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BEING A DISABLED, FOREIGN OR LGBTI PRISONER: A CSOs NETWORK ON PRISONERS WITH SPECIAL NEEDS PROJECT REPORT 2015

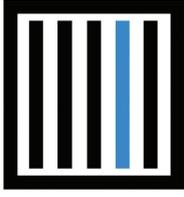
Civil Society in the Penal System, June 2015



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**Being A Disabled, Foreign or LGBTI Prisoner:
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Project Coordinator: Zeynep Alpar

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Being A Disabled, Foreign or LGBTI Prisoner: A CSOs Network on Prisoners with Special Needs Project Report 2015¹

Civil Society in the Penal System, June 2015

Original in Turkish by **Zeynep Alpar**²

I. Introduction

I will try to explain the conditions and issues relating to prisoners with special needs, such as disabled, foreign, and LGBTI prisoners in Turkey's prisons, along with the conducted studies and advise about resolutions in this area.

Prisons are designed by considering "standard or "normal" people, however, every person is unique and has different needs. If we consider the specifics of prisons in Turkey, a "standard prisoner" is considered a young, healthy, heterosexual, Turk, Sunni, Hanafi-Muslim, male. Most people included in the category of "prisoners with special needs" are not considered by these standards.

Prisons are mentioned as places in the "Handbook for Prisoners with Special Needs," published by the United Nations Office on Drugs and Crime (UNODC) which is a United Nations division working on prisons, where pressure and domination are felt heavily by the condition of being inside and being disconnected from the outside, and when the outside is inaccessible from the inside. Also, "groups with special needs" are described as people who are in the position of being more vulnerable to the negative effect of this pressure.³ Mothers with children in prison, children prisoners, elders, disabled, foreigners, ethnic and religious minorities, women, LGBTI individuals, extremely ill people, and prisoners with capital punishment and life sentences are included in the group with special needs.

1 Thanks to; Mustafa Eren who prepared the final report (November 2013) of Prisoners with special needs project of CISST, Berivan Korkut, Hilal Başak Demirbaş and Ayşegül Algan for very significant adjustments and contributions on the report in your hands.

2 Project coordinator of Civil Society in the Penal System, "Prisoners with Special Needs and the relevant NGO Network".

3 ATABAY, Tomris, Manuel for prisoners with special needs, translation. Ömer B. Abayrak, the United Nations Office on Drugs and Crime, CISST, 2013: iii.

We have examined disabled, foreign, and LGBTI prisoners in the study “A CSOs Network on Prisoners with Special Needs” carried out by Civil Society in the Penal System (CISST), and Agenfor Italia, with support of the EU central finance and contracts unit and the Friedrich Ebert Foundation.

There are two fundamental, current Turkish sources in the area of prisoners with special needs. One of them is *The Manual for Prisoners with Special Needs* prepared by Tomris Atabay for UNODC, Turkish translation and printing made by CISST. The second one is the final report of prisoners with special needs project carried out by CISST in November 2012–November 2013, prepared by Mustafa Eren.⁴ The conditions and resolutions, which Mustafa Eren revealed in the report, are largely true today for Turkey’s prisons. (The study by Mustafa Eren will be mentioned shortly as PSN 2012-13 in this article). I will try to summarize the developments and studies made in the area after Eren’s report in this article.

2. General condition of Turkey’s prisons

There are 164.461⁵ inmates in Turkey’s prisons, efforts to increase the capacity of imprisonment are continuing by building new prisons. It will be possible to imprison 300.000 people in 2017 in Turkey.

As we stated before, regarding prisoners with special needs, The Ministry of Justice is lacking data in order to create a policy; few of the personnel have knowledge about the special needs of prisoners and are educated regarding related areas (PSN 2012-13:4). However, we see that the translation into Turkish and publication of the manual we mentioned above and the study of CISST 2012-13 have increased awareness. Some prison staff informed us of having read and benefited from both documents. We are waiting for the Ministry to take steps systematically in this regard.

There are “minimum standard” rules in prisons in order to accomplish “humane” standards. Bed capacity is not the only facility to be counted on, living space per person and social activities also need to be set. In places where people are imprisoned there needs to be enough educated correction officers, medical personnel, and social workers with the capacity and equipment to work with every kind of prisoner. **However, today there are 698 educators, 262 social workers, 524 psychologists, 480 sociologists, 0 specialists, 11 doctors, 508 medical assistants, and 0 nurses for 164.461 prisoners.**⁶

The pressure on personnel in these prisons is much more, officials stated in women’s prisons. Because of the increasing workload on other staff when permanent female officers take maternity leave, there should be capacity for an increase in these institutions.

It is a concern of how to evacuate in an emergency situation, such as fires and earthquakes, when keeping lots of people with locks in prisons. We see examples where even prison staff was not in-

4 EREN, Mustafa, Prisoners with Special Needs Final Report, November 2013. <http://ozelihtiyaclimahpuslar.wordpress.com/2012-2013-ozel-ihtiyaclari-olan-mahpuslar-raporu/>

5 <http://www.cte.adalet.gov.tr/>

6 <http://www.cte.adalet.gov.tr/> Date of update 3 November 2014.

formed regarding the emergency evacuation plans that all prisoners should be regularly informed of, and the ones in need of special care should be handled with special care.

“Strip searches” are one of the most common complaints in penitentiary systems. That said application being used in many countries does not make it right. Coskun Yanat explained his experience clearly in the book included in this report. Airports are the places where security weaknesses may result in hijackings and even disasters like September 11. However, there are no strip searches at airports. It is expected from the state that has the ability to imprison 300,000 people to make use of the technology seen in airports instead of putting people through strip searches, known as a “cavity search”.

