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HUMAN RIGHTS ASSOCIATION
DIYARBAKIR BRANCH



DIYARBAKIR BAR ASSOCIATION

INCIDENTS of TORTURE and ILL-TREATMENT in ÇINAR (Disrict), DİYARBAKIR

INVESTIGATION REPORT

19 DECEMBER 2019
HRA Diyarbakir Branch / DİYARBAKIR Bar Association

CONTENTS

- FORMATION OF THE COMMITTEE and THE INCIDENT
- COMMITTEE'S STUDIES in the VILLAGE of ÇAKIRTUTMAZ (MISÊRÎKÊ)
- COMMITTEE'S STUDIES in the VILLAGE of KILIÇKAYA (KERRIK)
- EVALUATIONS and OPPINIONS of the COMMITTEE
- CONCLUSION and RECOMMENDATIONS

The FORMATION of the COMMITTEE and the INCIDENT

On 8 December 2019, 20 people were detained during raids performed by Diyarbakır Provincial Gendarmerie Command teams in Kayapınar, Bağlar and Çınar districts of Diyarbakır. The press claims that the detained citizens were subjected to torture and ill-treatment during the house search in Çakirtutmaz (Misêrikê) and Kılıçkaya (Kerrik) of Çınar.¹

When the allegations that the citizens were subjected to torture and ill-treatment during the operation reached to our association, HRA's Diyarbakır Branch Board Members went to the village of Kılıçkaya and made investigations and observations. Our manager was threatened and mistreated by security forces during the study.

R.Ç., who applied to the HRA Diyarbakır Branch on 09.12.2019, made the following statements:

“On 08.12.2019, a large number of soldiers and policemen came to our village at about six o'clock in the morning. They came by nearly 10 armoured vehicles and many private vehicles. My home is very close to the homes of my brothers, Recep and Ibrahim. So I went out of the house upon hearing the noises. They raided the homes of my two brothers at the same time. Recep was not at home. His son Lokman and his wife Nuriye were at home. Soldiers and police officers broke into my brother's house. In the meantime, my nephew Lokman and my sister-in-law Nuriye were pushed around. They laid them down and kicked them. They handcuffed my nephew behind the back. There was a lot of shouting in the house. The police officers said, "Your father is helping the PKK, you know everything. Tell us." Whenever my nephew said he didn't know anything, they hit and swore at him. Their voices could be heard from outside. My other brother's house was also very close. They took my brother İbrahim to the barn in front of their house. They tortured him there. My brother was screaming in pain. When I didn't leave the barn, a soldier pointed his gun at me and threatened to shoot me. So I told them to stop torturing my brother or I would not go anywhere. However, they didn't leave my brother. My brother was tortured in the barn for about 6 hours. They didn't take him out. Most of the police had TEM vests on them (t/n: TEM: abbreviation of Anti-Terror Team). People in the village came to our homes. They reacted to the torture of the police and soldiers. So they ended the torture. My brother Recep was working in Dört Yol, Hatay at the time. They took him into custody around 10:00 yesterday. All these actions are against the law. I don't know why they tortured us like that. My two brothers and my nephew Lokman are currently in custody. I'm worried about their health. I ask your association to take all necessary actions and file a criminal complaint.”

After visiting his/her client that is in custody, A.E, a lawyer, gave the following statement: *“During my first meeting with the client², he/she was brought to the custody room accompanied by police officers holding his/her arms because he/she was unable to walk. He/she had been treated in the hospital for two nights. There were wounds on many parts of his/her body. He/she said he/she had a broken rib because of the torture. On the prescription, that was mentioned also. He/She stated that he/she had been subjected to police torture for about 5-6 hours. This situation was determined by the doctor during the forensic examination.*

¹ The web link mentioning the allegations:

<http://www.mezopotamyaajansi22.com/search/content/view/79103?page=2&key=f510eac1457143c4b094bb03dacc6f5?page=1&key=f510eac1457143c4b094bba03dacc6f5>
<https://www.gazeteduvar.com.tr/gundem/2019/12/08/diyarbakirda-gozaltinda-iskence-iddiasi/>

² The first meeting was held on 10 December 2019 and the visits continued every day until 17 December except for 16 December.

The police continued torture laying him/her in mud. And they swore at him/her saying 'You are a pig and pigs like mud' and many other heavy swearwords."

