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Göç Edenler Bilim-Kültür Sosyal Yardımlaşma ve Dayanışma Derneği
ne Mah. Dr. Cemal Tanrıöver Sokak Müzeyyen Boro İşhanı No:9 Kat:3 Daire No: 20

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TURKEY

Submission to the United Nations Universal Periodic Review
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MIGRATION PLATFORM'S UNIVERSAL PERIODIC REVIEW STAKEHOLDER REPORT : Rights of Internally Displace People in Turkey

15 June 2014

Submitted By:

Aid and Solidarity Association of People Migrated Mediterranean Region

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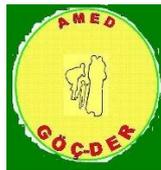
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Executive Summary

This report is a joint submission by Akdeniz Göç-Der, Amed Göç-Der, İstanbul Göç-Der and Van Göç-Der to the United Nations Human Rights Council on the occasion of the 21st Session of the Working Group on the Universal Periodic Review. This submission presents the long-lasting problems of Internally Displace People who had been forced to migrate during the armed conflict experienced in 1990s in Turkey.

All organisations who contributed to the report are established by IDPs and the report is based on the the researches carried out by the member organisations of the Migration platform in the regions where IDPs live in Turkey.

Background Information

1. Armed conflicts between PKK and security forces that first broke out in 1984 led to the most tragic migration of the Kurdish people in history starting in 1987 and continuing until 1999-2000. In the process 3,428 settlements were partly or totally emptied. Many of them were burnt, destroyed and erased out of map in a sense. Over 3 million people were forced to migrate. In the same process, there were tens of thousands murders with unknown perpetrators as well as enforced disappearances. Hundreds of thousands of people were detained, tortured and sent to prisons. Upon the eviction of settlements, Kurdish citizens forced to move, including women and children, suffered serious psychological trauma and deep pain while leaving their settlements, on their migration routes and in their new places of settlement. Some of them tried to cope up and survive in outer neighbourhoods of such southern and western cities of Turkey as Adana, Mersin, İzmir, Aydın, Manisa and İstanbul. Others were forced to move to urban centres of the Kurdish geography. All these also doubled or even tripled the population of urban centres thus giving rise to some new urban problems.

Positive Developments in Relation to Forced Displacements

2. Forced displacements are the results of yet unsolved Kurdish problem. Some positive developments related to the problem can be listed as follows:
 - Though insufficient, the adoption of the Law number 5233 on “Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism” means that the State indirectly accepts the responsibility for forced displacements and emptying of settlements,
 - Education in mother-tongue is a universal right. This right is yet not exercised in public sphere; but a step has been taken to allow education in mother-tongue in private schools,
 - As a universal right legalization of defence in native language in court sessions,



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- Legalization of propaganda and campaign in native language in elections,
- As a result of meetings between state authorities and PKK leader Abdullah Öcalan, stopping of clashes between the parties and state of de facto cease fire,
- Starting in 1925 with the “Eastern Reform Plan” and until recently the original names of settlements was changed. Now, there are steps to return to original names of settlements,
- The geographical-historical name of “Kurdistan” is spoken by the Prime Minister himself,
- Return of the land of Mor Gabriel Monastery in Midyat-Mardin to Syrian Orthodox Community.

Present Situation:

3. Presently, a significant part of the region where Kurdish people live is declared as “military zone” and de-humanized. Further, hundreds of thousands of land mines were laid in many areas. Their exact locations are not known and thus constitute a great danger for human beings and other living being. Infrastructure (roads, electricity and water supply networks) in totally or partially emptied settlements are presently unusable. In these settlements, houses were either burnt down or they turned into ruins for not being inhabited for so many years. Land, crop fields, vineyards and orchards too are unusable or forcibly seized by local village guards. In many of these emptied settlements, such facilities as schools, health centres and worshipping places are also destroyed. Presently there is no way to sustain some rural activities (i.e. stockbreeding, sericulture, and beekeeping) which used to contribute to local subsistence.
4. It is now clear that orders for partly or totally emptying settlements were given by the security forces of the state and these orders were all given orally (Hacettepe University, Population Studies Institute Migration Survey Report -TESEV Migration Survey Report).
5. **Village Guards System** : Though it may seem as an institution first introduced after the Republic, the roots of the system of village guards actually date back to the Ottoman Empire. The system shares the same logic with “Hamidiye Brigades” established in 1890 to mobilize civilians as security forces. The village guard system was first introduced by Article 74 of the Village Law no. 442 passed in 1924, but de facto lifted shortly after. Later, however, a Council of Ministers decision taken on 26 March 1985, re-introduced it as “temporary village guard system.”
6. Particularly with the OHAL (State of Emergency) Law taking effect in 1987 in regions inhabited by Kurds, impoverished and unemployed local people were forced to migrate or become village guards. Though declared “temporary” at the outset, the village guard system became permanent as a means to fight PKK. Armed village guards accompanied state security forces in villages, mountains and cities.