All consumables including drinking water, tampons/pads, toilet paper, soap, and detergent are sold for money. This is a serious problem for most of the prisoners who are not receiving money from the outside, especially for the foreign prisoners who are far from their families and for LGBTI individuals who are at risk of being alienated by their families. It is unreasonable that the Ministry of Justice is spending 590.104.673 TRY⁷ to build new prisons in 2014, but is incapable of providing toilet paper in prisons. Being incapable of providing these basic needs is resulting in desperate situations such as diseases, hunger strikes and even revolts. The cost of these desperate situations is also very high. While prisoners in many countries are provided with stamps and envelopes periodically, and free communication facilities,⁸ many in Turkey are sentenced to poverty at the same time. As we will mention later, this situation results in making prisoners work extremely cheaply.

The determination and solution of many of the problems stated in this report are made possible with the help of the Prison Monitoring Board. However, the Prison Monitoring Board in Turkey is not independent. Regular recorded data regarding what is going on in prisons is not available, and there is no transparency regarding the operations of prisons in Turkey.⁹

On the other hand, we see some improvements with respect to collaboration with NGOs in the area of prisons as we have mentioned. The prisons of Turkey are not the places where NGOs and universities easily and regularly make studies, yet these studies are only conducted through the permission of the Ministry and not by the prison administration. However, we see that the Ministry and some prison administrations feel the lack of these collaborations. Despite working “inside”, non-governmental organizations and universities should not ignore this area and should conduct more participant studies in line with the requirements. This issue will be discussed in more detail in Chapter 5.

7 EREN, Mustafa, “Worker Prisoners” report, 21 May 2015, Being Disabled, Foreign, LGBT in Prison Conference, Istanbul.

8 For example, in England, in the first entrance of each prisoner, and then each week after, they have right to send letters free. Independent monitoring boards give attention as to whether this is right granted or not. <http://www.amimb.org.uk/guide.htm>, access date: March 21, 2015.

9 TESEV 2015 Report, <https://ozelihatyaclimahpuslar.files.wordpress.com/2015/03/tesev-tc3bcrkiye-hapishaneler-raporu.pdf>, Access date 28 March 2015.

2.1 Health

Even though the Family Practice System is applicable in prisons, permanent medical personnel are not available in most of the prisons of Turkey. Doctors visit prisons at certain days of the week and for only half a day. This situation results in serious failures, as we mentioned in this report: “crucial” violations in question, such as being unable to apply to the infirmary because of a lack of doctors, and getting misdiagnosed because of the rapid examination and delays in referral to hospitals.

Even though health checks are made at first admission to prisons, there is no periodic health check afterwards. Therefore, the spreading of diseases in prisons, including life-threatening viruses such as HIV, cannot be tracked. In fact, we know that many contagious diseases, such as tuberculosis and hepatitis, spread easily in crowded environments where sanitation is limited. According to the World Health Organization, statistics show that HIV infection rates among prisoners are much higher than civilians in the majority of European and Central Asian countries.¹⁰ We see that prisoners with contagious diseases, particularly HIV, are exposed to serious discrimination; not knowing the mode of transmission makes spreading easier as well as causing maltreatment.

Becoming ill or the aggravation of existing diseases of prisoners due to humidity, extreme heat/cold, inactivity, etc. is not difficult at all in most of prisons in Turkey. More healthy and humane living conditions need to be provided. We can see that diseases that can be controlled with simple measures are aggravated just because these measures have not been fulfilled properly. For instance, different diets are required for different diseases, however in prisons, diet meals are served as a version of the original meal but without oil and salt, and this is served to every prisoner who is “sick”. However, gluten free meals are vital for a coeliac patients, while HIV patients need a meal that supports their immune system.

The treatment of prisoners is done in “the prisoner ward”, or more precisely, not able to be done. Prisoners cannot be hospitalized for serious treatments such as surgery in many cities because most of the hospitals do not have a prisoner ward in their facility. We know of some positive examples where prisoners were treated with the usual hospital service when there was no prisoner ward.¹¹ However, since there is no general regulation in this regard, there are still prisoners with urgent and serious conditions, such as brain surgery¹², waiting for their referral to other hospitals in different cities where there is a prisoner ward. Prison administrators complain about creating a prisoner ward, even in university hospitals it is not wanted; the situation here is locked between The Ministry of Justice and the Ministry of Health. In other respects, we know that prisoner wards in some hospitals are located in the basement, without any windows or fresh air; in some hospitals it is even located near the morgue. The gendarmerie (rural police) and prosecutor can decide on what prisoners can eat or who remains in attendance with the prisoner. There are even some examples where

10 <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/data-and-statistics>

11 ERDOĞAN, Füsün, 19 December 2012, bianet.org, “Teşekkürler!”: “Yıllar sonra normal yatakta, Karadeniz’in o muhteşem yeşilini kucaklamış bir pencereden gökyüzünü seyrederek bir sabaha uyanmak! Ameliyat olma stresine rağmen hakikaten müthişti!” (“Thank you!” “Years later, to wake up in a regular bed, watching the sky through a window that has embraced the gorgeous green of the region Black Sea ! Although the surgery really did a terrific stress!”) <http://bianet.org/bianet/insan-haklari/142918-tesekkurler> Access: 30 May 2015.

12 Hapiste Sağlık (Health in prison), 20 Feb. 2012 dated news: <http://hapistesaglik.com/2013/03/12/kafatasinin-bir-bolumunu-gaz-bombasi-parcalamis-ramazan-durmazin-acilen-ameliyat-olmasi-gerekiyor/> Access 30 May 2015.

relatives cannot visit dying family because of this.¹³ We think that deficiencies in regulations and the circumstances revealed that such conditions violate basic human rights and that these violations should not occur.

