

# HUMAN RIGHTS REPORT

No. 6 MAY 1996

## Conflict Dynamics and Human Rights Problems

Oslo seminar on the human rights  
situation in areas inhabited by  
Kurdish groups in Turkey, Iran,  
Iraq and Syria  
Oslo, 22-25 September 1995

Gunnar M. Karlsen (ed.)

NORWEGIAN INSTITUTE OF  
HUMAN RIGHTS

GRENSEN 18 N-0159 OSLO NORWAY



Institut kurde de Paris

LIV, ENG. 3660  
20/03/2017  
630 KAR CON

# **Conflict Dynamics and Human Rights Problems**

Report of the Oslo seminar on the human rights situation  
in areas inhabited by Kurdish groups in Turkey, Iran, Iraq and Syria  
Oslo, 22-25 September 1995

Gunnar M. Karlsen (ed.)

## Cataloguing Data

CONFLICT DYNAMICS AND  
HUMAN RIGHTS PROBLEMS

Human Rights Report No. 6, 1996.

Norwegian Institute of Human Rights

1. Minority rights
2. Iran
3. Iraq
4. Syria
5. Turkey

ISSN No. 0804-0672

Institut kurde de Paris

## Preface

This report of the international seminar on the human rights situation in areas inhabited by Kurdish groups in Iran, Iraq, Syria and Turkey, held in Oslo 22-25 September 1995, has been prepared to present the main points at the seminar according to the view of the editor. The seminar lasted for two and a half day, and trying to capture everything which happened would make the report too voluminous. The priority has been to cover the most relevant points from a human rights perspective.

The report is not commonly agreed upon by the participants, and although the editor has tried to render all viewpoints as accurate as possible, the report should not be interpreted as binding upon any of the participants.

The Norwegian Institute of Human Rights would like to thank all individuals and institutions which supported its efforts to make the seminar a useful one. The Institute would also like to thank the Norwegian Royal Ministry of Foreign Affairs for its financial support of the seminar.

Last, but not least, the Institute would like to thank all those who attended the seminar, and participated in creating an atmosphere of dialogue and constructive debate.



(1) 0000 0000



Institut kurde de Paris

---

## Contents

Preface	i
Introduction	1
Executive Summary	4
<b>PART I: THE HUMAN RIGHTS FRAMEWORK</b>	
Asbjørn Eide: Application of universally accepted human rights on the situation of the Kurds	7
Gudmundur Alfredsson: Implementation of minority rights by the United Nations	23
Erik Møse: The European Convention on Human Rights and the European Torture Convention	30
<b>PART II: CONFLICT DYNAMICS AND HUMAN RIGHTS PROBLEMS</b>	
Iran	45
Iraq	50
Syria	55
Turkey	59
<b>PART III: WAYS TO IMPROVE THE HUMAN RIGHTS SITUATION IN TURKEY</b>	
Freedom of expression and the role of the media	69
Cultural and linguistic rights	71
Rule of law	73
The situation of the internally displaced: The right to return and the right to compensation	76
How to improve the human rights situation in Turkey	78
Proposals	80
<b>PART IV: THE ROLE OF THE INTERNATIONAL COMMUNITY TO IMPROVE THE HUMAN RIGHTS SITUATION IN THE AREAS INHABITED BY KURDS</b>	
	83
Appendices	87



Institut kurde de Paris

---

## Introduction

22-25 September 1995 the Norwegian Institute of Human Rights arranged an international seminar (called "the Oslo seminar" in this report) on ways to improve respect and protection of human rights in areas inhabited mainly by Kurds, i.e. Southeast Turkey, Northern Iraq and some parts of Iran and Syria.

Explaining the purpose and organisation of this seminar, a few words about the Institute is necessary. It is organised as a centre under the Collegium of the University of Oslo, and its primary objective is to contribute to the implementation of internationally recognised human rights standards – through research, information and documentation. At present the overall aim of the Institute's activities is defined as studying and contributing to processes of democratisation. Since the Institute believes that securing human rights for all groups of society is a necessary condition for democratisation, the seminar topic fits well into this overall aim of the Institute.

The great concern for the human rights situation of the Kurd among Norwegian Parliament members and some professional organisations in Norway, adds to this picture and gives a broader context for the arrangement of the seminar. However, although the seminar was enhanced by Norwegian politicians, and financially supported by the Norwegian Ministry of Foreign Affairs, its planning and carrying out was entirely the responsibility of the Institute.

It was early decided that the human rights situation in Turkey should be given most attention; not only because Turkey has the largest Kurdish population, but also since it was believed that the potential for improvement was greatest here. Turkey is also a member of the Council of Europe and a party to its main human rights instruments.

On this background the Institute decided to invite a large number of Turkish participants – in addition to a selected group of Kurdish intellectuals and politicians – from different spheres of society: non-governmental organisations, political parties, mass media, trade unions, trade organisations and academics. During the summer of 1995 it became clear that the Turkish participation, despite the efforts of the Institute, would be rather limited in number. It was then decided to include more Kurdish participants; most of them with ties to Turkey.

The Institute intended the seminar not only to be an occasion to explore the facts about the situation in the aforementioned areas inhabited by Kurds, but also an opportunity to discuss the causes of human rights violations, and how to improve the situation. The media and human rights organisations report on grave human rights violations against civilians in all the areas concerned: arbitrary arrest and imprisonment, torture, extrajudicial executions and "disappearances". Acts of terror, regardless who commits them, also give grounds for serious concern.

The seminar intended to focus on dialogue and constructive solutions within the present state borders in the area. Decentralisation of power and the application of

linguistic and cultural rights recognised in international human rights law, were other central aspects.

The seminar was not meant to be a political forum, and certainly not a venue for negotiations. However, some of the participants invited hold high positions and wield some influence in their communities, and might therefore be able to bring constructive suggestions back to their respective environments.

An important starting point for the seminar was that all the states involved had committed themselves to respect and protect human rights through ratification of major human rights conventions. As of 30 June 1995, Iran, Iraq and Syria have all ratified the Covenant on Civil and Political Rights, while Turkey has not yet ratified this United Nations instrument. However, Turkey has ratified both the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In 1987 Turkey also decided to accept the individual's right to complaint under the European Convention on Human Rights, and currently there are numerous Turkish cases pending in the European human rights system; some of them have already reached the European Court of Human Rights. Turkey has also ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, whilst the three other states have not yet ratified this convention.

The human rights reporting in the seminar was based on Amnesty International and Human Rights Watch reports. Both organisations base their reporting on the United Nations human rights instruments. Although Turkey has not ratified the 1966 Covenant on Civil and Political Rights, the country is bound by the European Convention which has similar prohibitions against torture, inhuman and degrading treatment, extrajudicial executions and other fundamental human rights violations.

All the countries, except for Turkey, have ratified the International Convention on the Elimination of All Forms of Racial Discrimination. Turkey has signed, but not ratified, this convention.

In addition to the above mentioned commitments, all of the four states in question were represented at the Vienna World Conference on Human Rights in 1993. The final document of this conference, *The Vienna Declaration and Program of Action*, which was agreed upon by consensus, states clearly that "the promotion and protection of all human rights is a legitimate concern of the international community".<sup>1</sup>

The seminar was attended by approximately 30 foreign and 15 Norwegian participants. In addition, numerous observers from media, and human rights and solidarity organisations followed the discussions. The participants were invited in their personal capacity, not as representatives of political parties or organisations.

In Part I of the report, the director of the Norwegian Institute of Human Rights, Asbjørn Eide deals with the application of universally accepted human rights on

---

<sup>1</sup> *World Conference on Human Rights: The Vienna Declaration and Program of Action*, June 1993, United Nations Department of Public Information, New York 1994, Article 4 (page 30).

situations involving ethnic minorities, with a special view to the situation in the areas inhabited by Kurds. Recognition of cultural rights, as well as establishment of some type of political autonomy and local self-government are crucial elements for preventing and/or settling minority conflicts, and to accommodate sustainable relationship between different ethnic groups within the same state.

Gudmundur Alfredsson gives a brief overview of the implementation of minority rights by the United Nations. He outlines the current complaints procedures; fact-finding and investigative procedures; dialogue measures; mechanisms for prevention of violations and conflicts, and resolution of conflicts; public forums; good offices actions; technical cooperation; and research. The role of non-governmental organisations are also dealt with.

Erik Møse gives an introduction to the European human rights system, which is relevant for Turkey only. Both procedural and substantive issues are dealt with. The author maintains that the conventions offer a set of rules which cannot be ignored by those who want to improve the situation of human rights in European states. "There are well established systems for fact-finding, and the proceedings give both those alleging that there are violations and the state concerned the opportunity to express their view. Experience shows that the institutions under both Conventions perform their task in an impartial manner..."

In Part II the human rights reporting at the seminar on Iran, Iraq, Syria and Turkey is presented. The human rights situation in all these states are critical, with widespread use of torture, extrajudicial executions, "disappearances" and strong limitations of freedom of expression. Minorities suffer additional violations of cultural and linguistic rights. Also non-governmental entities commit serious violations.

Part III renders the seminar discussions on ways to improve the human rights situation in Turkey, while Part IV deals with the role of the international community in influencing the human rights situation in all the areas with Kurdish groups.

## Executive Summary

The objectives of the Oslo seminar on the human rights situation in areas inhabited by Kurdish groups in Turkey, Iran, Iraq and Syria was to:

- present the international human rights standards and analyse how these should be applied on the current situation in the areas;
- “convene” documentation on human rights violations in the areas, and to make this documentation public;
- facilitate a free and research-based discussion on how to improve the human rights situation in the areas;
- make possible dialogue between Turkish and Kurdish groups.

The report presents the historical background for the current situation in the areas, underlining the role of the Western powers following World Wars I and II, in establishing the current political order of the region.

The states have made use of different approaches in dealing with the Kurdish groups on their territories. The denial of Kurdish cultural identity and rights is, however, a common feature.

As of 1975 the Iraqi government has implemented mass deportation and destruction of villages, large scale destruction of nature, mass arrests and torture campaigns, and used chemical weapons on a large-scale in 1988. The current human rights situation in Northern Iraq, the so-called “safe haven” under the protection of the allied powers, has been marked by internal conflicts between Kurdish parties, which have also committed serious human rights violations.

The situation in Iran is characterized by strong oppressive measures against the opposition by the religious regime. The Kurdish minority suffers persecution both inside and outside the country.

In Syria the situation of the Kurdish minority is similar to the situation of other minority groups; their cultural rights have not been recognized by the state.

“Strong human rights statements by some government officials, the release of scores of political prisoners, the reform of an abusive law, and a reduction in the sheer number of political killings brought some improvement of the human rights situation in Turkey in 1995”, the Human Rights Watch reporting on Turkey concluded. But problems still remain, especially in the south-eastern parts of the country, related to the counterinsurgency campaigns of the Turkish army and security forces.

The current conflict between the Turkish army and security forces and Kurdistan Workers Party (PKK; defined as “terrorists” by the Turkish authorities), creates problems for the whole society. The number of displaced persons in Western cities is estimated to two millions, and Turkish economy suffers severely under the burden of financing the military. The human rights situation in the conflict areas remains

critical with village burning (at least 2,200 villages are destroyed), extrajudicial executions, "disappearances", torture and unfair trials.

During the discussions on how to improve the current human rights situation in Turkey, the following points were underlined:

- constitutional reforms, abolishment of the Anti-terror Law and reforms of other national laws are needed to make Turkish legislation and practice comply with international standards;
- media should be allowed to inform and debate freely on the current problems, to start a process of national reconciliation and strengthening of democratic forces;
- a network should be built and a co-operation established between Turkish and Kurdish democratic forces and international non-governmental human rights organisations;
- human rights organisations should be allowed to operate freely, and receive foreign funds;
- fact-finding missions should be allowed to go to the south-eastern parts of Turkey;
- ILO mechanisms should be used to further respect for the right to association and other trade union rights;
- the European Parliament and the Parliamentary Assembly in the Council of Europe should require that fundamental rights and freedoms, as defined in the European Convention on Human Rights, are safeguarded by Turkish authorities.

The seminar also discussed whether an interstate complaint against Turkey to the European Commission of Human Rights, should be lodged as an effective means to raise pressure for human rights improvements in Turkey. There were different viewpoints on this, but there was a wide consensus among the participants that it was important to use legal measures under the European Convention on Human Rights to develop Turkish human rights respect and protection.

It was also general agreement on the importance of the international community in strengthening respect and protection of human rights in all the states with Kurdish minorities. Arms sale, military co-operation and trade relations should be linked to human rights concerns. Especially United States and the European Union play a crucial role in this respect.

Institut Kurde de Paris

**Part I**  
**The human rights framework**

Institut kurde de Paris



Institut kurde de Paris

---

# Application of Universally Accepted Human Rights on the Situation in the Areas Inhabited by Kurds

By *Asbjørn Eide*, Director

In both Iran, Iraq, Syria and Turkey we can observe serious group conflicts which negatively affect the enjoyment of human rights. It is, however, in the interest of everyone – Turks, Arabs, Kurds, Persians, Azerbeidjanis and others living in the region – to seek peaceful accommodation and thereby achieve a social and regional order under which everyone can enjoy their human rights.

## The need for all parties to respect human rights during group conflicts

Having said this, it needs to be underlined also that all parties, whether governments or non-governmental entities should at all times respect and protect the human rights of others, including the rights of persons belonging to those who are defined as 'enemies'.

Peace and security starts at home. The first generation of human rights organisations have focused on the violations carried out by governments, and the response by the organised international community has been to develop a comprehensive system of human rights norms addressed, primarily, to governments. This is very well, and has been a major achievement in the advancement of civilisation. There are, now, precise guidelines by which to hold governments accountable, non-governmental organisations keep us informed about infractions. Institutions have emerged which can monitor compliance with these norms and seek to influence governments to improve their performance.

What we see now, however, is that this is only part of the challenge, and it will not be enough to civilise governments when we cannot also civilise the various groups of non-governmental entities which are operating inside states and across state borders.

The Universal Declaration of Human Rights, article 30, states that nothing in the Declaration (or in other human rights instruments) may be interpreted as implying for any state, *group or person* any right to engage in any activity or to perform any act aimed at the destruction of any right contained in the Declaration.

I now call for a second generation human rights organisations which can add to the achievements of the first generation, by seeking to bring to an end the violations carried out by non-governmental entities, some of which are much more extensive than those carried out by governments; which also lead to international tension and in some cases to open war.

Acts of terror and indiscriminate killing are often sought to be justified by principles which in themselves sound innocent enough. A key word used today is the

self-determination of peoples. Used in the abstract it seems innocent, but when applied in practice it is often a basis for extreme brutality pursued with a conviction that the brutality is justified for some higher purposes.

It should not be necessary even to mention the case of Bosnia, where groups in opposition to the Bosnian government have carried out unspeakable crimes. We see the same in other situations. In Sri Lanka, the Tamil Tigers emerged out of a situation where there had been serious discriminations against the Tamils. Having started a process of armed struggle, however, the Tamil tigers are now a movement which can no longer contemplate peace, in spite of the fact that the new government is offering solutions which are fair and just on all accounts.

In Kashmir, violations are clearly committed by all sides. Extremely militant and violent groups have emerged which, under the notion of self-determination, engage in acts of terror where often completely innocent third parties become the deliberate target. A young Norwegian, Hans Christian Ostrø, who had been taken hostage by one of those militant groups was brutally murdered by that group. He was not killed in combat, he was not a representative of the enemy, he was simply a person from a faraway country who had wanted to learn about the culture of another society and who was haphazardly picked up to be killed for political gains by the group who captured him. He was gruesomely murdered, and the movement which killed him carved its name on his chest. 'We have killed the hostage because the government has failed to accept our demands' said a note by those merciless militants.

What are we to do about all this meaningless and inhuman violence? What does the human rights community do? Of course, the primary responsibility in maintaining law and order is with the government concerned. And it is indeed important that governments, in their efforts to maintain law and order, respect human rights to the full.

However, there are many trans-national influences which have an impact on the violence. There is a massive flow of small arms, and arms traders, who make a lot of money out of these violent movements, and here the drug traffic is a close associate since it is often used to fund the procurement of the arms. There is an international mixture of legal and illegal traffic in arms and drugs which is given far too little attention in the human rights discourse.

We need a second generation of human rights action, to complement and build on the first and successful generation. It will not be replacing the first generation, whose work is extremely important and has to be continued, but a second generation of concerns have to address the other side of the coin: The violations of human rights carried out by those who are not in government position.

What will be its content? It will undoubtedly include human rights education, but not only education of what is one's own right: There must be firm education about the rights of the others, including those we consider our enemies. That is what we expect governments to do, and that is what we have to require all non-governmental entities to do. I am not certain that they have taken this on board, yet.

There are humanitarian standards which have to be applied by all, whether governments and their security forces, or non-governmental entities which oppose the

---

government. These minimum humanitarian standards, which are now under discussion in the United Nations Commission on human rights, emphasise that every group and every individual is obliged to respect the basic components of human rights and humanitarian law

## **The State, sovereignty, and the territorial integrity**

Contemporary international law is based, in large part, on the Charter of the United Nations. Charter-based international law is intended to guide present political behaviour in order to build the future. Among its basic principles are the preservation of territorial integrity of existing states against violent change, the promotion of human rights inclusive democracy, and the right of peoples to self-determination.

The United Nations secretary-general, Boutros Boutros-Ghali, stated in his "An Agenda for Peace", 1992 para. 17:

"The foundation stone of this work is and must remain the state. Respect for its fundamental sovereignty and integrity is crucial to any common international progress. The time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality. It is the task of State leaders today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world. Commerce, communications and environmental matters transcend administrative borders; but inside those borders is where individuals carry out the first order of their economic, political and social lives".

## **Territorial integrity**

A major purpose of the Charter of the United Nations was to outlaw the use of force and to prevent intervention directed against the territorial integrity and political independence of states,<sup>2</sup> which also is applicable in situations where there are group conflicts inside a state. The emphasis on territorial integrity is contained not only in the United Nations Charter and the Declaration on Friendly Relations, but also in regional instruments. The CSCE Final Act Principle IV is an explicit endorsement of the principle.

*Territorial integrity and autonomy arrangements.* – Territorial integrity does not exclude arrangements for autonomy arrangements within sovereign states, or local control over natural and other resources when this is required to ensure the livelihood of endangered and vulnerable groups. The question of control over land and natural resources has formed a prominent part during recent years in the arrangements made for indigenous peoples.

---

<sup>2</sup> United Nations Charter article 2.4.

*"The people" as the basis of authority.* – While states have obligations to respect, protect and fulfil human rights for all its inhabitants, the inhabitants themselves are the source of government power: "The will of the people shall be the basis of the authority of the government".<sup>3</sup> The right to full participation of all individuals and groups, as provided for in the two international covenants and in the Universal Declaration, is essential. There are two aspects to this. One is that government should be based on the participation of members of all ethnic or religious groups, not only by one of them. There has to be democracy, not ethnocracy, not even by the majority ethnic group. The second aspect is that the participation of the different groups must be effective; a formal participation is not enough if the minor groups are consistently outvoted by majority representatives. The act of balancing between majority decisions and proper attention to the demands of minorities constitute a core element in the majority/minority relationship.

The international system of human rights imposes obligations on states to advance the emancipation of all its inhabitants, based on three principles: universality, equality, and respect for the individual. Every state has a dual task under international law: to participate at the international level in the promotion of the international rule of law, including the adoption of international measures to advance compliance with that law; and on the other hand to implement, at national level, the obligations contained in international law which are intended to ensure good governance and protection of human rights.

Most important is the principle of non-discrimination, fundamental to the whole human rights system. Closely related is the importance of positive measures to restore equality or create it where it did not previously exist. At the same time, the state must respect and maintain conditions for pluralism.

Article 2 of 'the International Covenant on Civil and Political Rights' reads, in part:

"Each State party to the present Covenant undertakes to *respect and to ensure* to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind..."

The state and its agents must abstain from violating the rights of individuals. But the state must also ensure those rights. The state must provide protection under the law in such a way that human rights can be enjoyed without threats from other, private parties. For this to be possible, there must exist a functioning legal order with legislative, executive and judicial functions, including criminal law which can restrain individuals or groups from attacking each other.

