

THE OCALAN CASE: SIX YEARS OF ISOLATION, SIX YEARS OF TORTURE

A LITMUS TEST OF THE HUMAN RIGHTS POLICY IN TURKEY AND EUROPE

INTRODUCTION

On February 15, 1999 Abdullah Ocalan was kidnapped on his way from the Greek embassy in Nairobi (Kenya) to the airport. He was tied up and brought to Turkey aboard the aircraft of a Turkish businessman. This was an act of piracy, which put an end to a week-long odyssey between Damascus, Moscow, Amsterdam, Rome and Athens – hardly a convincing chapter in the European book of law.

It is now known that the abduction was accomplished through collaboration between the secret services of Turkey, the US and Israel. It is irrelevant that the Kenyan government was informed about the kidnapping and approved of it tacitly – the penal codes of all countries concerned regard kidnapping as a deprivation of liberty which is liable to prosecution. Since February 16, 1999 Abdullah Ocalan has been kept prisoner on the Turkish prison island of Imrali. His state of health is highly unsound, prompting concern for his life. The anti-torture committee of the European Council has also requested that Ocalan's solitary confinement is ended. Turkey, however, refuses to comply with these demands.

TORTURE

According to the UN anti-torture convention, torture is the infliction of excruciating physical or psychological pain for such reasons as punishment, intimidation, coercion, the extraction of a confession or the obtaining of information.

The European anti-torture convention, which came into effect on June 26, 1987, is based on the UN convention and to a large extent identical with it. However, these conventions do not cover pain and suffering as a result of permissible measures by the authorities, and their vague wording again and again provides opportunities for the authorities to interpret them to their own benefit. This is also the case concerning overlong solitary confinement.

SENSORY DEPRIVATION

When people are kept in isolation, information input via the senses (e.g., hearing and sight) is disrupted or reduced. Deprivation can be best described as some kind of withdrawal. We can differentiate between sensory, emotional and communication deprivation.

Social or communication deprivation suggests the removal of social contacts, such as persons to talk to or to cooperate with. Emotional deprivation, however, means to prevent somebody's access to people he can trust. It means refusing a person to be able to feel any closeness to another person, thus denying a biological human need. Many official systems use sanctions as described above, such as deliberately isolating prisoners from their community or society.

SOLITARY CONFINEMENT

There are a number of possibly legitimate reasons for isolating a prisoner from society. Among them are the need for public safety, the punishment of violations, or the obtainment of information in the course of interrogations. Renowned human rights organisations, however, have established that there has been a worldwide increase in coercive measures by authorities

against opposition groups, which are persecuted in their countries against a background of ethnic, social or other internal conflicts.

Solitary confinement itself is an old form of punishment. It was only in 1821, however, that it was made part of a scientific concept for the first time, when the Eastern State Penitentiary was built in Philadelphia. There, the prisoners experienced severest isolation. They were not permitted to work. Priests were the only visitors allowed. Silence was strictly enforced at all times, and at night the prisoners were confined in individual cells. They received severe physical punishment for any violation of regulations. From an architectural point of view, the penitentiary was designed for complete supervision. Its crucial component was a circular central building, which made optimum supervision possible. This concept or model spread very quickly through Europe, Asia, and South America.

SOLITARY CONFINEMENT AS TORTURE

Subsequently, psychiatric theory, using insights gleaned from deprivation research, began to influence the development of a “modern” penal system to control unmanageable inmates. In the 1960s, the US developed a 24 page psychological program intended to change the behaviour of offenders. The program centred around isolation cells, which greatly reduced information input via the senses. The SFB 115 research program at the Department for Psychiatry and Neurology at the University of Hamburg exceeded even that, establishing that both complete sensory deprivation and a controlled reduction of sensory input had an unfavourable effect on the human body within a very short period of time. Among the symptoms observed were poor concentration, hallucinations, circulation and breathing difficulties and even the dissolution of red blood corpuscles. This regime drew protests from human rights activists, who called this kind of treatment “white torture” aimed at destroying the offender’s personality. The argument applies today in the Ocalan case. Forms of “white torture” like sleep deprivation, constant noise, enforced silence, permanent monitoring of the behaviour by cameras, a ban on physical contact, and a deliberate reduction of sensory information input all contribute to the prisoner’s physical and emotional degradation.

Many prisoners call these conditions torture. There is however debate, heavily influenced by specific security interests, over whether measures like these come under the UN ban on torture. The questionable treatment of terror suspects in the US base in Guantanamo, Cuba is a good example. The general opinion prevails in democratic countries that an excessive period of solitary confinement has to be regarded as a human rights violation. Abdullah Ocalan, however, has now been subjected to extreme solitary confinement in Turkey for more than six years.