Another topic regarding healthcare, which affects not just disabled, foreign, and LGBTI prisoners but all, is the postponement of sentences of diseased individuals that do not belong to administrations of the prison. Current regulations predict the postponement of sentences of individuals who have a disease “that cannot be treated in prisons” and are “unable to sustain one’s own life in prison”. However, this regulation requires the condition that “it constitutes a clear threat to the inmate’s life” and does “not contain danger in terms of public safety”.¹⁴ Thus, the release process slows down and makes it difficult when, not the court, but prosecutors are obliged to make decisions in this regard, as well as medical reports required from forensic medical institutions in order to postpone the sentence in practice. Primarily, it is not a humanitarian practice for a person who is going to die that they stay in prison if they could not get the benefit of the postponement of sentence for any reason including “public safety”. This should be called an “aggravated death sentence” said Elif Dumanlı.¹⁵ Secondly, the state is responsible for the health of the prisoners, and is obliged to trust the institution’s decisions, such as university hospitals and training and research hospitals, regarding whether prisoners should stay in hospital or not. It is unnecessary, as well as torture, to transfer extremely sick prisoners by shuttle buses to a forensic medical institution (FMI), which is located many kilometers away from hospitals, where decisions on this subject can be made by the specialists in the hospitals in which the treatment is continuing. Additionally, the workload of this condition makes the FMI’s decisions process slower, and in some cases, issuing a decision comes after the patient’s death.¹⁶ As we track from the press, as well as corresponding with prisoners, they stated that the process of FMI consists of basic primitive operations, such as measuring blood pressure and checking the pulse. Without giving a chance to explain their problems and without making simple examinations, like blood tests, prisoners were complaining about how FMI medical personnel make decisions about their body and found this attitude “political”.

Another point open to discussion regarding FMI decisions are “prison conditions” that have not been defined while the FMI is deciding if they “can be treated in prison conditions”. We found the FMI decisions unrealistic when we evaluated prison conditions objectively along with above-mentioned problems. Therefore, prison conditions should be made suitable for prisoners, or if this cannot be accomplished, decisions should be made on releasing the related prisoners.

13 DAĞLAR, Ali, “Ölüm Döşğinde Tahliye: ‘Ağlayarak Öldü Babam’”, (“Eviction in deathbed: ‘My dad died crying’” 11 December 2014, *Hürriyet*, <http://www.hurriyet.com.tr/gundem/27753049.asp>, Access 30 Mayıs 2015. TANER, Burcu, “Ölmeden Önce Son İsteği...” (“Last Request before dying...”) 27 August 2012, *Radikal*, <http://hapistesaglik.com/2012/09/01/olmeden-once-son-istegi-radikal/> Access 30 May 2015.

14 KORKUT, Hadice, “Ağır Hasta ve Bakıma Muhtaç Mahpuslara İlişkin Yasal Mevzuat”, (“Legislation regarding extremely ill prisoners and prisoners in need of care”) <http://hapistesaglik.com/agir-hasta-ve-bakima-muhtac-mahpuslara-iliskin-yasal-mevzuat/>

15 DUMANLI, Elif, “Taylan Çintay’ı Kurtarmak”, (“Saving Taylan Çintay”) 1 May 2010, <http://bianet.org/biamag/insan-haklari/121690-taylan-cintay-i-kurtarmak>, Access: 30 Mayıs 2015.

16 ERGİN, Sedat, “Bir kanser hastası cezaevinde nasıl öldürülür”, (“How to kill a cancer patient in prison”) *Hürriyet*, 27 November 2013. <http://www.hurriyet.com.tr/yazarlar/25217381.asp> Access 30 Mayıs 2015.

2.2 Transfers

Besides transfer vehicles of the prisoners, crowded, unaired, hot/cold, dirty and smelly shuttle buses being used for transferring prisoners to hospitals and courts is the most common complaint we hear from the prisoners. Prisoners are transferred with a small shuttle bus where normal seats are replaced with plastic mini bus type seats to fit 12 people in a narrow and locked space. According to a lot of statements, prisoners are handcuffed during transportation, moreover, there are armed guards outside of the prisoner's space. In 2011 five prisoners died in a transfer bus because of a fire during the transportation of the prisoners from Muş and Van to the Istanbul Metris R type prison.¹⁷ These are the conditions that show that the evacuation of the prisoners was impossible. Most of the time the same vehicle is used for transferring prisoners to court and hospital, so when there is delay in court, patients have to wait in the vehicle and sometimes can't go to the hospital (they have to wait for weeks to catch another transfer to go to the hospital). We know that many sick prisoner give up going to hospital just because of the condition of the vehicles. Only 34 of the prisons out of more than 350 in Turkey have ambulances,¹⁸ therefore many of the prisoners, including cancer patients, were transported by shuttle busses.

All prisoners should stay in prisons that are located close to their families. A prison sentence shouldn't mean isolation. Transferring prisoners to another prison is also used as a punishment, especially transferring Kurdish prisoners to prisons on the Black Sea region and in Western Turkey being used intensively. We know that prisoners call it "exile". We are opposed to this implementation as well as "hospital prisons" and "pink prison" projects where prisoners are transferred to a place in which their visiting rights are limited.

2.3 Labor

The daily wage of skilled status workers is 10 TRY, a semiskilled status is 8 TRY, and apprentice status is 7.5 TRY in prisons of Turkey as of 2015.¹⁹ Prisoners are being insured in remuneration of working in workshops, however this insurance covers work accidents, diseases and maternity and does not cover contribution to their retirement. The governor of a prison reported that they do not need prisoners to work, they just do this for their rehabilitation in order for prisoners to find work after their release, while prisoners in the same prison were stating that they were forced to work, including weekends, to complete the jobs in the workshops which are run by private companies. They have stated that they do not want to work in this way but they are constrained because they do not have any other income. Administration at the same prison also stated that subsistence allowance (5 TRY daily) is not taken from the prisoners, therefore in this way, their monthly wage is between 300-350 TRY.