The International Covenant on Social, Economic and Social Rights provide in its corresponding Article 2 in part:

"Each State party undertakes to take steps – to the maximum of its available resources, with a view to achieving progressively the realisation of the rights

---

<sup>3</sup> Universal Declaration art. 21 (3).

recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

The obligations of states under the international human rights system is therefore threefold:

States must, at the primary level, *respect* the integrity and the freedom of individuals, in so far as that freedom is not used to deny the enjoyment of human rights by others.

State obligations consist, at a secondary level, in the protection of the freedom of action and the use of resources as against other, more assertive or aggressive subjects: Protection of the right to life, to freedom from slavery and servitude, from violence and maltreatment by third parties; protection against more powerful economic interests which destroy the possibility for enjoying economic and social rights; protection against fraud, against unethical behaviour in trade and contractual relations, against the marketing and dumping of hazardous or dangerous products – to give a few examples from different fields.

At the tertiary level, the state has the obligation to *fulfil* certain claims based on internationally recognised human rights, when these cannot otherwise be enjoyed.

## **The content and paradoxes of sovereignty within the emerging world order**

The Charter of the United Nations is based on the system of sovereign states. In one sense it aims at the strengthening of national sovereignty; in another sense it makes sovereignty qualitatively different; More open and less absolute than what previously existed. This apparent paradox needs to be examined since it helps to explain the importance of the guidelines on which this study is based.<sup>4</sup>

However, the extension of the sovereignty of states is linked to the acceptance of evolving international law. Just as freedom for individuals cannot exist without some form of organised order administered by the state, the enjoyment of sovereignty by states cannot exist without some degree of international order. The Charter and the instruments adopted on the basis of the Charter have also changed the content and quality of sovereignty. This is best understood by taking into account that states, in distinction to individuals, are composite entities.

The legitimate function of states is to advance the welfare and freedom of their inhabitants. States therefore have responsibilities under international law not only in regard to other states, but also to the individuals under their jurisdiction. They are obliged to respect, protect and fulfil the human rights of their own inhabitants. While states may retain a formal freedom to adopt the constitutional and legislative provisions of their own choice, they are already subordinated to international

<sup>4</sup> See also Rosas, Allan, “The Decline of Sovereignty. Legal Perspectives”, in Iivonen, Jyrki (ed.): *The Future of the Nation State in Europe*, Cambridge: University Press, 1993, pp. 130-158.

requirements, which to a significant degree limit that choice. They can seek to deviate from the international principles but only at their own costs: They will increasingly find that this negatively affects the possibility of participating in international co-operation in other fields.

They also have to respect that individuals, groups and associations within the jurisdiction of their state have trans-national links to individuals, groups and associations in other countries. In this way a network develops and a set of interests which no single state can regulate entirely on its own. Consequently, joint regulation has become increasingly necessary; in order to have influence in these matters which affect issues normally thought to be within their own jurisdiction, states have to accept that other states also have influence and that compromises and common policies increasingly have to be found.

If taken seriously, the *demand* for sovereignty therefore makes it necessary to accept *limits* to sovereignty. A reflection of this need is the tendency in recent decades to tremendous growth in international legislation; step by step limiting the scope of state sovereignty.

## The multicultural reality and world order

Almost everywhere, National societies are multicultural. There is, however, many places an unwillingness to accept this fact. Furthermore, there is considerable confusion about the nature of our multicultural reality.

Societies are multicultural not simply because groups with different cultural identities co-exist within the same state. Our multicultural legacy is shared by every group. Everyone are affected by layers of culture crossing each other. The main religions have contributed to the formation of broad civilisations; the civilisations have affected and influenced each other to a substantial degree. Within these civilisations, and sometimes cutting across them, are several linguistic cultures; there are combined or fused cultures such as the Afro-American which is the product of the experiences of the black population in the American culture. There is hardly any one single culture which can be entirely separated from other cultures, or identity of the individual which can be distinguished in all respects.

There are several reasons for the increasing multiculturalism. Migration, changes in communications technology, the ever increasing role of mass media. At least from the time of the onset of modernity,<sup>5</sup> there has been a process of globalisation which proceeds ever more rapid. The trend to globalisation is irreversible but can be conflict-generating. It is irreversible because there is no way in which we can fully isolate us

---

<sup>5</sup> Highly interesting analyses of the consequences of modernity and its relation to processes of globalisation are found in Giddens, Anthony: *The Consequences of Modernity*. Cambridge, United Kingdom: Polity Press, 1990, and in Robertson, Roland: *Globalisation. Social Theory and Global Culture*. London: Sage Publications, 1992.

from each other. The concern for the environment, to mention one aspect, and with the carrying capacity of Spaceship Earth, makes it perfectly clear that we are into this – together, and that we have to find ways to cope with globalisation while maintaining the existence and identity of the particular communities.

Globalisation is also conflictual, for several reasons. For one thing, it has often in the past tended to favour the strong at the expense of the weak. The globalisation process has given different results for different participants. The technologically and organisationally dominant circles of the world have obtained considerable benefits from globalisation; others have been further impoverished or denied their equal share in the benefits.

## The Relevance of Human Rights to Group Accommodation

International human rights law has had an almost explosive development during the last decades, both globally<sup>6</sup> and at the regional level,<sup>7</sup> and it now covers a wide field of human activity. The International Bill of Human Rights covers civil, political, economic, social and cultural rights.<sup>8</sup> Over the years, further and more detailed provisions have been adopted in such fields as the prevention of discrimination; the rights of women; the rights of the child; prevention of slavery, servitude and forced labour; human rights and the administration of justice; freedom of information; freedom of association; equality and non-discrimination in employment; human rights related to marriage, family and youth; social welfare, progress and development; the right to enjoy culture; human rights related to nationality, statelessness and asylum; prevention, prohibition and punishment of war crimes and crimes against humanity, including genocide, and humanitarian law in armed conflict. Were these rights safeguarded, peaceful group accommodation would be greatly facilitated. Relevant for minorities are, for instance, the provisions on freedom of thought, conscience and religion (Universal Declaration Article 18). Members of any religious group are entitled to manifest, in public as well as in private, their religion or belief in teaching,

---

<sup>6</sup> A collection of universal instruments has been published by the United Nations Centre for Human Rights in 1993 under the title *Compilation of international instruments*, volume I, parts 1 and 2, covering more than 940 pages: UN publication ST/HR/1/rev.4/vol.1/part 1 and part 2.

<sup>7</sup> In 1992 The Council of Europe published a collection, *Human Rights In International Law*, which apart from some of the main international instruments contains the regional instruments: Those of the Council of Europe itself, of the Organisation of American States, the Organisation of African Unity and the Conference on Security and Co-operation in Europe.

<sup>8</sup> The notion 'International Bill of Human Rights' refers to the foundational instruments of human rights at the global level: The Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948, and the two main International Covenants: The Covenant on Economic, Social and Cultural Rights, and the Covenant on Civil and Political Rights, both adopted by the General Assembly in 1966 and which in greater detail spell out the rights and state obligations arising from the Universal Declaration.



practice, worship and observance. Equally relevant is the right to freedom of opinion and expression (Universal Declaration Article 19), which includes the right also to seek, receive and impart information and ideas through any media and regardless of borders. This right clearly includes the right to use one's own mother tongue and to receive and to give information in that language; on this basis minority groups may assert their right to protect their own language. Also of relevance is the right to freedom of peaceful assembly and association (Universal Declaration article 20): Minor groups are entitled to organise for the promotion of their interests and values by forming their own associations. Furthermore, everyone has the right to participate in the cultural life of the community (Universal Declaration Article 27). This implies, also, that members of minority groups may continue their particular group culture.

The catalogue of human rights listed in the Universal Declaration and in the numerous international human rights conventions which have been adopted since 1948 on its basis, are intended to ensure both the freedom and equality of individuals, within the limits set by the need to live together in a democratic society. The rights of groups are subordinate to this basic principle. Neither majorities nor minorities can demand rights which violate the freedom and equality of human beings. Human rights exclude the right of majorities, or minorities, to establish privileges for members of their group.

## **Foundations of human rights: Freedom and equality**

The ethical foundation of human rights is found in the Universal Declaration of Human Rights article 1:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards each other in a spirit of brotherhood.”

Equality in dignity and rights is spelled out in numerous other provisions in international human rights law, starting with the Universal Declaration itself, article 2, paragraph 1:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Provisions on equality and non-discrimination are found in all major human rights instruments, universal and regional. The Universal Declaration article 7 contains one of these provisions:

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

The topic of equality occurs several times, and is spelled out in the International Covenant on Civil and Political Rights articles 2 and 26, the International Covenant on Economic, Social and Cultural Rights article 2, the European Convention on Human Rights and Fundamental Freedoms article 14, the Inter-American Convention article 1, the African Charter on Human and Peoples' Rights article 2.<sup>9</sup>

Within most societies, different cultures co-exist – in the form of different religions, different languages, different ethnic groups or nationalities. This cultural co-existence, which is an unavoidable aspect of contemporary life, can easily generate discriminations in the form of exclusions, restrictions or preference. The main aim of modern human rights is to counteract such tendencies. For that to happen, it has to be understood by everybody involved that while they adhere to separate linguistic traditions, have different national origins, or subscribe to different religions, they are all equal in dignity and rights and should act towards each other in a spirit of fraternity. Group conflicts arise when members of one group do not accept the equality in dignity or rights of the members of other groups.

One of the main instruments in international human rights law to counteract challenges to the equality of human beings is the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD). The two objectives of ICERD is to eliminate racial discrimination in all its forms and to promote understanding among all races (article 2, para. 1). "Racial discrimination" is in article 1 defined as

"Distinction, exclusion, restriction or preference based on race, colour, descent or *national or ethnic origin* which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

It will be noted that "racial discrimination" has a much broader meaning than the traditional, narrow understanding of "race" in terms of genetic descent, the most visible aspect of which is colour. "Racial discrimination" includes also discrimination in the basis of national or ethnic origin; ethnicity, as we shall later see, is defined primarily by culture; consequently, "racial discrimination" includes discrimination based on the cultural origin or identity of persons concerned. The aim is not only to achieve equality *de jure*, but also *de facto*. ICERD furthermore requires that special but transitional measures shall be taken in regard to racial or ethnic groups when this is required in order to guarantee them full and equal enjoyment of human rights and fundamental freedoms. These measures shall be transitional, however, in the sense that they shall not entail the maintenance of unequal or separate rights for different racial or ethnic groups after the objectives for which they were taken have been achieved.<sup>10</sup>

---

<sup>9</sup> The texts of these provisions can be found in the compilations mentioned in notes 6 and 7 above.

<sup>10</sup> ICERD art. 2, para. 2, seen in the light of the definition of "racial discrimination" in art. 1.

---

## Pluralism and group rights

Article 27 of the Covenant on Civil and Political Rights provides that

“In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”.

The existence of a minority is a matter of fact. It does not depend on whether the government has officially recognised that existence.

More important is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (hereinafter referred to as the 1992 Minority Declaration), adopted by the United Nations' General Assembly in 1992<sup>11</sup> which in its Article 1 calls on states to protect the existence and identity of minorities and to encourage conditions for the enjoyment of that identity. Article 1 further provides that the existence and the national or ethnic, cultural, religious and linguistic identity of minorities shall be protected by states within their territories, and that states shall encourage conditions for the promotion of that identity.

This declaration has now become the most important international text on group accommodation. Being so new, its impact on state behaviour remains to be seen. It represents a clear trend in international law towards greater recognition of the multi-cultural composition of national societies. This is reflected in its Article 2:

“Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.”

Under Article 4 of the Declaration, paragraph 2,

“States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.”

States, therefore, are under an obligation to take positive measures of special protection for minorities, in order for them to develop their culture, language and religion

---

<sup>11</sup> General Assembly res. 47/135, adopted 18 December 1992.

## Standard-setting by the OSCE

The Organisation for Security and Co-operation in Europe (until 1994: CSCE)<sup>12</sup> has since 1990 taken a strong interest in the protection of minorities.<sup>13</sup> Most important in this respect was the CSCE Copenhagen Meeting of the Conference on the Human Dimension, June 1990.<sup>14</sup> The Concluding Document of the Copenhagen meeting has elaborate provisions, many of which have inspired the United Nations Declaration. Elements of the Copenhagen Concluding Document are given below:

- (32) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right
    - (32.1) to use freely their mother tongue in private as well as in public;
    - (32.2) to establish and maintain their own educational, cultural and religious institutions, organisations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;
    - (32.3) to profess and practise their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;
    - (32.4) to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs
    - (32.5) to disseminate, have access to and exchange information in their mother tongue;
    - (32.6) to establish and maintain organisations or associations within their country and to participate in international non-governmental organisations.
- Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No

<sup>12</sup> During the later parts of the Cold War, at the initiative of leading statesmen, among whom Willy Brandt, a standing Conference on Security and Co-operation in Europe (CSCE), basing itself on the Helsinki Final Act of 1975, met with regular intervals. With the end of the Cold War the co-operation intensified, and at the review conference held in Budapest in 1994 it was decided to transform the conference into an organisation, the OSCE. Strictly speaking, documents adopted before November 1994 should therefore be called CSCE documents and those later are OSCE documents.

<sup>13</sup> See on this subject in particular Bloed, Arie, "The CSCE and the Protection of National Minorities". In Phillips, Alan and Allan Rosas (eds.), *The UN Minority Rights Declaration*. Åbo Akademi University Institute for Human Rights, 1993; Helgesen, Jan E.: "Protecting Minorities in the Conference on Security and Co-operation in Europe". In Allan Rosas and Jan Helgesen (ed): *The Strength of Diversity*. Nijhoof, Dordrecht 1992; Helgesen, Jan: *The Protection of Minorities in the CSCE*. A Note on the Helsinki Document 1992. In Packer, John and Kristian Myntti (ed): *The Protection of Ethnic and Linguistic Minorities in Europe*. Institute for Human Rights, Åbo Akademi University, 1993.

<sup>14</sup> The text can be found, i.a., in *Human Rights in International Law: Basic texts*, Council of Europe Press, 1992, pp. 442-447.

disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights.

- (33) The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organisations or associations of such minorities, in accordance with the decision-making procedures of each State. Any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.
- (34) The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation. In the context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities.
- (35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

## Standard-setting by the Council of Europe

The Council of Europe has established what is the most effective contemporary international instrument ensuring compliance with human rights. A primary aspect of the Council of Europe is to secure democracy, which among others emphasises the rights of the *demos* (the whole population of a country) and therefore emphasises inclusiveness, rather than the *ethnos*, which might lead to discrimination and separateness rather than to the safeguarding of human rights.

The European Convention for the Protection of Human Rights and Fundamental Freedoms provides in article 14 that

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as ... association with a national minority.”

A rich case law has developed within the Council of Europe protecting members of minorities from discrimination in areas such as freedom of expression and association, the freedom to use the language of their own choice and to communicate thoughts and opinions in whatever language they would want.

In November 1994 The Council of Europe adopted the Framework Convention on Minorities. The Convention is significant for two reasons. It is the first multilateral “hard law” instrument devoted in its entirety to the protection of minorities, and it

contains much more detailed provisions on such protection than any other international instrument. It is "hard law" in the sense that it constitutes legally binding obligations for states which ratify the Convention.

The European Framework Convention contains the most detailed guidelines yet adopted for the accommodation of groups within sovereign states, building as it does both on the United Nations Minority Declaration and on the Copenhagen Document of the CSCE (now OSCE). Some of its elements will therefore be briefly outlined below.

Respect for principles of international law is emphasised in the Convention both in article 2 with its implicit reference to the United Nations General Assembly resolution 2625 (XXV), containing the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in accordance with the Charter of the United Nations, and in article 21 which underlines that nothing in the Convention can be interpreted to imply a right to engage in any activity contrary to principles of international law and in particular against the sovereign equality, territorial integrity and political independence of states.

The Framework Convention on Minorities of the Council of Europe therefore consolidates a principle basic to all international instruments in this field: Group accommodation must be done within the limits of existing, territorial integrity of states unless all parties agree to a voluntary territorial change.

It starts with the principle of equality in the common domain (article 4, in particular paragraph 2). It continues by obliging states to promote conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, traditions, and cultural heritage.

The Convention calls on the parties to encourage a spirit of tolerance and inter-cultural dialogue and to take measures to protect persons, whether belonging to minorities or majorities, who may be subject to threats of acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity (article 6). In article 9 the freedom of expression and information of members of minorities is provided for, including access to media for persons belonging to minorities, allowing for cultural pluralism.

Article 10 deals with the use, by members of minorities, of their language, including its use in regard to administrative authorities in areas where many members of the minorities live. Article 11 provides for the right to use one's own name in the form it has in the minority language and to have it officially recognised, the right to display signs in the minority language, and the use of traditional local names, street names and other topographical indications when there is sufficient demand for such indications.

Article 12 requires states to take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of the national minorities and of the majority. Under article 13, members of national minorities have the right to set up and manage their own private educational and training establishment, but this shall not entail financial obligations for the states.



Under article 14, states undertake to recognise the right of persons belonging to minorities to learn their minority language, and to provide opportunities for being taught the minority language or for receiving instruction in that language. This shall be done without prejudice to the learning of the official language of the country concerned. Under article 15, conditions shall be created for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Article 16 requires states to refrain from measures altering the proportions of the population in areas inhabited by persons belonging to national minorities when such measures are aimed at restricting the rights and freedoms contained in the Convention. Under article 17 the states undertake not to interfere with the rights of persons belonging to national minorities to establish contacts across frontiers with persons living in other states, particularly with those with whom they share an ethnic, cultural, linguistic or religious identity.

Article 18 calls on states to conclude bilateral and multilateral agreements with other states, in particular neighbouring states, in order to ensure the protection of persons belonging to the national minorities concerned. This relates to the effort to create stability between home state and kin state, which is further dealt with in chapter 10 of the present study, where the elaboration of the "Stability Pact" adopted in March 1995 on the initiative of the French Prime Minister Balladur is also discussed.

The international monitoring of the implementation of the Convention by the state parties is to be undertaken by the Committee of Ministers of the Council of Europe, under article 24, but the Committee shall make use of an advisory committee composed of recognised experts in the field of the protection of national minorities. It is to be hoped that this committee will be composed of independent experts rather than government representatives; otherwise the impact of the Convention might be rather limited.

## **Autonomy and local self-government**

When the different ethnic groups live in separate territorial localities within the state and a great cultural distance exists between the groups, a degree of territorial subdivision of state power and authority can facilitate effective pluralism and confidence-building without destroying the territorial integrity and the essence of political unity of the sovereign state.

Autonomist demands might fall in several categories depending on the extent of authority devolved to the local group or territory: federalism, constitutionally regulated provincial autonomy, provincial or regional administrative decentralisation, and community autonomy.<sup>15</sup>

---

<sup>15</sup> See, e.g., Mikesell 1991.

A federal system is constitutionally regulated and provides the same degree of autonomy to each of the units in the federation. A constitutionally regulated provincial autonomy provides a differentiated arrangement where some provinces have more autonomy than others (Spain), or where only one or two autonomies exist while the rest of the state is unitary (Nicaragua, with regard to the indigenous areas on the Atlantic coast). Provincial autonomy is sometimes regulated by ordinary legislation (Denmark's Home Rule Act for Greenland 1978, Finland's Act on the Autonomy of Åland, 1991). Administrative decentralisation provides only for administrative, not legislative self-management. Community autonomy leaves it to the community, not on a territorial but a personal basis, to regulate its internal concerns within the framework of national legislation.

*Cultural autonomy.* – The concept of 'cultural autonomy' can be used to describe a group's right to teach and use its own language, to practice its religion and to protect traditional values and lifeways from assimilationist pressure. It corresponds, therefore, to what was in the previous chapter called 'pluralism in togetherness.' It requires that the group has its own institutions which can make decisions in regard to those aspects of its culture, but without a territorial base.

The United Nations Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities require implicitly, but not explicitly, some limited cultural autonomy for the groups concerned. Laws on cultural autonomy have in recent years been adopted by a number of countries, such as Hungary<sup>16</sup> and Estonia<sup>17</sup>, both adopted in 1993.