The defendant of L.Ç, who was detained in Kılıçkaya village, made the following statements to our committee: *"I had an interview with L.Ç. on the day of the incident, after my client was brought to the anti-terror department. When he/she was brought to the interview room, he/she was limping due to the pain on his/her left leg, and the client was still in shock. L.Ç stated that the pain caused by the torture and battering has not stopped, especially the pain on his/her left hip and left ankle. After the interview, with the consent of the person, his/her clothes were removed and there were serious wounds, bruises and swelling on the left arm, left hip and left foot. When asked about these scars, he/she stated that he/she had been tortured by law enforcement officers in front of his/her mother's eyes for a long time while being detained in his/her residence in the village. L.Ç also stated that the police had not found anything that could be considered as a weapon. L.Ç. requested an ambulance because of the pain. Upon this request, an ambulance was called in consultation with the law enforcement officers in charge. L.Ç was not transferred to a hospital but got treatment by the paramedics. That is all I can say about my client L.Ç. We have filed a criminal complaint to the Prosecutor's Office over these claims."*

The lawyer of İ.Ç, who was detained in Kılıçkaya, gave the following statement to our committee: *"I had an interview with İ.Ç on the day of the incident and he/she was tired and exhausted when he/she was taken to the interview room. He/She still had difficulty breathing, and there were visible scars on his/her face. During the interview with the detainee; İ.Ç stated that his/her pain still persisted due to torture and beatings on his/her body and that his/her chest hurt too much. During the interview, the clothes were removed with the consent of the person and it was found that there were serious wounds, bruising and swelling especially on the back. When asked about these scars, the person stated that he/she had been subjected to torture by law enforcement officers for hours when he/she was detained in the village and that these tortures continued until he/she left the village despite being under custody legally. He/She requested that an ambulance be called as he/she could not continue the interview for any longer because of his/her pain. Ambulance was called in consultation with law enforcement officers on duty. It was deemed appropriate to refer the patient to the hospital at that time. That is all I can say for now and I have filed a criminal complaint with the Prosecutor's Office about the suspects."*

Upon reaching serious findings that the citizens were subjected to torture and ill-treatment during the military operation, a delegation was formed with the decision of the HRA Diyarbakır Branch Board of Directors, and on Wednesday, 11 December 2019, they conducted investigations in both villages. Committee was composed of

Yüksel Aslan Acer, HRA Diyarbakır Branch Secretary
Hasan Yalçın, Lawyer, HRA Diyarbakır Branch Board Member
Gurbet Yavuz, Lawyer, HRA Diyarbakır Branch Board Member
Ezgi Sıla Demir, HRA Diyarbakır Branch Board Member

The delegation observed the physical destruction of the houses that had been raided, and made face-to-face interviews with the victims and their relatives regarding the allegations of torture and referred to the witness.

The COMMITTEE'S STUDIES in ÇAKIRTUTMAZ (MİSÊRÎKÊ)

The interviews, conducted with the family members and persons who witnessed the incident during the military operation and house raids in Çakirtutmaz (Misêrîkê) Village on 8 December 2019, revealed the following common points:

- * *The law enforcement officers raided their homes in the morning,*
- * *Everyone, including women and children, were taken out of their residence,*
- * *They were forced to keep their hands in the air for a very long time agonizingly during the search,*
- * *One of the law enforcement officers has sexually harassed women at a young age,*
- * *They set dogs on the two persons who were detained at home, kicked them on their backs and punched them, and then the persons, handcuffed behind the back, were pushed in the cars.*

The committee also found out the following:

- ❖ K.E., A.E., B.E., H. E, and D.E. were detained in the early hours of the morning and 4 people were kept in the custody of anti-terror department of Diyarbakır Provincial Security Directorate, except for the person who was a child. Two of the detainees were taken into custody from their residents while the other 3 were detained from the fields.
- ❖ According to the statements submitted by the family; the clothes of each 3 persons taken into custody from the field were muddy and clean clothes were requested from the family by the law enforcement officers before taking them to the detention centre.
- ❖ Until the end of the operation carried out by law enforcement officers, the family members were prevented from feeding their sheep and goats.
- ❖ One of the people who was attacked by a dog and taken into custody after being subjected to severe physical violence is 50% disabled.
- ❖ During the interviews, it was observed that the family had not recovered from the shock of the incident, and were still worried. As a result, they avoided to give further details about the event.



The damaged frontage of a house in Çakirtutmaz after raids.



Inside of a house in Çakirtutmaz after house raids

COMMITTEE'S STUDIES in KILIÇKAYA (KERRİK)

The interviews, conducted with the family members and persons who witnessed the incident during the military operation and house raids in Kılıçkaya³ (Kerrik) Village on 8 December 2019, revealed the following common points:

³ Kılıçkaya Village is in Çınar District of Diyarbakır. It is 36 kms from Çınar, and 22 kms from. According to the villagers' statements, the village consists of approximately 70 houses and makes a living by livestock and partly agriculture. Due to its proximity to Karacadağ, Kılıçkaya village has a rugged terrain.

