgia, herniation of spinal disc-cervical disc, and weight gain. The course of these physical and pyschological problems incarcerated in cells is more serious than other prisoners.

The prisoners sentenced to aggravated life imprisonment feel the psychological effects of living in a severe isolation. These effects can be listed as: perceptual disorder, anxiety, depression, paranoia, psychosis, as well as thoughts of self harm and suicide.

The most touched on problems by prisoners with aggravated life sentence are perceptual disorder and cognitive disorders. According to prisoners' expression they become oversensitive to odour and sounds. Since they have no one to communicate, they can't use some of their faculties. Cognitive disorders like amnesia, concentration impairment stem from this have been uttered frequently. Eventhough there is opportunity for psychological support, many prisoners state their inexpectation from that support.

Financial Challenges and Non-working

Yet another problem which prisoners with aggravated life sentence experience due to the regime of execution is financial challenges. Considering the fact that a prisoner with aggravated life sentence has 30 years of prison term (unless remission), it is hard to imagine that any prisoner to have savings to fulfil all his/her needs. Consequently, they need a financial support to meet their basic exigences.

In the article 25 in which execution aggravated life imprisonment is specified, it was stated that the prisoner with aggravated life sentence can't be permitted to work outside the institution, and whether they could work within the institution is not designated. Eventhough there is no legal hitch for prisoners with aggravated life sentence to work within the institution, they are not able to use this right in practice.

Since the prisoners sentenced to aggravated life imprisonment are not able to work, they become financially dependent on other people. Even if some prisoners try to earn their money by selling their own made handicraft like beadwork and woolwork by favour of the administration or their relatives, income earned in return is far away from fulfilling their needs. Moreover, these kinds of jobs are questionable in terms of sustainability.

Socialization

Prisoners sentenced to aggravated life imprisonment are only able to socialize in prison yards and in social activities. Going to prison yards is realized according to the initiative of the administration with 3 people maximum, and is dependent on their statues of good conduct. Accordingly, not only this practice is not implemented in every prison and not for every prisoner sentenced to aggravated life imprisonment, but also in some cases the administration prolong the recreation hours while disallowing going out with other prisoners. Moreover, since the spaces in which prisoners sentenced to aggravated life imprisonment may socialize is limited to the prison yard, it leads to situations in which prisoners are devoid of right to socialize in case of rainy or snowy weather.

Most of the prisoners corresponded have pointed out that exercise is the only activity they are brought up, they can't benefit from any other social activities and that this has influenced them adversely. In the letters sent from diffferent prisons, it has been stated that some could benefit from right of conversation and exercise, while others couldn't. Yet in some letters prisoners expressed that while they had opportunity of attending courses in their previous prisons, they were not permitted to attend the courses due to lack of space in their current prisons. In consequence, the observation of CISST about 2019 is that large part of the prisoners are not permitted to attend any activity other than making exercise in a very limited fashion.

Communication with Outside World

Since the prisoners sentenced to aggravated life imprisonment are entitled to highly limited rights comparing to other prisoners, their communication with outside world is more restrained. Due to the regime of execution's envision of 30 years prison term, one other consequence is their day by day estrangement from the elements forming their identity, such as occupational statue, social circle, the position and role within the family. The only ways for the prisoners sentenced to aggravated life imprisonment to communicate with outside world are their visiting days and phone calls with their relatives, and correspondance with wider circle.

One of the problems most mentioned by prisoners sentenced to aggravated life imprisonment in 2019 was visitings. According to Article 11 of Code on Visitings of Detainees and Convicts; "The person who is sentenced to aggravated life imprisonment can not be visited by anybody other than his/her spouse, children, grandchildren, great grandchildren, mother, father, grandfather, grandmother, great grandmother, great grandfather, sibling, and his/her trustee." In other words prisoners can't see their close relatives like maternal aunts, paternal aunts, maternal uncles or paternal uncles; their siblings' children, spouse, grandchildren and other relatives. Moreover, the right to assign 3 visitors are not entitled to prisoners sentenced to aggravated life imprisonment, which is one of the most uttered problems of this regime of execution.