*The democratic functions of territorial subdivision.* – Territorial sub-division may be effected in ways which makes it possible for a compactly settled minority to have greater influence over political, cultural and economic decisions affecting its members. However, it should not serve to give ethnic groups the sense that the local government is their exclusive, or only, government. The sub-division should only serve to bring the institutions of power and the service of state closer to them and give them greater influence over it. Decentralisation of power from the centre, and the extension of authority to smaller territorial units, can lead to a more homogenous ethnic composition. Very rarely, though, will even the smaller unit be entirely "pure" in the ethnic sense. The local majority will have to share power with members of other groups living in the same territorial unit. Groups which are minorities in a nation as a whole, can be majority in a region, but they will have to be as pluralistic within the region as the majority has to be in the whole state, if minority rights are to be respected.

By sharing democratic power, the local majority may become more sensitive to the interests of other groups living in the same territorial unit. There will also at that level be an ethnic, cultural and possibly also linguistic mosaic which must be respected.

---

<sup>16</sup> Act LXXVII of 1993: On the rights of national and ethnic minorities. Budapest 1993.

<sup>17</sup> Law on the Cultural Autonomy of National Minorities of the Republic of Estonia, adopted October 1993.



Decentralisation must therefore be coupled with genuine pluralistic democratic governance in each territorial unit and with the same respect for human rights and minority rights as on national level. Were this to be safeguarded, the prospects for decentralisation were much better, and could help also to ease the burden of overgrown central governments without causing fear of groups in a minority position within the smaller units.

There can be several benefits of decentralisation. It reduces government overload, it facilitates pluralism within the country as a whole by diffusing centres of power, it broadens the allocation of prestigious political and administrative functions, and it facilitates the organisation of mother-tongue education, to mention only a few.

In the transition from authoritarian to democratic rule in Germany and Southern Europe (Spain and Italy), democratisation proceeded together with a peaceful process of decentralisation from the extremely centralistic governance of Franco, Mussolini and Hitler.

Empirical social science research has shown that democratic, pluralist states have never gone to war against each other. Similarly, inside societies which are pluralistic, with equal respect for the identity of the different groups living in that society, and where due process, openness and transparency reign, civil war does not occur. The task is to create that type of society. It requires political will by all parties, not only the government: A will to live together in peace, to abstain from violent means in the political struggle, and respect for the human rights also of one's opponents. The state should be the collective home of all groups living inside its borders. Everywhere there is a need for an egalitarian ethnic, linguistic and social contract between the different members living there.

The cost of conflicts, the drain on the state budget of excessive armament and militarisation, the destruction of houses, homes and villages and thereby the deliberate increase of mass unemployment, all of these negative factors cause a deterioration in the life not only of the minority group but of everyone. It is my firm hope that reasonable self-interest combined with social consciousness will ultimately make everyone understand that the application of human rights, including minority rights and harmonious group accommodation, is in the interest of everyone in a state.

---

## Implementation of Minority Rights by the United Nations

By *Gudmundur Alfredsson*, Professor

Equal enjoyment of all human rights and non-discrimination in that regard are prescribed in the UN Charter, the Universal Declaration of Human Rights, the International Human Rights Covenants and a series of additional texts, including the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Convention concerning Discrimination in respect of Employment and Occupation (ILO Convention No. 111), the regional human rights conventions, and most other human rights instruments.

All human rights encompass civil, cultural, economic, political and social rights, as well as the right to development. The grounds on which discrimination is prohibited differ from one instrument to another, but repeated references to race, colour, language, religion, national and ethnic origins, birth and other status cover traditional minority situations.

In addition to equal enjoyment and non-discrimination, several human rights instruments offer special protection of minority rights. Such provisions are contained in the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, UNESCO's Convention against Discrimination in Education, UNESCO's Declaration on Race and Racial Prejudice, Convention against Genocide, and the 1992 Declaration on Minority Rights.

Special rights and special measures to the benefit of minorities (also called preferential treatment or affirmative action) do not constitute privileges within a country; they simply serve the purpose of elevating persons belonging to minorities and the groups themselves to the position of equal enjoyment of all human rights. These measures are frequently seen in the fields of education, culture, language and religion, but they also extend to political, economic and social affairs.

From equal enjoyment to non-discrimination to special measures, the primary responsibility for implementing the human rights standards rests with states. They have drafted and adopted the texts under the auspices of international and regional organisations. Nevertheless, it has been deemed necessary to keep an eye on state compliance, so to say to look over their shoulders. To this end, treaty-based and resolution-based procedures for all of these standards have been set up within the United Nations and the other intergovernmental organisations.

There follows a list of the types of methods employed, with emphasis on UN institutions. The descriptions are inevitably short and indicative only of the possi-

bilities involved. Patience, persistence and expertise are required for making use of many of the international methods and procedures described below as they are slow-moving, politicised and difficult to access.

## **State reporting obligations**

Upon ratification of a number of human rights conventions, states have undertaken to submit with regular intervals detailed reports on their performance. This is true for the following treaties, all of which may be significant for minorities.

- the International Covenant on Civil and Political Rights;
- the International Covenant on Economic, Social and Cultural Rights;
- the Convention on the Elimination of All Forms of Discrimination against Women;
- the International Convention on the Elimination of All Forms of Racial Discrimination;
- the Convention on the Rights of the Child, and
- the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The state reports are examined by independent expert bodies set up under each convention, that is (corresponding to the list above)

- the Human Rights Committee;
- the Committee on Economic, Social and Cultural Rights;
- the Committee for the Elimination of Discrimination against Women (CEDAW);
- the Committee on the Elimination of Racial Discrimination (CERD);
- the Committee on the Rights of the Child; and
- the Committee against Torture (CAT).

The treaty monitoring bodies can and frequently do ask questions about the human rights of minorities, and it is important to channel information to them which supplements whatever information a state may have supplied. ILO, UNESCO and some of the regional organisations have also established reporting obligations.

## **Complaints procedures**

Complaints or communications by individuals and sometimes groups about alleged violations are possible under

- the International Covenant on Civil and Political Rights and its Optional Protocol;

- the International Convention on the Elimination of All Forms of Racial Discrimination and its article 14; and
- the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its article 22.

For each treaty, the state in question must have accepted the respective treaty and the attached procedure. The Human Rights Committee, CERD and CAT can thus receive petitions which may concern the human rights of minorities. The case-law of the Human Rights Committee is of particular significance; in a recent case, for example, the Committee found that traditional economic activities of minorities may come under the protection of culture in article 27 of the Covenant. ILO, UNESCO, the World Bank and some of the regional organisations also maintain complaints procedures.

With regard to states which have not ratified a relevant treaty or accepted a procedure, the United Nations has established complaints procedures by way of resolutions. These procedures reach all states irrespective of treaty ratifications. Best known of these is the so-called 1503-procedure, set up by the Economic and Social Council (ECOSOC, the parent body of the UN Commission on Human Rights), which seeks to identify gross and consistent patterns of violations. Each year, the UN Centre for Human Rights receives tens of thousands of complaints under this procedure. Although confidential, it has been reported that a number of minority complaints are regularly considered in connection with this procedure.

Before the use of each petition procedure, whether based on a treaty or a resolution, it is necessary to check who may submit complaints (individuals, groups, NGOs, and/or other states) and what are the procedural requirements (admissibility criteria, exhaustion of local remedies, etc.), as well as the substantive provisions in terms of the best protection offered.

## **Fact-finding and investigative procedures**

The UN Commission on Human Rights appoints Special Rapporteurs and sets up working groups to examine and evaluate performance on thematic issues (for example religious intolerance, and racial discrimination) or in specific countries (for example Iran, Iraq, Romania, Rwanda, the Sudan, the former Yugoslavia, and Zaire). The Rapporteurs and working groups can be requested to take urgent action. Many of them have dealt with minority concerns in their reports to the Commission which serves to increase the pressure on non-complying governments, especially when the Commission responds by addressing these concerns in resolutions adopted. On especially grave occasions, the reports are also presented to the General Assembly and the Security Council.

Minorities and non-governmental organisations (NGOs) can and should feed

information to the Special Rapporteurs and working groups by writing to them c/o the UN Centre for Human Rights, Palais des Nations, CH-1211 Geneva 10, Switzerland. The Centre also processes state reports and complaints submitted under the procedures described above.

Of other organisations, it is in particular the Organisation for Security and Co-operation in Europe (OSCE) which has put in place an elaborate machinery for fact-finding in order to live up to its security-oriented role in conflict-prevention and conflict-resolution.

## **Dialogue, prevention of violations and conflict, and resolution of conflicts**

In his 1991 report on an Agenda for Peace, the UN Secretary-General, when dealing with conflicts caused by ethnic, religious or linguistic groups, called for a commitment to human rights with a special sensitivity to those of minorities and called on the increasingly effective machinery of the United Nations dealing with human rights to enhance the situation of minorities as well as the stability of States.

In 1995, the United Nations established a new Working Group on Minorities (WGM), composed of experts drawn from the Sub-Commission on Prevention of Discrimination and Protection of Minorities. WGM is entrusted with reviewing the promotion and practical realisation of the 1992 Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, examining solutions to problems involving minorities, including the promotion of mutual understanding and dialogue between the groups and governments, and recommending measures for the promotion and protection of minority rights.

Minority representatives and NGOs without the formal consultative status granted by ECOSOC (see below) can participate in WGM meetings. In this respect, the WGM resembles the UN Working Group on Indigenous Populations (WGIP) which reviews national developments in the field of indigenous rights. WGM and WGIP convene every year at the Palais des Nations in Geneva.

The 1992 Declaration restates many of the rights set forth in other UN human rights instruments. It adds that the various organisations of the UN system have a role to play in "the full realisation of the rights and principles" contained in the Declaration. This reference reminds us of the role which UNICEF (for the Convention on the Rights of the Child), UNDP (for human rights in development), ILO, UNESCO and the World Bank already play in this field. The Declaration also ties minority rights together with the "development of society as a whole and within a democratic framework based on the rule of law".

The OSCE High Commissioner on National Minorities carries out extensive fact-finding and mediation missions in order to bring about a dialogue between groups and governments and to prevent conflicts, in line with the security-oriented approach

of the OSCE. An NGO, the Foundation for Inter-Ethnic Relations, also based in the Hague, devotes all of its efforts to the OSCE High Commissioner. Mention can also be made of the more recent and less visible Commissioner for Human Rights and Minorities Questions set up by the Council of the Baltic Sea States.

As to resolution of conflicts, the UN Security Council has the primary role when it comes to situations which breach or threaten to breach international peace and security. The Council has got involved in group problems in Iraq, Rwanda and the former Yugoslavia.

## Availability of public forums

At the United Nations, human rights issues affecting minorities are frequently brought up in a number of forums, most of which meet with the doors open to the press and the public. The debates are carried out under several agenda items, not least those dealing with violations of human rights. NGOs can speak at and submit documents to many of these meetings. State and expert members in all of these gatherings can of course be lobbied. The forums include

- the General Assembly;
- the Economic and Social Council (ECOSOC);
- the Commission on Human Rights;
- the Sub-Commission on Prevention of Discrimination and Protection of Minorities;
- various working groups of both the Commission and the Sub-Commission; and
- the treaty-monitoring bodies some of which will allow NGOs and groups to speak.

One type of forums lends itself particularly well to minority participation, that is gatherings of parliamentarians. Minority representatives have spoken up in the International Parliamentary Union (IPU), the Consultative Assembly of the Council of Europe and the European Parliament of the European Communities. In cases where minorities may not have the numbers necessary for representation, special measures should be taken to secure seats for them whenever possible.

The public debates in intergovernmental forums about human rights standards and violations attract attention and improve compliance. Governments do not welcome and would rather avoid institutional criticism and the consequent public, political and diplomatic pressure, and this embarrassment factor has been successfully employed on many occasions. Increased group access to both policy-making and implementation bodies ensures that these debates turn around the real issues. Such access also serves to let the steam out of tense situations, especially as national forums are often lacking for the airing of minority grievances.

## **Good offices actions**

The UN Secretary-General, the UN High Commissioner for Human Rights, heads of other UN agencies and of regional organisations from time to time undertake good offices interventions on behalf of groups in trouble. The Secretary-General has in this way intervened with governments on behalf of groups on a few occasions.

Good offices are especially important in situations requiring urgent action where the usual implementation procedures are too slow for bringing about results. Such actions are as a rule not made public; this is an example of quiet diplomacy where it is believed that governments are more likely to respond positively in non-public encounters. Good offices can be requested in writing by states, NGOs or groups.

## **Technical co-operation**

At the request of governments, the UN Centre for Human Rights in Geneva and the Crime Prevention Branch in Vienna will render technical assistance and advisory services with a focus on training, review of legislation and the building of national institutions in such fields as civil and political rights, including law enforcement, prison administration and other aspects of the administration of justice. Minority rights have so far only occasionally entered the picture. Other UN agencies, like ILO and UNESCO in their respective fields of operations, also provide technical co-operation.

Considerations concerning minority rights should have a prominent place in international, multilateral and bilateral technical co-operation programmes. Many NGOs and academic institutions are already in a position to respond to requests coming from the groups themselves, and it is likely that intergovernmental organisations will in the near future become more open to group requests.

## **Research**

Research in the intergovernmental organisations is important because it often precedes and influences subsequent standard-setting and procedures, as evidenced by studies mandated by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. Research rapporteurs Francesco Capotorti and Asbjørn Eide thus paved the way in their reports for the 1992 Declaration and the Working Group on Minorities, respectively. The United Nations University (UNU) in Tokyo and the United Nations Research Institute for Social Development (UNRISD) in Geneva are currently engaged in research activities which the groups should seek to influence.

The same comments hold true for academic and non-governmental research of which there is plenty.

## Non-governmental organisations

International, regional, national and local NGOs play a major role in pursuing minority rights. They do so through their own promotion and protection activities, and they also supply the intergovernmental organisations with much of the information used for the various procedures. The NGO role is absolutely crucial. Amnesty International, Human Rights Watch, the International Helsinki Federation, and the Minority Rights Group, just to name a few international NGOs, as well as their national chapters, deserve much credit for their consistent and accurate contributions to minority rights.

The UN Charter, in article 71, acknowledges the potential of NGO contributions. Accordingly, ECOSOC provides for the so-called consultative status which gives NGOs, which have acquired this status, access to meetings of ECOSOC and its subsidiary organs, including the Commission on Human Rights and the Sub-Commission. A few minority and indigenous groups have obtained this status in their own name (for example the Grand Council of the Crees of Quebec and the National Aboriginal and Islander Legal Services of Australia). Other meetings, as mentioned above, are open to groups without the status.





## The European Convention on Human Rights and the European Torture Convention

By *Erik Møse*, Judge

Turkey is bound by two important regional human rights conventions: the European Convention on Human Rights of 4 November 1950 (ECHR) and the European Convention on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment of 26 November 1987 (CPT).

The term “European” is not entirely precise. However, in this context the concept does not present major difficulties. The two conventions have been elaborated within the framework of the Council of Europe, an international governmental organisation with its seat in Strasbourg, France. Only states members of that organisation may be bound by the conventions.

The aim of the Council of Europe is “to achieve a greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage”.<sup>18</sup> The organisation’s statutory principles are pluralist democracy, respect for human rights and the rule of law. Its members “must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms.”<sup>19</sup> In 1950, the Council of Europe had only 12 members – some of the Western European democracies. Around 1980 and onwards, the number of members remained at about 20. However, following the important political developments in Central and Eastern Europe there are at present 34 member states.<sup>20</sup> A further seven states have applied for membership.

States which are admitted for membership in the Council of Europe must sign the European Convention on Human Rights, and they are expected to ratify it as soon as possible. At present it has been ratified by 31 of the 34 members of the organisation. 29 states have ratified the Torture Convention.<sup>21</sup>

The fact that the ECHR and the CPT may only be ratified by states that are members of the Council of Europe, implies that only one of the four states mentioned in the title of this seminar is relevant in my context. Turkey has for a long time been a member of

---

<sup>18</sup> Statute of the Council of Europe of 5 May 1949 Article 1 (a).

<sup>19</sup> Article 3 of the Statute.

<sup>20</sup> Among these members are the fifteen members of the European Union, which is of course a quite distinct organisation, with its seat in Brussels.

<sup>21</sup> The information concerning the number of ratifications of the conventions was correct as of October 1995.

the Council of Europe. It ratified the ECHR already on 18 May 1954 and the CPT on 26 February 1988 (before the Convention entered into force on 1 February 1989).

Let me stress that the fact that mention will be made of Turkey during the present intervention does not mean that I want to pinpoint any particular government or to take a position in controversial issues. My task is simply to give relevant information of a purely legal character in an unbiased way, thereby providing a basis for further discussions at this seminar.

It should be added that Iran, Iraq and Syria have ratified the UN Covenants on Civil and Political Rights (CCPR) and on Economic, Social and Cultural Rights (CESCR), which are dealt with in Asbjørn Eide's article in this report, but not the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (which has been ratified by Turkey).

## The European Convention on Human Rights

The Convention was opened for signature on 4 November 1950 and entered into force in 1953. It includes a list of rights, mainly civil and political,<sup>22</sup> and establishes a system of protection based on complaints. Moreover, eleven Protocols have been elaborated, of which some (No. 1, 4, 6 and 7) add substantive new rights, whereas others (No. 2, 3, 4, 5, 8, 9, 10 and 11) have implications of a procedural character. Only states that are bound by the Convention may ratify the Protocols. Some of the Protocols have not been ratified by all states.

### *The control machinery – overview*

There are three organs supervising the national implementation of states parties to the Convention. The Commission and the Court of Human Rights in Strasbourg were set up by that Convention,<sup>23</sup> whereas the Committee of Ministers of the Council of Europe was given additional competence under the Convention, namely to draw binding conclusions as to whether there have been violations in cases which are not referred to the Court.<sup>24</sup>

These three organs examine complaints from individuals and states with a view to deciding whether the rights set forth in the Convention have been violated. The system of *state complaints* is mandatory: Under Article 24 any state may refer to the Commission any alleged breach of the Convention by another state party. There have

<sup>22</sup> Social, economic and cultural rights are guaranteed by the Social Charter of 18 October 1961 with protocols, which have been ratified by 20 states, including Turkey.

<sup>23</sup> See in particular Article 19 of the ECHR.

<sup>24</sup> Article 32. In addition the Committee of Ministers supervises the execution of its own decisions under Article 32 and of the judgments of the Court, see Article 54 and below.

been very few state complaints: The Secretariat of the Commission has registered 19 state applications, relating to six different conflicts.<sup>25</sup> Of these, only one complaint has been brought before the Court.<sup>26</sup>

Of greater practical importance is the system of *individual complaints*. In accordance with Article 25 of the Convention the Commission may receive petitions from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by a state party. This system is optional; it is a precondition that the state concerned has recognised the competence of the Commission to receive such petitions. However, all states parties to the Convention have now declared themselves bound by this provision. By the end of 1994, the Commission had registered 26.058 individual applications.<sup>27</sup> The individual right of complaint is a cornerstone in the enforcement system of the Convention. Turkey's declaration was submitted on 28 January 1987 and has subsequently been renewed.

Both individual and inter-state applications are first considered by the Commission. Final and legally binding decisions on the merits are made either by the Committee of Ministers in the form of resolutions, or by the Court in the form of judgments.

### *The Commission*

The Commission is composed of as many members as there are states parties to the Convention. The members are independent, impartial and shall sit on the Commission in their individual capacity;<sup>28</sup> they do not represent the state in respect of which they were elected.

Originally, the Commission acted in plenary. Following the entry into force of Protocol No 8 in 1990,<sup>29</sup> it may also sit in Chambers composed of at least seven members. At present there are two Chambers.

The tasks of the Commission are that of *fact-finding*, *filtering*, seeking a *friendly settlement* between the parties and, eventually, giving a "quasi-judicial" *opinion* as to whether there has been a violation of any of the rights of the Convention. Each of these functions will be described further below.

(a) The Commission examines the facts of the case. This normally takes place on the basis of the documentation provided by the parties. The Commission may, however, examine witnesses or take other evidence in the territory of the respondent state, and

<sup>25</sup> One of them was the application lodged in 1982 by Denmark, France, the Netherlands, Norway and Sweden against Turkey in connection with the human rights situation in that country between 1980 and 1982. The parties reached a friendly settlement in 1985.

<sup>26</sup> Ireland v. UK, judgment of 18 January 1978, Publications of the Court Series A No. 25.

<sup>27</sup> Source: European Commission on Human Rights: Survey of activities and statistics (1994).

<sup>28</sup> Article 23.