We support giving work opportunity to prisoners as CISST, however this should not be mandatory. Basic necessities of the prisoners are sold in prison, which means that prisoners without an income

17 <http://hapistesaglik.com/2013/03/06/ring-aracinda-5-mahkûm-nasil-yandi/>

18 http://www.tihk.gov.tr/www/files/tihk_rapor_metris.pdf

19 EREN, Mustafa, "İşçi Mahpuslar" konulu sunum, (presentation regarding "worker prisoners") Mach 2015 data. 21 May 2015, Being Disabled, Foreign, LGBT in Prison Conference, Istanbul.

are forced to work. Working should not be mandatory and also should provide insurance with contribution to retirement with a humane wage.

Prisoners cannot keep money and the money allotted to them is kept by the prison administration as a deposit. CISST's formal questions regarding how this money is evaluated, and how interest of this money is used has been left unanswered. According to information obtained from the administration, the money was utilized "for the good of all prisoners", such as building sport facilities etc. We suggest that this income be transferred to prisoners without a source of income and used for providing basic needs such as electricity, water, and soap.

3. Disabled prisoners

As Mr. Eren stated in his report (PSN 2012-13), statistical data of the Ministry of Justice applies to orthopedic disabled, sight-disabled, hearing impaired, speech handicapped and mentally disabled prisoners. However, diseases such as cardiovascular diseases that affect bodily functions, organ failures, cancer, metabolic disorders, and HIV also constitute as disabilities. Besides, the "disability level" of patients with "chronic diseases" is indicated in their medical reports. Likewise, the mental disability criteria which is used by the United Nations, international institutions, as well as associations in Turkey, include not just mental diseases but also psychosocial disabilities such as schizophrenia, bipolar disorder etc. The Ministry of Justice should conduct systematic studies collaborating with non-governmental organizations working in this field in order to understand the needs of disabled prisoners.

We see that our study relating to prisoners with special needs enhances the attention and knowledge of non-governmental organizations concerned with disability, and respecting prison conditions with regard to disability.

As Mr. Eren mentioned in PSN 2012-13, the Ministry of Justice responded to our question regarding living spaces in prison and whether they suit disabled prisoners by saying, "there are 360 penal institutions in Turkey, since these institutions are not strict, there should not be any condition obstructing a disabled prisoner's living conditions" (PSN 2012-13, page:9). However, almost all available and under developed prisons in Turkey consist of two floors, even disabled prisoners stay on the first floor, most of the places, including the visitor area and workshops, are located on the second floor. This limits their lives and creates a prison within a prison. Also, the response of the Ministry showed that disability was perceived as using a wheelchair; in fact, to assist the disabled requires many aspects, such as tactile surfaces for sight-disabled, the employment of staff with knowledge of sign language, and providing medical equipment and consumables for paralyzed and chronic patients and so on.

The right way to provide these is by allowing the related associations, who are competent in the field, to conduct monitoring activities independently in prisons. They should also make corrections by considering related reports, on actions to be taken hereafter, and by consulting associations regarding even the design of prisons, especially prisons to be built. Providing disability compliance and accessibility involves not only the prison cell but also every place that prisoners have right or

obligation to enter, such as prison yards, visitor areas, working areas, meeting rooms, and transfer vehicles. Disabled access should not be done for show but to support the independent life of a disabled person. There are standards, and building a disabled ramp without standards does not constitute as accessibility.

Preventing bedsores (that may be fatal) by using air bearing beds and special pillows for patients confined to bed or patients with paraplegia, or replacing the batteries of hearing aids for hearing impaired prisoners are not luxury or arbitrary, but basic needs. However, we see that the “basic” needs of disabled prisoners are often limited by “general” regulations. Current regulation foresees providing medical needs on the condition of receiving a report concerning life-threatening situations, whereas it should not be expected in order for disabled prisoners to live like “every human being.”

As we mentioned under the health title, those who are unable to be self-sufficient need a postponement of their sentence.²⁰ However in the current situation, many of patients who are unable to be self-sufficient are in prison because of the flaws mentioned above.²¹ Other volunteer prisoners, relatives who are allowed to enter the prison, and those who are paid by the administration, have done the nursing of these prisoners. Serious problems, including taking advantage of patients by the ones who are responsible for taking care reported regarding this practice. Prisoners who are not able to maintain their lives on their own, and being in need of support due to their disability or illness, have to be nursed by trained professionals. All prisoners who are not self-sufficient must have their sentences postponed, and be provided professional care by trained personnel during the postponement decision.

The Ministry of Justice’s solution for prisoners who are not in position to take care of themselves and/or who need constant medical support are “hospital prisons”, meaning the Metris rehabilitation type of prison in Istanbul.

It is not right keeping people in prisons turned into hospitals where they need to be outside. Because;

- Prisoners have the right to stay close to their families, it is imposed to be in Istanbul with the application of “hospital prison”.
- Prisoners who stayed in hospital prison complain they cannot get help from other prisoners since all prisoners in “Metris R Type” are ill.
- The existence of “Metris R Type” is becoming an excuse for prison administrations to dispatch all sick prisoners to the hospital prison instead of fulfilling their duty, such as providing suitable living conditions and opportunities to work.

20 Previous regulation covering only those cannot be treated in prison conditions, those who are unable to maintain him/herself were taken into the scope of the law as of 2012 because of the regulation not complying with patients confined to beds and paralyzed patients.

