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Abstract
The rehabilitation of victims of torture is an important aspect of the global anti-torture regime. A large number of NGO-operated treatment centers have been set up in recent years, including in Turkey, some of which have bad relations with the state apparatus. The predicament of centers set up by the Human Rights Foundation of Turkey (HRFT) is in focus here. The conclusions drawn are that negative state behavior is less due to rehabilitation work as such than to the political functions fulfilled by the organization, and that external donors should address the question whether the consequences of the political functions match possible benefits.
Acknowledgement

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Bertil Dunér and Liv Hammargren
Torture Treatment and Politics

The Political Dimension

The global anti-torture regime does not only imply the prohibition of certain malpractices (as indicated by the name of the pivotal instrument: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment).\(^1\) The rules also demand that the state parties “ensure[s] in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”\(^2\)

As is well known the regime is weak in many respects, the most serious defect, of course, being that torture continues seemingly unabated in many countries. Important efforts are being made to improve compliance. For instance, innovative procedures are discussed in the UN, which will give the international community better opportunities to monitor the effectiveness of the regime, and hence work in a preventive way.\(^3\)

A problem of quite a different kind concerns the aftermath of torture and the political conditions under which many centers for the treatment of torture victims work. The number of centers has grown strongly in recent years; International Rehabilitation Council for Torture Victims (IRCT), a Danish organization which has played a vital role in developing and seeking funds for treatment organizations all over the world, in its latest survey of centers includes 126 units, the majority of which seem to be NGO-operated.\(^4\) It is a peculiarity of human right regimes that non-governmental organizations (NGOs) have an important role to play in their functioning (in contrast to many other regimes).\(^5\) In this regime their role has been given unusual recognition by the fact that the convention on torture and the rules of procedure of the monitoring committee provide for a greater degree of formal involvement by NGOs in the work of the committee than is the case with any other human rights committee.\(^6\)

The role of the NGOs in the global torture regime is particularly conspicuous with respect to the aspect of rehabilitation. NGOs carry out fundamental rehabilitation work and have been supporting the development of norms within the UN system.\(^7\)

The political problems of treatment centers can to some extent be discerned from official materials (such as the organizations’ annual reports). In some cases glaring incidents have been reported in the media. However, we have an iceberg situation here: beneath the surface

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\(^1\) The commonly used term ‘regime’ is somewhat of a misnomer here, at least if we think, that at the heart of regimes lies the institutionalized cooperation of states for managing interdependence issues, instead of relying on self-help strategies. It seems doubtful whether the torture regime is a device for solving common problems.

\(^2\) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Article 14(1).


\(^4\) Rehabilitation of Torture Victims. 1998 Update on Centres and Programmes Worldwide, International Rehabilitation Council for Torture Victims, Compiled and edited by the Network Coordination Division, Copenhagen, 1999.


there are difficulties that organizations do not want to show off so as not to further acerbate relations with the state.

The role of the local political environment for the work of the centers would seem to be an important field of inquiry for human rights research. The contribution made here is a case study (Turkey) underpinned by current torture theory.

The roots of torture have variously been sought in the deviant personality of the torturer, in the cultural setting surrounding him, or in his actions to spread horror in segments of the society or elicit confessions or information in the perceived interests of the state. Generally it is not easy to establish what mechanisms are in play in torture situations. The standard course for implicated states is to deny its (regular) occurrence and deny responsibility, and research into these matters is not easy to carry out. It seems, however, that psychological and cultural factors have been very much played down in modern times.

The dominant view is that torture is a rational activity. This is clearly manifested by the makers of international law. The UN Declaration on Protection from Torture reads: ”1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons.”

Torture as a rational activity is frequently linked to the view that this activity is strongly linked to politics, particularly to situations of social strife, or war-like societal conflicts. In these situations, when the state perceives a threat to its security, repression and torture may become a deliberate policy, to subdue insurgency and collect information. In all professional writings on unconventional war there is an all-pervasive focus on intelligence.

The political perspective frequently presupposes that torture is not carried out by isolated elements of the state apparatus but rather implies some kind of coordination or centralization. In his book about human rights, Professor Antonio Cassese, well known among other things for his work with the European Committee for the Prevention of Torture, writes that ”torture is today practiced almost exclusively at the instigation or with the connivance of governments”. Likewise, Herbert C. Kelman asserts that torture as a social phenomenon is best understood as a ”crime of obedience, carried out within a hierarchical authority structure, and serving the purpose of a public policy.” By ‘crime of obedience’ the author means crimes that do not take place in opposition to the authorities, but ”under explicit instructions from the authorities to engage in acts of torture, or in an environment in which such acts are implicitly sponsored, expected, or at least tolerated by the authorities.”

12 Ibid., p. 21.
The Israeli security forces have for many years used violent interrogation methods against detainees, sanctioned by a government commission headed by a retired chief justice, Moshe Landau, in 1987. It has been claimed, including by the state attorney, that these methods were necessary to obtain information about terrorist threats. In today’s security situation, the state attorney said, "the employment of ‘the shake’ is vital. Its use cannot be forgone without having a seriously debilitating effect on the capabilities of security forces to thwart severe terror attacks". The Israeli example is obviously a case of coordinated use of torture or torture-like methods (but the openness with which it is admitted is unique).

The prominence of the political perspective may tend to carry with it a risk that the existence of torture for non-political purposes, carried out on suspected common criminals, primarily in order to extract confessions, may be neglected. Torture of this kind could, of course, be historically linked to situations of politically motivated torture, as the UN Rapporteur on Torture has suggested. With the decline of authoritarian regimes, he says, political dissent becomes something integral to the political process rather than a challenge to it. When armed uprisings subside there will be no continuing need to combat them by whatever means the security forces believe necessary. As the political manifestation of the problem abates, he says, we are beginning to identify a problem of torture or ill-treatment in the context of repression of common criminality. The rapporteur further adds that one can only speculate on the extent to which torture or ill-treatment in the context of repression of common criminality is a phenomenon that has persisted for a long time but has been overlooked because of the focus on the political dimension. It has been pointed out that these non-political situations generally get less mass media attention, which means that their frequency may be underestimated.

The state authorities’ attitude towards torture itself is not our primary concern here, but our starting-point is that there may be links between torture and the predicament in which treatment centers find themselves. If torture is inscribed in a heated political context it seems plausible that center activities also will be so inscribed because the conflictual climate would affect both.

**Case Study**

The aim of this investigation is to penetrate relations between treatment centers and the state in one country, which commands particular interest by itself, with the secondary purpose of generating clues that might be valid for other settings as well. Turkey will be in focus here. Torture in the country is well documented and is frequently seen as linked to internal conflict. The Human Rights Foundation of Turkey (HRFT) carries out extensive treatment work. In spite of strained relations with the state apparatus, HRFT has received a great deal of positive attention abroad. Foreign diplomats and representatives of international organizations have been present at important events for the foundation such as the opening of new centers and court proceedings. HRFT has been honored with several international human rights awards and foreign organizations have provided funding.

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15 The European Human Rights Award (1998) given by the Committee of Ministers of the Council of Europe, the Sakharov Freedom Fund Annual Awards (1994) given by the Sakharov Freedom Fund Governing Board
The following questions will be addressed:

- What are the relationships between the centers and the state apparatus like?
- Do centers have a political importance?
- If so, does this affect relations with the state?
- Is negative state behavior centralized or coordinated?
- How are bad relations handled?

A great variety of sources were used for the collection of data. Documentary information, including letters and administrative documents, from centers, state authorities and doctors not involved in HRFT activities have been used as well as newspaper clippings from Turkish and foreign newspapers. Face-to-face interviews have also been conducted with officials at HRFT centers and the affiliated Human Rights Association of Turkey (IHD). Interviews with officials at the Ministry of the Interior, the Ministry of State and the Ministry of Health have also been carried out. As we managed to gather little printed material from the Turkish authorities, these sources were crucial; the impressions of the state apparatus and its actions are first and foremost created through these interviews (and to some extent through information obtained from newspapers and NGOs). All interviews were undertaken by Liv Hammargren and took place in Ankara at the different ministries and the offices of the HRFT and the IHD between December 13 and 16, 1999. The interview at the Ministry of the Interior and part of the interview at the Ministry of Health were made through an interpreter commissioned by the project (Dr Sebastian Arslanogullari). All interviews were designed as in-depth qualitative interviews with certain key questions.