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7. Numbering 70,000 to 80,000, temporary and volunteer village guards have so far been involved in many crimes including murders, kidnapping, torture and maltreatment, harassment and rape, seizure of property of displaced families, burning villages and forests and arms and drugs trafficking. Immune from any actual prosecution, village guards were eventually awarded impunity after some show trials. With state support, they became the core of a mechanism generating crime and criminals.
8. **Issue of Compensation** : The Law no. 5233 passed in July 2004 for the compensation of damages suffered by families as a result of intensive armed clashes in the region was actually intended to mitigate international political pressure on Turkey, whitewash the state, block access to the EcHR and to keep compensations as low as possible. Indeed, this piece of legislation had no dimension of uncovering and facing acts committed in the past. The issue, which is a collective one involving millions of people forced to migrate, was thus reduced to individual damages. Again, as can be inferred from its title, the law conceals a discriminatory practice targeting the Kurdish population as a whole in a given geography and reduces the issue to “undesired consequences of a fight against terrorism.” While drafting the Law no. 5253, concrete facts in the region were ignored and the law was not formulated so as to encourage return to original settlements. Further, the law was not drafted in a participatory manner and opinions of displaced people and CSOs were not solicited.
9. The Law is titled “Compensation of Damages that Occurred due to Terror and the Fight against Terror”, which raises doubts about implementation while implying that related events should be perceived as “natural.” In particular, putting damages caused as a result of burning villages and banning entry to villages for long years under “Damages that Occurred due to Fight against Terror” had the purpose of whitewashing perpetrators and those who are responsible;
10. Taking as basis the principle of strict liability rather than social risk while drafting the legislation;
11. Absence of any compensation for non-pecuniary damages in the law,
12. Excluding a significant part of victims due to limitations existing in the law and in regulations;
13. Excluding from the scope of the law compensation for damages incurred by persons convicted under articles 1, 3 and 4 of the Law on Fight against Terror;
14. Excluding from the scope of the law those who have earlier received compensation with the decision of a local court or EcHR and others received assistance from the Poverty Fund;
15. Claims that the law excludes damages occurring as a result of alleged deliberations of individuals;
16. Rejection of appeals by persons who were under age 18 when forcible displacement took place;
17. Absence of provision for housing/employment-income/education and health services and opportunities other than pecuniary compensation (upon appeal);
18. Excluding from the scope of the law cases of village eviction taking place before 1987;



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19. Absence of compensation for indirect damages (i.e. costs of moving, rent, re-settlement, damages on crops, stock, etc.);
20. Compensation for only some items of damage and requesting some documents almost impossible gather for other items of damage;
21. The law envisages a fixed amount of compensation for such cases as death, injury and disability. Fixed amount of compensation does not take into account such factors as age, economic-social status, etc.;
22. The law introduces no mechanism to manage return to villages (i.e. it has no provision for infrastructure, village guard system, land mines and so on).
23. The law has no allocated public budget.

Post-migration Loss of Rights

24. Under the project “Social Justice for IDP”¹, the Migration Platform conducted a survey on 2010-2011 supported by the EU Delegation to Turkey: “Survey on Economic, Social and Cultural Rights of Forcibly Displaced Persons”. Data included in this report reveals significant loss of rights on the part of the victims of forced migration. The study had its references as UN Guiding Principles on Internal Displacement and the International Covenant on Economic, Social and Cultural Rights. According to data gathered, forced migration deeply affected the economic, social, political and cultural structure of society and led to some important consequences as loss of roots, expropriation and alienation. The loss of rights is briefly summarized below in the light of survey findings.