21 For example, release of the prisoner Salih Tuğrul, who become bedded by having a stroke in prison in December 2012, came true in 2014 with the affords of civil right associations. This process took 2 years to be accomplished, while prisoner friends were taking care of him, Institution of Forensic Medicine reported that he can take care of himself. Salih Tuğrul was released at the age of 58 after 17 years in prison.

<http://hapistesaglik.com/2014/09/24/nihayet-felcli-mahpus-salih-tugrul-tahliye-edildi/>

<http://hapistesaglik.com/2014/01/27/agir-hasta-mahpus-tugrul-siirt-cezaevine-getirildi-05-01-2014/> Access 30 May 2015.

Sensitive doors and retina scans at the entrance of the prisons are posing a problem for disabled prisoners as well as visitors. There are reports that prisoners in wheelchairs had to grovel to pass through the metal detector doors.²² We observed that there was no special wheelchair to pass through the metal detectors during our visit in May 2015.

It is stated in PSN 2012-13 that disability is not only a concern for prisoners. It was observed in the period between 2012-2013 that disabled personnel employed in positions where they remain inactive and the positions where they actually need to be employed are not suitable for their condition. In 2015 we witnessed, during different prison visits, that personnel with light disabilities were employed at desk jobs with real assignments. We observe the implementation differs from prison to prison and time to time and wish to become widespread of these kinds of examples.

4. Foreign Prisoners

According to the Ministry of Justice's response to the information application of CISST; there were 2222 foreign prisoners in Turkey, in 2014. We could not obtain information for 2015. Our information application was rejected due to the "requirement of a special study, research and examination in this manner". To obtain information regarding the nationality, gender, or sexual orientation of foreign prisoners and the number of foreign children with mothers in prisons requires a special study by the Ministry; so we could not obtain the information to our questions. In fact, it is the duty of the Ministry to conduct studies regarding these issues.

Foreign national prisoners in a country can be prisoners with an immigrant status and have little knowledge regarding the language and culture of the country; they can be just off the boat with the intention of tourism or business for a short stay; they can even have the status of passing in transit without knowledge of anybody or anything. We can say that foreign national prisoners may feel more pressure because of language problems and being away from their relatives. A considerable amount of foreign prisoners are captured in the airport with the accusation of drug trafficking in Turkey (among them, there are foreigners who do not know that the possession of substances listed are illegal in the host country, however listed legal on arrival and departure countries when they are trespassing).

Issues of foreign prisoners in Turkey start at the arrest stage. They cannot reach bilingual personnel when they are taken into custody or arrested, as stated in the report PSN 2012-13. Officials that we have interviewed emphasize that they are attentive, and are defended by an attorney who speaks their language in court and provide a translator during the prosecution process; however we are still getting complaints regarding translators who do not speak Turkish, and assigned attorneys having a problem when they try to communicate with the prisoner. The recommendation stated in the prisoners with special needs report of CISST, for facilitating coordination between the Ministry of Justice and bar associations in order to assign bilingual attorneys to the foreign prisoners, is still applicable.

²² EREN, Mustafa, PSN 2012-13:10.

Again, most of the personnel in prisons who deal with foreign prisoners are not capable of speaking their language or English. Major problems occur in the health field because there is no specific language speaking personnel in the infirmary. We know that expecting staff to speak multi languages is not realistic; however, employing staff for translation could prevent most of these violations. As Mr. Eren recommends in his PSN 2012-13 report,²³ prisoners with language skills can be employed as translators. Systematic and salaried translation jobs, rather than ones made unprofessionally is crucial, not just in terms of the work life of prisoners, but also in terms of the privacy of the one in need of translation.

Procedures of foreign prisoners in prison are carried out by formal agencies of their country in Turkey. Identity validation and communication with their families is included in these procedures. However, the duration of these procedures may vary according to the embassy/consulate. We have learned from correspondences with foreign prisoners that some embassies/consulates are not interested at all for the problems of their national prisoners. Moreover, some countries with a limited relationship with Turkey have just representative agencies in the country, with the intention of trade mostly. Especially in cases where the foreign prisoner have issues with his/her own country, or are expatriated etc., this individual becomes abandoned. In this regard, the procedures for a prisoner to have a phone call to their family or relatives require their country to identify and validate relatives from the embassy/consulate/agency in Turkey. Prisoners should not have the fundamental right such as having a phone call to his/her family be taken away.

As stated in the PSN 2012-13 report, according to the Regulation on Visiting Prisoners and Detainees, “visitors of convicted or arrested juridical crimes” should apply to the public prosecution office one week earlier than the visit date and visitors of prisoners who are “convicted or arrested for terror or organized crime” should apply to the Ministry of Justice 15 days prior to the visit date. Because of this obligation, families have to arrive and stay in Turkey days before their visit date. This application puts families in difficult situations in terms of cost and time when considering accommodation expenses etc.²⁴ The Response of the Ministry of Justice regarding this issue is as follows;

Although the regulation states, “visiting applications to get the necessary permission shall be submitted to the Ministry 15 days prior to date of visit,” in practice, each application submitted to the relevant office of our Directorate General is assessed and finalized as soon as possible (one to five days), and the victimization of the prisoners nor their relatives in this manner is not given rise.

It should be noted at this point that, although the demands of the visit are assessed up to 5 days in “practice”, it is a burden for relatives of foreign prisoners to come to Turkey and wait taking the risk of being given a negative answer. If this practice continues, the way of making it easier is to ensure that all procedures should be done on the Internet.

Again, as mentioned in the PSN 2012-13 reports, the length of visit of Turkish prisoners and foreign prisoners are the same: one hour. However, the length of foreign visitors should be longer.

Another application that both Turkish and foreign prisoners can get benefit from are video chat

²³ EREN, Mustafa, PSN 2012-13:16.