Yet another problem frequently pointed out by the prisoners corresponded is the expression found in Article 12 of Code on Visitings of Detainees and Convicts, which says that prisoners sentenced to aggravated life imprisonment are only entitled to see their visitors "one by one". It has been reported that numerous prisons put this implementation designated for closed visitings into practice for open visitings also. According to this

implementation, if more than one visitor come to the visiting for the prisoner sentenced to aggravated life imprisonment, visiting is conducted by dividing 1 hour into the number of visitors. As a consequence, the prisoner sentenced to aggravated life imprisonment can't never see his/her family as a whole again, and can't spend time with his/her whole family simultaneously.

Other prisoners' 10 minutes long phone call right once a week is restrained to every 15 days for prisoners sentenced to aggravated life imprisonment. Moreover, they are entitled to call only first-degree relatives in these phone calls.

Prisoners Sentenced to Aggravated Life Imprisonment*

- **120** NUMBER OF PRISONERS CORRESPONDED
- **266** NUMBER OF CASES
- **67** TRANSFER DEMANDS
- **24** VISITATION
- **9** TORTURE AND MALTREATMENT
- **56** FREEDOM OF SPEECH
- **46** OTHER VIOLATIONS
- **40** OTHER SPECIAL NEEDS**
- **24** INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

7.6 Student Prisoners

Context

The field of student prisoners for CISST comprises prisoners who either attend to literacy courses in the prison, common-public education or organized education.[71] Prisoners' right to resume their incomplete education in prisons is accorded by law. Illiterate prisoners are entitled to receive education in first and second level literacy courses, then in open secondary school, open high school, and open faculty in distance education system, which is a branch of common-public education; vocational high school, undergraduate, post graduate and doctorate in organized education system.

First and secondary level literacy courses are organized within the institution. In the same vein prisoners enrolled in common-public education take their examinations within the institution. The prisoners in closed prisons which are affiliated with organized education may take their examination escorted by law enforcement officers according to the university senate's judgment. As prisoners in open prisons may continue their education face-to-face within the boundaries of the district of their prisons. Prisoners are entitled to take examinations of Student Selection Examination (ÖSS), Foreign Language Exam (YDS), Academic Personnel and Postgraduate Education Entrance Exam (ALES), etc. organized by Student Selection and Placement System (ÖSYM) and the Ministry of National Education.

In the speech of Namık Kemal Varol, Assistant General Directorate of Prisons and Detention Houses, wherein Committee on Human Rights Inquiry of the Grand National Assembly[72] it was stated that 55.458 students are enrolled in common-public education, 2.792 in organized education and 329 in distance education. 45.518 of students enrolled in common-public education are in secondary and high school, while 9.940 of them are in associate degree and undergraduate programs of open education faculty. When examining the participation levels; 99.358 students take their exams for distance education secondary and high schools, 18.610 for open education exams, and 16.069 for the exams organized by ÖSYM.

Outstanding Problems

Financial Challenges

Until 12 June 2017, fees of student prisoners were being paid by the Ministry of Family, Labour and Social Services in accordance with the protocol between the Ministry of Justice and the Ministry of Family, Labour and Social Services dated on 12 June 2014. Nevertheless, with the new protocol went in effect in 2017, the decision about the payment of student fees were left to the board of trustees of Social Assistance and Solidarity Foundations of cities in which prisons are located.

71 Organized education comprises preschool, primary school, secondary school, high school and higher education provided within the physical body of institutions. As common-public education designates the other forms of education left.

72 https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2410

Therebeside, student prisoners are bereft of state scholarship right unlike other students outside. In most of the letters sent to CISST, prisoners have expressed their challenges to pay fees due to financial indigence and asked for information about which institutions they should appeal. Since the institutions found in the cities they are held, lay the condition of being born in that city, most of the prisoners can't benefit from scholarships and loans.

Access to Educational Materials

Student prisoners have difficulties for access to educational materials due to financial indigence. In previous years course books and educational supplies of students enrolled in common-public education were sent by Open Education Faculties free of charge. This implementation was rescinded with a new regulation made in 2019.