25. Right to Adequate Housing

- More than one family shares the same dwelling due to security reasons and poverty.
- Especially in big urban centres, displaced persons faced exclusion and discrimination while they tried to rent houses.
- Since newly settled neighbourhoods lack adequate infrastructure and environmental arrangements, many new settlers have no access to regular drinking water supply.
- One of the most important and interesting findings of the survey is that victims of forced migration have invested all their property in houses in their new places of settlement after migration. In fact, they have no other wealth but houses they live in and a house is the only property that the whole family can lean on.
- Another finding is that starting from the 90s and up to our time thousands of families have had to live in tents and barracks. It is a shame that people have to live in such places and also a gross violation of the right to housing. Especially in Çukurova region, thousands of families were forced to live in these inhuman conditions.

¹ <http://www.akdenizgocder.org/goc-platformu-sosyal-adalet-projesi-goc-arastirma-raporu-turkce-ve-ingilizce-olarak-yayinlandi.html>



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26. Right to Adequate Nutrition

- Bread is the main source of nutrition and families mostly cook their own bread.
- There are problems in households in regularly cooking and having 3 meals a day,
- Children are not adequately fed,
- Consumption of milk, meat and poultry as well as seasonal vegetables and fruits is at very low level and household nutrition largely depends on cereals.

27. Right to Education

- Children of families victimized by forced migration are particularly disadvantaged in terms of access to education starting from preschool to formal education. Their disadvantaged position stems from such factors as poverty, mother tongue, ethnic identity, cultural differences, discrimination, stigmatization and exclusion.
- The school performance of children who could manage to attend school is lower due to different mother tongue, poverty and dominant prejudices.
- Schools that children of forcibly displaced families attend are problematic in terms of quality of education, infrastructure and other facilities.
- In their schools, children face problems such as discrimination and exclusion for their names, ethnic identities and different culture.

Right to Health

- There are serious risks especially in the context of maternal and child health.
- Health risks and diseases stem from malnutrition, living conditions, clashes-violence and resulting trauma.
- The prevalence of infectious diseases is well above country averages due to poor infrastructure and overcrowding in outer neighbourhoods where migrant families live.
- There is poor access to and utilization of health services in cases of health problems that become chronic for not being treated earlier.
- Families face difficulties in paying health care bills.
- There are problems in the process of health care referrals and treatment stemming from language differences.

28. Right to Employment and Social Security

- According to the findings of the survey, victims of forced displacement have become vulnerable at the end of the process being mostly unemployed or finding only some heavy, temporary and precarious jobs without any social security.
- During their employment, they are exposed to verbal and physical violence and discriminated against for their mother tongue and ethnic identity.



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- It is found that majority of displaced household members is out of any social security coverage and those who can benefit from social security funds like unemployment insurance are very few.
- Union membership among victims of displacement is almost totally absent since many of them are unemployed or employed only informally in temporary, seasonal and precarious jobs.

29. Right to Participate to Cultural Life

- It appears that the participation of displacement victims to cultural life is limited to watching TV only. Their means and opportunities to participate to cultural life in their neighbourhoods and quarters are almost totally absent.
- Most of the victims of forced displacement cannot take part in sports and in other activities like going to theatre, cinema, concerts, etc. due to economic difficulties and transportation problems.
- Their leisure time activities are far from indicators of urbanization and adapting to urban life.
- It is observed that at the end of forced displacement, migrants' life in their new settlements centres around the Kurdish language only.

30. Right to the protection of family

Concerning women and children as double victims:

- During their pregnancy women do not receive regular healthcare and institutional support, and deliveries take place under insanitary conditions out of maternity wards.
- Children are not fully immunized and infant mortality rate in this group is above country average.
- There is pressure on the identity of woman in the process of forced displacement; the process affects women's social relations and outlook to life while they have almost no psychological support in the face of so many adversities.
- Events occurring during the process of forced displacement had a shock effect on women including miscarriage and premature births on the part of pregnant women, lactation stopped in nursing mothers and many women entered their menopause period much earlier than usual.
- Women ending up in urban centres as a result of forced migration experience existing social, cultural and economic problems in deepest ways and are affected by. There are sharp contrasts between so called modern urban way of life and traditional feudal values of families. As victims of this social contrast, women are exposed to domestic violence, forced divorce and honour killings.
- As a result of families' poverty and deprivation, children at school ages have to find



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ways of contributing to family subsistence in informal and precarious works including seasonal agricultural works and working in streets.