<sup>29</sup> Protocol No. 8 of 19 March 1985 amended several provisions of the Convention and entered into force on 1 January 1990, when all the states parties to the Convention had ratified it. The Protocol now forms an integral part of the Convention.

this has happened in several Kurdish cases which are now before the Commission (see below).

(b) The Commission decides whether the complaint shall be declared admissible (examined on the merits), or rejected as inadmissible. Among the conditions for declaring the case admissible are:

- the applicant must allege to be a victim of a violation of a right set forth in the Convention;<sup>30</sup>
- all domestic remedies must be exhausted, and the case must be brought before the Commission within six months from the date on which the final decision was taken at the national level.<sup>31</sup> According to case-law, exhaustion of national remedies is not required if they are not effective, for instance if the complaint concerns established administrative practice;
- the application must not be anonymous, incompatible with the Convention (e.g. dealing with a right not included in the Convention or covered by a reservation tabled by the state concerned) or manifestly ill-founded. Moreover, it must not be substantially the same as a matter which has already been examined by the Commission or has already been submitted to another procedure of international investigation or settlement.<sup>32</sup>

Over 90 percent of the applications have been declared inadmissible. Such decisions are made by the Commission or – following the entry into force of Protocol 8 in 1990 – Committees of three members who may, if unanimous, reject clearly inadmissible applications. Decisions on inadmissibility are final.

In relation to the topic of this seminar it should be mentioned that the Commission has declared admissible more than 40 cases relating to the human rights of the Kurds.<sup>33</sup> In many of these cases the Turkish Government have argued that the Kurds had not exhausted local remedies, of which several were at the disposal of the applicants; that the six months rule was not observed; and that the applications represented an abuse of the right of petition, since they were devoid of any sound judicial basis. Here only one issue should be highlighted: In relation to the exhaustion rule the Commission has not considered it necessary to determine whether there exists an administrative practice on the part of the Turkish authorities tolerating abuses of human rights of the kind alleged by the applicants. In all admitted cases the Commission has found that it has not been established that the applicant had at their disposal adequate remedies under the state of emergency to deal effectively with their complaints. In other cases it has found that the applicants had done all that could be expected in the circumstances.

---

<sup>30</sup> Article 25 (1).

<sup>31</sup> Article 26 and Article 27 (3).

<sup>32</sup> Article 27 (1) and (2).

<sup>33</sup> 30 of the cases are reproduced in two volumes of April and June 1995, elaborated by the Kurdistan Human Rights Project: KHRP Cases v. Turkey declared admissible by the European Commission of Human Rights.

(c) Until 31 December 1994, 2027 individual applications had been declared admissible by the Commission. If an application is declared admissible, the Commission shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights.<sup>34</sup> If it succeeds, the Commission draws up a report containing a brief statement of the facts and of the solution reached. There is no conclusion as to whether any of the rights in the Convention have been violated. A number of friendly settlements have had regard to changes in the law or regulations or have provided for payment of a sum of money from the Government.

As an illustration, it should be mentioned that a friendly settlement was reached in the interstate case lodged in 1982 against Turkey.<sup>35</sup>

(d) If no friendly settlement is effected, the Commission draws up a report on the facts of the case and states its opinion as to whether the facts found disclose a violation of the Convention.<sup>36</sup> This opinion is not legally binding. As of 31 December 1994, the Commission had adopted 1206 reports. It is expected to adopt its first reports in the Kurdish cases mentioned above in autumn 1995. The report contains the facts of the case, a description of relevant domestic legislation and practice, the reasons of the Commission and the conclusion of the majority of its members. Members of the Commission may express their concurring or dissenting opinion. Final, legally binding decisions on the merits are made by the Committee of Ministers or the Court, see below.

(e) The proceedings before the Commission are written and may in some cases – but not always – be supplemented by oral hearings. The official languages are English and French, but there is no obligation to file the application in these languages. There are no costs involved in introducing an application to the Commission. Applicants do not have to be represented by a lawyer, but it is recommended.<sup>37</sup> There is a system of legal aid, which may be granted if the Commission is satisfied that it is essential for the proper discharge of the Commission's duties and the applicant has not sufficient means to meet all or part of the costs involved. However, this system only comes into work when the state concerned has submitted observations on admissibility or if the application has been declared admissible.<sup>38</sup> The proceedings before the Commission are confidential.

---

<sup>34</sup> Article 28 (1) (b).

<sup>35</sup> See foot-note 25 above.

<sup>36</sup> Article 31 (1).

<sup>37</sup> See for example Information Note by the Secretary to the European Commission of Human Rights (January 1995).

<sup>38</sup> See the Commission's Rules of Procedure, Rule 1 and 2 of the Addendum concerning legal aid, introduced by Resolution (63) 18 of the Committee of Ministers.

---

## *The Committee of Ministers*

The Commission's report is transmitted to the Committee of Ministers and to the state concerned, which may not publish it.<sup>39</sup> If the case is not referred to the Court within three months from the date of the transmission of the report to the Committee of Ministers, that Committee shall decide whether there has been a violation of the Convention. This system is mandatory; it follows from the Convention itself and does not depend on a separate declaration of the respondent state. The state is legally bound by the Committee of Ministers' decisions.<sup>40</sup>

The Committee of Ministers is the executive organ of the Council of Europe and is composed of representatives of the Governments of states members of that organisation. Consequently, a "political" body is here entrusted with a "legal" task. Experience has shown that this is not unproblematic. However, in the large majority of cases the Committee of Ministers has reached the same conclusion as the Commission as regards questions of whether or not there has been a violation of the Convention.

The discussions of the Committee of Ministers take place in closed meetings and are confidential. Unlike the situation in the Commission and the Court, the case is not pleaded by the parties in an adversarial procedure. A representative of the respondent state is present as a member of the Committee. In interstate cases the other state will also be present, whereas the applicants are not present and have no party-status.

If the Committee of Ministers finds that there is a violation, it shall decide a period within which the respondent state must take the measures required. They may include legislative changes and also payment of compensation to the victim, the latter in practice on the basis of proposals from the Commission. The Committee supervises that its binding decisions are being executed by the respondent state. It performs a similar supervising role in relation to judgments where the Court has found a violation and – possibly – awarded compensation.<sup>41</sup>

## *The Court*

The European Court of Human Rights is composed of a number of judges equal to that of the members of the Council of Europe. As the members of the Commission, the judges may not during their term of office exercise functions that are incompatible with the requirements of independence, impartiality and availability.<sup>42</sup>

Within a period of three months from the transmission of the report from the Commission to the Committee of Ministers, the case may be referred to the Court,

---

<sup>39</sup> Article 31 (2).

<sup>40</sup> Article 32.

<sup>41</sup> Articles 32 (2) and 54, respectively.

<sup>42</sup> Article 40 (7).

provided that the state concerned has declared under Article 46 of the Convention that it accepts the competence of the Court. Even if this system is optional, all states parties to the Convention have now made such declarations. Turkey's declaration was deposited on 22 January 1990.

A case may be referred to the Court by the Commission, the respondent state and – in an interstate case – the state that referred the case to the Commission. Also a state whose national is alleged to be a victim may refer the case to the Court. An example is the *Loizidou* case, recently decided by the Court, where Cyprus intervened.<sup>43</sup>

Originally, individual applicants had no right to bring a case before the Court. However, a practice evolved whereby they (in practice usually their lawyers) assisted the delegates of the Commission and thereby was given the opportunity to address the Court. Following the entry into force of Protocol No. 9 on 1 October 1994, a right of referral for individuals now exists in relation to states which have ratified this protocol. In such cases a screening procedure has been established. A panel composed of three judges may, by unanimous vote, decide that cases referred by individuals shall not be considered by the Court.<sup>44</sup> Protocol 9 has been signed, but not ratified by Turkey.

The Court normally considers the cases in Chambers, composed of nine judges. The President or Vice President of the Court and the judge elected in respect of the state concerned are members of the Chamber *ex officio*, whereas the other members are drawn by lot.<sup>45</sup> The Chamber may relinquish jurisdiction to the Grand Chamber, composed of 19 judges, which again in exceptional circumstances may seize the plenary Court. Individual applicants may be granted legal aid.<sup>46</sup>

On the basis of the Commission's report, written memorials by the parties and an oral hearing, the Court decides by a majority vote whether there has been a violation of the Convention. In the affirmative, it may afford just satisfaction to the injured party. This may include compensation for non-pecuniary and pecuniary damage, as well as reimbursement of costs and expenses.<sup>47</sup> The judgement is final and binding.<sup>48</sup> It contains reasons, and any judge is entitled to deliver a separate opinion, concurring or dissenting.<sup>49</sup>

As mentioned above, the Committee of Ministers supervises the execution of the judgments. This may entail general amendments of national law as well as the payment of compensation to the victims.

---

<sup>43</sup> Judgment of 23 March 1995, Series A No. 310.

<sup>44</sup> The first case admitted under this Protocol by the Court's screening panels (in August-September 1995) was *C.G. v. Austria*. See the Court's press release 436 of 18 September 1995, according to which twenty-one other cases referred by individual applicants were dismissed.

<sup>45</sup> Article 43.

<sup>46</sup> The conditions for legal aid are provided for in an addendum to the Court's Rules of Procedure.

<sup>47</sup> Article 50.

<sup>48</sup> Articles 52 and 53.

<sup>49</sup> Article 51.

The Court has delivered over 500 judgments, of which three concern Turkey.<sup>50</sup> (Two cases concerning the situation of the Kurds are pending before the Court spring 1996.)

### *Reform*

According to Protocol No. 11 of 5 May 1994, which is not yet in force, the existing complaint machinery will be changed. A full-time Court will replace the present Court and the Commission. The Committee of Ministers will no longer decide the merits of the cases, but will continue to supervise the judgments of the Court. All applicants will have direct access to the new Court, which will set up Committees, Chambers and a Grand Chamber (composed of three, seven and seventeen judges, respectively) to deal with the admissibility and merits of applications. The right of individual petition will be mandatory.<sup>51</sup>

### *Article 57*

After having described the complaint machinery under the ECHR it should be added that according to Article 57 of the Convention the Secretary-General of the Council of Europe may request States to furnish an explanation of the manner in which their internal law ensures the effective implementation of any of the provisions of the Convention. It is the prerogative of the Secretary General – the highest civil servant within the Council of Europe – to decide whether this possibility should be used, and in what way. This reporting procedure has been applied only five times, first in a general way and subsequently in relation to specific articles of the Convention. Until now, Article 57 has always been used in relation to all States that are bound by the Convention. It has been argued, however, that the Secretary General may decide to ask for explanations only from one particular State, if this is considered appropriate.

### *Substantive rights*

The Convention contains mainly<sup>52</sup> civil and political rights, such as for instance the right to life, prohibition of torture, protection of arbitrary deprivation of liberty, the

<sup>50</sup> In addition to the Loizidou-judgment (foot-note 44) the cases of Yagci and Sargin (Series A No 319) and Mansur (Series A No 321), both of 8 June 1995.

<sup>51</sup> The main elements in the new system are described in a publication from the Council of Europe Press, 1995: Human rights. A Continuing challenge for the Council of Europe pp. 15 - 20.

<sup>52</sup> There is no water-tight division between civil and political rights, on the one hand, and social, economic and cultural rights on the other. Among rights in the ECHR often considered as belonging to the latter is the right to property and to education (First Protocol Articles 1 and 2, respectively).



right to a fair trial, the freedom of thought, conscience and religion, the freedom of expression, the freedom of assembly and association, the right to an effective remedy and prohibition of discrimination.

There is comprehensive case-law on the rights in the Convention and the additional Protocols. For reasons of space it is impossible here to discuss the concrete implications of individual rights. Let us focus on some general aspects.

1) When the Convention has entered into force for a state, that state is under an obligation to comply with all its requirements immediately. There is no "transition period".<sup>53</sup> Moreover, subsequent special circumstances in society, for instance terrorism or crime, do not as such justify exceptions from the rights. Any deviation from the substantive norms must have a *legal basis* in the Convention.

Some of the rights contain "exception clauses" in relation to legitimate aims, such as national security and prevention of disorder or crimes. Any intervention for such purposes must be made in accordance with law and must be "necessary in a democratic society",<sup>54</sup> which according to case-law implies that there must be a "pressing social need" to interfere. The Convention organs scrutinise whether these conditions for interfering with the rights have been fulfilled.

In addition to these possible exceptions in some of the substantive provisions, Article 15 contains a general derogation clause, according to which states may in time of war or other public emergency take measures derogating from their obligations under the ECHR to the extent strictly required by the exigencies of the situation. It should be noted that no derogation is possible for instance in relation to the right of life (except in respect of deaths resulting from lawful acts of war) and the prohibition of torture and inhuman or degrading treatment or punishment. Any state applying Article 15 shall keep the Secretary-General of the Council of Europe fully informed of the measures and the reasons therefore. Turkey made such a declaration on 6 August 1990. It has been invoked in some of the above-mentioned Kurdish cases before the Commission which have been declared admissible.

2) Unlike the CCPR, the ECHR does not explicitly<sup>55</sup> provide that the states shall "respect and ensure" the rights guaranteed by the Convention. It is clear, however, that a similar *double obligation of implementation* exists under the Convention. Consequently, States must not only refrain from interfering with the rights, but also take steps to secure them in practice. The precise extent of this "positive" obligation will depend on an interpretation of each individual right. As an example it should be mentioned that Article 3 does not only prohibit the use of torture and inhuman or degrading interrogation techniques, but also implies an obligation for states to provide prison conditions that are not inhuman.

---

<sup>53</sup> This follows from the Court's judgment of 10 July 1984 in the case of *Guincho v. Portugal*, Series A No. 81.

<sup>54</sup> Articles 8 (2), 9 (2), 10 (2) and 11 (2). There is an abundant case-law in relation to these criteria.

<sup>55</sup> According to Article 1 the states parties shall "secure" the rights of everyone.

3) The national implementation of the ECHR implies that the legal and factual situation must be in conformity with the Convention. This is not only a question of ensuring legislative harmony between international and national law. Even if such general measures are important, it is essential that individuals claiming in concrete cases that their rights are violated shall have access to effective *national remedies*. This requirement is laid down by Article 13 of the Convention.<sup>56</sup> If there are no such remedies, the Convention organs will also find a breach of that provision in cases where they conclude that some of the other substantive rights have been violated.

As indicated above in connection with Article 26, the question of effective national remedies has frequently arisen in connection with the Kurdish cases now pending before the Commission. Irrespective of the Commission's conclusions on the merits, it may be useful if the participants at this seminar devoted some time to address this issue. It would seem to be in the interest of all parties involved to clarify and improve the present remedial situation:<sup>57</sup>

An effective access to adequate remedies in cases of alleged human rights violations is clearly in the interest of the potential victims. But it is also an advantage for the state concerned. The international supervision of human rights is of a subsidiary nature and comes into play only when it has not been possible to obtain redress at the national level. A state which is not able to show as a matter of visual fact that effective remedies are obviously available, will have a more difficult case in Strasbourg both in relation to Article 26 and Article 13. Any lack of clarity may enhance the scepticism of the Strasbourg organs. State interests are better served by sincere attempts to solve domestic problems themselves on the basis of respect for human rights instead of being in the constant international spotlight with the risk of being condemned for violations.

The existence of effective national remedies also facilitates the task of the international supervisory bodies. It is clear that their work-load will be reduced when cases are settled at the national level. And when cases are pursued before the international organs their task is easier if the relevant facts have been clarified, and if the national authorities have taken into account the obligations laid down by the human rights conventions. In particular, the taking of evidence (hearing of witnesses, missions to the country concerned) is a cumbersome process for the Commission.

4) A related issue is the ECHR's *legal status in national law*. Neither Article 1 nor Article 13 requires the incorporation of the Convention into national law. The Court has held, however, that in light of the words "undertake to secure" in Article 1 incorporation is a particularly faithful reflection of the intention of the drafters to make clear that the rights shall be directly secured to anyone within the jurisdiction of the

<sup>56</sup> Article 13 does not give right to a remedy in all cases, for example in relation to claims that are obviously misconceived. It follows from case-law that the individual's claim must be an "arguable" one. The exact meaning of this term has been subject of discussion, and the Commission and the Court have addressed this issue differently.

<sup>57</sup> Elements for a discussion along these lines could for instance be found in a report of delegations to Turkey between February and May 1995, see *The European Convention under Attack: The Threat to Lawyers in Turkey and the Challenge to Strasbourg*.

states parties.<sup>58</sup> Turkey incorporated the ECHR by the Act authorising its ratification in 1954 and the Convention therefore has the force of an ordinary act. In case of conflicts between the Convention and national law the most recent norm will therefore in principle prevail (the principle of *lex posterior*). Turkish courts do not often refer to the Convention, and its exact status in case-law seems to be somewhat unclear.<sup>59</sup> The participants at this seminar may wish to discuss whether this is a satisfactory situation.

5) A *comparison of the rights in the ECHR and the CCPR* shows that even if both conventions guarantee civil and political rights, each of them contains rights that are not mentioned in the other instrument. Some of the gaps at the European level were in 1984 filled in by Protocol No. 7 to the Convention (which has not been ratified by Turkey). Below we shall briefly mention two provisions in the CCPR of relevance to the Kurdish minority to which there is no corresponding articles in the ECHR.

Under both conventions states shall secure the rights provided therein without discrimination on any ground such as for instance religion, language, political or other opinion, national or social origin and association with a national minority. This follows from CCPR Article 2 (1) and ECHR Article 14. In the European context, this implies a prohibition of discrimination<sup>60</sup> in relation to all rights guaranteed by the Convention itself and its Protocols. In addition, CCPR *Article 26* provides that all persons are equal before the law and are entitled without discrimination to equal protection of the law. The Human Rights Committee set up under the Convention has interpreted that provision in a broad manner so as to include not only the rights explicitly mentioned in the CCPR, but all rights, including economic, social and cultural rights. Such a general clause does not exist at the European level.<sup>61</sup>

According to *Article 27* of the CCPR, persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. Obviously, the ECHR guarantees the human rights of persons belonging to minorities, and the prohibition of discrimination may also afford some protection. But there is no corresponding provision in the ECHR dealing with the specific rights of persons simply because they belong to a minority.<sup>62</sup>

---

<sup>58</sup> Ireland v. UK, judgment of 18 January 1978, Series A No. 25 para. 239.

<sup>59</sup> See Polakiewicz: "The implementation of the ECHR in Western Europe" pp. 42-43, in *The Domestic Implementation of the European Convention on Human Rights in Eastern and Western Europe, All-European Human Rights Yearbook* Vol. 2 (1992)

<sup>60</sup> There is extensive case-law on Article 14, including the distinction to be drawn between permissible differentiation and unlawful discrimination. See in particular the Belgian Linguistic case, judgment of 23 July 1968, Series A No. 6.

<sup>61</sup> For a general discussion on the various issues connected with discrimination and equality, see Eide and Opsahl: *Equality and Non-Discrimination*, Norwegian Institute of Human Rights, Publication No. 1, 1990.

<sup>62</sup> A survey of the Court's and the Commission's case-law on cultural rights has been prepared by the Secretariat of the Commission, see Council of Europe document H (95) 12.

The Council of Europe has tried to fill this gap in various ways:<sup>63</sup>

On 1 February 1995 the Framework Convention for the Protection of National Minorities was opened for signature. The Convention, which may also be adhered to by states that are not members of the Council of Europe, has not entered into force. It defines in a binding form principles to be respected in order to ensure the effective protection of national minorities and of the persons belonging to such minorities. The states parties shall implement the principles set out in the Convention through national legislation and appropriate governmental policies and inform the Committee of Ministers of measures taken to give effect to the principles set out in the Convention. The Committee will monitor the states' implementation with the assistance of an advisory committee composed of members with recognised expertise in the field of the protection of national minorities.

Efforts are undertaken to elaborate a draft protocol to the European Convention containing minority rights. It is expected that the Committee responsible for this work will submit its report by the end of 1995. The final outcome of these discussions remains to be seen.

## The European Convention on the Prevention of Torture

The CPT, which entered into force in 1989, differs from the ECHR in many ways. It does not lay down any substantive rights, but sets up an international supervisory system to improve the efficiency of existing international norms prohibiting torture and inhuman or degrading treatment, such as ECHR Article 3. The aim of the Convention is to prevent that persons deprived of their liberty are subjected to such treatment.