²⁴ EREN, Mustafa, PSN 2012-13:17.

programs like Skype. We visited, in the scope of our project, Padua, Italy. In the Due Palazzi prison where the population of foreign prisoners is half of the total prison population, there are Skype rooms in the visitor areas and all prisoners can get benefit from these rooms. Prisoners are under the surveillance of correction officers, however their conversations are not listened to, nor tracked or recorded.

Turkish courses for foreigners in prisons are resuming. Turkish courses in foreign languages, as well as books and dictionaries in different languages, are available in the library of many prisons. Foreign prisoners that we have corresponded with have stated that they finished the books in languages they know and asked us for more books and they also requested dictionaries in their languages from us. If there was not a “sending cargo within the same province ban”, which is applied arbitrarily time to time, it would be much easier to enrich the prison libraries in terms of publications in foreign languages in a city such as Istanbul where many of the foreigners live and are rich in terms of foreign publications.

As mentioned in PSN 2012-13, there are “practical” obstacles towards the imprisonment right of foreign prisoners in their country. Transfer fees are very high and to get permission to transfer takes so much longer, even if the fee is paid.

Another important topic is the children of foreign women prisoners.²⁵ Children between the ages of zero to six can stay with their mother in prison in Turkey, afterwards they can stay with someone if the mother consents. It is also possible for children to change places between the mother and relatives until the age of six, so that they have chance to see the outside world as well as chance to know their relatives. The children of foreign mothers without any relatives in Turkey have to grow up without knowing anything about the outside world.

Those children stay in children protection institutions after the age of six if there are no relatives in Turkey and they can see their mother as a normal visitor: one open and three closed visiting rights a month.²⁶ The choices offered to the children in such situations are: growing up without a family environment or living with their relatives in a different country by leaving their mother behind.

At this point we would like to emphasize that the choices of the children do not just consist of “living with their mother in prison” or “living outside without their mother”. In many countries mothers with child serve their sentence not in a prison but a place designed like a home environment. Those places are arranged considering the “high benefit of the child”. In case a mother’s sentence requires high security measures, a police/correction officer may stay in the “house” without a uniform. In such applications the point is not to punish the child instead of the mother. The age

25 Condition of a young Syrian refugee mother as an example:

<http://bianet.org/bianet/insan-haklari/150389-yedi-kat-yerin-altinda-meryem-ile-dua-bebek>
<http://bianet.org/bianet/insan-haklari/152204-meryem-ve-dua-bebek-ozgur-ama>

26 One of the prison directors we interviewed stated that closed visits can be very destructive and incomprehensible for the children which also approved by the psychologist and the social workers working in the children protection institutions, that is why they do not bring children to the closed visits. We know that prison prosecutors and administrations allow mother and child to have open visits with their own initiatives. However our demand is to create a legal basis of visiting children with their mother and father. This should be for all mothers, fathers and children whether Turkish or foreigner.

of six limitation is not a generally accepted implementation in the world, there is no obstacle for a child at 10 to live with their mother in the prison designed as a “life house” and go to school at the same time. As CISST we want good examples to be applied that exist in the world for children with incarcerated mothers in Turkey as well.

5. LGBTI Prisoners

The number of LGBTI prisoners in the prisons of Turkey is indeterminate. There were some statements given by the Ministry, such as 79/81 in 2013 and 95 in May 2014, but they are not up to date. Our application for information regarding how many lesbian, gay, bisexual, trans and intersex prisoner remain in Turkish prisons, and in which prisons they have been kept, given on 13 March 2015 was rejected due to the “right to privacy” principle.²⁷ Despite the most important step of understanding and providing the needs of prisoner groups in need of a special care to have the accurate data; we see the deficiency of the Ministry on collecting data continues.

We assume that previous numbers given by the Ministry indicate only trans prisoners because of their appearance, and gay prisoners because of their choice to stay in the same prison cell with trans prisoners, and does not cover any LGBTI individuals. We know that prisoners are forced to hide their sexual orientation due to the widespread discrimination and violence against LGBT individuals, especially in places where their life is in the hands of other people, such as in prisons. This is another reason of the lack of data regarding the condition of LGBTI individuals in prisons.

Prisoners are located according to their stated gender on their ID card, meaning that trans women without gender-change surgery stay in male prisons, and trans men without gender-change surgery stay in female prisons.²⁸ We know from correspondences and experience sharing that gay prisoners moved to trans wards or to a cell in a male prison after the declaration of their sexual orientation and lesbian or bisexual prisoners in female prisons moved to different wards when their sexual orientation is “known”. We do not have any information regarding intersex prisoners.

There needs to be notification regarding what is expected from the prisoner in the prison’s system on the entrance to the prison. However, meeting with former prisoners and our correspondences showed that this notification is not being done, besides, they are not informed regarding other LGBTI prisoners in prison, if their sexual orientation cannot be understood by their appearance. Also, if a prisoner asks to change their ward to a LGBTI ward, administration requires a “medical report” that concerns the proof of their sexual orientation. Medical reports should not be required for any LGBTI prisoner as it is not required from heterosexual male and female prisoners to “prove” their gender identity. This application is discriminatory as well as humiliating. There are other examples of not accepting the nature of gender identity and sexual orientation, such as referral of LGBTI

27 In PSN 2012-13 report our questions rejected due to explanation of “because it requires special study” criticized by saying the Ministry had already revealed the unpreparedness of issues they should know. Referring to the right to privacy has now become the manner in which the authorities say they have that information, but they will not share it with the public.

28 As an exception in practice, a trans woman who had gender change surgery in prison although she has a male ID is taken from the male prison to the women prison.

prisoners to psychiatrists. We care to inform employees as well as administrators of the prisons in order to overcome this prejudiced attitude.