The committee, formed by our Association to investigate the allegations of torture and ill-treatment and to prepare reports, visited the Çiftçi family, residing in Kılıçkaya, on 11/12/2019. A total of 3 people from the Çiftçi family were detained, 2 living in the village and 1 in Dörtyol (Hatay Province).

❖ **WITNESSINGS ABOUT L.Ç., THE TORTURE VICTIM**

L.Ç.'s mother gave the following statement to our committee: *They raided the house very early in the morning. They knocked on the door and got me on the floor as soon as I opened it. They had hit the door with a sledgehammer. They hit me and my son's head. They punched my son over and over again. They threw him onto the walls. I wish they hadn't beaten my son in front of me, but they'd done anything else they wanted. There were many soldiers. Two people in balaclava beat up my son. They asked "Where's your father's gun" When my son said, "My father has no gun," they continued to beat him. I begged them to stop but this time they asked me where the gun was, and they kept me on the floor for half an hour stepping on my head. They have persecuted us a lot. May Allah persecute them. I thought they were going to kill my son. They beat him for hours. While two of them beat my son, others searched the house. They were violent. They weren't human. That's how they treated my son. My son is a weak, calm, 20-21year old boy. I had 2-3 thousand liras, and all was stolen. There was no one for help until the sunrise. Even the mukhtar (village headman) did not turn up. They lasted almost 2-3 hours. Some other villagers started to turn up. They tortured Lokman from 06:00 to 09:00. They took him to the car at 9:00. They kicked him with their boots. "I'm tired, you beat," they said to each other. "My child is sick and weak; what are you doing; you will kill him" I cried, but they continued. I said, "Why are you doing this. I am an old woman", but they shouted "Stop speaking, woman!" They handcuffed my son. They crushed my son's naked feet with their boots. They were speaking in Turkish. I did not understand most of what they said. The only thing I understood was "Take out the guns, hand in them to us!" They kept asking whenever I said I did not know. Lokman was unable to stand, and was yelling. He was screaming. They messed up the house and littered everything around. When I was forced to lie on the floor for half an hour, they kept crushing my head with their boots. "Don't move, we kill your son," they said. His uncle took his arm. They put his shoes on. He was too fatigued too put on his shoe himself. They offered Lokman money. They said they could offer any kind of help or something if he helps them. They kept talking in a separate room.*

L.Ç.'s uncle stated the following: *I heard voices, and I went for help. I heard screams. They ordered me to lie down, but I didn't. They pointed guns at me and shouted. I asked what they were doing. We had a quarrel and they did not let me in. I waited till the sunrise. They took out my nephew at about 9.00. One of them was holding his arm and he was handcuffed behind the back. There were marks on his body. I think they did not hit him in the face on purpose. They kept him in an armoured vehicle. I had been there since 6.00. They took him away at around 13.00. They had been waiting for my other elder brother before leaving. He wasn't able to walk, he was exhausted. "*



The street door to L.Ç's house



A room door in L.Ç's house

❖ WITNESSINGS ABOUT İ.Ç., THE TORTURE VICTIM

İ.Ç.'s wife gave the following statement: *"It was me that opened the door first. My daughter said "There are police around". I opened the door before they knocked. Three people hit me. They asked about my husband. I said, "At home." They put my hands on the car. They gathered women aside. They started beating my son. We all tried to approach him, but they didn't allow us to protect him. They got him on the floor, and handcuffed my son. Then my husband came to help, but they began to beat him. When one of my daughters went to pick up his little brother who was sleeping inside, they pointed the gun and said, "We'll shoot you,"*

and stopped her. They took the kid out. They said to each other, "Shoot and kill the child! Show no mercy!" My baby is 5 years old. Then I took my daughter near me. "

İ.Ç's daughter's statement: *"My father and brother stayed outside. They didn't have shoes, I wanted to help them get dressed and they pushed me and pushed me against the wall. Then they got me in and locked me in a room. I asked why they had come, but they did not answer. They waited inside for a few hours, but they wouldn't let us open the curtain. I went out to fetch wood, but actually to see my father. We knew they were beating up my father, his clothes were muddy. We asked about the mud. They said my dad was digging a hole. "What is that hole for?" we asked. They did not reply. We had a quarrel. We saw this much. They searched the house with the dogs. It was in the morning. It was dawn. They tortured my father in the barn. The real torture was there. We could hear voices. They didn't let anyone in. We could hear them kicking, slapping swearing"*

İ.Ç's sister made the following statement to our committee: *"What are you doing to my brother?" I asked them and they did not allow me in and pointed their guns at me. However, we could hear voices. My mother saw it. She said he was not able to stand. They tortured him for about 2.5 hours. It was cold, and they didn't let him wear a coat.*