Setting

In the 1970s the domestic political life in Turkey was characterized by short-lived government coalitions which were unable to resist the escalating politicization of all aspects of society. The politicization led to a polarization of different groups, divided into leftist, right wing and nationalistic fractions, and at the end of the decade this resulted in open clashes between their sympathizers. The violence escalated and developed into anarchy of which ordinary citizens became the victims; During the summer of 1980 as many as 20 people were killed daily in political murders and terror attacks throughout Turkey.

To put an end to the violence the military staged a coup on September 12, 1980. The methods it used in its task of reinstating law and order were not always in accordance with good human rights standards. However, since for the vast majority of Turks their immediate security improved radically, the coup seems to have enjoyed a great deal of popular support in spite of the fact that civil and human rights were violated.

In 1982 a new constitution was accepted by the Turkish people in a referendum. Drafted by technocrats hand-picked for the assignment and supervised by the military, it was much more restrictive than its forerunner with regard to civil liberties such as freedom of expression, the freedom of the press and freedom of organization. By introducing these less liberal laws the leaders of the coup wanted to prevent a politicization and a polarization of Turkish society of the kind that the country had experienced in the 1970s. Furthermore, before handing over power to an elected, civil government the military body called the National Security Council

(MGK), which was made up of senior military commanders and which had acted as the government of the country during the period of military rule, was made a permanent institution. According to the constitution the role of the MGK was only to be advisory to the democratically elected government. In 1983 parliamentary elections were held, and the only non-military controlled party, the Motherland Party led by Turgut Özal, won an absolute majority.

In 1984 the Kurdistan Workers’ Party (PKK)\(^{16}\) launched its first terror attack on Turkish soil, and as a consequence a set of anti-terrorism laws were passed and martial law was introduced in parts of the southeastern regions of the country. The anti-terror laws took the limitation of the freedom of organization and expression even further than the constitution.

Ever since the 1980 coup there has been strong evidence that Turkey has used torture as a means to deal with its political opponents as well as ‘regular criminals’. Numerous reports confirm that the use of torture is widespread and common in parts of the Turkish security forces, and especially the police. This is despite the fact that the constitution of 1982 prohibits the use of torture. As a reaction to this, groups critical of the ongoing human rights abuses were formed in the mid-1980s.

In 1989 the Human Rights Foundation of Turkey was set up by the IHD together with the Turkish Medical Chamber (TTB)\(^{17}\) and with the help of the Danish-based Rehabilitation Council for Torture Victims (IRCT).\(^{18}\) It declares itself a non-political NGO which does not discriminate against anyone on the basis of political opinion, gender, race or nationality.\(^{19}\) The aim of the organization is to work against torture and other human rights violations in accordance with international conventions, both those signed and/or ratified by the Turkish Government and other international accords in the field of human rights to which Turkey is not a party.\(^{20}\)

The HRFT operates on a project basis. There have been two main projects running from the very start: the documentation project and the project for the treatment and rehabilitation of torture victims.\(^{21}\) These projects still account for the greater part of the activity of the HRFT. The financial head sponsors of the projects are the Swedish Red Cross, the UN Voluntary Fund for Victims of Torture and the European Commission.\(^{22}\)

The documentation project aims at collecting information about human rights and human rights abuse in Turkey from different sources such as newspapers, journals and the IHD and

\(^{16}\) The aim of the PKK is, or at least was up to the arrest of the PKK leader Abdullah Öcalan in 1999, an independent communist state in the southeastern part of Turkey. After his arrest Öcalan made a statement to the effect that he from this point would promote a peaceful solution of the Kurdish problem within the borders of Turkey, and encouraged his fellow PKK members to lay down their arms. The PKK is officially considered to be a terrorist group by several governments.


\(^{19}\) Interview with Dr. Metin Bakkalic, Project Coordinator at the HRFT and Ms. Hale Eryilmaz, International Secretary at the HRFT.

\(^{20}\) Marusarz, op. cit., p. 2 (note 17) and “What Do You Want to Know About the Human Rights Foundation of Turkey?” , p. 2, HRFT document.

\(^{21}\) Ibid., pp. 2-3.

\(^{22}\) Okan Akhan, “Presentation of the HRFT”, 1997, p. 2.
its branches. The material is archived and programmed into a computer-supported data bank.

Within the framework of the documentation project daily reports (on weekdays) are issued, which are available in Turkish and English. These reports can be obtained by subscription either by fax or e-mail, and at the end of the year they are put together in an annual report where statistics about torture victims applying for help at the different centers of the foundation are also presented. Other material related to human rights issues in Turkey is also published.

The HRFT runs five rehabilitation centers for victims of torture throughout Turkey. The Ankara center opened in 1990, the Istanbul and Izmir centers the following year, and the centers in Adana and Diyarbakir in 1995 and 1998, respectively. In 1993 the ‘Five Cities Project’ was established in connection with the rehabilitation project. The purpose of the project was to link medical personnel in cities that did not have a rehabilitation center of their own to a center where they could send victims of torture for rehabilitation. At the moment the project includes the cities of Gaziantep, Hatay, Malatya, Sanliurfa and Adiyaman, which are all situated in the southeastern part of Turkey.

Each center has permanent staff employed, and volunteers from various medical professions also cooperate with the centers. The structures of the individual centers are as follows:

**Ankara:** A physician, a secretary and a social worker employed full-time together with two psychiatrists working part-time. Around 100 volunteers are tied to the center.

**Istanbul:** A physician, a psychiatrist, a medical secretary and a secretary employed full-time, and a physician working part-time. Around 80 volunteers are connected with the center.

**Izmir:** A physician, a medical secretary, a secretary, a social worker and a psychiatrist employed full-time, and a physician working part-time. Around 50 volunteers are connected with the center.

**Adana:** A physician, a social worker and a secretary employed full-time, together with a physician and a psychiatrist working part-time. Around 30 volunteers are connected with the center.

**Diyarbakir:** One secretary employed full-time and two physicians and a social worker working part-time. Around 30 volunteers are connected with the center.

The treatment of a torture victim at a HRFT rehabilitation center begins with an introductory interview and a physical examination. After this session the treatment team at the center contacts the relevant volunteer specialist who then completes the treatment of the patient. All financial costs associated with the rehabilitation are covered by the HRFT.

The purpose of the rehabilitation project is to provide victims of torture with treatment and support that the foundation claims are not provided by the public health authorities. An

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23 Interview with Metin Bakkalic and Hale Eryilmaz, op. cit. (note 19).
24 What Do You Want to Know About the HRFT?, op. cit., (note 20) p. 19.
25 Ibid.
26 Marusarz, op. cit., (note 17)
28 Ibid., paragraphs 2.4-5.
29 Ibid., paragraph 2.4.
30 Ibid., paragraph 2.1.
important aspect of the rehabilitation of people exposed to torture is that the victims often do not trust representatives of official state authorities, such as public medical staff, as they believe that they themselves or their families might be targets of state reprisals if they seek help. The HRFT therefore claims that as an independent NGO it fulfills an important function in the work of rehabilitation of torture victims.

A History of Friction

According to the HRFT the organization has been subjected to persecution by the political authorities for several years. Most obvious is the alleged conspiracy in 1996 between the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Health, the National Intelligence Agency Undersecretariat and the General Secretariat of the National Security Council.