States bound by the Convention accept that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("the Committee") shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman and degrading treatment or punishment.<sup>64</sup> There is no complaint system in the CPT. Consequently, whereas the ECHR is a judicial system leading to conclusions as to whether individual rights have been violated in the past, the CPT is a non-judicial system aimed primarily at preventing torture and inhuman or degrading treatment in the future.

The Committee is composed of independent and impartial members serving in their individual capacity; they do not represent the state in respect of which they were elected.<sup>65</sup>

---

<sup>63</sup> In addition to the human rights initiatives mentioned below reference should also be made to the European Charter for Regional or Minority Languages, opened for signature on 5 November 1992.

<sup>64</sup> Article 1.

<sup>65</sup> Article 4.

The Convention contains a general clause to the effect that the Committee and the competent national authorities shall co-operate with each other.<sup>66</sup> The Committee's role is not to condemn states, but to assist them in order to strengthen the national protection of detainees against ill-treatment. This principle of co-operation is reflected in various provisions of the Convention. One aspect of this is the principle of confidentiality; the Committee meets in camera and the information gathered in relation to a visit, its report on a visit and its consultations with the state concerned are confidential.<sup>67</sup>

Each state shall permit visits by the Committee to any place within its jurisdiction where persons are deprived of their liberty by a public authority.<sup>68</sup> This obligation covers access to all such institutions, for instance places where persons are held in custody or are serving a sentence, mental hospitals and detention by military authorities. Exception is made for places which are effectively visited by virtue of the Geneva Conventions of 1949.<sup>69</sup> In exceptional circumstances a visit may be postponed, for instance on grounds of national defence, the medical condition of a person or because an urgent interrogation relating to a serious crime is taking place. When a state invokes such circumstances the Committee and the state shall immediately enter into consultations to enable the Committee to exercise its functions expeditiously.<sup>70</sup>

The Committee may carry out two kinds of visits:<sup>71</sup>

- *Periodic visits* are performed regularly in all states parties according to a schedule set up by the Committee in order to ensure that the different states are visited on an equitable basis.
- *Ad hoc visits* take place when it appears to the Committee to be required in the circumstances. The information on which the Committee decides to act may come from several sources, for instance events and situations described in the media, initiatives from NGOs and communications from individuals.

By the end of 1994, the CPT had carried out 28 periodic visits, including four to countries already visited by the Committee during its first round of periodic visits. It had made eight *ad hoc* visits, to the Dutch Antilles and Aruba, Martinique, Paris, Northern Ireland, Spain, Sweden and on two occasions to Turkey.<sup>72</sup>

When the Committee decides to carry out a visit it shall notify the state concerned of its intention to do so. After such notification, it may at any time visit any place in that state where persons are deprived of their liberty and it has unlimited access thereto. The state shall provide the Committee with full information on places of detention,

---

<sup>66</sup> Article 3.

<sup>67</sup> Articles 6 (1), 11 and 13.

<sup>68</sup> Article 2.

<sup>69</sup> Article 17 (3).

<sup>70</sup> Article 9.

<sup>71</sup> Article 7.

<sup>72</sup> A list of countries visited by the CPT and of the Committee's reports made public is included as Appendix 3 in the publication mentioned in footnote 51 (pp. 121 *et seq.*).

and it is therefore not in a position to foresee which institutions the Committee will ultimately decide to visit. Moreover, the Committee may move freely inside the institutions, it may interview detainees in private and may communicate freely with any person it believes can supply relevant information. Consequently, the Committee has several means to get a realistic picture of the conditions within the institutions.<sup>73</sup>

After each visit, the Committee draws up a confidential report on the facts found during the visit and formulates any recommendations it considers necessary and suggestions for improvement, if necessary. The state may submit comments on the Committee's report. This establishes an on-going dialogue which forms an important part of the principle of co-operation. Even if the report is confidential, the state concerned may request that it be published together with its comments, if any.<sup>74</sup> By the end of 1994, 19 CPT reports had been published.

As already mentioned, the convention is not based on condemnation, and it contains no judicial sanctions. However, if a state fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the state has had an opportunity to make known its views, by a majority of two-thirds of its members to make a *public statement* on the matter.<sup>75</sup> The Committee has used this competence only once: On 15 December 1992 it adopted a public statement on Turkey.

It follows from the statement that the Committee had at that point organised three visits to Turkey, two *ad hoc* visits (in 1990 and 1991, respectively) and one periodic visit (in 1992). In light of all the information at its disposal, the CPT could "only conclude that the practice of torture and other forms of severe ill-treatment of persons in police custody remains widespread in Turkey and that such methods are applied to both ordinary criminal suspects and persons held under anti-terrorism provisions. The words "persons in police custody" should be emphasised." According to the statement there were fewer allegations and less medical evidence of torture or other forms of premeditated severe ill-treatment by members of the gendarmerie. Moreover, the CPT's dialogue with the Turkish authorities on prison matters was on the whole progressing satisfactorily.

It follows from the public statement that action is required on several fronts if the problem is to be addressed effectively. In this context we shall only mention the reinforcement of existing legal safeguards against torture and other forms of ill-treatment – and the introduction of new safeguards; intensified education on human rights matters and professional training for law enforcement officials; expeditious and effective reaction by the public prosecutors when confronted with complaints of torture and ill-treatment; and proper managerial control and supervision of law enforcement officials.

---

<sup>73</sup> The facilities with which the state shall provide the Committee are mentioned in Article 8 of the Convention.

<sup>74</sup> See Article 10 (1) and 11 (2).

<sup>75</sup> Article 10 (2).

The Committee underlines that it abhors terrorism, a criminal activity which rightly meets with a strong response from state institutions. However, under no circumstances must that response be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials.

## Concluding observations

Several global and regional human rights instruments are relevant to discussions of the human rights in areas inhabited by Kurdish groups in Turkey, Iraq, Syria and Iran.<sup>76</sup> Turkey is a member of the Council of Europe and has ratified the ECHR and the CPT. Even if these two conventions differ in many respects, each of them has set up a system of international supervision with the national implementation of human rights.

The Conventions offer a set of rules for those who want to improve the situation of human rights in Europe. There are well established systems for fact-finding, and the proceedings give both those alleging that there are violations and the state concerned the opportunity to express their view. Experience shows that the institutions under both Conventions perform their task in an impartial manner, and that their work is of high quality. Instead of resorting to violent methods with the risk of escalation, both parties to a conflict should make use of the rules established by these Conventions. This is the only way to ensure an enduring solution by peaceful means.

The discussions at this seminar should take into account the possibilities inherent in the Convention on Human Rights and the Convention against Torture.

---

<sup>76</sup> The Committee against Torture, set up under the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, has acted under Article 20 of that instrument. A summary account of the results of the proceedings concerning the inquiry on Turkey was included in an addendum to its sixth annual report (Official records of the General Assembly, forty-eight session, supplement No. 44 (A/48/44)). It took note with satisfaction of the co-operation of the Turkish authorities during the enquiry, and congratulated them on having acted on many of its recommendations and taken measures intended to reinforce the implementation of the Convention. The Committee nevertheless remained concerned at the number and substance of the allegations of torture received, which confirm the existence and systematic character of the practice of torture in Turkey.

**Part II**  
**Conflict dynamics and human rights problems**

Institut kurde de Paris



Institut kurde de Paris



## Conflict Dynamics and Human Rights Problems

The general human rights situation for the populations in Iran, Iraqi Kurdistan, Syria and Turkey is reported to be critical by both media institutions, non-governmental organisations and intergovernmental human rights monitors and bodies. Some of the problems arise from the conflicts between the government and some of the minority ethnic groups, in particular the Kurds. In the following country-by-country description a brief presentation of the general human rights situation will first be given, followed by a review of issues arising from the conflicts between Kurdish groups and the governments, and a brief reference of some of the highlights from the discussion. The country-by-country description has two main components. The first part is based on reports from international human rights organisations with high credibility, in particular Amnesty International and Human Rights Watch, which were summarised and made available at the seminar. The second part consists of summaries of the introductions given by participants at the seminar.

The editor of this report has not had the opportunity to check the accuracy of all the information given by the participants at the seminar. And although he has tried to render all viewpoints as accurately as possible, the report should not be interpreted as binding upon any of the participants, since the report is not commonly agreed upon.

### Iran

The Islamic Republic of Iran was established in 1979. The country is a diverse and polyglot society. The Persians are the most numerous, constituting 45% of a population counting approximately 61 million; then follows the Kurds with 15-20%, and Lurs, Armenians, Turkumens, Azerbaijanis, Qashqais etc. The vast majority of Iranians are Muslims, mostly of the Shia sect. The Kurds and Turkumens are Sunni Muslims. Major religious minorities are Christians, Jews, Bahá'ís and Zoroastrians.

The constitution from 1979 vests supreme political power in the *valiy-e faqih*, i.e. the leading theologian in the country. Upon his death, an elected council is empowered to select either a religious leader or a council of religious leaders to assume power. The supreme leader (or leadership) in Iran commands the military forces, approves the presidential candidates, chooses the highest judicial authorities, and appoints the six clerical members of the 12-member Council of Guardians.



---

*Human rights situation*<sup>77</sup>

According to Amnesty International, lack of democratic debate is one of the most striking features of the present political climate in Iran. Government opposals are facing imprisonment after unfair trial and torture or are executed. Even Iranian disidents who have fled abroad are not safe.

In 1995 there were continuing reports of political arrests, torture, unfair trials and summary executions.<sup>78</sup> There were thousands of political prisoners, some of them prisoners of conscience, and some detained without charge or trial or after unfair trials. Judicial punishments of flogging and amputation of fingers continued to be implemented.

*Executions.* – Before 1993 Amnesty International recorded hundreds, sometimes thousands, of executions every year; Iranian newspapers used to freely report executions for non-political offenses. Since 1993, however, newspapers have reported fewer executions allegedly as a result of government directives designed to prevent such information being used by international human rights organisations and by the United Nations' Special Representative in Iran. Nevertheless, unofficial reports of executions leak out and during 1994 Amnesty International recorded 139 executions, including of political prisoners. The real figure is believed to be much higher.

*Torture.* – According to Amnesty International, large number of political prisoners remain in jail, some serving long sentences imposed after grossly unfair trials, others simply being held without charge. Most of them have been tortured.

According to the *U.S. Country report* on human rights practices, common methods include suspension for long periods in contorted positions, burning with cigarettes, and most frequently, severe and repeated beatings with cables or other instruments on the back and on the soles of the feet. Reports of flogging, stoning, amputations, and public executions are also common.

*Law practice.* – Procedures governing arrest, detention and trial are rarely made public. No information is given to the detainees about the reasons for arrest and they are not notified of the charges against them until months, and sometimes even years, later. Access to lawyers are almost always denied and detainees can spend up to 10 years behind bars before their relatives know where they are.

The legal system is further undermined by the present reorganisation of the court system which will be gradually implemented within a five-year period. This means that different parts of the country will have widely varying court structures; defendants accused of the same crimes will not necessarily be tried before the same type of court or enjoy the same procedural safeguards.

---

<sup>77</sup> The human rights reports on Iran, Iraqi Kurdistan and Syria were prepared/excerpted by Erik Sauar, Helene Støversten and Gunnar M. Karlsen from Amnesty International and Human Rights Watch reports. It was presented at the seminar by Jon Rud.

<sup>78</sup> Amnesty International, *Iran: Official secrecy hides continuing repression*, London, May 1995. – Also Amnesty International Annual Report 1995, and Human Rights Watch World Report 1995 have been consulted in the drafting of this section.

*Freedom of expression.* – A special law, announced in 1979, prohibits newspapers in Iran from “insulting” political and religious leaders. According to Human Rights Watch, Iranian news media in 1994 still suffered strict control, and editors and journalists faced arbitrary arrest and imprisonment.

A bill on banning the use of television satellite reception equipment passed through the parliament in September 1994. The bill was directly supported by Ayatollah Yazdi, who maintained that “in the view of Islamic judges, satellite programs come under the category of spreading corruption.” The bill seems to open the door for security forces to enter houses by force to remove satellite dishes.

Iran also remained hostile to both internal and external human rights monitors. Even the Special Representative of the UN Commission on Human Rights, who is mandated by the international community to investigate human rights violations in Iran, has been denied access since 1991.

*Kurdish problems.* – According to Human Rights Watch, the Kurdish minority in Iran suffers persecution both inside and outside the country. In april 1994, two villages in Iraq sheltering displaced Iranian Kurds were virtually destroyed by Iranian shelling. According to the Democratic Party of Iranian Kurdistan (PDKI), the Iranian government in October 1994 activated plans, dating from 1975, to depopulate the border region with Iraq. Inhabitants of six villages in Piranshahr region, part of Western Azerbaijan province in Iran were ordered to evacuate. Members of the Kurdish opposition groups were assassinated in attacks attributed to the Iranian government by Kurdish sources.

In September 1992 Iran and Turkey signed a protocol to “guarantee the security of the Turkish-Iranian border, adopt the necessary measures to achieve this and conduct continuous and effective co-operation. In their own countries, Turkey and Iran will prevent the actions, which are considered criminal by that country, of terrorist organisations and of all opposition persons and groups that engage in activities against the state structure, territorial integrity, and legal administration of the other country.”

In total, Human Rights Watch conclude that there was no improvement of the human rights situation in Iran during 1994. The situation has also remained the same in 1995.

### *Introduction to the discussion: situation of the Kurds in Iran*

In his introduction, *Miro Aliyar* claimed that the violations of human rights in Iranian Kurdistan have a clear political background. Since long the Kurdish people have fought for the right to self-determination in the form of autonomy within the framework of a democratic Iran. The Kurds actively contributed to the overthrow of the monarchy (1979) hoping to achieve national, cultural and human rights within a new political system.

After the seizure of power by the Islamic Republic, protracted negotiations started between the Kurdish trustees and the representatives of the central government. It soon became clear for the Kurds that the government deluded its readiness to negotiations only to win time. Then, as soon as the Islamic Republic reorganised its armed forces, Ayatollah Khomeini on August 19, 1979 proclaimed the “holy war”

against the Kurdish people and gave order to attack Kurdistan with all available arms and means.

The “soldiers of Islam” – thus Khomeini named his troops – invaded Kurdistan and without distinction set on fire and destroyed Kurdish settlements, schools, hospitals etc. This “holy war”, which has continued until present, has resulted in over 50.000 victims of civilians and freedom fighters.

To retain the Kurdish population under constant control and to suppress all “suspicious” activity, Kurdistan is entirely militarised through the stationing of about 200.000 troops. Arbitrary arrests, flogging, torture and executions in the crammed prisons mark everyday life in Kurdistan.

In many Kurdish settlements broad forced deportations have been carried out, and the “soldiers of Islam” have destroyed Kurdish villages, ransacked the peasants and pillaged their houses. Between 1980 and 1982 271 Kurdish villages as well as many schools, hospitals and mosques were destroyed.

Mr. Aliyar underlined further that the Kurds are strongly affected by the state terror, also in the form of political killings. Between 1979 and 1994 39 terror assaults abroad were perpetrated against opposition politicians, whereby 47 persons were killed and another 5 severely wounded. Of these 52 victims 40 were attacked after the death of Khomeini, under Rafsanjani.

Further terror acts which resulted in many casualties were perpetrated since 1994. General Secretary Ghassemlou, the foreign representative of the PDKI as well as the Kurdish political scientist, Fadil Khalil were killed on July 13, 1989 in Vienna. On September 17, 1992 the new PDKI General Secretary, dr. Sadiq Sharafkandi, the new foreign representative, the representative in Germany as well as another activist of the Iranian opposition were killed in Berlin. On August 4, 1994 the representative of the PDKI in Baghdad, Ghafoor Hamzai, was killed. On September 27, 1994 Abdullah Sharifi, member of the Central Committee, was killed.

According to Mr. Aliyar, the Kurds are suppressed also in the cultural area, among others in the education system. In the Islamic Republic Kurdish children already at the age of 6 experience discrimination as they are deprived of an elementary human right: education in their mother tongue. On the first day of his school call the 6-year pupil must learn a foreign language (Persian). Whenever the Kurdish children, if at all, have the opportunity to attend a school, they must daily endure national and religious humiliation. They are forced to denounce the Kurdish political parties as “tools of foreign powers” and to insult the Kurdish political and religious personalities as “agents of the West and of Zionism”.

Under the thrust of the Kurdish resistance the Islamic Republic have however been constrained to make some cultural concessions. In 1985 the government established in Urmia (capital of the West-Azerbaijan province) a “Centre for the diffusion of the Kurdish culture and literature” which under the severe control of the authorities publishes a periodical “Sirwa”. In 1988 the Centre published “To learn Kurdish”, which was meant to serve as a text-book for the first class of the primary school. Seven years has passed since, but the teaching of the Kurdish language has not yet started.

It is also permitted for Kurdish artists and poets to present their works. But the cultural activities and the Kurdish-language publications must not be of a political nature; it is prohibited for the authors to criticise the policy of the Islamic Republic towards the Kurdish minority as well as to plead for the national rights of the Kurds. The publications in the Kurdish language are strictly censored and serve to disseminate the policy and ideology of the Islamic Republic.

As the following example shows, the religious oppression of the Kurds is continuing. – In August 1994 the commander of the army stationed in the Sardash district assembled all the inhabitants of the Beitush village and ordered them to satisfy the sexual needs of the “guards of Islam” (Revolutionary Guards) by “Sigheh” marriages of widowed women of the village (time marriages). It is to be emphasised that not only is “Sigheh” rejected by the Sunnis, but it is also felt as an utmost offence of honour.

According to Mr. Aliyar, the Islamic Republic does not confine itself to the oppression of the Kurdish people in Iran. As from the establishment of the Kurdistan regional government in Iraqi Kurdistan, the Iranian secret service has been exceedingly present in Iraqi Kurdistan. Its agents carry out sabotage, conduct bomb assaults and perpetrate terror onslaughts against the Kurdish resistance activists who are staying in Iraqi Kurdistan. The Iranian regime has established Islamic organisations and groups in Iraqi Kurdistan and supply them with money and weapons in order to stir up unrest, to discredit the Kurdish government in the eyes of the public and ultimately bring about its overthrow.

“In violation of all international conventions and resolutions of the United Nations Security Council, the Iranian army shelled and fired on Kurdish settlements in Iraqi Kurdistan between March and June 1993”, Mr. Aliyar stated. All these regions lie within the “shelter zone”, established by the Gulf allies to safeguard the Kurds in Iraq. A lot of people were killed and wounded, countless houses were destroyed and hundreds of Kurdish families were forced to flee.

Subsequent to presenting his view of the situation of the Kurds in Iran, Mr. Aliyar also expressed some viewpoints on the role of the international community.

The European media has hardly given the Kurdish problems in Iran any attention, despite the fact that the Islamic Government during a period of 16 years has conducted a war of extermination against the Kurdish people.

This media silence is among other factors due to the strong presence of army and police in Kurdistan. The region is cut off from the outer world and has practically been converted into a closed zone. Since 1980 foreign journalists and delegations of international organisations are prohibited from visiting the Kurdish regions in Iran. Amnesty International has tried several times, in vain, to visit Iran. Entry visas to the country are denied to representatives of all kinds of human rights organisations.

“The lack of a consistent human rights policy of the industrial countries is an important factor in explaining the tragic lot of the Kurdish people in Iran, as it sets economic interests above democracy and human rights”, Mr. Aliyar claimed. Disregarding the fact that hitherto, since the seizure of power by the Iranian Republic, it has been 34 times condemned by international human rights organisations for its

grave violations of human rights, the European governments maintain excellent trade relations with Iran.

To justify their policy towards Iran, some European politicians, after the death of Ayatollah Khomeini, developed a thesis that President Rafsanjani is moderate and pragmatic. Through dialogue and rapprochement one tries to bring about change in Iran.

However, six years has passed since the death of Khomeini, but no positive change in the policy of the Islamic Republic has occurred. The suppression of the population, persecution of the political opposition, of religious minorities and women has instead increased considerably during this period. According to Western and American secret services, Iran yearly dispenses 1.2 billion dollar to activate international terrorism.

The war of extermination against the Kurdish people must not be considered as an internal affair of Iran. Human rights are universal and "a legitimate concern of the international community". Only a federate political system in which democratic values are respected and the human rights of all nations living in Iran are recognised, can extricate the multinational state of Iran from its present crisis, Mr. Aliyar concluded.