Besides the financial challenges, other problems have arised as well due to the new regulation. Course materials which are printed after being downloaded from universities' web sites are not allowed in the institutions since they don't have banderole on them. Therefore, the only possible way for prisoners to access the materials, is that the penal institutions have to download and print lecture notes for a fee.

The access to educational materials is the first and foremost condition for prisoners to continue their education on the same footing with other students. However, considering the information acquired from the correspondences, most of the prisoners either obtain these materials too late (a few days before their exams) or can't obtain at all.

Way to School and Back to Prison

In open penal institutions the way to school and back to prison is designated according to the prisoner's schedule, and the distance between the prison and the school. Since the time granted for prisoners is not calculated regarding possible hitches and traffic jam, any little tardiness may lead to disciplinary proceeding for the prisoner. Moreover, since prisons are far away from city centers and universities, and that municipalities allocate limited number of buses to remote prisons, prisoners have problems about transportation frequently and have to overspend money for taking taxi to long distances. If prisoners have hitches and problems during transportation, they have to present a document attesting this situation. If prisoners can't evidence this hitch and can't take a statement down, they are usually remanded to closed penal institutions by being sentenced to disciplinary penalty. Since the prisoner can't go to school during their incarceration in closed prison, they miss the classes and their education is adversely affected.

(Im)Possibility of Studying

Even though prisoners have access to educational materials, it is hardly possible for them to be in a surrounding suitable for studying. One of the most uttered problems in letters sent to CISST is the prison's crowded and noisy setting which is inconvenient for studying. Additionally, the large part of student prisoners has expressed that they don't have any study room or library.

Distance Education

Yet another problem is the inability to follow the lessons of distance education. Notwithstanding students have right to watch the lessons with restrained internet connection via National Judiciary Informatics System (UYAP), this is mostly on paper and most of them have no access to any computer. The prisoners who have 5-6 days of lessons in their schedule reported that they can't follow their lessons since the library is closed at weekends and fail their courses consequently. Moreover, since the access to other websites other than the ones UYAP permit are restrained, they can't benefit from internet for assignments and research properly.

To Be Enrolled in a University Found in a Different City

Prisoners held in closed prisons may take their exams escorted by law enforcements according to the decision of university senate. For prisoners to have this right the university and the prison must be in the same city. Some of the prisoners in contact with CISST inform that since they are held in prisons found in cities different from those of their universities or schools, they can't continue their education. Additionally, they informed that their demand for transfers in order to continue their education are rejected on account of overcrowding or workload. Students enrolled in universities found in a different city are obliged to terminate their education by failing their courses due to absenteeism.

Student Prisoners *

50 NUMBER OF PRISONERS CORRESPONDED

91 NUMBER OF CASES

11 TRANSFER DEMANDS

2 VISITATION

12 TORTURE AND MALTREATMENT

17 FREEDOM OF SPEECH

11 OTHER VIOLATIONS

24 OTHER SPECIAL NEEDS**

14 INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

7.7 Prisoner Workers

Context

The prison is depicted in law as the place where the penalty of "deprivation of freedom" is executed, envisages a life under reasonable life standards of outside world by definition, and prisoners can't take any money in their hands physically. Nonetheless, this doesn't downplay the importance of money within prisons; on the contrary the profoundness of this deprivation becomes varied according to income statue. In other words, the deprivation of purchasing power for prisoners amplifies the experience of deficiency.

For prisoners who do not have any chance to receive support from a family member or an acquaintance, there are a number of ways to meet their needs. They may work at jobs under Workshops Institution, or others that are demanded by the prison administration. They may get the goods needed by helping other prisoners, or they may try to barter these goods in prison canteen. Besides, in some cases women and LGBTI+ prisoners sell their handicrafts like beadwork, etc. to other prisoners and to outers.

Regarding the prison labor and prisoner workers in Turkey, forms of labor might be categorized as below:

1. **Working at jobs like cleaning, kitchen, canteen, etc. within the institution:**
   No personnel is employed at jobs like daily cleanings, tea house service, cooking and distribution of food in the prison. These are done by prisoners in the wards called "workers ward", albeit there is not any legal regulation about it. Prisoners held in these wards were not paid any "wages" in exchange for their labors. The prison administration may put a sum of money into canteen account of prisoners now and then. Yet this is not a wage, but an allowance in exchange for their good conduct and service .