LGBTI prisoners, especially the transgender women kept in men's prisons, are being kept in different rooms or wards, not allowed to join workshops or to use the common areas on the ground that they can be harmed by male prisoners. This means isolation and discrimination. Isolation even gets harder in the prisons where there are small numbers of LGBTI prisoners. As recommended in the PSN 2012-13, report, special attention should be given to the employment of LGBTI prisoners within the prison's hairdresser, library, dining hall etc., in order to reduce the effects of the prisoners being left alone. Translation jobs which foreign prisoners need can be an alternative that LGBTI prisoners do for a fee within the frame of professionalism. Working in the common areas of the prison as an LGBTI individual might help other prisoners and staff to overcome their prejudice as well as breaking their isolation.

At this point, allowing relevant LGBTI associations to conduct studies, transferring information to the staff as well as prisoners with respect to what LGBTI is, and answering the questions by the representatives of the relevant NGOs will make a significant contribution to overcome discrimination, make staff jobs easier, and establish a more positive relationship for all prisoners with their environment and participation in society of the prisoners after release.

On the other hand, situations revealed the ignorance of the Ministry and senior executives regarding LGBT individuals. For example, our information application dated 23 May, 2015 consists of these questions; (1) "Which Prisons and Detention Houses in Turkey have separate wards for LGBTI individuals?" and (2) In which conditions are LGBTI individuals kept when there are no separate wards in prisons and detention houses?

The 21 April 2015 dated response is as follows;

There are separated rooms for LGBTI individuals in large penal institutions by the capacity at serious crimes centers, capacity of these rooms vary according to the number of prisoners.

Referring to the second question, rooms for individuals of LGBTI comply with international standards.

In the response from the Ministry, the "individuals of LGBTI" term is used as if being an LGBTI individual is a sickness or an illegal organization (Then again, this term was criticized by CISST earlier), right along with the answer is slurring over the question, showing that the Ministry is far from understanding LGBTI prisoners' needs as well as acknowledging their identities. Again witnessed in an interview; the prosecutor in charge stated that the number of prisoners in the same cell should not be even numbers, when rooms made up to capacity of odd numbers such as 1,3,5, same-sex relationships will be prevented, otherwise there will be 500 couples in the prison with the capacity of 1000 prisoners he said. This statement is far from comprehending the nature of the gay/lesbian relations as well as knowing that people without this orientation cannot develop a same-sex relationship.

For trans women, especially, tools like tweezers and wax are important needs. Because, these tools keep the individual's body in line with the gender he or she feels, so that these tools are directly

connected to identity. Providing these tools, which are not available in the canteen of men's prison, is very important for trans women as well as hormone medicine. Our information application regarding how many numbers of prisoners were using hormone medicine, and the names of those hormone medicines was denied due to the requirement of a "special study, research and analysis" (April 6, 2015). Proper hormone medicine usage causes suspicion in this regard. (A job called a "special study" is in the Ministry's duty.)²⁹ We consider making use of "pink rooms" only by married couples and not by LGBTI prisoners as a discriminatory application.

We found that being in the decision making position of the authorities who lack knowledge and understanding of LGBTI prisoners is a perturbative situation. The project called "Pink prison", which the Ministry is planning to build for LGBTI prisoners, is full of mistakes due to those imperfections and created without consulting the relevant NGOs. In the response to an information application by a prisoner dated December 2, 2014, the Ministry stated that; the project consists of building open and closed detention houses where lesbian, gay, transgender and bisexual prisoners will be kept is going to start in 2015 in the province of Izmir by tendering procedure, and it is predicted to finish in two years.³⁰ We have mentioned our criticism in this manner at the joint declaration together with CISST and 17 other NGOs, local organizations and university groups.³¹ Firstly, not consulting with the relevant associations and academics in the process of building prisons for LGBTI prisoners is a problem in itself. Gathering prisoners from 18 different prisons in the province of Izmir by taking them away from their families means banishment. The Ministry possibly thought that keeping them together to decrease their loneliness, instead of separating them from other prisoners, is for their own safety. However, keeping them in a different prison all together means institutionalizing discrimination. Staying in this prison, on the other hand, means that everyone knows that they are LGBTI; that is an action that needs to be avoided in terms of "right of privacy". This blacklisting can even affect families. Furthermore, almost all cruel treatment cases result not from other prisoner, but from the staff of prison. Building a separate LGBTI prison will not eliminate security concerns. However, as we found in our joint statement, calling on the Ministry of Justice, and studies together with LGBTI associations and academics in the field can be done in all prisons to prevent discrimination against LGBTI individuals, and it can bear more positive results than building a separate prison.

A step in the right direction, in our opinion, on behalf of LGBTI rights in prison, is asking transgender prisoners for their preference in which prison they want to stay, male or female, just as the new implementation started in the province of Rio in Brazil.³² A historic step taken to protect

29 See also: Hilal Basak Demirtas, 2015; "Current Problems of LGBTI prisoners", in this book

30 When we asked to the Ministry regarding the location and opening date of this prison, whether LGBTI prisoners are informed or not, what measures taken against negative sides of moving away prisoners from their families and relatives and whether collaboration with LGBTI associations and activists is considered or not? The answer we received as follows; there are 7-8 detention houses, we are thinking of creating a division in their campus and new detention house for prisoners with different sexual preference is still under the project stage and when and where it will be is not clear yet (April 15, 2015). See also: Hilal Basak Demirtas, 2015; "Current Problems of LGBTI prisoners", in this book

31 <https://ozelhtiyacimahpuslar.wordpress.com/2015/01/06/ortak-aciklamamiz-biz-lgbti-hapishanesi-istemiyoruz/>

32 30 May 2015 dated news, Yahoo News. <https://ozelhtiyacimahpuslar.wordpress.com/2015/06/05/rio-to-allow-transgender-inmates-to-choose-male-or-female-prison/>

transgender prisoners from humiliation, violence and rape, new housing units in Rikers Island Prison will be opened in New York, USA.³³ In this implementation for providing living space to the special groups in order to find solutions to the above-mentioned problems, prisoners will stay in those units if only he/she wants, and trained personnel who will be work with LGBTI prisoners voluntary and sensitivity will be assigned. This new regulation is expected to reduce the adverse events related to trans prisoners, even the re-offending rate. We emphasize giving the right of choice to the prisoner as in both examples.