### *Main points from the discussion*

In the discussion some of the participants maintained that the Kurdish problem in Iran should be solved within the framework of an international conference under the umbrella of the United Nations and with the participation of the representatives of the partition states and the trustees of the Kurdish movements from all parts of Kurdistan.

Some participants stated that the Kurds in Iran are ready for negotiations with the regime, since they believe the Kurdish problem can find a solution not by military but only by political means. – "The Islamic Republic cannot record any success in the war against the Kurds, and the Islamic Republic came out as a loser from the Iran-Iraq war." After the death of Ayatollah Khomeini in 1989, the Islamic Government of President Rafsanjani indicated the willingness to talk to the leadership of the Kurdish movement, but so far the government has increased the state terror and given less protection to the human rights of the Kurds.

## **Iraq<sup>79</sup>**

In October 1991, six months after the mass uprising in Iraq, government forces withdrew from most regions of Iraqi Kurdistan (Northern Iraq), which have since remained under the control of Kurdish opposition forces. Elections were held in May 1992 for the Kurdistan National Assembly. The published official results of the parliamentary

<sup>79</sup> According to the United Nations *Population and Vital Statistics Report 1995*, the population of Iraq counts approximately 20 million.

elections gave the Kurdistan Democratic Party (KDP) 50.8 per cent of the vote and the Patriotic Union of Kurdistan (PUK) 49.2 per cent. By agreement, however, the KDP and the PUK settled for 50 seats each as part of a power-sharing arrangement.<sup>80</sup>

### *Human rights situation in Northern Iraq*<sup>81</sup>

According to Amnesty International, a high level of administrative paralysis – most critically in dealing with the criminal justice system – has resulted from the system of power-sharing agreed by KDP and PUK. The gradual application of the “50-50” policy to lower-level appointments has ensured that the Kurdish administration remains a tool in the hands of the two parties, a means through which their political interests could be served but which cannot hold them accountable for their actions.

The human rights situation in Iraqi Kurdistan began to deteriorate as the political crisis deepened, triggered by the failure of the main political parties to agree over the power-sharing arrangement. The inter-party fighting which has characterised the region has resulted in the perpetration of grave human rights abuses.

*Human rights abuses by the Kurdish parties.* – A wide range of gross human rights violations perpetrated by the political parties in Iraqi Kurdistan has been recorded by Amnesty International since 1991. Prime responsibility for human rights abuses lies with the KDP and PUK. Their effective control of large stretches of territory and the military means at their disposal, have enabled them to perpetrate abuses against each other’s members as well as against other perceived opponents. The abuses include detention of suspected political opponents, among them possible prisoners of conscience; torture of political detainees; executions after summary “trials”; and unlawful and deliberate killings of political opponents and demonstrators.

KDP and PUK’s control over the Kurdish administration has also resulted in an absence of any authority which could hold them accountable for their actions.

Amnesty International has expressed two main areas of concern regarding human rights abuses by the Kurdish administration. Firstly, there is routine torture and ill-treatment of detainees and a continuing failure of the Kurdish authorities to investigate allegations of torture and ill-treatment. Secondly, the uses of death penalty, often after unfair trials, also gives rise to concern.

Among the structures, policies and behaviour which lie behind the human rights abuses in the region, two principal factors stand out: The impunity enjoyed by the political parties’ army and special forces. Perpetrators of abuses have not been brought to justice. The political parties have also actively undermined the judiciary and shown lack of respect for its independence. The main political parties in Iraqi

<sup>80</sup> While the human rights reporting focuses on the present situation in Northern Iraq, both the introduction and the discussion at the seminar covered the whole area of Iraq.

<sup>81</sup> This section is based on Amnesty International, *Iraq: Human rights abuses in Iraqi Kurdistan since 1991*, London 28 February 1995.



Kurdistan have not only ignored, but also encouraged human rights abuses by the forces under their authority as a means of settling political differences. In allowing the use of illegal methods, they have intensified the spiral of political violence which has characterised the region for more than two years.

### *Introduction to the discussion: situation of the Kurds in Iraq*

In his introduction to the discussion on the situation of the Kurds in Iraq, Mr. *Omar Sheikmous*, underlined that there are a number of conflicts one has to be concerned with when trying to analyse the situation of the Kurds in Iraq. Each one of these conflicts has its own dynamics and has specific consequences for related human rights violations.

In the Kurdish areas of Iraq, one can think of six inter-ethnic and intra-ethnic types of conflicts. Inter-ethnic conflicts like the Kurds versus the majority population (Arabs), the Kurds versus minority ethnic groups in specified areas (Assyrians, Syriacs, Assyrochaldeans, Armenians, Turkumens and Arabs), and the Kurds of Iraq versus neighbouring states (Iran, Turkey and Syria). Intra-ethnic conflicts as the Kurds of Iraq versus refugee Kurds of Iran, the Kurds of Iraq versus the Kurds of Turkey (refugees and PKK) and conflicts between Iraqi Kurds (KDP versus PUK, KDP versus SP, PUK versus IM, pro-government versus anti-government, and social, religious, dialectical, regional and tribal divisions).

In the further presentation, the main focus of Mr. Sheikmous was on the conflict between the Kurds and the majority population elites in Iraq.

He started with a brief historical overview, beginning with the inclusion of the Kurds in the new state of Iraq against the wish of their majority (1926). This inclusion suppressed their quest of a state of their own. In the 1930 treaty with Britain for Iraqi independence and membership in the League of Nations, there were no inclusion of special guarantees concerning Kurdish language or administrative rights. The discrimination at all levels against the Kurds by the Arab Sunni governments of Iraq in their nation-building process led to a greater sense of injustice among the Kurds. This was strengthened with the non-implementation of article 3 of the republican constitution after 1958 concerning the right to self-government.

Between 1961-1975 the Iraqi government, according to Mr. Sheikmous, imposed war-related policies of persecution for Kurdish resistance movement, such as deportations, settlement of Arabs in Kurdish areas, mass dismissals from employment (specially Krikuk), mass executions (e.g. in Sulaimania in 1963 and other places later on), and large-scale bombardment of civilians. These policies led to a gradual intensification of the conflict. There were also external interventions for instrumental purposes (Syria, Egypt, Iran, Israel, USA, Libya, PLO, and later Saudi Arabia, Jordan, Kuwait, Turkey, Iran, and USA, France, Britain etc. under the Second World War).

After the non-implementation of the 1970 accord, there was a higher level of awareness among Kurds about their national identity and rights. From 1975 of, the

Iraqi government according to Mr. Sheikhmous has implemented five actions directed against the Kurds:

- 1) Mass deportation and mass destruction of villages and small towns with forced settlements leading to very negative social consequences (e.g. unemployment, loss of identity and values, social and moral degeneration, impoverishment, greater dependency on authorities and loss of initiative);
- 2) Large-scale destruction of nature and the environment;
- 3) Mass execution campaigns (the Anfals) and the large-scale use of chemical weapons in 1988;
- 4) Mass arrest and torture campaigns, not only of antagonists but of all related persons;
- 5) The policies implemented after occupation of Kuwait in 1990.

“The government activities have resulted in grave breaches of the Kurds’ human rights”, Mr. Sheikhmous stated.<sup>82</sup> As in other typical police states, one finds very serious violations of all fundamental rights by extra-judicial organs (e.g. right to a fair and public trial, freedom from collective and retroactive punishment, right to life, freedom of expression, freedom of movement, freedom of religion, freedom of association). The repression from the Iraqi government mainly takes five forms: 1) Arbitrary arrest and detention, 2) torture, 3) political killings, 4) “disappearances”, and 5) deportations.

The Iraqi government’s attempts at covering its human rights violations are based on denial, secrecy and intimidation, efforts to mislead (as in the UN monitoring of weapons systems), attempts at avoiding censure by influencing and buying off international media, and expensive public relations campaigns.

These attempts failed, however, after the defeat in the Gulf War, that uncovered the horrendous crimes committed by Iraq in Kuwait, capture of security officers and related documents after the uprisings in Kurdistan and in the South of Iraq, and the continuing monitoring of the human rights situation in Iraq by the UN special rapporteur.

There have, according to Mr. Sheikhmous, also been human rights violations committed by Kurdish forces against minorities in Kurdistan. These violations have mainly been confiscation of land belonging to Assyrians and Chaldeans, collective intimidation and harassment, disappearances and mystical murders, and collective punishments committed against Arab settlers.

Human rights violations on the intra-ethnic dimension among Kurdish forces can be divided into ten groups:

- 1) Torture, extra-judicial arrests and executions (between PUK and KDP, PKK and KDP, PUK and the Islam Movement);
- 2) freedom of expression and association are respected to a certain extent, but have been exposed to very serious violations in the last few months (closure of the

---

<sup>82</sup> Details are found in reports by Amnesty International, Middle East Watch, UN Special Rapporteur on Iraq, Mr. Van der Stoel, and other publications like Samir Al-Khalil, *Republic of Fear* and Kanaan Makkiya, *Cruelty and Silence*.

PKK sympathetic newspaper "Welat" by KDP forces in Arbil and closure of Iranian KDP radio station by PUK forces);

- 3) collective punishment of groups and their relatives;
- 4) limitations to freedom of speech;
- 5) execution of prisoners of war;
- 6) intimidation of refugees (by KDP forces of Kurdish refugees from Turkey in UNHCR camp in Atroosh);
- 7) confiscation and looting of opponents property;
- 8) bombardment of civilian targets;
- 9) killing of civilian demonstrators (KDP opened fire on SP supporters in Sulaimani);
- 10) assassinations of opponents.

On the background of this list of human rights violations, carried out by government and minorities on inter-ethnic and intra-ethnic levels, a crucial question is what can be done to improve the human rights situation for Kurds living in Iraq. According to Mr. Sheikmous, four major concerns should be taken into account. Firstly, one should establish an institute or a foundation for the study of democracy and human rights in the areas inhabited by Kurds. This institute or foundation can staff and rely on competent Kurdish and international expertise in the field.

Secondly, special training courses on human rights must be organised for Kurdish Interior Ministry officials, police, and prison authorities as well as for party officials and other decision makers. These training courses may be arranged by the above-mentioned institute or foundation.

Thirdly, the Kurdistan Human Rights Organisation, which is doing a very worthy effort under difficult circumstances and with limited resources, must be provided with strong support. The support should include all necessary basic documents, agreements and instruments on human rights, and help to translate these instruments into Kurdish.

Fourthly, the numerous professional organisations that exist in the Kurdish areas should be mobilised in the strengthening of the respect for human rights. These groups include associations of academics, lawyers, teachers and engineers, Save the Children, Women and student associations and environmentalist organisations.

Intensifying the work to progress human rights in Iraq is an urgent task. This would be even more urgent in the case of an overthrow of Saddam Hussein's regime, in order to hinder excessive acts of revenge by the people against the security forces or the regime, or that these forces in desperation might carry out horrible acts of murder against innocent civilians in similarity with the time of upsprings in the South and North of Iraq in the spring of 1991.

### *Main points from the discussion*

In the discussion some participants stressed that a special problem arises as the Turkish forces may cross the border whenever they like to. One of the participants claimed that since Iraq is not an important base for PKK activities in Southeast Turkey, the Turkish operations could not be seen as based on a serious security problem. Others claimed that PKK in fact has been active in the area, and has tried to start a political party in Iraq to strengthen its position.

## Syria

Syria is a socialist republic governed by the regional (Syrian) leadership of the Arab Ba'th ("Renaissance") Socialist Party. The Syrian constitution, adopted in 1973, vests executive power in the president, who is directly elected to a seven-year term. He governs with the assistance of an appointed Council of Ministers, headed by a prime minister. The present president, Hafez al-Assad (from 1970), also functions as commander-in-chief of the armed forces.

### *Human rights situation*

Although the Syrian Government has taken some positive steps in recent years, including the release of several thousand political prisoners, the overall human rights situation remains critical.<sup>83</sup> Thousands of political prisoners, including prisoners of conscience, continue to be held in Syrian jails, most of them in total secrecy from the outside world.<sup>84</sup> In some cases the prisoners have served their sentences in full or the courts have ordered their release, but security forces using special state of emergency powers in force for 32 years (since 1963), have refused to release them. The special power of the security forces to arrest political suspects as they please and hold them incommunicado for as long as they please, beyond any judicial control, have made torture, deaths in custody and "disappearances" common occurrences in Syria.

<sup>83</sup> This section is based on Amnesty International, *Repression and Impunity: The forgotten victims*, April 1995, AI Index: MDE 24/02795; Human Rights Watch World Report 1995; and Hamid Dervish, "Written statement for the workshop on social welfare and development – an option for Kurds? Case: Syria", on March 7, 1995, NGO-Forum, *Social Summit*, Holmen, Copenhagen.

<sup>84</sup> According to an Amnesty International Press release of 29 November 1995 Syria recently released possibly more than 1 000 prisoners, including prisoners of conscience. "By releasing these prisoners the Syrian government has taken a positive step towards improving its human rights situation," Amnesty International said. "We hope that this step will lead to the release of all prisoners of conscience and other political prisoners not charged with a recognizable criminal offence." The releases mark the anniversary of 25 years in power of President Hafez al-Assad. So far the releases include political prisoners held in connection with various political organizations and foreign nationals held in different prisons.

*Torture.* – Arbitrary arrest and indefinite incommunicado detention have created an environment in which torture is commonplace. Amnesty International has repeatedly documented a consistent pattern of systematic torture. Despite the fact that torture in Syria is a crime punishable by imprisonment under the Penal Code it remains widespread, indicating the government's failure to act to stop its use.

Political detainees are commonly tortured or ill-treated during the initial period following arrest while held incommunicado. Torture is used to extract information or "confessions" and as a form of punishment.

The most commonly reported torture methods include: beatings on all parts of the body; *falaga* (beating on the soles of the feet), *dullab* (tyre – hanging the victim from a suspended tyre and beating him or her with sticks and cables); and pouring cold water over the victim's body. Other methods include *al-Kursi al-Almani* (the German chair), where the victim is tied to a metal chair with moving parts.

Most of the 500 or more defendants on trial before the Supreme State Security Court since July 1992 stated in court that they had been tortured, but none is known to have been medically examined and no investigations have been carried out.

*Political Trials.* – In most cases known to Amnesty International arbitrary arrest and detention of political suspects are followed by gross violations of the right to fair and public trial or by total denial of any trial at all. In all political trials monitored by Amnesty International over many years, defendants were denied the right to a proper public hearing and defence and those convicted were denied any right of appeal against their conviction and sentence, as required by the International Covenant on Civil and Political Rights.

Political trials before military special courts continue to be shrouded in total secrecy, and information about them is still scarce. Amnesty International has repeatedly sought information about trials before such courts, including the names of defendants, the charges against them, the dates of their trials, the transcripts and other records of the trials.

According to Amnesty International, trials held before the Supreme State Security Court since 1992 have been conducted in somewhat improved conditions, although they too have failed to meet international standards for fair trial. Relatives of the defendants in these cases have been able to find out the dates of the trials and some have attended the hearings. Many of the defendants were allowed to appoint defence lawyers chosen by their families. In addition, delegates from some international human rights organisations have been able to visit Damascus to seek information about and attend sessions of trials.

Although these improvements are very positive, the trials before State Security Court still gives rise for concern, Amnesty International concludes. They are conducted according to procedures which fall short of international fair trial standards as well as the requirements of Syria's own laws and the practices followed in Syria's ordinary courts.

*Freedom of expression and the right to monitor.* – The government strictly controls all communications media. The press has been subject to direct censorship since

1956. According to the 1995 World report of Human Rights Watch, the state neither permits its citizens the right to carry out human rights monitoring and reporting. The continued imprisonment of 11 activists from the Committees for the Defence of Democratic Freedoms and Human Rights in Syria serves as a powerful reminder that rights advocacy will be dealt with harshly by authorities. Ten of the activists were convicted by the State Security Court in 1992 in proceedings that fell short of international fair trial standards. Their human rights work led them to be charged under the emergency law with membership in an illegal organisation, the dissemination of false information, and undermining the state by distributing leaflets critical of the government.

*Other serious human rights problems.* – In addition to the above mentioned problems, arbitrary arrest and detention, “disappearances”, executions and imposition of death penalty after unfair trials continue to take place. These problems affect all groups in Syria. The minorities are, however, subject to some additional discriminatory and restrictive measures.

*Kurdish Problems.* – Arabs are the main ethnic group in Syria, and have a population counting approximately 14 million. Minorities include Kurds, Armenians, Turks, Circassians, and Assyrians. The Kurdish population consists of approximately 1 1/2 million. The new border after World War I entailed the annexation of three separate Kurdish areas into the Syrian state: Aljezira, Kubani and Efrin, which border on Turkey. Kurds form the greatest majority in these three regions, and represent approximately ten percent of the Syrian population. Kurds can also be found in cities outside the Kurdish regions, such as Damascus and Aleppo.

According to *Hamid Dervish*, former member of the Syrian Parliament (representing Kurdish Democratic Progressive Party), the official policy towards the Kurdish minority has been directed towards total assimilation. He lists six methods used by the governments to dismantle Kurdish culture.

- 1) According to a private regional census in October 10, 1962 more than 150 000 Kurdish Syrians were deprived of their citizenship and civil rights as Syrians;
- 2) The Syrian government relocated Arab Syrians to the Kurdish regions along the Turkish border. This created a demographic break and hindered communication between the Turkish Kurds and the Syrian Kurds. This project, implemented in 1966 gave Kurdish farm land to Arab people in an attempt to discredit any political claims to a localised administration;
- 3) Kurdish people are deprived of the right to have occupations in the voluntary military service although they are obliged to serve two and a half years military service;
- 4) Kurds are often dismissed from their jobs, schools, institutes and universities under the pretext that they are a threat to the security of the Syrian state. In addition, Kurdish people alone must obtain special authorisation from the security system of the Syrian government for participation in everyday life, as regards housing, agricultural and commercial affairs;
- 5) Kurds are prevented from developing their cultural identity. They are not free to study, publish or officially speak and write their mother tongue. Kurdish is not

recognised as an official language;

- 6) Kurdish representatives have until 1990 been unable to serve in Syria's Parliament or hold a local administrative position.

In the 1990s there have, according to Mr. Dervish, been some improvements; both in the general human rights situation, and in the special conditions for the Kurdish minority. In 1990, democratic Parliamentary elections were conducted, and three Kurdish representatives were sent to the National Parliament.

### *Introduction to the discussion: the human rights situation of the Kurds*

As a general characterisation of the situation of the Kurds in Syria, Mr. *Omar Sheikmous* stated that their situation is comparatively better than in the other states in the region. The political situation in Syria has, however, been unstable since it became an independent state in 1946. From 1949 until 1970, 11 successful military coups were executed, while many unsuccessful efforts to take over power were undertaken. The generally poor human rights situation of course also affects the Kurdish minority.

From 1956 the Syrian authorities introduced a discriminative policy against the Kurds, culminating in the previously mentioned withdrawal of citizenship in 1962, and with expulsion of Kurds to other countries in the region. Still, compared with other ethnic groups in Syria, the situation of the Kurds is not unique: as is the case with other groups, their cultural rights have not been recognised by the state.

According to Mr. Sheikmous the official policy, especially in the 1960s, was directed towards assimilation; designed and executed by the authorities to destroy the cultural identity of the Kurds. Kurdish regions were not included in the development projects, such as schools, vocational centres, universities, hospitals, health centres, roads and factories.

In 1970, the Assad-regime, with its basis in the Aloist minority, launched a strategy of moderation. In the period from 1977 until 1985, there were hardly Kurdish political prisoners in Syria. But after 1985 a less friendly minority policy has resulted in an increasing number of political prisoners. In 1995 there has, however, again been signs of a more friendly policy, with release of some of the political prisoners.

### *Main points from the discussion*

A general problem in Syria is the chaotic and corrupt nature of the state, with a "divide and conquer" strategy towards the different ethnic groups, one of the participants stated. "So far the Kurdish minority has not tested the limits of their cultural rights. They could for instance start publishing Kurdish magazines and newspapers to see whether the authorities would accept it."