   These wards are not regulated "officially" in a legal way or in any other legislation. Additionally, however labor under 18 years old is not legally possible in prisons, these wards are to be found in juvenile prisons as well. Yet prisoners, except political prisoners who are against prison labor ideologically, define being in "workers wards" as advantageous. Prisoners in the workers wards have access to different spaces of the prison through operations like garbage collection, working in the tea house, etc. even though it is under the surveillance of correction officers. Additionally, some juvenile prisoners expressed that correction officers are nice to children held in these wards, and they are on better terms with them.[73]

[73] Sağlam, D. (2019). Governing Childhood: The Juvenile Justice System in Turkey. (Unpublished graduate thesis). Boğaziçi University, Boğaziçi University Institute of Social Sciences, Sociology Department, İstanbul.

2. **Labor in Workshops Institution:**
   In closed and open prisons, the prisoner may be set to work at ateliers founded within the body of Workshops Institution whether inside or outside the prison (teahouses and parking lots of the courthouses).

3. **Labor in public sector:**
   As part of the deals between prisons and public enterprises, prisoners may be set to work within the latter. In this context cleaning works of the Offices of Chief Public Prosecutor, various military enterprises, municipalities are the main ones of this kind of labor.

4. **Labor in private sector:**
   As part of the deals between prison administrations and private corporations, prisoners in closed or open prisons may be set to work for account of these corporations. Within the scope of these deals prisoners may be set to work in various jobs, from textile to production of shoes and patties.

Workshops Institution

Even though the chief aim of the institution founded in 1997 is defined in its official documents as the decarceration of prisoners by making them to have a vocation, and as helping them to get jobs or to establish their own after the release, it must be remembered that prisoner labor produces surplus value just as any other labor. Therewithal, since the wages of prisoners in exchange for this labor is even under the minimum wage designated by the state, it must be stated that their share of the value production is even less than other workers'.

The number of prisoners set to work in Workshops was 52.836 in 2017, and 60.767 in 2019. Their allowances are daily based, and monthly paid. Therefore, these allowances must be denominated as daily wage, rather than salary.

Day Wages of Prisoners [74]

	2017	2018	2019
Master	13,00 TL	14,50 TL	17,75 TL
Journeyman	11,00 TL	12,50 TL	15,25 TL
Apprentice	10,00 TL	11,50 TL	14 TL
Trainee	6,00 TL	7,00 TL	Subsistence Allowance

[74] See: http://www.iydb.adalet.gov.tr/Resimler/BilgiBankasi/123201912826PMparasal%20s%C4%B1n%C4%B1rlar%202019.pdf

Daily Wages of Prisoners Set to Work with Protocols Regulated As Part of Public-Private Sector Cooperation

	2019
Master	44,00 TL
Journeyman	41,00 TL
Apprentice	39,00 TL
Trainee	30,00 TL

In a similar reckoning monthly wages of a trainee prisoner set to work within the public-private sector cooperation is 690 TL, of an apprentice 897 TL, a journeyman 943 TL, and a master 1,012.

In conclusion, it is remarkable how the worker prisoners are underpaid considering the monthly minimum wage was (net) 2.020,59 TL in 2019. In fact according to regulations prisoners set to work for the account of public or private sector can't be paid under the minimum wage. Nonetheless, minimum wage worth money is deposited into the account of the Workshops, yet this money is not paid to prisoners and they receive "the wage designated by High Commission" like workers set to work within Workshops Institution.

Insurances of Prisoner Workers

Since the prison labor is not based on labor contract, insurances of worker prisoners are regulated in Article 5 Item A of Social Security and General Health Insurance Law no. 5510. Concordantly, the insurance benefit that the prisoners have, only covers work accidents, occupational diseases and maternity insurance.[75]

Since long term premiums are not paid for prisoners, they may have voluntary insurance by paying their own premiums. Nonetheless, considering the low wages they receive, it is not possible for any prisoner to pay these premiums without any outside support.[76]

Work Safety and Worker Health in Prisons

Prison labor are among the exceptions in Occupational Health and Safety Law no. 6331. In the Article 2 item d of the law it is stated that provisions of this law will not be applicable to "prison workshop, training, security, and vocational course activities within the framework of improvements carried out throughout the enforcement services for convicts and inmates". [77]

Prisoners work in numerous jobs at large scale and different levels of risks. In this sense it is a serious problem that work safety of prisoners are not covered within this law.