ABDULLAH OCALAN’S DETENTION AND HEALTH SITUATION

Since his illegal deportation the Kurdish leader has been held prisoner in the penal institution of Imrali, an island in the Sea of Marmara. The climate is rough there, the humidity high. At the beginning of World War I, its population was relocated out of military considerations. The prison, as we know it today, was built on the remains of an old church and went into service in 1935. When Abdullah Ocalan was brought to Imrali, all the other inmates were transferred to other prisons and the entire island was declared a restricted military area. During his five-year captivity, the Turkish government reinforced the prison and made it a super-modern high security fortress. Today, all of the island is kept under permanent camera surveillance. The airspace above the island, as well as the surrounding waters, are controlled rigorously by the military. Whoever wants to pass the checkpoints or enter the high security wing for the first time is subjected to an iris and a hand scan, the data of which are then saved. About a

thousand soldiers have been deployed there for complete surveillance of the restricted area; they also serve as guards in the high-security wing.

DETENTION SITUATION

Abdullah Ocalan has a single cell of 13 square meters which is equipped with a frosted glass window. This window can only be opened a finger's breadth. Fresh air is provided through an air conditioner. The cell is located in a two-storied building with special safeguards. It has a toilet and washing facilities for personal hygiene. The cell is subject to 24-hour surveillance via cameras and peephole by a carefully selected team of Turkish military officers which rotates regularly. The cell is illuminated 24 hours a day, causing massive disruption to sleep. In principle, Abdullah Ocalan is permitted to see his lawyers for an hour once a week. Since the beginning of 2002, these visits have been arbitrarily prevented time and again, resulting in complete isolation for weeks. His immediate relatives are permitted to see him once a month for an hour. The room where he sees his lawyers is adjacent to his cell, while his relatives may only see him through a glass partition and over the phone. Twice a day Abdullah Ocalan is allowed to leave his cell for a walk in the yard for approximately an hour. The gravel yard is about forty square meters in size and surrounded by high walls topped with barbed wire. During their visit on March 2, 1999, the anti-torture committee of the Council of Europe objected to this and called it insufficient. All stimuli from the outside world are reduced to an absolute minimum. Mr. Ocalan's access to information is also very restricted since the beginning of 2000. He has no TV, and the books and papers supplied by his lawyers are often passed on in part or not at all. There are no apparent criteria for these decisions. Mail is only handed over after censoring it - if it is handed over at all. Mr. Ocalan may only have three books in his possession at the same time. His only source of actual information is a radio that cannot receive anything but the national channel TRT. He cannot answer any letters since he is denied the right to correspondence.

NUTRITION

Abdullah Ocalan is not permitted to exert his right to buy extra food as granted by the general statute of the Turkish penal system, making it impossible to supplement his vitamin-deficient diet. His lawyers' efforts to bring an end to this situation have not been successful so far. Apart from this, there are no limitations to Mr. Ocalan's nourishment. His food is prepared in a special kitchen, and Mr Ocalan says it is sufficient in quantity.

STATE OF HEALTH

Before he was kidnapped, Abdullah Ocalan suffered only from a chronic sinusitis and was otherwise in good health. However, his health has worsened substantially during his imprisonment, due to both the severe psychological impact of his solitary confinement on Imrali and to the high humidity prevailing in the Sea of Marmara. The anti-torture committee of the Council of Europe agreed with this after a visit to the island, causing the committee to request that Turkey significantly improve Mr. Ocalan's situation. As yet, the Turkish authorities have made no effort to do so.

Mr Ocalan suffers from a permanent under-stimulation of his senses that has already severely affected his senses of smell and taste. His cell has been continuously lit for nearly five years, resulting in massive sleep disorders. This is undeniably torture by everyday means. In addition to his chronic sinusitis, Mr Ocalan has started to display the first symptoms of asthma. An allergic rhinitis together with chronic angina make it difficult for him to breathe, causing choking fits during his sleep from which he does not easily recover. According to

private doctors, these fits might bring about an apnoea or a cardiac infection that would put his life at risk.

Hence Abdullah Ocalan does not enjoy sufficient medical care, as Turkey's admissions to the European Court of Human Rights reveal. Once a week, he is examined for about fifteen minutes by a team of three doctors under the control of the Health Department. However, neither he nor his lawyers are informed about the results of these examinations, as Turkish law entitles them to be. The medical team consists mainly of general practitioners who lack expertise in this context. The patient is only examined by appearance; he is tested with a stethoscope, his blood pressure and pulse are taken and his respiratory tracts are examined with the naked eye. The prison lacks facilities such as x-rays, ECGs or blood sampling necessary for a thorough medical examination. The shortage of time and technology makes in-depth results impossible.