“One of the reasons for a relatively good situation for the Kurdish minority in Syria, is the low level of Kurdish cultural and political activity. But although the conditions of the Kurds in Syria is somewhat better than in the other states of the area, it must not be forgotten that dozens of Kurdish politicians and activists have been held in detention since 1992, suspected of links with unauthorised Kurdish organisations”, another participants stated. During 1995 they were tried before the Supreme State Security Court, and some of them were sentenced to up to two years’ imprisonment. Because of their long period of detention they were, however, released after the trials. The Kurds have been presented as a threat to the unity of the Syrian state, but Kurdish politicians have recently made clear that they are loyal to the state, some participants argued. “The Kurds consistently demand their democratic and political rights in a unified Syrian state. They have always connected the Kurdish struggle for rights with democratisation of Syria”, it was stated.

## Turkey

The following description of the human rights situation in Turkey is a slightly shortened version of the section on Turkey in the 1995 Human Rights Watch World Report. At the seminar the human rights situation in Turkey was outlined by Christopher J. Panico, who presented a manuscript previously presented for US politicians in a congressional hearing before the Helsinki Commission on September 19, 1995.<sup>85</sup>

### *Human rights situation*

Strong human rights statements by some government officials, the release of political prisoners, the reform of an abusive law, and a reduction in the sheer number of political killings brought some improvement to the human rights situation in Turkey in 1995. Problems still remained. Free expression was still punished with arrests and imprisonment, torture was still employed as a routine instrument of police investigation, an abusive counterinsurgency campaign continued to empty Kurdish villages, and there were continued reports of disappearances. The most notable change was the October 27 amendment to the 1991 Anti-Terror Law. Under this and other laws an estimated 170 writers, intellectuals, and journalists were imprisoned for exercising their right to free expression. As of this writing 82 had been ordered released from prison, and all others convicted under that article are to have their sentences reviewed.

A multiplicity of factors influenced the drop in reported abuses. In its desire to achieve a customs union with the European Union, Prime Minister Tansu Ciller’s

---

<sup>85</sup> Due to the mandate of Human Rights Watch, which limits it to dealing only with human rights issues, Christopher J. Panico did not take part in any discussions at the seminar, and was present as an observer.



coalition government – especially her junior partner, the Republican People's Party (CHP) – pushed for a democratisation package and paid more attention to human rights concerns. Her efforts came to a standstill on September 21, however, when the CHP left its four year union with Ciller's ruling True Path Party (DYP). The same coalition was patched back together at the end of October and is expected to take the country to early election on December 24.

There were some welcome positive statements by government officials, such as former Justice Minister Mehmet Mogultay's (CHP) April acknowledgment that extrajudicial executions do take place in Turkey and former Minister of Human Rights Algan Hacaloglu's (CHP) criticism of a deadly house raid. At the end of October Ciller suggested ending emergency rule in the ten provinces in south-eastern Turkey, and in March, she ordered the Interior Ministry to guarantee due process to detainees, register prisoners in pre-trial detention to prevent disappearances, and remove "any equipment allowing ill-treatment (if there is any)." There was, however, speculation that Ciller issued the order to prevent publication of a report by the European Commission for the Prevention of Torture (CPT) based on its October 1994 investigation. Nevertheless, these orders, if properly executed, would go far to reduce torture. The changed nature of the armed conflict with the PKK was an equally important reason for the drop in reported violations. After four straight years of serious abuses (1991-94), however, it was still too early to assess the long-term impact of this year's improvements.

Serious problems still remain. The armed conflict between the PKK, the outlawed Workers Party of Kurdistan, and government forces in the mostly Kurdish south-eastern Turkey, where most recent abuses have occurred, entered its eleventh year. The PKK, an armed group that has regularly violated international humanitarian law, certainly presented Turkey with a legitimate security concern, but the government's attempts to address that threat have repeatedly violated the basic rights of Turkish citizens. Security forces continued to depopulate villages forcibly in their counter-insurgency struggle against the PKK. Torture remained routine in most political cases, although the number of deaths in detention dropped. Reports of disappearances while in police detention or under suspicious circumstances increased. Death squad-style killings also remained a problem, albeit at a reduced level. For its part, the PKK continued to attack "village-guard villages" in which numerous civilians believed to be loyal to the Turkish government were killed or summarily executed, although also this at a lower level than in 1994.

In January, Prime Minister Ciller vowed to bring Turkey in line with the European Convention of Human Rights, among other things by amending article 14 of the constitution, which broadly limits rights and freedoms that aim to violate the "indivisible unity of the state." In an April visit to the United States, she vowed to enact a "democratisation package" that had stalled in 1994 in parliament, and specifically mentioned changing article 8, a notorious provision of Anti-Terror Law that punished free speech and has sent scores of Turkish writers to jail. After weeks of debate, in July, several amendments to its restrictive, coup-era 1982 constitution were passed,

the first time a civilian government – and not the military – has changed Turkey's fundamental law.

But the amendments that were passed, while increasing some freedoms, such as allowing academics and students to join political parties and permitting trade unions to collaborate with political parties (article 52), did little to address chronic human rights violations. The code of criminal procedure (CMUK), continued to allow political suspects to be held in incommunicado detention up to 15 days in western Turkey and up to 30 days in emergency rule areas in south-eastern Turkey, and is believed to encourage torture.

Freedom of expression in Turkey suffered notable setbacks in 1995, though the amendment of article 8 of the 1991 Anti-Terror Law may reverse this trend. The unamended article 8 punished writing as so-called separatist propaganda “regardless of method, aim, and intent.” Although the mainstream press and television were often a lively forum for debate, some efforts by journalists, authors and intellectuals to discuss the Kurdish issue, human rights abuses by security forces, or the armed conflict in south-eastern Turkey were met with severe repression, including censorship, imprisonment and torture of journalists and writers, and the banning of newspapers.

Even Turkey's most famous writer, Yasar Kemal, was charged in January under article 8 for an article, “Campaign of Lies”, that first appeared in the German weekly *Der Spiegel* and was subsequently published in the Turkish press. Other mainstream press figures also faced legal actions. In October, journalist-writer Ahmet Altan was found guilty under article 312 and given a suspended sentence for an article, “Atakurd”, which posits the existence of a land called “Kurdiye”, where Turks must demand their rights. By mid-1995, approximately 2 000 cases awaited trial under article 8 in State Security Courts. In August, the prosecutor in a case against 99 leading intellectuals charged under article 8 for publication of *Freedom of Thought* and Turkey accepted the defendants' arguments that article 8 contradicted international conventions and appealed the constitutionality of the law to the Constitutional Court.

On October 27, the Turkish parliament passed amendments to article 8. Most importantly, the state must prove intent, a change from the old text. Sentences will also be reduced under the new amendment. Although not an amnesty, all cases were to be reviewed within a month; as of early November, at least 82 people convicted under article 8 were ordered released.

Both main pro-Kurdish dailies, *Ozgur Ulke* (Free Land), and its successor, *Yeni Politika* (New Policy), faced attacks and government censorship and restrictions. Journalists were detained, threatened, imprisoned and tortured under article 8 of the Anti-Terror Law or article 312 of the penal code. In at least one instance, on August 22, a *Yeni Politika* reporter, Sayfettin Tepe, died under suspicious circumstances in police custody. On December 3, 1994, bomb blasts struck *Ozgur Ulke* offices in Istanbul and Ankara, killing one and causing great damage. In August 1995, *Yeni Politika* was shut down; of the 126 issues that were published, 117 were confiscated and censored during its brief, four-month existence. Other radical, Kurdish, or left-wing publications, as well as the publishers of such material, faced similar obstacles.

Repression against Kurdish politicians also continued, although some of the imprisoned DEP parliamentarians were released. On December 8, 1994, seven deputies from the banned Democracy Party (DEP) and one independent were found guilty on a variety of charges such as "participating in armed gangs", "knowingly giving comfort to armed gangs", and making "separatist" propaganda. Two, independent Mahmut Alinak and Sirri Sakik, were released for time served in pre-trial detention, while six others were given prison sentences of between seven and 15 years. In October, Ahmet Turk and Sedat Yurtdas were released by the Turkish Supreme Court (Yargitay) with the ruling that they be tried again in State Security Court along with Alinak and Sakik. The court, however, ratified the 15 year sentences of Hatip Dicle, Leyla Zana, Orhan Dogan, and Selim Sadak.

Party administrators and members of the People's Democracy Party (HADEP), the successor party to DEP, were arrested and put on trial for alleged links with the PKK and in some cases tortured. Five HADEP members were murdered in death squad-style killings during the first eight months of 1995, bringing the number of members murdered since its founding in May 1994 to 12. In June, legal proceedings were launched to close another pro-Kurdish party, the Democracy and Change Party, headed by the former head of the People's Labour Party (HEP), the party that preceded DEP, because the party "demand[ed] cultural rights for Kurds", which the prosecutor's office perceived as separatist. The chairman of the Democracy and Change Party, Ibrahim Aksoy, was arrested on his return to Turkey because of charges against him under article 8 of the Anti-Terror Law in October.

Death squad-style assassinations (so-called actor unknown murders) continued in 1995, albeit at a lower level than in the previous three years when a total of 1 242 individuals fell victim to such attacks. (In 1994, 423 people were killed.) As of September, there had been an estimated 98 death squad murders. Targets included PKK members and sympathisers, HADEP party members and journalists, especially of radical or Kurdish papers.

During the past four years, substantial evidence has accumulated pointing towards collusion between perpetrators of death squad attacks, such as Hezbollah, a radical Islamic group, and security forces, especially in south-eastern Turkey. Government efforts to bring the guilty to justice have been lax at best, with convictions in only a minority of the more than 1 000 murders. In 1994 and 1995, however, security forces arrested 74 Hezbollah members and charged them with at least 71 murders, including five of HADEP members committed in 1995. While arrests were welcome, they have done little to refute credible allegations of police involvement in such killings or to explain the failure promptly and fully to investigate all killings. This spring, for example, a draft of a report prepared by a Turkish parliamentary commission on death squad killings and leaked to the press contained information alleging a connection between death squad killings and security forces.

The decrease in death squad killings is most likely attributable to the changed nature of the conflict, though the arrests mentioned above were also clearly a factor. After three years of almost non-stop armed conflict in south-eastern Turkey, the

political and actual landscape of the area where most abuses occurs has changed radically. More than 2000 villages in rural south-eastern Turkey, have been forcibly depopulated. Active political life in the region, both legal and illegal, has also been curtailed, and many activists for pro-Kurdish parties like the banned DEP or guerrilla militants have either left the area, been killed, imprisoned, or gone underground.

Disappearances while in police custody or after being detained by unidentified individuals or those identifying themselves as police also continued. According to the Human Rights Foundation, in 1994 there were 49 such disappearances confirmed. The Human Rights Association of Turkey received 158 reports of disappearances in the first months of 1995. In August, the Interior Ministry announced that a network of centres would be set up to allow family members to locate detainees, but it is too early to assess the impact of this announcement, with some reports indicating that the centres do not have access to information from Anti-Terror police units.

Police in Turkey continued to use excessive force in performing their duties in violation of both Turkish and international law. In mid-March, police in Istanbul fired into crowds of Alevi demonstrators, killing 21. Although agitators from extreme left-wing organisations were active in the demonstration, and rocks, bottles, and molotov cocktails were thrown, the police response was not proportional to the threat faced. Alevis, members of a liberal off-shoot of Shia Islam and an estimated 30 percent of Turkey's population, were protesting a March 12 armed attack by extreme right-wing groups against coffee houses frequented by Alevis and leftists that left two dead and scores wounded. The district police chief was removed from his post shortly after the shootings, and in July the trial of twenty police officers alleged to have used firearms during the demonstration "exceeding the limits of defence and obligation" began in Istanbul.

There were also several incidents in both south-eastern and other areas of Turkey where police, the army, or the gendarmerie fired at vehicles at roadblocks or at individuals near military bases, alleging that they had not obeyed orders to halt. Several were killed. In one incident in early July in Tunceli province, members of the so-called police special team (Ozel Tim) fired blindly at civilians and civilian structures, causing damage and wounding at least one individual. After the incident many were reassigned, and it was announced that team members would receive human rights training. This was a welcome development, especially because special team members have routinely abused civilians with impunity since the units were organised in 1993.

Police also continued to kill suspects under suspicious circumstances in house raids. While in some instances police and suspects exchanged fire and both suffered dead and wounded, in other cases it appeared that all suspects were killed even though no armed resistance was reported. After a house raid on April 12 in Ankara left three suspected Dev-Sol (Revolutionary Left) members dead, the former Turkish Minister for Human Rights, Algan Hacaloglu, stated, "this is an extrajudicial killing."

Armed conflict in south-eastern Turkey between government forces and the PKK continued, where combined Turkish army and police forces conducted major military operations against the PKK. The Turkish military also continued its policy of forced

evacuations of rural settlements within Turkey to deprive the PKK of its logistical base of support; by the end of 1994, official figures put the number of totally or partially depopulated villages and hamlets in south-eastern Turkey at 2 664 since the conflict started eleven years ago. While some villagers left for economic reasons and some – especially village guard settlements – left the area due to PKK pressure, most of more than 2 000 villages were forcibly evacuated by security forces. Torture, disappearances, and detentions often accompanied evacuations. While the government stated that villagers were removed for their own protection, the majority of cases indicated that forced evacuation was meant as a punishment for refusing to enter the village guard system or for aiding the PKK. There were also allegations of food embargoes, especially against villages in the Tunceli province, by which security forces limited the amount of food villagers could bring back to their homes. Some village guards (a civil defence force that has reached 70 000 in number) have been implicated in various killings and illegal behaviour. In August, the former Minister for Human Rights stated that in 1996 some villagers would be allowed to return to their homes and would receive two heads of livestock and aid in rebuilding homes.

In spite of the PKK's December 1994 claim that it would abide by the Geneva Conventions, in 1995 the group continued to kill civilians, especially in villages that chose to form village guard units, to execute so-called "state supporters", to plant bombs in non-military targets, and to kidnap journalists and tourists whom they later released unharmed. Through August 4, PKK militants had killed at least 54 civilians.

Illegal radical leftist and rightist groups continued their activities. Dev-Sol executed imprisoned members and others on charges of "collaboration" with the state. The Islamic Great East Raiders Front (IBDA-C) was responsible for several bombings this year, including one in mid-January that killed two individuals including Onat Kutlar, a well-respected writer and journalist, and another in August that took the life of a Romanian tourist.

Severe repression in 1995 impeded the human rights monitoring of both domestic and international groups in Turkey. Several members of the Turkish Human Rights Associations (HRA), a decentralised, membership-based group legally registered and operating in most of Turkey's provinces, including the Diyarbakir branch's secretary, Mahmut Sakar, were arrested during the course of the year. Many of those arrested reported being tortured and treated inhumanely in custody.

The leadership of both the HRA and the Turkish Human Rights Foundation (THRF), which runs a documentation centre and four torture treatment centres, faced prosecution primarily for their non-violent expression.

In June, Amnesty International consultant Helmut Oberdiek was deported from Turkey while conducting research in Adana. In 1994, Amnesty International's Turkey researcher had been declared *persona non grata* by the Turkish government. Human Rights Watch was able to continue its monitoring in Turkey during 1995.

## *Introduction to the discussion: freedom of expression in Turkey*

“There is a widespread fear in Turkey – both among civilians and in the administration – that the nation will break up as a result of the ongoing conflict centered in the mainly Kurdish southeastern region”, Mr. Yavuz Baydar stated in his introduction.<sup>86</sup> It is important to give notice to the fact that the country is ethnically more complex than most of the European countries. It is large, difficult to control, and its political and administrative structures are in many areas outdated. Turkey is willing to participate in and be a part of the democratic movement of the world, but, due to the dominant conservative forces within the legislative bodies it is hesitating to implement the necessary steps to reach that goal.

With its advantages, such as rich natural resources and a dynamic and hard-working people, it has the potential to turn into a full democracy with a vital market and take the lead as an influential power in the region, Mr. Baydar continued.

There is not yet a civil war in Turkey. The armed conflict in the southeastern provinces show the characteristics of a low intensity war, but it remains geographically limited, with signs of the PKK retreating to gain more time and potential to fight. As a result of the conflicts in the region, large parts of the Kurdish locals there now live in the Western areas, mainly in the big cities, under hard conditions such as unemployment and poverty.

There is a need for discussion forums for the problem regarding Kurds and their demands. Such discussion forums must have a large credibility if they are to function, and this is mainly the responsibility of the press and the media.

But there is one major problem: the external and internal censorship mechanisms that continue to function within the media. “Internally” the self-censorship is a serious problem.

Externally, there are several factors that hinder the freedom of expression. The laws severely limit such freedoms. Three main activities are being carried out against the freedom of the media, according to Mr. Baydar:

- 1) Legal measures, based on the so called Anti Terror Laws and some 100 articles in the national legislation have resulted in closing a number of pro-Kurdish papers;
- 2) pressure within the system towards media owners and editors has led the press to take some measures: Columnists are told not to touch upon delicate subjects and, in one case the famous columnist Ahmed Altan was fired due to an article on the Kurdish question he wrote for a daily;
- 3) Humiliation campaigns aiming to discredit critical journalists and commentators. Some “loyal” columnists are used as tools planting distasteful information

<sup>86</sup> Mr. Yavuz Baydar was present as an observer at the seminar, reporting for Turkish Daily News, but accepted upon invitation from the Norwegian Institute of Human Rights to present an introduction.

As it was decided to discuss Turkey’s specific human rights problems in the working group sessions at the seminar (see appendices-section of the report: “Program of the seminar”), this first session on Turkey, in addition to the overall human rights reporting, focused on freedom of expression. Expansion of this right can be seen as playing a key role in advancing other human rights.

regarding the personality of a certain "disliked" journalist. One famous case has become Dogun Ergil, a researcher who published a report on the Kurds. He became the target of severe attacks from the press.

This being said, one can hardly claim that the Turkish press, as a whole, is better balanced than the international media, Mr. Baydar claimed. The activities to hinder the press is a threat against the people; a majority whishes an open debate. The element which makes the view rather gloomy is the fact that the State Security Courts, dealing with some cases of freedom of expression, cannot be seen as politically independent courts.<sup>87</sup>

### *Main points from the discussion*

In the discussion some participants stated that it would not have been possible to arrange a human rights seminar in Turkey similar to the Oslo seminar, because it is still forbidden to discuss the Kurdish problem in Turkey today.

The conflict between the Turkish army and the PKK has been going on for 11 years, starting in 1984. There is thus no longer only a question of individual violations of human rights, which can be dealt with by the European Commission and the European Court of Human Rights, one of the participants claimed. "We are witnessing a pattern of systematic destruction of human rights, and since this is caused by the conflict it is crucial to reach a peaceful settlement of it."

Another point, underlined by several participants, is that the Kurdish problem is not only a national Turkish problem. Firstly, due to the responsibilities of the international community to control the state's fulfilment of its human rights obligations, the fact that the Kurdish problem is one of the root causes of human rights violations in Turkey makes it of international concern. Secondly, the present Kurdish problem is partly caused by the policy of the big powers in the first part of this century, and therefore they have a historical responsibility to contribute to its solution. Thirdly, the Kurdish problem leads to regional instability and results in both internal and international displacement of persons.

"Compared to the other states with Kurdish minorities, Turkey is not the worst case", some participants stated during the discussion. It has ratified the most important European human rights instruments, and is part of Europe also in other respects. "To influence Turkey, the right strategy is not to place pressure on it, but to enter into a dialogue with it."

Disagreeing with this line of argument, some of the participants pointed out that historical experience does not grant for a willingness of the Turkish authorities to enter into dialogue on its human rights problems. There has been several unsuccessful attempts to start such a dialogue.

---

<sup>87</sup> See previous section on the human rights situation in Turkey, which refers to some reforms which have taken place after the seminar, and which have improved the situation somehow.

Another line of argument presented by some of the participants was concerned with the role of the PKK. It has closed down regions for journalists, making it impossible to maintain solid information about the conditions in the area. From a journalistic point of view it does not matter who is the actor in prohibiting reporting. In the present situation, you can neither thrust state information nor PKK information, so to get a realistic and constructive debate about the problem it is crucial to let journalists and human rights monitors have access to all parts of the country.