6. What do civil society organizations in the field of prisoners with special needs do?

As CISST, we argue that the working of civil society organizations in prisons easily will facilitate the solution of many problems. Not monitoring prisons by civil society and independent eyes, in other words, not allowing us to see the inside, would put a question mark on what is going on inside and bring mistrust, and will cast doubt on the state.

Concerned groups of non-governmental organizations and activists are the ones with the best knowledge of the needs, in the context of prisoners with special needs. We see that organizations are showing interest on the subject and are conducting studies with the allowance of the Ministry of Justice. Moreover, some civil society organizations are invited for meetings regarding the condition of prisoners with special needs and were consulted at a ministerial level in the period of 2014-2015.

These kinds of collaborations should increase. There are several things that can be said on this subject:

- Obtaining permission from the Ministry of Justice, applying by giving the name of the person who will attend at least one month before the visit and following up on the permission required, even for a prison visit. It would be much easier if the permission was taken from the relevant prisons directly.
- We understand the notification requirement by the administration with respect to studies will be conducted in the sense of prison systems. Apart from that, permissions should not depend on the state's evaluation of associations or circumstances. It should facilitate the work of civil society in prison. What is more, the Ministry of Justice and prison administrations should encourage civil society studies.
- Positive steps at a level of isolated prisons that feels the need of studies collaborated with civil society and universities should be extended by the Ministry of Justice.
- There are personnel and administrators who know the importance of activities conducted by civil societies and universities in prisons. They complain they could not get support and inter-

³³ 18 November 2014 dated news, *Huffington Post*. <https://ozelhtiyaclimahpuslar.wordpress.com/category/english/queer-lgbt/>

est from the civil society organizations although they are open to cooperation. We invite all relevant NGOs and civil society organizations to conduct more studies on the “inside” rather than monitoring from the “outside” and include this in their programs.

- NGOs can make use of the Internet much more in terms of making studies available for more people and in order to increase the effect of the information without sharing delicate issues and private information. Various subjects involving prisons and blogs regarding different prisoner groups of the CISST provides a basis on this matter, and we are open for new ideas (for the list of the blogs, please look at the back of this book.)

In 2015, CISST initiated the foundation of the Turkish Center for Prison Studies TCPS, and the Turkish Prisons Information Network (THEA), and also the Library of Prison Studies. We aim to catch up with the lack of data in the field, to track data systematically and extensively in the prison field, and to have collaboration with the international centers in the field. The information network will be operating with the NGOs working with the various groups. We think that these projects will help to improve the general conditions of the prisons as well as make civil society have a more active role in the field of prisons.

The Manual for Prisoner Rights (March 2015), prepared by Başak Ekinçi and Mustafa Eren, is a study that is in the process of making it available in prison libraries, in NGOs and in prisons. There will be more manuals for groups with special needs; including women, children, prisoners with heavy life sentences, disabled, sick and elderly, LGBTI and foreign prisoners within the scope of THEA.

The Prisoners with Special Needs Related Cooperation and Communication Network was established by combining the studies of NGOs within the context of “Prisoners with Special Needs and the relevant NGO Network” Project. This project also enabled us to organize a conference regarding “Being Disabled, Foreign and LGBTI in Prison”, during November 2014-June 2015. These studies are open for anyone who is interested in participating; all studies can be monitored from the website www.ozelihtiyaclimahpuslar.wordpress.com. We have prepared survey forms in order to collect direct and systematic data regarding the current condition of disabled, foreign, and LGBTI prisoners with the help of NGOs in collaboration with communication networks. Also, the Disabled Women Association has recorded the Manual for Prisoners with Special Needs as an audiobook in order to reach sight-disabled people.

NGOs that have extensive knowledge about the needs of disabled people, and standards that need to be fulfilled while conducting monitoring and advocacy studies, are expressing their opinion regarding disabled prisoners. LGBTI associations are getting together, with respect to subjects that interest LGBTI individuals, as well as showing awareness regarding LGBTI prisoners. Many of the LGBTI associations are making contributions by providing legal support to the prisoners, releasing information to the public when there is an issue, and especially by providing the daily needs of transgender women prisoners etc.³⁴

34 For more information on this subject, see Hilal Başak Demirbaş, 2015, “Current Problems of LGBTI prisoners” in this book.

Foreign prisoners are the most insufficient group among others in terms of civil society. There is no association working in the field of foreign prisoners. NGOs that conduct studies regarding refugees cannot give thoughts about the topic due to the urgency of two million Syrian refugees in the country. Our studies, regarding the issue, continue with the help of the relevant activists rather than NGO networks, and we contact embassies and consulates from time to time. We can say that the study related to foreign prisoners is proceeding by focusing on peoples' special conditions in cases that reach us.

We hope there are more studies in this field that we are not aware of and wish that collaboration among universities, NGOs and the Ministry of Justice will increasingly continue. We will keep announcing the conditions of prisoners with special needs, give good examples and present the work done on our website (www.ozelhtiyacimahpuslar.wordpress.com). We will also update this report on our website.

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