75 https://www.resmigazete.gov.tr/eskiler/2006/06/20060616-1.htm

76 Koç, T. (2016). Türkiye'de İşçi Mahpus Olmak, İstanbul: TCPS Kitaplığı

77 http://hseturkey.com.tr/sites/default/files/6331eng.pdf

7.8 Foreign Prisoners

Context

CISST's works on the thematic field of the Foreigner in Prison, subsumes all the prisoners, including stateless people, who are not citizens of Republic of Turkey. Laws to which foreign nationals are subjected may vary. These differences may occur in enjoyment of visiting rights and in transfers to open prison, may come to mean that foreign prisoners have additional rights and obligations due to interstate agreements as well. Furthermore, foreign prisoners have right to inform official emissaries of their states when they are put into prison or transferred to other prisons.

Foreign prisoner population is concentrated on certain prisons, and foreign prisoners in the same prisons are held in the same ward. The information of which prisons are these, was not shared with CISST. In the official report, dated 06.02.2020, of parliamentary commission published in consequence of monitoring of Diyarbakır Penal Institution, it was stated that a new prison in Ankara would be reserved for foreign prisoners only.[78]

According to statistics presented in 14.11.2018 dated parliamentary minute, there are 7897 prisoners from 120 different countries, 3102 of which are Syrians.[79] The total number was only 1880 in 2009. The number of foreign prisoners was 4704 in 2017 February, 5932 November of the same year.[80] There were only 4 foreign national juvenile prisoners in 2009, this number increased to 169 in 2017 November.[81]

CISST corresponded with 82 foreign national prisoners, filed 278 human right appeals for them and kept track of these appeals. Moreover, it has contacted with 222 foreign national prisoners and filed 838 appeals since 2015.

Legal Changes in 2018-2019

Foreign national or stateless prisoners are subject to different laws in respect to rights of visiting, phone call, etc. In some cases laws in effect for everyone may lead to right violations for foreign prisoners. While other prisoners enjoy the right of visits by giving the list of their visitors to the administration, until 2018 foreign prisoners had enjoyed this right with the special permit from the Office of Chief Public Prosecutor if he/she is a non-political prisoner, from the Ministry of Justice if he/she is a political prisoner. With the rearrangement taken effect in December 2018, both non-political and political prisoners begin to enjoy the right of visits from family and three friends through appeal to the Office of Chief Public Prosecutor, and the ones applied once are able to receive their visitor cards.[82] This rearrangement make the enjoyment of

78 https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2500

79 These statistics are submitted during the presentation of Directorate General of Prisons and Detention Houses to Committee on Human Rights Inquiry of the Grand National Assembly on 14 November 2018. The deputies attended the meeting, shared the presentation with CISST via e-mail.

80 A member of Committee on Human Rights Inquiry shared the response to his/her parliamentary question with CISST via e-mail.

81 These statistics are submitted during the presentation of Directorate General of Prisons and Detention Houses to Committee on Human Rights Inquiry of the Grand National Assembly on 14 November 2018. The deputies attended the meeting, shared the presentation with CISST via e-mail.

82 http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2018/12/20181205.htm&main=http://www.resmigazete.gov.tr/eskiler/2018/12/20181205.htm

visiting right easier. Nonetheless, due to the requisite of approval of phone numbers by the consulate, and communicational setback with the consulate in the process of delivery of affinity certificates, many prisoners can't enjoy the right of meeting. According to parliamentary minute dated November 2018 there were 3102 Syrian prisoners, and none of Syrian prisoners contacted with CISST could reach official emissaries of Syria for approval of their phone numbers and affinity certificates.