The campaign was initiated by the Ministry of Foreign Affairs, which according to the HRFT wanted to call the credibility of the foundation into question following the US Government’s presentation of an extensive report on human rights abuse in countries around the world to which the HRFT had contributed with information about the situation in Turkey.31

The Information Department of the Ministry of Foreign Affairs suggested that the HRFT was trying to trick foreign sponsors into contributing money to projects that did not exist, as the HRFT had not applied for or been granted permits by the authorities to run treatment facilities in which patients actually received medical services.32 Thus, the Ministry declared that the HRFT was either breaking Turkish law by running clinics without permits or giving its foreign sponsors ”misleading information in line with [its] own objectives”,33 i.e., lying about undertaking rehabilitation which was not actually carried out in order to get money and attention.34 Thus, legal action was taken against the HRFT.

The Ministry of Foreign Affairs claimed that the HRFT operated its treatment and rehabilitation centers in Ankara, Izmir, Istanbul and Adana without the formal permits that are issued by the Ministry of Health. In a letter to the Ministry of Justice, the Ministry of Foreign Affairs states that in a previous investigation by the Ministry of Health ”it has been determined that there are no ‘Treatment and Rehabilitation Centers’ rendering [health] service attached to the Human Rights Foundation of Turkey” and that no certificate related to those Centers had been issued.35 However, the Ministry of Foreign Affairs disputed this conclusion as the HRFT had declared in its reports that it rendered health services to a number of patients and ”provided these services in its Centers”. If this turned out to be true the HRFT would be guilty of ”holding health centers which are out of control by the Ministry of Health”.36

32 Statement by the Information Department of the Ministry of Foreign Affairs dated March 7, 1996.
33 Ibid.
34 There has also been other accusations from the Ministry of Foreign Affairs directed toward the HRFT about the organization fabricating information and supporting separatist groups (“1995 Turkey Human Rights Report”, HRFT Publication 14, p. 378).
36 Ibid.
During the new investigation carried out by the Ministry of Health the HRFT was asked about the nature of its treatment and rehabilitation services and also requested to submit ID information of applicants and doctors working for the foundation along with confidential patient files.

After local investigations of the four centers the prosecutor in Ankara and Izmir issued decisions of non-prosecution, while the cases in Istanbul and Adana went to trial. In Istanbul a case was launched, but ended in acquittal after only one court session. In Adana things went less smoothly for the HRFT: the trial, known as the Adana trial, lasted 15 months.

The Adana representatives of the HRFT put on trial were lawyer Mustafa Cinkilic and Dr Tufan Köse. Mr Cinkilic was accused of ”starting a medical treatment center without due authorization” (laws number 1219 and 2219) while Dr Köse was accused of failing to inform the authorities of the identities of the persons who had applied for help at the centers (”failure to fulfill the obligation to make notification”, Turkish Criminal Code (TCC) article 530).

Tufan Köse was convicted and fined for not informing the authorities of the identities of the applicants. However, Dr Köse refused to pay the fine he was sentenced to, arguing that the Turkish Criminal Code, article 530, on which the charges brought against him were based, provides for the principle of ”health first”, and that he had been acting in accordance with it. He refused to pay the fine, and his refusal implied that he did not accept the verdict. Because of this refusal Dr Köse was charged and convicted of ”disobeying the orders of an official authority” (Turkish Penal Code (TPC) article 526).

The charges brought against Mustafa Cinkilic concerning ”starting a medical treatment center without authorization”, on the other hand, were dismissed by the Adana court, and Mr Cinkilic was acquitted. The court annulled the Health Directorate’s decision that the Adana Center was within the scope of Law 1219, which the prosecution claimed was applicable. (The law is intended to govern private out-patient and in-patient clinics, and since the investigation showed that the HRFT Adana Center was neither the court concluded that Law 1219 was not applicable).

The purpose of article 530 of the TCC under which Dr Köse was convicted is, according to the political authorities in question, to make it easier for the authorities to detect cases of torture so that those responsible can be found and brought to justice. However, as the arguments presented by the defense in the Adana trial demonstrate, this obligation creates great dilemmas for health care workers as the law contradicts universal principles of medical ethics that prevent doctors from disclosing private information about patients without the consent of the patients themselves as the doctor-patient relationship is based on trust.

40 Ibid.
41 IRCT’s documentation center, document 05423, p. 2.
43 Ibid., p. 51.
44 Ibid., p. 56.
Another problem with the law is that, despite the lawmakers’ good intentions, the survivors of state-inflicted torture are likely to be reluctant to have any contact with the state apparatus out of fear of reprisals. According to the HRFT notifying the authorities about the identities of the applicants would make many survivors of torture abstain from seeking help.

It has been suggested by representatives of the Ministry of the Interior that the documentation that the HRFT undertakes really should be carried out by state investigators as they have both the formal and the practical competence to investigate allegations of torture in a more professional and efficient fashion. As the HRFT rarely reports cases of torture to the authorities the police are unable to solve many alleged cases of human rights abuse. Furthermore, these officials say that the rehabilitation work undertaken by the HRFT might as well be performed by the public health services, as all doctors have taken the same medical oath, and that the public doctors would therefore be as suitable to perform the task as the doctors working for the HRFT. There obviously seems to be little understanding on the part of these officials of the distrust many victims of torture might feel towards the state. The opinions are also clearly based on the assumption that the state apparatus is free from extra-judicial coordinated actions between segments of the state.

There is an obvious conflict between the desire to be able to convict and punish torturers, on the one hand, and the desire to protect the victims and their wishes to avoid any contact with the state, the representatives of which have abused them. Even if the law was created with the best of intentions, by following it doctors would under the current system scare away presumptive patients.

Recently the Ministry of the Interior demanded information about the names of the staff at the Adana center and the volunteers working in connection with it. According to the Board of the HRFT the official policy of the foundation is that no names will be submitted to the authorities.

Apart from the Adana trial there are other incidents where members of the HRFT have been directly targeted by the political authorities. Dr Sebnem Korur Fincanci is an expert in forensic medicine and head of the Faculty of Medicine at Istanbul University. As part of her work at the University Dr Fincanci is also a member of the Board of Forensic Medicine, which comes under the Ministry of Justice. According to the HRFT Dr Fincanci was excluded from the Board in 1994 due to her involvement in the HRFT and her work to promote human rights. Dr Fincanci took her complaints to court, which decided that there were no valid grounds for her dismissal. She was reinstated in office in 1996. In 1998 the local authorities closed down the HRFT rehabilitation center in Diyarbakir only a few days after its opening. The official reason for closing the center was that the HRFT had not applied for the permits required before it could open. The center was able to reopen after a few weeks when the required permits had been issued.

HRFT’s relations with the security forces (police and military) merit particular mention, and some cases will be mentioned here. Forensic physician Chumhur Akpinar was arrested in

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46 Interview with Hakki Logoglu, Head of Department in the Research, Planning and Coordination Committee, Human Rights and International Organizations Division of the Ministry of Interior.
48 Ibid., p. 6.
49 Interview with General Ertugrul Candan, Directorate General of Care Services Deputy Director and Deputy General Tahir Soydal, Directorate General of Basic Health Services at the Ministry of Health.
Janeuary 1999 and charged with ‘aiding an illegal organization’ under Article 169 of the Turkish Penal Code. During his time in custody he was beaten, and the HRFT maintains that this treatment was directly related to his and the HRFT’s work to help torture victims.\textsuperscript{50} The trial attracted international attention and was attended by, among others, representatives of the World Medical Association (WMA), who stated that they were there to show that the WMA was fighting worldwide for the right of doctors to treat patients regardless of their political beliefs.\textsuperscript{51} Dr Akpinar was acquitted in December 1999.