This is why Abdullah Ocalan demands an independent team of doctors. This team must uncover the cause of his complaints and assess the real state of his health without pressure of time. The results should be made available to the public.

CONCLUSION

Our knowledge about Mr. Ocalan's state of health is based on the impression his lawyers have gained from contact with their client or the few documents that were available to them. Hence a fair professional assessment is impossible. This makes an independent team of doctors absolutely necessary. It seems clear that five years of isolation have caused Mr Ocalan massive physical and psychological problems, causing the anti-torture committee of the Council of Europe to demand a noticeable improvement in his situation. Numerous papers examining sensory deprivation support this view. We may safely draw the conclusion that Mr. Ocalan's health is, at a minimum, seriously at risk.

In any case, however, the situation on Imrali, the complete isolation of Mr. Ocalan, is utterly inhumane. This situation is in violation of both Turkish and international law and must be brought to an end immediately.

Although the control over the prisons in Turkey is under the administration of the ministry of justice, in the case of Imrali this control is executed by a military board. Therefore Ocalan's advocates do not have any real possibility to intervene juristically. Imrali is and will be a special case, which cannot be justified by any rationale whatsoever. In the long run these means intend to break the personality of the Kurdish leader or damage his health. In fact, they can be defined as torture and are actually nothing else but a death penalty in installments.

THE POLITICAL DIMENSION OF OCALAN'S SOLITARY CONFINEMENT

If Mr. Ocalan's health should further worsen, the political consequences might even become more serious. Even after his illegal abduction a majority of Kurds sympathise with the Kurdish leader and observe his situation with great concern. It is largely because of Mr Ocalan's influence that the Kurdish side of the conflict today uses strictly political means in their struggle. However, they have pledged not to accept any harm to Abdullah Ocalan.

Fundamentally, we cannot regard Ocalan's isolation from the outside world by the Turkish authorities simply as the punishment of an opposition leader. Rather, it reflects the general

attitude of the Turkish authorities towards the Kurds. Although Turkey constantly pays lip service to human rights, its catastrophic domestic situation has changed only marginally. The Kurdish civilian population still suffers systematic human rights violations. Opposition groups are still subject to repressive persecution, while extralegal executions are increasing again. After years of comparative peace, the authorities are once more responding to peaceful civilian protest with armed force. Once again, a political solution to the Kurdish question seems a long way off.

The prison conditions on Imrali and also in other Turkish prisons exemplify Turkey's situation as a whole. Turkey is still far away from becoming a real democracy and a state under the rule of law in Europe. Imrali, as it were, symbolises Turkey's ambiguous attitude towards human rights in Europe.

While the anti-torture committee of the European Council (CPT) wants the isolation conditions lifted, the Council itself does not take any measures to expedite its committee's demand. The European Court of Human Rights has been busy with the Ocalan case for years, yet no decision is in sight and appeal proceedings are still being delayed. The European silence in the Ocalan case contributes to this intolerable situation. The fundamental values of European democracy do not seem to be applicable to the Kurds.

Meanwhile, the Kurds have ended their unilateral ceasefire, and the Kurdish guerrilla movement has stated a number of times that they will use their legitimate right of self-defence against the ignorant attitude of the AKP government, as demonstrated by an increasing number of military operations against Kurdish armed guerrilla forces and repressive action against the Kurdish civilian population. Meanwhile, the intensity of hostile clashes between Turkish armed forces and Kurdish guerrillas is increasing. Ocalan himself recently announced that he had already done everything he could do to achieve a peaceful solution. He would now withdraw from his mediator position between the Turkish government and the Kurdish guerrilla. It is crucial to prevent a fresh escalation of the conflict, and international efforts are essential in order to ease the tensions.

DEMANDS

In order to ease the tensions

- The Council of Europe's "Committee for the Prevention of Torture and Degrading or Inhumane Treatment (CPT)" must examine Mr. Ocalan's prison conditions again. Their recommendations to Turkey have to be monitored with greater intensity.
- An independent international team of physicians must be sent to Imrali by the CPT. This team must examine Mr. Ocalan thoroughly and make their results public.
- Mr. Ocalan's solitary confinement must be ended immediately.

Ultimately, a lasting solution to the Ocalan case will only be possible within the context of a solution to the Kurdish question. Both parties in the conflict must enter into dialogue to come to a solution. For this, Abdullah Ocalan's helpful contribution is indispensable. Therefore, his release from prison is a necessary prerequisite.