2019 dated adjudicature the Council of State about discrimination is an important one. According to Code on Transfer to Open Penal Institutions, citizens of Turkey in case of being sentenced to a term less than 10 years, could be transferred to open prisons after they are held in a closed penal institution for a month. Though the same was the case for foreign prisoners if and only if the prison terms go down below 3 years. The Council of State adjudge that this difference is contradictory to the principle of equality before the law and abrogated this expression.

Experts of CISST received unconfirmed information that in some prisons foreign national prisoners started to use video talk with their families in 2019, but that implementation was practiced as a "reward" not as a right.

Outstanding Problems

Differences of Language, Religion and Culture

Due to language barrier, foreign national prisoners have difficulties in following areas: to find lawyer, to reach the tutelar, to be informed about mechanisms of complaints and about their rights, and to write petitions. To correspond in native language usually bring along various problems such as, the delay or hinderance of letters, and to be asked for translation fee. To reach periodical or non-periodical publications in their native language, translation fee is asked for as well. Prisoners can't reach any TV channel in their native languages. With the confiscation of radios with longwave, the only way to reach foreign radio stations had been taken away.

The most important problem experienced by prisoners in regard to access to health is that they can't express their medical problems in examinations adequately, and can't benefit from psychological support due to lack of interpreter.

It is not unusual that foreign prisoners receive disciplinary penalties due to the ill-communication between prison personnel and prisoners. Only way for prisoners to enjoy the right to conversation in full measure is to come across with another foreign prisoners talking the same language. There are many prisoners who enroll on Turkish courses and learn Turkish as to express their needs and to establish social bonds due to the lack of interpreter. Foreign national prisoners don't have right to maintain their cultures. They are not able to celebrate their cultural or religious special days, as well as they don't have access to music in their own language. Some foreign prisoners informed CISST that they converted to Islam since they think it is a necessity for receiving support from institutions or individuals.

Right of Phone Call/Meeting

According to communication between CISST and prisoners in 2019 it can be stated that none of the foreign prisoners are able to communicate with their family on a regular basis, and there is a considerable number of prisoners who haven't carry out any meeting at all. Phone call, which is the only useable means for foreign prisoners couldn't be used by numerous foreign prisoners due to high tariff of fares.[83]

Financial Situation

Most of the prisoners informed that since their families are abroad, they couldn't receive any financial support, and the ones could have troubles at money transfers. Routine practice is carried out through official post offices, but in some prisons with IBAN numbers direct money transfer to these accounts is also possible.

Transfer

As well as the prolonged processes of transfers, it isn't possible being transferred to countries which doesn't have any protocol with Turkey. In 2019 foreign prisoners mostly asked CISST for being informed about transfer processes, and for the most part the underlying reason for these demands is to see their families.

Lawyer and Tutelar Problems

Foreign prisoners informed that appointed lawyers for them are indifferent to their problems and cases. Furthermore, tutelars are appointed automatically to foreign prisoners, and prisoners can't mostly reach these tutelars. Since they mostly are not acquainted with anyone to choose as a tutelage, they have difficulties in that matter.

Consulates

CISST files appeals to consulates and embassies for foreign national prisoners. Consulates or embassies have some responsibilities for the prisoner's enjoyment of visiting and phone call rights, and in case of the prisoner's demand for being transferred. In case of request they are liable to present affinity certificates, identity registers to relevant authorities, to approve phone numbers, and to deliver official correspondences between two states in case of transfer. Most of the foreign national prisoners are exposed to right violations due to bureaucratic barriers between the consulate/embassy and the Ministry of Justice. Most of the problems experienced in 2019 due to consulate/embassy's not responding to appeals, and even the lack of a working institution at all. Furthermore, there is no possible authority for taking action against consulates and embassies.

While some consulates and embassies provide support for clothing, financial support, legal support and consultancy, the others meet only the minimum legal obligations. CISST has filed 22 appeals to 5 consulates and 3 embassies during 2019.