In October 1999 Zeki Uzun, a gynecologist and obstetrician, was arrested by the Anti-Terrorist Branch (ATB) at his clinic in Izmir. Dr Uzun had been a member of the Chamber’s Assembly of Physicians and Commission of Medical Examinations and Reports, and had contributed to the Izmir Treatment and Rehabilitation Center of the HRFT on a voluntary basis for six years. While being taken to the premises of the ATB Dr Uzun was subjected to verbal and physical abuse. During the interrogation that followed he was tortured and threats to his life were made. The following day the home and clinic of Dr Uzun were searched. Patient files containing private information were read and seized without permission.\textsuperscript{52}

Dr Uzun was accused of treating and supporting members of terrorist organizations\textsuperscript{53} and of conducting terrorist propaganda. The arrest was made on the basis of the confession by former PKK member Ibrahim Calhan, but was not supported by any other evidence.\textsuperscript{54} Dr Uzun was detained for six days and during that time was forced to sign a statement accepting the accusations made against him. He was subsequently taken to the Izmir Educational Hospital and a medical report was issued, without any medical examination being performed and without Dr Uzun being given the opportunity to even talk to the physician in charge. In the report it was stated that Dr Uzun was healthy and had not been subjected to torture. Dr Uzun was then transferred to the State Security Court (SSC) prosecution office and later to the SSC, from where he was released after being heard by the court.\textsuperscript{55}

According to the HRFT the medical report stating that Dr Uzun had not been subjected to torture was written by doctors at the Criminal Medical Office who were put under pressure. At a press meeting arranged by the Izmir Chamber of Doctors the chairman of the union affirmed that Dr Uzun’s honest reports about torture victims were the reason for his arrest and subsequent torture. HRFT also maintained that the maltreatment of Dr Uzun was directly related to his work for the HRFT.\textsuperscript{56} Dr Uzun was finally acquitted by the court on May 23, 2000.\textsuperscript{57}

According to official sources Dr Uzun did not make a formal complaint about being tortured. Nevertheless, an investigation was initiated by the prosecutors’ office\textsuperscript{58} after the newspaper \textit{Hürryyet} had published an article under the headline “The doctor who treats victims of torture

\textsuperscript{50} \textit{Reuters}, November 4, 1999.
\textsuperscript{51} \textit{Reuters}, March 3, 1999.
\textsuperscript{52} Letter from the Izmir branch of the HRFT dated October 28, 1999, signed by Dr. Suat Kaptaner, President of the Board of Directors of the Izmir Chamber of Physicians, and Dr. Veli Lök, Izmir Representative of the HRFT.
\textsuperscript{53} \textit{Turkish Daily News}, November 4, 1999.
\textsuperscript{54} \textit{Turkish Daily News}, April 12, 2000.
\textsuperscript{55} Letter signed by Suat Kaptaner and Veli Lök, op. cit. (note 52).
\textsuperscript{56} \textit{Turkish Daily News}, November 4, 1999.
\textsuperscript{57} IRCT web page signed by Dr. Inge Genefke at www.house.gov.
\textsuperscript{58} In Turkey an investigation may be launched by a public prosecutor without a formal complaint if he/she thinks that there is enough evidence to do so. Telephone interview with Second Secretary at the Turkish Embassy in Stockholm Mr Aydin Selcen, December 9, 1999.
has been tortured himself".59 So far no one has been tried in connection with the torture of Dr Uzun.

Professor Veli Lök of the Izmir branch of the HRFT claims that the pressure on human rights activists has increased after the EU’s Helsinki summit meeting of December 1999, at which Turkey achieved candidate status for membership of the European Union.60 Cases against the HRFT have indeed become more numerous than before. Apart from the case against Dr Zeki Uzun described above, trials have been launched against three other members of the Izmir branch, Dr Alp Ayan, Ms Günseli Kaya and Professor Veli Lök himself since October 1999. Ms Kaya and Dr Ayan were arrested when attending a funeral of one of the prisoners killed in the riots in the Ankara Ulucanlar Closed Prison. The HRFT representatives were accused of protesting against the decision of the police to "dispel meetings and demonstrations with coercion, violence, threat, attack or resistance" under Article 32 §3 of the Law on Meetings and Demonstrations. According to the HRFT the funeral could not be classified as a "demonstration or march" as it took place on a desolate country road near the small town of Aliaga.61

Although no one has admitted to maltreating members of the HRFT who have been arrested, and despite official medical reports stating that the prisoners have not been subject to torture, the evidence that they have been seems convincing; independent doctors have made an examination of Dr Uzun to this effect. As many reports from Turkey have shown, torture is frequently used in prisons against political prisoners; the claim that Dr Uzun and Dr Akpinar have been subject to torture due to their involvement in the HRFT is certainly not unlikely.

Obviously the officers executing the orders for arrest and the superiors in charge are directly responsible for the torture. However, as we will see below, there are indications that the actions taken by the security forces might have been carried out in connection with other segments of the state apparatus.

So far we have focused on the state apparatus in terms of political authorities and security forces respectively. Some words should also be said about the judiciary. As mentioned above, the security laws that have governed large parts of southeastern Turkey since the first PKK attacks on Turkish soil in 1984, together with the anti-terrorism laws introduced around the same time, have placed great restrictions on the freedom of expression on top of the already strict laws set forth in the constitution. Certain issues such as the Kurdish question and the political influence of the military are difficult matters to discuss in a constructive and critical manner without being accused of being PKK-friendly, or at least Kurd-friendly, i.e., favoring the disintegration of the Turkish state. If expressed in a politically incorrect fashion such opinions might be considered to be a crime against the state and may be punished accordingly.

In 1994 a trial was launched against Yavuz Önen, the President of the HRFT, and Fevzi Argun, a member of the HRFT Administrative Board, in connection with the book *File of Torture 1980/1994*. Önen was prosecuted because of certain section of his article ‘12th September 1980: a Step Towards Darkness’, in which he discussed the consequences of the military coup of 1980 and the 1982 Constitution. Argun was prosecuted because of the

59 Ibid.
61 Press Statement of the HRFT *What is Going On in Izmir?* signed by President Yavuz Önen, on behalf of the HRFT Executive Board, December 29, 1999.
manner in which he had discussed the Kurdish problem. Both defendants were accused of "making propaganda aiming at damaging the indivisible unity of the Turkish Republic with its nation and territory". Both Önen and Argun were acquitted.\(^{62}\)

The allegations against the HRFT were set forth by the prosecutor of the State Security Court (SSC) in accordance with the relevant laws, i.e., Article 8/1 of the Law to Fight Terrorism. In Turkey, cases falling within the scope of the security laws are tried by military courts, SSCs.

It is interesting to note that the SSC found the defendants not guilty as charged and that the judge stated that "there was no legal element of separatist propaganda [in the book] as ascribed in Article 8 of the Law to Fight Terrorism"\(^{63}\). Thus, the court interpreted the law, or perhaps the aims of the HRFT, in a different way than the prosecutor.

The arrests of Ms Kaya and Dr Ayan in the autumn of 1999 described above also encountered judicial obstacles. In spite of the fact that the maximum jail sentence for a crime falling within the scope of article 32 of the Law on Meetings and Demonstrations, under which the charges were brought, is five years, and a person can only be remanded in custody for crimes which carry a seven-year term of imprisonment,\(^{64}\) Ms Kaya and Dr Ayan were held in custody for close on four months.\(^{65}\) Thus, during this time they remained in custody without legal grounds.

The formal reason for keeping Ms Kaya and Dr Ayan in custody was the fact that the courts involved could not agree on which one of them would try the case. The First Instance Court in Izmir declared that the case lay outside its jurisdiction, and referred it to the SSC of Izmir. However, the SSC also claimed that the case lay outside its competence. Thus, the defendants had to wait even further for the decision of the Appeal Court.\(^{66}\) However, immediately after the first hearing of the trial on January 20, 2000 Ms. Kaya and Dr Ayan were released.\(^{67}\) The trial is still under way.

In connection with the arrests of Ms Kaya and Dr Ayan, Professor Veli Lök of the HRFT made a press statement in the newspaper \textit{Cumhuriyet} on October 31, 1999, where he criticized the breaking up of the funeral, claiming that the authorities might have used the opportunity to get at inconvenient human rights activists who had been working for the end of torture, had provided medical treatment for victims of torture, and through these engagements had become a serious embarrassment for some people in power.