İ.Ç's brother (t/n: or sister) A.Ç made the following statements to our committee: *"My sister was crying in the courtyard, saying they had been torturing him for 2 hours and she can't stand it. I shouted from the yard at that time. It was around 12 o'clock, "You've been torturing for 6-7 hours," I reacted. I said, "Who is the man in charge? What are you doing? Did you come to torture these people or search for a house?" When the villagers started to react, they said they weren't torturing. After a while they pushed us away from the area and put them in the car. One of the SWAT officers reacted violently by grabbing the arm of the lawyer who came to the village to inquire the status of the detainees, and said to him, "You are the one encouraging and organizing the villagers. After the villagers complained, they gave up disturbing the lawyer.*

A neighbour stated the following on condition of anonymity for security concerns: *Upon hearing some noises and cries, I headed towards that direction. İ.Ç. was on the roof.⁴ They were beating him. We tried to go, they point the guns at our chests. I tried to go three times and they didn't let me. "Oy bavo oy bavo (t/n: expression of pain in the Kurdish language" he was crying and moaning. And there was the sound of whipping. I can't tell you hours, but it took a long time. They held him there. It was on the roof."*

A neighbour who didn't want to give his/her name for security concerns made the following statements to our committee: *"Two people were holding his arms and one of them was kicking his head and back from behind. "Why are you looking at us, go away from here" said those men and chased us away from the scene. They were beating him up too violently. We could hear cries and moaning, very loud ones. The soldiers outside were trying to suppress the moaning with their laughter. They wanted to prevent us from hearing. Four or five times, they got him inside and outside and then beat him."*

⁴ A jerry-built barn made of tent canvas.



The barn where İ.Ç. was claimed to have been tortured.



The interior of the barn where İ.Ç. was reportedly tortured.

EVALUATIONS AND OPINIONS OF THE COMMITTEE

Following the allegations that the citizens had been tortured during the operations and house searches conducted on 8 December 2019 in Çınar district, our committee reached the following findings as a result of the investigations carried out at the scene.

1. As a result of the interviews conducted in Çakırtutmaz and Kılıçkaya villages, the impressions of the complainants' lawyers, the medical reports, and the consistent statements made during the interviews, it seemed quite convincing that the detainees had been subjected to torture for long hours in their village.
2. In the operation carried out by the security forces, it was determined during the interviews that the armoured vehicles were deployed and driven around very early in the morning by the security forces in both villages in a way that would cause uneasiness and discomfort to the citizens living in the villages.
3. The persons detained in the both villages in the early hours of the morning were kept waiting in the village for a long period of time, and it was found out from the interviews that they were referred to hospital very late. The right to health of persons allegedly tortured were violated for a long time.
4. The right to legal assistance of the detainees was denied and it was found that the lawyer was not allowed to contact his clients and to see the search warrant on the grounds that the operation was continuing. Therefore, in conclusion, the access to justice was forcibly hindered.

CONCLUSION AND RECOMMENDATIONS

1. As is known, the second paragraph of Article 2 of the UN Convention against Torture, also signed by Turkey, reads: "*No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*" In other words, whatever charge is made against a person, they cannot be subjected to torture or ill-treatment. Prohibition of torture is in effect, which is mentioned and identified in international conventions, declarations and agreements as well as in domestic law (Constitution (Article 17), Turkish Penal Code (Article 94)).
2. According to the principles of the Istanbul Protocol, allegations of torture should be investigated promptly, effectively and impartially, by independent committees, and each stage of judicial proceedings must be made in accordance with international ethical and legal rules. Besides, those exposed to torture so far have the right to claim "compensation for damages and loss" in accordance with international conventions and documents, which are ratified by Turkey, and the Government is obliged to ensure

the fulfilment of those rights. Irrespective of the identification, arrest, prosecution or conviction of perpetrators of torture, each victim has the right to “redress” which encompasses the concepts of “effective remedy” and “reparation.”

3. Taking into consideration the aforementioned conventions and articles of law, we demand that a crime scene investigation be conducted for the allegations of the torture and ill-treatment practices in the villages of Çakırtmaz and Kılıçkaya, accompanied by the competent authorities and organs; that victims and witnesses be interviewed; that CCTV footage showing the victims’ arrival at and departure from detention centres be collected and kept as evidence; and that medical examinations and treatments of victims be effectively carried out. We would also like to remind that one of the victims was a disabled person and another was a child, so we urgently demand that public prosecutions be initiated by launching investigations against officials who committed and/or condoned torture. We also request that the law enforcement officer (s) involved in the torture act and who are possible suspects of an investigation should be suspended from office, and that the investigations should be carried out by a different law enforcement unit.