- Children both working and attending school at the same time gradually weaken their ties with their schools and eventually drop out.
- The child is vulnerable to risks on street. They fall in traps of drug dealing gangs at urban centres and drug addiction turns into a malady threatening the whole society. Drug use among children starts as early as age 10-12, leading tens of thousands of children and adolescents to face a serious social problem together with their families. Children are also forced into theft and pickpocketing.

To sum up, all these facts point out to the violation of the *UN Convention on the Elimination of All Forms of Discrimination against Women*, the *International Covenant on Economic, Social and Cultural Rights*, and the *UN Convention on the Rights of the Child*.

31. **The Problem of Return**

The tendency to return is as follows according to studies conducted so far:

- Migration organizations found that about 5% of victims returned back during the years of unilateral ceasefire declared by the PKK.
- According to data obtained from the migration study conducted in 2005 by Hacettepe Institute of Population Studies as planned by the State Planning Organization, 55% of displaced persons want to return if conditions are favourable.
- The survey conducted in 2008 by Bilgi University in Diyarbakır, Mersin and Istanbul found that around 50% of displaced persons want to return.
- According to Migration Platform's study on economic, social and cultural rights, about 70% of middle aged and aged persons want to return while this proportion falls to 40% in younger generations. It can be said that the tendency to return is declining further in the course of time. In this context, another important factor is the distance between the new settlements of displaced persons and their original settlements. For example, those presently living in Mediterranean Region have relatively stronger tendency to return compared to others presently in Marmara and Aegean Regions, but it gets weaker in case new settlements are somewhere else in the Kurdish region.

Summing up what has been stated above, it can be said that the tendency to return is getting weaker as years pass by; however, under some favourable conditions at least one-third of displaced persons still want to return to their original places of settlement.

Misfortunes that victims of forced displacement experienced in the course of the process continued in their new settlements as well. Trauma created by inhuman practices faced led to failure in adapting to new circumstances which, in turn, brought along splits in families. In addition to poverty deprivation and poor sheltering in new urban settlements,



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Kurds are regarded as potential criminals as a result of discrimination, exclusion and otherization they face.

As a result of victimization and vulnerability resulting from forced migration, Kurds had to work in extremely heavy, precarious and low-wage jobs without any social security. These people, numbering to 2 million, could find no other jobs but seasonal agricultural works and sector like construction and textiles where they could get only subsistence wages. Having no means and favourable conditions to return, Kurdish workers in big urban centres formed the lowest layer of working class in these centres.

Urban life forced Kurdish women to a life squeezing them in-between home and workplace where patriarchal pressures increased as a result of cultural clashes. So women had to take over the heaviest burden of this new way of life. As to Kurdish children, they rapidly became estranged from their culture and language while falling prey to various forms of cultural-social decay addiction, prostitution and theft.

Any people subjected to forced migration are doomed to a life of misery imposed by unemployment and poverty in their new places of settlement. What awaits them is expropriation, rupture from roots, self-estrangement, social decay and cultural genocide. Today, millions of Kurdish victims of forced displacement are concentrated in big urban centres of Turkey or live as refugees in Europe and also in their own land including Maxmur in Southern Kurdistan. Also, the Syriacs and the Ezidi as ancient peoples of Upper Mesopotamia had to leave their villages as a result of armed conflict. Finding it impossible to settle in any other part of Turkey, they migrated to western European countries. Having their property back in Turkey seized illegally, these people are still unable to return back to their villages.

In conclusion, although the displacement of Kurds may have assumed some distinct forms, their suffering and traumas are in essence the same with other peoples elsewhere experiencing the same process.

Returns therefore have their historical significance. People returning to their homeland, leaving their consumer status in urban centres and becoming producer again in this land will not only improve their own living conditions but also contribute to the economy of the country. As the original inhabitants of this land, the Syriac and the Ezidi too will have their social and economic contributions upon return since they have mastery in such areas as handicrafts, viticulture, beekeeping etc. Moreover, return from the metropolis of Turkey back to the Kurdish geography will mitigate population pressure on these big centres and thus contribute to the solution of such presently threatening problems as poor housing, inadequate infrastructure, unemployment and overburdened public services. The natural richness and historical accumulation of the Kurdish geography is more than enough for building a new economy and social production system. The most effective and lasting solution to forced displacement is ensuring returns.