Because of this statement Professor Lök was charged with "disclosing opinions about the remand by the courts" (Aliaga Penal Court of First Instance and Izmir State Security Court), and "inspiring and advising the Court". Since the trials of Ms Kaya and Dr Ayan were not yet concluded it was possible to launch a trial against Professor Lök on these grounds under Article 30/2 of the Press Law.\(^{68}\) On June 13, 2000, Professor Lök was convicted. The court

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\(^{63}\) Ibid.

\(^{64}\) Press Statement of the HRFT, December 29, 1999, op. cit. (note 61).

\(^{65}\) Information note from the HRFT \textit{What’s happening in Izmir in Turkey?} signed by President Yavuz Önen, on behalf of the HRFT Executive Board, February 1, 2000.

\(^{66}\) Amnesty International Report ACT 75/02/00, May 2000.

\(^{67}\) Information note from the HRFT, February 1, 2000, op. cit. (note 65).

\(^{68}\) Ibid.
sentenced him to five years of self-censorship, which means that he may not publicly criticize the Turkish authorities on issue of torture for five years, or a token fine.\(^6\)

The sentence of censorship Professor Lök was given and the conviction of Dr Köse when he refused to disclose the identities of the applicants of the rehabilitation center cast a shadow over the administration of justice, as does the unlawful imprisonment of Ms Kaya and Dr Ayan awaiting trial. The two former cases seem to have a political flavor; in the case of Professor Lök the verdict reflected that some political views are not permitted to be expressed publicly, while in the case of Dr Köse universal standards of patient–doctor confidentiality were not respected. The latter case raises questions about the efficiency of the judicial system and of extra-judicial punishment.

What seems to be a major problem for the judicial system, no matter how dependent or independent it is, is of course the current constitution of 1982 and the security laws that restrict civil liberties. State Ministry officials say that the introduction of a less liberal constitution was both popular\(^7\) and necessary after the anarchy preceding the military coup, but that the constitution is bound to be changed in order to fit into contemporary Turkey. However, changing the law takes time and in the meantime the courts ought to interpret the existing laws in a more liberal fashion.\(^7\) Nevertheless, it is important to note that since many of these laws are very limiting as far as civil rights and freedoms are concerned they significantly restrict the space within which the judiciary may maneuver.

\section*{Political Functions}

Could strained relations be explained in terms of the state’s understanding that the centers fulfil (negative) political functions?

Naturally, the combating of the terrorist organization the PKK, religious fanaticism and the fear of ethnic division of the young republic are difficult matters for the Turkish state to deal with. These tasks are complicated even further as demands by different groups, domestic as well as foreign, are raised to adjust the laws and the way in which they are implemented to Western standards. Western governments have especially highlighted the importance of reforming the laws dealing with civil and minority rights and the role of the military in the democratic system.

Many Turkish state officials seem to think that individuals and organizations promoting greater civil rights are also promoting the disintegration of the country. Other less skeptical officials consider these organizations as valuable contributions to the public discourse even though the information presented by them is often very biased and not objective.\(^7\) However, the many trials launched against members of the HRFT clearly indicate that people in powerful positions view the foundation as being politically inconvenient.

Most likely, there is a strong smack of guilt by association involved here. The mother organization of the HRFT is the Human Rights Association (IHD). The IHD was founded in

\(^6\) IRCT web page, op. cit. (note 57).

\(^7\) The 1982 Constitution was approved by over 90 percent of the electorate in the referendum.

\(^7\) Interview with Ambassador Balas Özner, Special Advisor to Minister Ali Irtemcelik in charge of Human Rights Issues, at the State Ministry.

\(^7\) Ibid.
1986 by people who wanted to make the public aware of the abuses of human rights by parts of the Turkish state apparatus. In order to do so the IHD published books and booklets where the problems were brought to light. The printed material together with statements by leading figures within the IHD criticizing the use of torture in police stations and prisons, capital punishment, the laws restricting freedom of expression, and the lack of minority rights and of a political will to do something about the human rights problems made the organization controversial. The criticism of the different governments’ policies on the Kurdish issue in particular led some people, including politicians, journalists and some intellectuals, to accuse the IHD of taking a political standpoint on the matter—something that many Turkish critics regarded as inappropriate for an independent NGO to do.

Because of the views expressed by some IHD representatives, the organization has been accused not only of being in favor of Kurdish separatism as such, but also of having strong ties to the PKK. These suspicions may have been strengthened by the fact that prominent members of the IHD have made live telephone statements on pro-Kurdish television (Medya TV), which is prohibited from broadcasting from Turkish soil. IHD General Secretary Nazim Gür says that IHD is against the repression of Kurds in Turkey, but that the official policy of the organization is that the Kurdish issue should be solved by peaceful and democratic means, within the current state borders of Turkey.

Although representatives of different parts of the state apparatus in recent years have recognized that abuse of human rights is widespread and that the state, at least in part, is responsible for the situation, many offices of the IHD around Turkey have been closed down and members of the organization have been harassed, arrested and even killed by unknown assassins. The former president of the IHD, Akin Birdal, seems to have been one of the main targets: he has been arrested several times and sentenced to prison, and in 1998 unknown gunmen forced their way into his office trying to murder him. Birdal was severely wounded in the attack which the IHD believes was the work of some part of the state apparatus that found him inconvenient.

In the past year some positive development can be noted in the state’s attitude toward the IHD: the organization’s office in the city of Van that was closed five years ago has recently been able to reopen, and the IHD together with other NGOs has participated in talks with the government about human rights issues and how the situation in Turkey can be improved.

Today IHD is the largest human rights organization in Turkey with some 16,000 members. Apart from documenting the human rights situation in Turkey it is trying to promote human

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73 E-mail from Dr. Metin Basoglu to Dr. Bertil Dunér, October 9, 1998.
74 For instance The Turkish Ministry of Foreign Affairs, internet publication at http://www.isn-lase.ethz.ch/cgi-bin/Con of November 18, 1999.
75 BBC Monitoring Service, October 19, 1999.
76 Interview with Nazim Gür, General Secretary of the IHD at the IHD Ankara office.
77 BBC Monitoring Service, October 16, 1999 and interview with Balas Özner, op. cit. (note 71).
81 Interview with Nazim Gür, op. cit. (note 76).
82 BBC Monitoring Service, October 26, 1999.
83 Ibid.
rights through educational programs in order to establish a ‘peace culture’ within Turkish society.\textsuperscript{84}

In 1988 the president of IHD, Akin Birdal, revealed the organization’s plans to set up rehabilitation centers for victims of torture.\textsuperscript{85} For legal reasons it was necessary to establish a foundation separate from the IHD in order for the centers to be able to receive foreign funding in a legally less complicated fashion.\textsuperscript{86} It seems unavoidable that attitudes towards the IHD would spill over to HRFT.