82 Charges for phone cards are 5 TL for 55 minutes to cellphones, 5 TL for 65 minutes to fixed lines. Fees are seriosly different from country to country. Calling Spain from Turkey for 16 minutes costs 5 TL, while Turkey-Syria for 5 minutes costs 5 TL. While foreign national prisoners could make calls 76.5 minutes for 5 TL, with the new fees the duration decreased to 55 to 65 minutes in 2019. See: http://www.ttmkart.com.tr/index.php?sayfa=tarife"

Positive Developments

CISST has been informed in December 2019 that almost 100 foreign national prisoners had been set to work without wages and insurances. Despite there is no information about the duration of this implementation, it has been ceased with CISST's appeal.

In September 2019 a foreign national woman prisoner has informed CISST that she was subjected to violence, and she has been sentenced to disciplinary penalty without having any chance of verbally defending herself. Moreover, she was sent to closed prison since her objection was rejected. As a result of CISST's appeal, the prosecution office conducted an investigation, requested the examination of video footages, and transferred the woman to another open prison. Even though the investigation has not been eventuated yet, it is a positive development that the case was not covered. Furthermore, as a result of CISST's appeals phone numbers of two prisoners were approved and they begin to meet with their families via phone.

Foreign Prisoners *

- 83 — NUMBER OF PRISONERS CORRESPONDED
- 106 — NUMBER OF CASES
- 18 — TRANSFER DEMANDS
- 6 — VISITATION
- 12 — TORTURE AND MALTREATMENT
- 16 — FREEDOM OF SPEECH
- 15 — OTHER VIOLATIONS
- 31 — OTHER SPECIAL NEEDS**
- 8 — INNER STRUCTURE AND PROBLEMS OF PRISONS

* All data refers to 2019.

** Multiple problems experienced by groups of prisoners with more than one special need.

Conclusion

This report has been prepared in order to assess the current state and human rights conditions of prisons in Turkey in 2019. In the first part, the change in the regime of execution through years and the historical periods setting grounds for the current state of prisons have been delibareted, thus the outstanding right violations and conditions of prisons in 2019 have been assessed.

To sum up this change and transformation the first thing to advert is the transition from wards for 50-60 people in 70's to small ward system for "security" reasons. Ward types which are still in use were formed with this system. In 2004 with the law amendment, the new criminal code which directly redounded on crime categories and prison sentences entered in the force, and the principles like "rehabilitation of prisoners" came to the forefront. The prisoner population had escalated rapidly between the period 2005 and 2015, and the increased population were above the world average in years of 2016, 2017, 2018.

In 2019, effects of this transformation were observed in prisons of Turkey as well. Especially, with increasing detainments aftermath "the coup d'etat attempt" taken place on July 2016, the prisoner population continued to escalate, and the prisoner population in Turkey went beyond the world average in years of 2016, 2017, 2018. Within that period due to rearrangments in prisons and wards in order to increase the existing capacity, the way for various rights violations was paved with the limitation of prisoners' living areas. After "the coup d'etat attempt", State of Emergency was declared and with Decree Laws restraining the rights of prisoners, the letters of prisoners had been confiscated and lawyer visits were restrained. Since prisoners couldn't inform about right violations they experience, mechanisms of legal remedies became nonfunctional.

In addition to rearrangements in order to increase the prison capacity, new prison settlements have been built in remote places outside the city centers. Prisoners and their relatives have been affected adversely due to this development. Furthermore, new prisons couldn't provide the setting which would look after the rights of prisoners and fulfill their needs as well; problems of hygiene, food and heating have abided. Therewithal, prisoners have been transferred compulsorily, been exposed to naked search, been restrained in regard to freedom of speech, couldn't attend ateliers and activities, been frequently exposed to ward searches, to pyschological and physical violence. When prisoners intended to make complaints about these violations, they were threatened with disciplinary punishments, and this practice have been used as an additional method of punishment.

The personnel and equipment shortage in prison infirmaries have constituted an impedement regarding treatments of prisoners. Prisoners with health problems whose treatment couldn't be administred in infirmaries, have experienced numerous problems regarding the access to diagnosis and treatment in shuttle buses, in hospitals' waiting rooms, and in prisoner wards during transfers.

In the second part of the report, the problems and right violations experienced by groups denominated within CISST as prisoners with special needs -juvenile, woman, LGBTI+, disabled, sentenced to aggravated life imprisonment, worker, and foreign national- have been discussed.