Recommendations



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32. For social peace and for mitigating the effects of loses of lives and property, trauma and suffering, the State must face its past practices and apologize for. A truth commission must be established to restore justice. This commission must investigate cases and seek the perpetrators of thousands of enforced disappearances and burning down of thousands of settlements. The commission must be composed of parliamentarians and independent and competent persons out of the parliament recognized as representatives of social conscience. The Commission must have its authority and special budget.
33. A social peace law must be enacted. The law must envisage re-establishing “FREEDOM AND DIGNITY.” To have lasting peace and brotherhood in Turkey, all political captives including Mr Abdullah Öcalan must be released. The law on Terror must be immediately repealed and “forced displacement” must be recognized in legislation as a crime against humanity.
34. All obstacles to return must be eliminated: Return to home of forcibly displaced persons must be assigned importance and encouraged.
35. Elimination of village guard system: For social peace and progress in the process of solution, the “Village Guard System” producing criminals and criminal gangs and causing heavy social destruction must be immediately abolished.
36. Clearing of landmines and explosive remnants: The parties must cooperate in efforts to clear all kinds of landmines banned by international agreements and other explosive remnants. Mines and military remnants must be cleared not only along border zones but on whole territory of the country and totally destroyed so as not to be usable again.
37. Abandonment of Dam and HPP (Hydraulic Power Plant) Projects: Including Ilisu Dam Project which will inundate Hasankeyf, the symbol of the common historical and cultural heritage of Mesopotamian peoples in the first place, HPP and other dam projects which will trigger new migration waves should be abandoned.
38. Including land belonging to the Ezidi and the Syriac in the first place, land that is expropriated by the State or forcibly seized by village guards and others must be returned to their original proprietors, and land cleared from mines must be allocated to landless peasants.
39. **Reconstruction and redevelopment of vacated settlements:**
40. For resettlement in partly or entirely vacated settlements, the following are required: Reconstruction of demolished dwellings in accordance with local culture; necessary investments in infrastructure (roads, electricity, water supply etc.); and restoration and/or construction of such communal facilities as temples (mosque, gathering house, church etc.), laundry, library and so on.
41. Funds such as Agricultural Credit Cooperatives and Agricultural Loan Fund must support initiatives to rehabilitate and restore abandoned vineyards, orchards and crop fields in vacated places.



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42. Depending on the location and situation of settlements, projects on stockbreeding (large and small) and beekeeping must be supported with no-interest loans.
43. **Solving the problem of compensation:** As is the case in other countries with the experience of domestic conflict, it is necessary to create an environment in which legislation geared to fully solving the problem of COMPENSATION in particular can be adopted. This legislation must be adopted after restoring peace disclosing facts. The Law number 5233 on “Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism” adopted in 2004 must be annulled since it is far from ameliorating the situation.
44. **Giving the original names of places of settlement back:** Names of villages, towns and cities changed under the “Eastern Reform Plan” and some other legislation must be unconditionally returned.
45. **Solving the problems of those who do not want to return:**
46. The central government must develop and put in effect special employment policies and projects to solve the employment and poverty problems of internally displaced people. The 5-Year Development Plans must envisage special programmes for those who do not want to return; they should be covered by the social security system and their social security contributions must be covered from the Unemployment Insurance Fund.
47. Psycho-social counselling centres must be established in quarters and neighbourhoods where victims of forced displacement concentrate and psychologists, sociologists, social workers, gynaecologists, child development specialists, nurses and midwives speaking Kurdish must be assigned to these centres. These centres must focus on psycho-social therapy, mitigating the effects of trauma and helping in problems related to adaptation to urban life for victims in general and women and children in particular.
48. Living in unemployed and poverty-stricken families and having their different mother tongue, children of internally displaced households fall behind their peers in education, giving rise unequal opportunities in this area. There must be special education and counselling services to ensure equal opportunities in education.
49. **Full exercise of cultural rights:**
50. Since education in mother tongue is a universal right gained by birth, education in mother tongue besides official language must be legally provided for in areas inhabited by Kurdish people and, similarly, the use of mother tongue must be free in all areas where public services are delivered.
51. **Remedy for the loss of Rights:**
52. Under the UN Guiding Principles and the Covenant on Economic, Social and Cultural Rights that Turkey is a State Party to, there must be remedies for the loss of rights caused by forced displacement including those related to housing, nutrition, family integrity, education, health, employment, social security and culture.

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