What seems to be the predominant view about the HRFT among officials is that the foundation is biased in its way of presenting its information about human rights abuse, only stressing the cases the authorities may be responsible for and not condemning acts committed in particular by the PKK\textsuperscript{87}. The HRFT denies these accusations and points out that in many of its annual reports it has condemned terrorist attacks by the PKK, but underlines that the terrorism cannot be used as an excuse for the torture carried out by the state itself.\textsuperscript{88} Political officials are also dissatisfied with the fact that the HRFT never gives the government credit for taking measures to improve the human rights situation.\textsuperscript{89} However, according to the HRFT, much of the legislation aimed to be human rights-friendly later proves to be useless.\textsuperscript{90}

The fact that the HRFT does not emphasize its condemnation of the PKK more strongly is likely to be due to its not wanting to alienate members or ex-members of the PKK so that they dare seek help at the centers. Nevertheless, this is an unfortunate strategy as far as winning public support inside Turkey is concerned, as Kurdish separatism is considered by many to be the number one enemy of the state. By insinuating that the HRFT has a sympathetic attitude towards the terrorist organization, attention is shifted from the abuse of human rights by the state to whether or not the HRFT is a credible source of information.\textsuperscript{91}

Moreover, some officials claim that the HRFT is not a non-political NGO since many of its most prominent officials are well-known leftists, and the foundation is suspected of having political purposes.\textsuperscript{92} Others are more positive in their attitude and say that, even though the information it distributes is somewhat one-sided and biased, the HRFT contributes to opening up the debate. These officials believe the HRFT to be sincere in its wish to reform society.\textsuperscript{93}

In other words, this points to the foundation’s information as the source of displeasure. The very existence of the information project may be interpreted as criticism directed against the regime since many of the applicants have been subject to torture by representatives of the state. Some segments of the state apparatus seem to interpret the non-discrimination policy of the HRFT—i.e., treating people regardless of their political convictions—as a political statement. The arrests and trials of Dr Uzun and Dr Akpinar seem to confirm this. The fact

\textsuperscript{84} Interview with Nazim Gür, op. cit. (note 76).
\textsuperscript{85} Reuters, November 20, 1998.
\textsuperscript{86} Bengt Hurtig, Svenska Stödkommiten för Turkiet, November 23, 1999.
\textsuperscript{87} Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
\textsuperscript{88} Interview with Metin Bakkalı and Hale Eryılmaz, op. cit. (note 19).
\textsuperscript{89} Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
\textsuperscript{90} Interview with Metin Bakkalı and Hale Eryılmaz, op. cit. (note 19). One example of this is the abolition of impunity for civil servants when accused of certain crimes. Police officers, for instance, often still enjoy impunity and continue to work on the police force.
\textsuperscript{91} IRCT Document 06044, Human Rights Foundation of Turkey RE: Memorandum AS/Mon (1997) 40.
\textsuperscript{92} Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
\textsuperscript{93} Interview with Balas Özner, op. cit. (note 71).
that the security forces and prosecutors expect doctors to put medical ethics aside and first and foremost consider the political engagements of the patients is clearly revealed in these two cases. Interestingly enough the charges as they are stated do not try to disguise this.

It is questionable whether the different segments of the state would react so strongly to the activities of the HRFT if it only engaged in treating victims of torture and abstained from documenting human rights abuse by the state. It is interesting to make a comparison with the Istanbul Centre for Behaviour Research and Therapy (DABATEM), which also has engaged in victims of torture. DABATEM has carried out research on torture victims as well as treatment in that connection but it is a private clinic, not an NGO. Just like the applicants of HRFT, however, most of the patients at DABATEM have been subjected to torture because of their political sympathies and activities. If activities concerning victims of torture generally is an irritant to the state apparatus, then it would seem logical that DABATEM also would have come in focus. However, it has not been subject to any obstruction by the state. On the other hand, it has never engaged in human rights campaigns; its output is mainly in the form of scientific articles published in international professional journals. Its profile is so low that DABATEM wonders whether the state even knows about its existence. Whatever the case, these circumstances are in line with the conclusion that strongly visible political activities are what matters most to the state.

Interestingly, in our interviews with government officials it is obvious that they do not make any distinction between the different projects of the HRFT, i.e., between the documentation project and the treatment and rehabilitation project. This is quite understandable as the organization usually acts as one unit and many of its members are involved in both projects. Thus, it is not possible to consider the state’s behavior towards the treatment and rehabilitation centers separately from its perception of the documentation project and its activities.

Given that the main purpose of the documentation project is to collect and distribute information about human rights abuse in Turkey, it is obvious that this part of the HRFT’s activities disturbs the authorities and causes embarrassment to the government, especially when the information is disseminated abroad. As Turkey has aspired to become a member of the European Union for several decades and is a close ally of the United States, this is bound to be a great concern for the authorities. Information from independent NGOs is a major source of information about human rights abuse and has greatly contributed to increase awareness of human rights violations in Turkey among many Western governments.

It is therefore safe to assume that a considerable proportion of Turkish state representatives consider the HRFT as an anti-governmental organization that damages the country’s image abroad. The initiation of the investigation against the HRFT by the Ministry of Foreign Affairs preceding the Adana trial supports this assumption, as do the trials of Yavuz Önen, Fevzi Argun and Veli Lök who all publicly expressed their opinions on sensitive matters.

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94 E-mails from Dr. Metin Basoglu to Dr. Bertil Dunér at the Swedish Institute of International Affairs, November 26, 1999 and December 1, 2000.

95 Among other NGOs, Amnesty International and Human Rights Watch have contributed to investigate and increase awareness of the Human Rights situation in Turkey. National organizations such as the Human Rights Association and the Human Rights Foundation of Turkey play a similar role on the national level. The information collected by these organizations is continuously used as official sources by the Western government, among others the US Department of State (for instance in the 1996 report on Human Rights throughout the world submitted to Congress).

96 Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
The crucial role of the documentation project is in fact confirmed by the authorities. Representatives at the Ministry of State maintain that the treatment of victims of torture in itself is not considered to be an act of provocation, but that the material distributed by the HRFT is often controversial and sometimes biased and therefore might upset certain officials.97

This ascribed political function seems to go a long way to explain the wide-scale investigation of the rehabilitation centers of the HRFT in Ankara, Izmir, Istanbul and Adana. It is possible that the Ministry of Foreign Affairs tried to score points against the HRFT by questioning the credibility of the foundation, thus making foreign governments and organizations more skeptical about information presented by the HRFT in the future.

The political function of HRFT would also be prominent in the Diyarbakir case. The view of the political authorities seems to be that the HRFT used both the opening ceremony and the closure of the center shortly thereafter as a means to attract international attention.98 According to the authorities there was no reason for the foundation not to apply for the necessary permits. This leads some officials to believe that the HRFT used this opportunity to provoke the state at the same time as winning foreign diplomatic and public support by making it appear as if the center was closed down for political rather than bureaucratic reasons.99 The HRFT had invited several diplomats and other foreign guests to the opening ceremony, thereby turning the eyes of the international community (the EU and the US in particular) towards Turkey and the human rights situation in the country.100 According to officials at the Ministry of Health, by refraining from applying for the permits in question the HRFT left the authorities no choice than to close the center. With regard to Turkish law and public safety the center must be closed.101

Representatives of the HRFT, on the other hand, say that they had applied for all the permits they thought were necessary in order to open the Diyarbakir center. They say that they did not realize that other, additional permits were required in the Diyarbakir area, which is governed by security laws that are in force due to the conflict between the Turkish Government and the PKK. The HRFT representatives deny that the foundation purposely failed to apply for the required permits in order to get international attention, and say that the whole affair was a big misunderstanding. However, the closure was unnecessary since everything, apart from the paperwork, was in order, and this was obvious as the center was allowed to reopen shortly after the closure.102

Apart from the question whether the HRFT simply made a mistake when applying for permission to open the Diyarbakir center, or whether it intentionally refrained from applying for all permits required as a PR trick in order to gain diplomatic and public sympathy, it is fairly clear that the incident must be somewhat embarrassing for the HRFT as the closure of the center was reported by the media and interpreted by the diplomatic community in Turkey as a political act directed against the NGO. Although the security laws that prevails in the southeastern part of Turkey do infringe civil rights, it would be an exaggeration to accuse the

97 Interview with Balas Özner, op. cit. (note 71).
98 Ibid. and interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
99 Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
100 Interview with Swedish Ambassador Michael Sahlin at the Swedish Ministry of Foreign Affairs, October 1999.
101 Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
102 Interview with Metin Bakkalic and Hale Eryilmaz, op. cit. (note 19).
Turkish authorities of abusing their power in this particular case. However, the process of issuing the necessary permits for the center might well have been speeded up by the attention the incident received.¹⁰³

**Caveats**

One should be careful not to overstate the importance of the political function. First, all state behavior vis-à-vis the centers is not necessarily well explained in these terms. In the case of the closure of the rehabilitation center in Diyarbakir, reactions were strong and immediate in condemning the actions taken by the authorities. As the HRFT later admitted, the necessary permits had not been applied for¹⁰⁴ and the authorities could not allow the center to operate without them. In retrospect the reason for the closure was bureaucratic in nature rather than political. One may of course speculate if the international attention paid to the opening and closing of the center speeded up the process of issuing these necessary permits, but even if this was the case it is hardly relevant when determining why the center was closed.

Keeping Ms Kaya and Dr Ayan in custody for close on four months without any valid legal grounds may easily be interpreted as a hostile action by the judiciary and the security forces; it may have been a way to intimidate and punish the HRFT in extra-judicial fashion. Otherwise members of the courts involved would have been expected to point to this serious error of unlawful imprisonment and immediately have it corrected. However, it need not necessarily be considered an act of negative state behavior against the organization on the part of the judiciary, but can equally well be interpreted as an example of a slow-moving and not-so-well-working bureaucracy within the judicial system.

Second, state behavior against HRFT is not necessarily a reflection of a unified state apparatus. Certainly, there is little doubt that some actions taken against the foundation have been organized and coordinated from the very top of the state apparatus. The Adana trial is of course an obvious example of this. The letters from the Ministry of Foreign Affairs to other ministries, the General Secretariat of the National Security Council and the National Intelligence Agency Undersecretariat requesting that investigations should be launched into the rehabilitation centers of the HRFT in order to prove the foundation unreliable to its foreign sponsors are incriminating evidence.¹⁰⁵

Moreover, even though concrete evidence of the kind available in the Adana trial is lacking in the cases where physicians and other members of the HRFT have been arrested, it seems likely that the increased number since the fall of 1999 of incidents involving arrests of HRFT members have been coordinated and/or centralized. It is possible that parts of the state apparatus feel more relaxed now that Turkey has been admitted into the circle of candidates for membership of the European Union and that they therefore feel less restricted by criticism of the human rights record of the country. Although it seems rather irrational to increase

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¹⁰³ Interestingly enough, considering the idea of a clear-cut division between NGOs and the state apparatus, one of the Diyarbakir center’s former permanently employed physicians, who now works as a volunteer for the center, Dr. Remiz Azizoglou recently was elected mayor of Diyarbakir, representing the Kurdish HADEP party. (Marusarz, “Report from the Swedish Red Cross”, op. cit., (note 47) p. 16).

¹⁰⁴ Interview with Metin Bakkalic and Hale Eryılmaz, op. cit. (note 19).

¹⁰⁵ Although not directly related to the HRFT, the infamous Susurluk car crash where the connections between politicians, police and organized crime was unraveled shows that cooperation between different segments of the State apparatus alongside severe corruption do exist.
pressure on human rights activists at this point, as the EU still monitors the development of human rights in Turkey closely and since negotiations will not begin until sufficient human rights and economic improvements have been made, the increased number of arrests and the kind of charges brought against the HRFT members point in this direction.

However, it seems that the courts have by and large been able to keep the political authorities and the security forces at arm’s length. The fact that the judges of the court did not go along with the prosecutor in the case launched against Önen and Argun, or in the case against lawyer Mustafa Cinkilic in the Adana trial or in Istanbul where a trial was launched on similar grounds, is positive evidence of the courts’ independence and impartiality. Similarly, the picture of the judiciary is encouraging when we consider that the trials against Dr Akpinar and Dr Uzun ended in acquittal.

The relationship between the security forces and the political authorities seems to be somewhat more intricate. Again, the Adana trial proves the political involvement in initiating investigations against the HRFT and that there has been coordination with the security forces. Even though it is not always possible to determine exactly how the coordination between the political authorities and the security forces is structured, the existence of such coordination seem obvious: the majority of the charges brought against the HRFT have been political to their nature, directly affecting the prestige of the government, and the actual arrests and many of the investigations have been readily carried out by the police.

The traditionally strong influence on politics that the military has enjoyed is still an important part of Turkish politics. At a time when demands are being made for this influence to be abolished and for Turkey to become a more liberal democracy it is likely that conservative elements of the security forces are trying to hamper the people and organizations voicing these demands in order to keep their powerful position. The facts that the constitution is basically designed by the military and that the government is to give the opinion of the military (MGK) priority obviously increase the influence that the military has on politics and civil politicians.

The connection between the political authorities and the security forces also lies in the fact that much of the government’s political embarrassment is caused by the fact that the HRFT has exposed human rights abuses which in large part have been committed by the security forces. Consequently both the political authorities and the security forces have a common goal in limiting the activities of the HRFT.

A notable change in the negative state behavior against the HRFT is that up to early 1999 the charges brought against the foundation seemed to be attacks on behalf of the political authorities. With the arrests of Dr Akpinar, Dr Uzun, Dr Ayan and Ms. Kaya the security forces played a more prominent role than they had previously. It is possible that this is a sign of an increase in coordination between the two segments of the state.

Another worrying trend in the negative state behavior against the HRFT is the increased cases of alleged extra-judicial punishment against members of the foundation. Since 1999 members

106 Misdirected as the persecution of human rights activists is, the military’s fear that societal and political polarization of the kind experienced in the late 1950s, 1960s and 1970s will reoccur and once again paralyze the country is understandable. The military sees itself as the defender of the legacy of Atatürk and the secular state. This, however, does not justify the limitations of civil rights and the violation of human rights that evidently is carried out by the security forces.
of the HRFT have been tortured while in custody (Dr Uzun and Dr Akpinar) or unlawfully kept in custody awaiting trial (Ms Kaya and Dr Ayan). Prior to these incidents no such extra-judicial punishment has been reported. This strengthens suspicions that the HRFT has been targeted deliberately by the state in an attempt to frighten its members.

**How Are Bad Relations Dealt With?**

In order to protect itself from friction with the state the HRFT is using both a national and an international network strategy. Nationally the strategy is reflected in a desire for good connections with people and organizations that subscribe to the same human rights values as the HRFT. The network is made up of the staff and volunteers of the foundation and other NGOs, such as the Turkish Medical Association, the Turkish Bar Association and the IHD.\(^{107}\)

The domestic network strategy does not appear to be institutionalized but is rather a result of informal contacts and multi-membership: many of the members of the HRFT are also members of one or more of the NGOs, which are a part of the network. This is quite natural as many of the people in the HRFT are doctors and lawyers and consequently often are organized along professional lines additionally to their engagement in the HRFT.

While the aim of the national network strategy is to create a strong community against human rights abuse in Turkey, the goal of the international network strategy is to raise awareness abroad about the violations of human rights and to gain the support of foreign governments and NGOs. Another purpose is to exchange experiences with other groups promoting human rights in order to obtain the goals of the HRFT, i.e., to improve the human rights conditions in Turkey. To be able to do this the foreign sponsors play an important part through their financial contributions.\(^{108}\)

Beside the main financial sponsors of the projects, the Swedish Red Cross, the UN Voluntary Fund for Victims of Torture and the European Commission,\(^{109}\) there are several support committees throughout Europe, for instance in Germany, Finland, Holland, Sweden and Switzerland. One of the most important things that the international network has helped to accomplish is the so-called Istanbul Protocol, a document against torture that now is in the process of becoming an official human rights document of the UN.\(^{110}\)

The HRFT admits that the international network gives both credibility and legitimacy to the work of the HRFT at the same time as the attention the foundation receives abroad of course works as a protection against state interference.\(^{111}\)

The HRFT denies that the organization or its members have in any way provoked the authorities. The failure to apply for the necessary permits before opening the center in Diyarbakir in 1998, for instance, was not intended as a provocation: it was simply a misunderstanding as an extra permit was required on top of the regular ones as Diyarbakir is situated in a region that is affected by the security laws. HRFT representatives also claim that its criticism against the state is legitimate and deny the accusations of some state

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\(^{107}\) Interview with Metin Bakkalic and Hale Eryilmaz, op. cit. (note 19).

\(^{108}\) Ibid.

\(^{109}\) Okan Akhan, op. cit., (note 22) p. 2.

\(^{110}\) Interview with Metin Bakkalic and Hale Eryilmaz, op. cit. (note 19).

\(^{111}\) Ibid.
representatives that the HRFT sometimes makes false allegations against the state in order to provoke it and to get international attention.\textsuperscript{112}

In spite many state officials’ somewhat suspicious attitude to the HRFT, it was invited, together with several other NGOs, to talks with the government in October 1999. The initiative for the meeting was taken by the Minister of State, Mr Mehmet Ali Irtemcelik.

In connection to the meeting Mr Irtemcelik admitted that Turkey has problems with human rights abuses and that improving the conditions in this field is considered by the government to be its primary duty. This goal, according to Irtemcelik, can be attained by initiating a healthy communication between the NGOs and the executive and legislative organs of the state.\textsuperscript{113} Furthermore, the Minister of State stressed that NGOs play an important part in the work aimed at improving the human rights and democratic standards of Turkey. He also underlined the need to update the entire 1982 constitution in order to give it an identity that is appropriate to contemporary needs and requirements.\textsuperscript{114}

Representatives from other ministries did not take part in the NGO meeting, and in order to keep the talks serious and avoid propagandistic statements the press was not invited. The result of the talks were put together in a book to which representatives of the participating NGOs, among them the HRFT and the IHD, had contributed with articles on human rights. The book has been distributed to all public libraries in Turkey, to the different ministries and to all members of parliament.\textsuperscript{115}

The NGO meeting is the most formal example of the contacts that the Ministry of State has had with the HRFT, although there was some communication prior to it.\textsuperscript{116} A similar round of talks also took place some years ago.

To conclude, the HRFT deals with poor relations with the state through a network made up of people and organizations in Turkey and abroad as well as of foreign governments, through the mechanisms accounted for above. This strategy has thus worked as a protection against negative actions by the state directed against the HRFT. A less defensive approach to the problem has been the participation in the official NGO talks to which the HRFT has been invited by the Ministry of State.

At this point in time the strategy of increasing the awareness of the abuse of human rights works, as we have seen, in two opposite directions. The attention from abroad works as a protection for the foundation against state interference at the same time as it provokes parts of the state authorities to take action against the HRFT.

The initiative for the NGO talks is a step in the right direction as it gives an official recognition to the HRFT and its work, but it is questionable if this kind of recognition by one part of the state apparatus can protect the foundation from further negative treatment by other authorities. If anything the supportive attitude of the Ministry of State towards the HRFT exposes how differently the HRFT and its work are perceived, not by the different segments of the state, but rather by different authorities or even individuals within the segments.

\textsuperscript{112} Interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).
\textsuperscript{113} BBC Monitoring Service: Central Europe and Balkans, October 16, 1999.
\textsuperscript{114} Anadolu News Agency, October 14, 1999.
\textsuperscript{115} Interview with Balas Özner, op. cit. (note 71).
\textsuperscript{116} Ibid.
Turkey and Beyond

‘Cohabitation’ between the government in a country where torture occurs and NGOs who give treatment to the victims of torture may well be peaceful or even cooperative. There is not much of this in the case studied here. Tellingly, HRFT treatment activities are funded from abroad.

From the point of view of the Turkish state, HRFT seems to fulfill a negative political function in the sense that it is engaged in spreading biased information about the human rights situation in Turkey to foreign governments and international organizations, which damages the country’s image abroad. The state is probably far less concerned with this function at home. Speculation about the alleged connection between the HRFT and the PKK has been exploited in order to influence public opinion, and in fact it may well be that the official picture of the HRFT as a leftist organization with obscure relations with the terrorist organization is the prevailing opinion among large parts of the population.\(^{117}\)

One should hasten to add that parts of the political authorities seem more understanding, at least as far as their attitude to the HRFT is concerned. The NGO talks in 1999 and the official statements made in connection to them indicate this. Also, the judiciary seems to have managed to maintain, if not a supportive attitude toward the HRFT, then at least its impartiality.

Irrespective of the variations of the views taken on the HRFT, negative state behavior seems to have been the predominant aspect, and the main conclusion drawn here is that the rehabilitation centers and their doctors are likely to have been targeted mainly due to the activities of the HRFT’s documentation project and the information spread by it, and not because of the rehabilitation work itself.

HRFT itself seems reluctant to underwrite this interpretation, without, however, being able to present a credible alternative explanation. The organization maintains that there is a political side to torture and consequently also to treating its victims. Parts of the state apparatus would see the HRFT as a threat and therefore want to limit its activities.\(^{118}\) The fact that HRFT has been subjected to obstruction by the state, whereas DABATEM has not, is explained in terms of chronology: the HRFT’s centers were the first in the country and the organization has therefore been in the limelight for a comparatively long time. With regard to explanation in terms of political functions, HRFT representatives do not refute it outright but seem to emphasize its uncertainty.\(^{119}\)

As emphasized above, not all negative state behavior would have to be politically motivated; one must leave room for the possibility of bureaucratic malfunctioning. It is also worth repeating the possibility that, whereas many actions directed at the centers bear witness of coordination on the part of the state apparatus, not all of them do.

Currently, there seems to be a genuine political will to do something about the human rights situation among many members of the political establishment in Turkey. At the Helsinki summit meeting in December 1999 Turkey achieved EU candidacy status and a number of demands were made that it must fulfill in order to become a member of the union, including

\(^{117}\) E-mail from Dr. Metin Basoglu to Dr. Bertil Dunér at the Swedish Institute of International Affairs, November 26, 1999, and interview with Ertugrul Candan and Tahir Soydal, op. cit. (note 49).

\(^{118}\) Interview with Metin Bakkalic and Hale Eryilmaz, op. cit. (note 19).

\(^{119}\) Ibid.
changes in the current constitution, which creates an opportunity for hostile elements of the state apparatus to try to interfere in the work of the HRFT by legal means. Given that negotiations with the EU are proceeding positively, the prospects for better center–state relations seem very good in the long run.

However, it is not at all a given thing that the integration process will end with Turkish membership; there are many general hurdles which may lead to the collapse of negotiations. From a more pessimistic human rights point of view, one could also draw attention to the development observed above—the number of investigations against members of the HRFT and the number of cases of extra-judicial punishment in 1999 have increased. Moreover, in June 2000 for the first time a member of the HRFT was convicted in a case dealing with the freedom of expression. This may possibly suggest that, at the same time as some parts of the state become more supportive of the HRFT, others become more negative. In fact, there has been much speculation in the Turkish media in recent years that there is a ‘deep state’ which is actively striving to subvert Turkey’s democratization and EU accession.

This study started from the assumption that a heated political climate may make for torture as well as for strained relations between the state and torture treatment organizations. The relevance of the political functions of treatment centers has come out clearly in the Turkish setting. The logic implied makes it natural to assume that one would also find similar relationships in other contexts.

Two hypotheses suggest themselves:

- Treatment centers may fulfill (negative) political functions, at least in the eyes of the various sectors of the state apparatus, and the more such functions are fulfilled and the more strongly so, the more strained the relations to the state will tend to be.
- If the use of violence, including torture, is a centralized or coordinated activity, that is, carried out by some sector(s) of the state apparatus and supported or condoned by other sectors, then the state’s relations towards centers which give treatment to victims of torture tend to be coordinated as well.

To the extent that these hypotheses hold water an important consequence follows for all those involved in center activities, be they engaged in the work directly or only indirectly as sponsors or supporters. They would have to answer the question whether the consequences of the political functions—for center work as well as for the patients—match the possible benefits. It is noteworthy that in the Turkish case this question has never been addressed by the major donor.

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120 Bertil Dunér, and Edward Deverell, Too Bumpy a Road? Turkey, the European Union and Human Rights (Stockholm: Swedish Institute of International Affairs, 2000).
122 What we have found in Turkish case approaches the tautological contraposition of this connection.