As a conclusion of this discussion it was underlined by some of the participants that the fact that a high number of journalists and editors have been tried before the Turkish courts, among others the State Security Court, has been raised as a problem by international bodies and organisations, and it is vital to change present legislation to allow real freedom of expression.<sup>88</sup> It is also a fact, some participants argued, that Turkey both geographically and culturally is placed between Europe and Asia, and consequently contains several contradictory features. One example is the beating up of journalists in front of the visiting members of the European Commission of Human Rights by the police. In many neighbouring countries, however, there would have been no journalists present at all.

---

<sup>88</sup> One example of international concern is the observations and conclusions from the OSCE Parliamentary Assembly's Delegation to Turkey, 1-6 May 1995: "The Delegation believes that Article 8 [in the Anti-Terror Law] restricts freedom of expression. The authorities informed the Delegation that there is a draft bill in the Parliament which would abolish this Article. Such action would, as it was explained to the Delegation, require that legal proceedings against persons charged under Article 8 be dropped. Furthermore, the Delegation was informed that several individuals previously convicted under Article 8 could be set free. The Delegation welcomes this announcement and reiterates that there should be no such limitations to freedom of expression as long as such expressions do not promote or advocate terrorism or other forms of violence. The Delegation hopes that such legal reforms will not be diminished by adoption of similar restrictions or by expanded use of other restrictive laws which may remain part of the Penal Code or other legal bodies." Cited from *Helsinki Monitor: Quarterly on Security and Cooperation in Europe*, Volume 6, No. 4 1995, page 87. – Article 8 is not yet abolished, but some modifications have been made (see previous section on the human rights situation in Turkey).



Institut kurde de Paris

**Part III**  
**Ways to improve the human rights situation**  
**in Turkey**

Institut kurde de Paris

Institut kurde de Paris

## Ways to Improve the Human Rights Situation in Turkey

The seminar discussions on ways to improve the human rights situation in Turkey was partly undertaken in four working groups, and partly in plenary discussions. The working groups focused on freedom of expression, cultural and linguistic rights, rule of law and internally displaced persons.

To each of the working group session, one of the seminar participants presented an introduction to the discussion. In the following reporting, main points both from the introduction and the subsequent discussion are rendered.

### Freedom of expression and the role of the media

In his introduction, Mr. Altan Tan emphasised that in order to discuss the situation in Turkey related to freedom of expression and the role of the media, it is necessary to look at the basic principles and structures of the Turkish state.<sup>89</sup> These principles and structures date from 1923, and illustrate, according to Mr. Tan, the wish of the Turks to reject the heritage from the Ottoman empire. Three of the main principles are:

- 1) The Turkish state should be a nation-state. (Thus, a multi-ethnic society is rejected);
- 2) there shall not be any influence of Islam on the state structure;
- 3) communism is an enemy of the state.

According to Mr. Tan, the implementation of these principles has resulted in grave human rights violations and the death of a great number of people.

To discuss how to improve the situation, the problem must be seen in relation to the state structures. Freedom of expression and thought has always been restricted by the state, and it will not be possible to increase freedom of expression and thought if the state structure is not radically changed. It is, however, difficult for the people in Turkey to initiate such changes themselves, as "they are literally being beaten".

According to Mr. Tan, the West can play an important role in improving the situation. It has an obligation to promote changes in Turkey which will bring the laws and practice in compliance with the international standards, because it contributed to a large extent in forming not only Turkey, but the whole Middle East after World Wars I and II. It participated in laying the grounds for structures and institutions that suppress ethnic groups and Islamic traditions. However, if the West is going to succeed in influencing Turkey, it is essential that the fear of Islamic fundamentalism is mode-

---

<sup>89</sup> This section renders the introduction and the discussions in the Working group on "How to strengthen freedom of expression, and to clarify the role of the media?" Chairperson was Lars Gule, and an introduction was presented by Altan Tan. Elin Solberg functioned as rapporteur.

rated, Mr. Tan stated.

Another point outlined by Mr. Tan was that the relationship between the media and the state in Turkey is too close. The media is to a large extent intertwined with the state, and a newspaper or a broadcasting station which criticises the state, or is being accused of "separatism", has a hard time surviving due to imprisonment of journalists and heavy fines. Changes in the Anti-Terror Law and other restrictive legislation and court practices are important to enlarge and clarify the legitimate limits of freedom of expression.

According to Mr. Tan, certain steps are especially important to improve the situation. Firstly, there must be developed a network between people and organisations which work for peace and human rights. This network could develop into a kind of political unity, eventually in the form of an alliance.

Secondly, some kind of joint action should take place. As a beginning, a new newspaper should be published which represents different segments of society, and reports freely. This kind of co-operation would spread courage to the people, at the same time as it will lead to a better flow of impartial information.

In the further discussion, this second proposal became the point of departure. No agreement was reached, but some practical aspects related to the proposal were discussed. Questions were raised as to whether the proposed newspaper would be able to operate legally. It was also expressed concerns on how to get hold of the necessary resources for establishing the newspaper. Another concern stated was whether it would be possible to find journalists who were willing to write for such a newspaper.

The discussion in the working group thereafter concentrated on three main topics. Firstly, it was emphasised in several interventions that freedom of expression in Turkey is strongly connected with ethnicity, and the Kurdish question in particular. The possibility of a solution to the Kurdish question is limited by the lack of freedom of expression. And freedom of expression can be expanded only by finding a solution to this question. It was a common agreement in the group on this point, but it was also stressed that discussion on how to solve the Kurdish question still is seen as a threat to the unity of the Turkish state by the authorities.

Secondly, Kemalism and the Turkish constitution were discussed. Some participants claimed that the present Turkish constitution denies the ethnic reality of the country. Changes of the constitution will be necessary to adapt to the multi-ethnic structure of the population. The need for abolishment or reform of the Anti-Terror Law was also underlined by many of the participants.

Kemalism, the state ideology in Turkey from the founding of the republic in 1923 until today, was criticised for giving priority to the rights of the state rather than granting rights to individuals. It was argued that the basic structure of the Turkish state needs reform, and that the West should play a role in accommodating this.

Thirdly, one intervention expressed strong concerns on the effect of the censorship practices upon the people in Turkey. The laws concerning freedom of expression have been designed to protect the state and the army, not to ensure public debate and awareness. The result is that Turks and Kurds receive very different information

about the situation; the Turks from the official, state controlled media, and the Kurds from informal networks (family, friends etc.). As a consequence Turks and Kurds develop contradictory ideas on how to solve the problems. The censorship, it was claimed, contributes to a division of the population and leads to increased popularity of the PKK. The laws that were designed to protect the unity of the country, are leading to a division of it.

Another point discussed was the credibility of the media in Turkey. Since the media tends to be controlled and dominated by the authorities it risks losing its credibility, some of the participants claimed.

The legitimate restrictions of freedom of expression in a country during an internal uprising were also discussed. However, no conclusions were reached on this point.

Finally the question on whether the professional organisations could play a role in the process of expanding freedom of expression was touched upon. For instance, how could the organisation of authors be strengthened so that its members would not be harassed?

## Cultural and linguistic rights

In his introduction, Mr. Baskin Oran touched on four points: 1) Kurdish and Turkish identity; 2) the importance of the cultural identity of the Kurds; 3) problems of the Turkish state to recognise identities of minorities; and 4) what could be done to preserve the cultural rights of the Kurds.<sup>90</sup>

According to Mr. Oran, when discussing Kurdish and Turkish identity, it should be distinguished between two important processes: the process of assimilation and the process of integration. The Turkish authorities has opted for assimilation, but this strategy has failed for historical, structural, ideological, political, and external reasons.

When talking about the importance of gaining cultural identity for the Kurds, the significance of learning one's mother language must be emphasised. The imposition of another language leads to insecurity, and thus uprising. According to Mr. Oran, minority languages should be allowed to develop, while Turkish language remains the scientific one.

Concerning identity, Mr. Oran argued that if the state does not forbid or deny the cultural identity of minorities, it would be more accepted. Thus there would be less chances for violence and better chances for coexistence. Whereas if the state uses violence to impose a specific cultural identity, minority groups will look for other solutions, including demands for independence and use of terrorist methods.

In the present situation, Mr. Oran concluded, the only way to get rid of the two-

---

<sup>90</sup> This section renders the introduction and the discussions in the Working group on "How to further cultural and linguistic rights in Turkey?" Chairperson was Gudmundur Alfredsson, and an introduction was presented by Baskin Oran. Nada Merheb functioned as rapporteur.

sided terrorism is to recognise the cultural identity of the Kurdish people. Turkey is at present faced with a dilemma: if it grants the Kurds cultural autonomy, then they may ask for independence, and if it does not, the violence continues. As a starting point to change this situation, some specific articles of the Lausanne Treaty, which protect minority rights, should be implemented, he stated.

During the discussion various points were brought up. The lack of cultural and linguistic rights of the Kurds was forwarded by many participants. For example, Kurds cannot use Kurdish names because names in Turkey should be given in accordance with Turkish tradition. Songs in Kurdish cannot be broadcasted on television or radio. Kurds are not allowed to have open air meeting and no political party. There is no possibility to learn Kurdish, and people have been brought to court for publishing in Kurdish. Turkish highest court has banned the use of the expression "Kurdish nation".<sup>91</sup>

During the discussions various proposals on how to solve the present situation were presented. Some participants underlined the importance of maintaining the unity of Turkey, and explained that coexistence is possible only in case of total equality in social, economic, cultural and political rights. Various suggestions were presented on how to protect these rights with emphasis on cultural and linguistic rights. Some participants expressed the necessity of having a new language law in Turkey. Such a law will have to grant status and recognition to minority languages. An official statement acknowledging the failure of the assimilation policy, and adopting a multi-cultural ideology was also recommended. Others advocated the introduction of Kurdish language in the educational system starting with primary schools. Then the use of it would be increased gradually. It should be made legal to broadcast television and radio programs on Kurdish culture, and using Kurdish language.

Reform of the Turkish constitution was recommended by many of the participants. A new constitution dealing with the fundamental issues in question should be drafted, and both sides should be involved in the redrafting. It was also stressed by some of the participants that constitutional reform should be based on a commitment to democratic values to protect the rights of minorities whether ethnic, cultural, or racial.

From discussing ways to protect cultural and linguistic rights, the focus moved to a discussion of methods of transforming these proposals into reality. Some advocated international pressure on the Turkish state and the Turkish government to convince it that changes will be useful and necessary for the state. Other participants forwarded the idea of establishing an international committee on this subject, which should con-

---

<sup>91</sup> Cf. the following statement in a Human Rights Watch report: "Kurds who identify themselves as Turks and speak Turkish have traditionally faced little discrimination based on their ethnic heritage. The late Turkish President Özal was of Kurdish heritage, as was the previous Turkish Foreign Minister Hikmet Cetin. At present, excluding the parliamentarians from the banned pro-Kurdish DEP party, roughly sixty Turkish parliamentarians are of Kurdish origin. Recently, however, as a by-product of the war with the PKK, discrimination against Kurds who accept Turkish identity, has increased". Human Rights Watch, *Weapons Transfers and Violations of the Laws of War in Turkey* (New York: Human Rights Watch, 1995), page 22, footnote 22.

tinue working with this problem. The committee should also lobby to get more involvement from the international community. Its efforts would be dedicated towards getting a dialogue started between the Turkish state, the Kurds, and the international community.

It was suggested that the grieved party should use the international instruments protecting minority rights, some of which Turkey is a party to. The grieved party should draw attention to the international commitments made by Turkey. The participants were reminded that there are UN Forums that groups may attend and speak, and thus gaining attention to their cause and mobilise the international community. The participants were also reminded of the importance of work at home. Domestic efforts to bring in intellectuals from all sides for dialogue are crucial, it was claimed.

## Rule of law

In his introduction, Mr. Akin Birdal underlined that “the Kurdish problem” has become a question which concerns the whole of the Turkish population, and has an influence on the overall democratic development of Turkey.<sup>92</sup> The failure in solving this question engenders economic, social and cultural destruction in Turkey.

There are two particular reasons for discussing this question in the context of the Oslo seminar, Mr. Birdal claimed: 1) it is related to the universality of human rights; and 2) the failure of any fair solution has made it an international question.

According to Mr. Birdal, the violations of human rights in Turkey comprises among others killings, displacements, imprisonments, torture, extrajudicial executions and burning of villages. The present constitution and laws in Turkey was put into force during the military coup in 1980, and it has a lot of shortcomings compared with international law.

To make Turkish laws comply with international standards, it must be based upon a democratic constitution, Mr. Birdal stated. A revision of the current law is not sufficient; the constitutional and legal framework must be completely re-established. Some of the key principles, defined in international law, and which should be incorporated into Turkish law are the following:

- The state should respect everyone’s right to life;
- the principle of equality in dignity and rights without discrimination of any kind should be in place. In this connection the right to freedom of opinion, conscience and religion, as defined in article 18 and 19 of the Universal Declaration of Human Rights, would be of special importance;
- in the field of jurisdiction, independent courts must be acknowledged as the only competent institution. All extraordinary legal procedures and institutions should

<sup>92</sup> This section renders the introduction and the discussions in the Working group session on “How to improve the rule of law in Turkey?” Chairperson was Donna Gomien, and an introduction was presented by Akin Birdal. Marianne Rugkása functioned as rapporteur.





- be prohibited, in compliance with article 5 and 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- no institution under the cover of advisory council should be established with a mandate to outrule Turkish Grand National Assembly decisions. The National Assembly should have monopoly in matters related to revision or adoption of new legislation;
  - to control the judiciary both civil organisations as well as the Turkish Grand National Assembly should play a role. In the new constitution, professional organisations, associations and trade unions should be excepted from the Government's control;
  - science, culture and art must be rescued from ideological and political control and manipulation of the Government. The media must retain economic and ideological independence from the Government in order not to limit the freedom of thought, opinion and expression;
  - Turkey should abide with the principles concerning human rights, democracy and rule of Law, of the Paris Charter of the Organisation of Security and Co-operation in Europe, which has been ratified by Turkey.

In the discussion, the question of what basis one should argue for the necessity of improving the current laws and practice in Turkey was raised: either on the basis of the Universal Declaration of Human Rights ("soft law") or on the basis of legally binding instruments ("hard law")? It was recommended by some participants to make use of parallel provisions in the European Convention and the Universal Declaration whenever it was possible. As a general rule legally binding instruments weigh stronger than the so-called "soft laws" of declarations and resolutions. The Universal Declaration is nevertheless somewhat special due to the universal acceptance of it.

It was argued by some of the participants that actions should be taken both domestically and by the relevant international actors. The need to follow up the European torture convention was especially stressed.

A training-program for Turkish lawyers to acquaint them with the European human rights standards and court rulings was recommended, by some of the participants. The European Convention on Human Rights is binding upon Turkey, and there is an increasing number of Turkish cases before the European Commission and Court of Human Rights. Efforts should be made to select and present cases where violations of convention provisions are found. European court rulings in such cases would set an example for further practice.<sup>93</sup>

Some participants argued that efforts also should be made to influence the European governments to raise an inter-state complaint against Turkey under the Europe-

<sup>93</sup> The work of the Kurdistan Human Rights Project is especially relevant in this respect. Information on cases before the European Human Rights Commission and the Court can be obtained from: Kurdistan Human Rights Project, Room 201 Linen Hall, 162-168 Regent Street, London W1R 5TA, England. Fax: + 44 71 287 2772.

an Convention on Human Rights, based on the systematic patterns of the human rights abuses in the country. The inter-state complaint procedure will give an important possibility to force Turkish authorities into considering how to improve the human rights situation, and the current law and practice will be challenged in a way which will be difficult to ignore.

There was not reached any consensus on this question. It was remarked that the aim of the Oslo seminar should be to establish a platform for dialogue between the parties in the conflict, and to raise an inter-state complaint could hinder the further development of such a dialogue.

It was also stated during the discussion by some of the participants that it is a failure for Turkey in the promotion of democratisation, not to ratify or to make far-reaching reservations to international human rights conventions. It is especially regrettable that Turkey has not ratified the two 1966 United Nations human rights Covenants (on economic, social and cultural rights, and on civil and political rights respectively).

The degree of tolerance of the international community of Turkey's human rights abuses was also discussed. Turkey is a member of both the Council of Europe and of NATO, and are viewed by the Western allies as an important front-line state. Its strategic significance has great bearing on the foreign reaction to Turkish human rights abuses, some participants argued.

The question on the consequences for Turkish membership in the European Union of its human rights policy, was also discussed. Some of the participants argued that Turkey has to be pressed to abide with international standards. There will be no improvement without firm pressure from the Western countries. Especially Germany and the United States play a vital role in this respect, it was stated by some of the participants. The changes that have been made in Turkish law so far have been of a "cosmetic" nature, and have not advanced its democratic development, they argued.

"Discussions on the human rights situation in Turkey tends to lead to political discussions", on of the participants stated during the discussion. There cannot be a seminar on human rights in Turkey without including the political dimensions of the current human rights crisis in the country. "Law and politics cannot be separated", it was said by several participants, and the situation of the Kurdish minority must be discussed as a part of the present human rights crisis.

Some of the participants argued for the necessity of changes in the Turkish constitution to keep the country in line with international democratic standards. The cultural identity of the Kurdish minority must be recognised, along with recognition of the rights of other ethnic groups.

Another point made during the discussion was that there should be established an international group of non-governmental organisations, lawyers and other human rights experts that could outline suggestions on how Turkey could change its constitution to cope with the European standards. The Turkish authorities should see this not as an effort to intrude into domestic affairs, but as a call for co-operation in advancing the Turkish democracy, it was stated.

Several participants argued that steps should be taken to ensure the independence of Turkish courts. An independent commission with a mandate to investigate allegations of interferences into the jurisprudence by political or military bodies, should be established, it was argued.

### **The situation of the internally displaced person: The right to return and the right to compensation**

In his introduction to the discussion on internally displaced persons, Mr. Daniel Helle started with giving a definition: "An internally displaced person is a person who has been forced to flee his home suddenly or unexpectedly as a result of armed conflict, internal strife, or violations of human rights."<sup>94</sup>

The exact number of internally displaced persons in Turkey is not known due to lack of access to the area for neutral observers. Estimations by local branches of the Turkish human rights organisations lead us to believe that the number exceeds two million.<sup>95</sup> Only a relatively small percentage of these people has been literally driven by force from their villages. The majority has left due to continuous terror from security forces and PKK, arbitrary arrests and harassments, armed conflict, restriction of movement, restriction on food provisions etc.

The working group identified two main approaches to the problem of internally displaced persons:

- 1) The humanitarian approach which tries to alleviate the suffering and secure protection for the affected persons;
- 2) the political approach which sees the problem of internally displaced persons as a symptom of larger, political problems which require a broad solution.

One of these approaches does not exclude the other; they are more to be considered as integral parts of the same problem, Mr. Helle stated. With regard to Turkey no one of these approaches have so far been possible to apply, since Turkey officially is rejecting to have a problem of internal displacement. In the official rhetoric the internally displaced are named as "göç edenler", migrants, and no governmental body is responsible for them.

According to Mr. Helle, this policy has created a set of problems for the internally displaced:

---

<sup>94</sup> This section renders the introduction and the discussions in the Working group on "The future of internally displaced persons". Chairperson was Jan Borgen, and an introduction was presented by Daniel Helle. Trude Falch functioned as rapporteur.

<sup>95</sup> In the previously cited Human Rights Watch report the following figures are presented to indicate the extent of the 11 year long conflict between Turkish military and the PKK: "Today the war's toll is estimated at over 19 000 deaths, including some 2 000 death-squad killings of suspected PKK sympathizers, two million internally displaced, and more than 2 200 villages destroyed, most of which were burned down by Turkish security forces". Human Rights Watch, *op. cit.* page 1.

- Lack of schools for the children due to a) lack of economical resources, and b) no procedure for enrolment of the children at the new place of residence;
- lack of job possibilities due to factors like a) limitations to freedom of movement, b) discrimination and harassment, and c) lack of adequate experience, contacts and educational background; and
- lack of political rights. The right to vote is not applied due to Turkish law on elections.

According to Mr. Helle, the international community faces some major obstacles in dealing with the problem of internally displaced persons in Turkey. Turkey fiercely limits the access to the area for international representatives; from official delegates to representatives of non-governmental organisations. This policy restricts the access to information, documentation and assessment of needs in the area, and certainly prohibits any form of international humanitarian assistance to the persons concerned.

Only to a very limited extent could access be achieved through local non-governmental organisations like the Turkish Human Rights Association's local branches, local bar associations, local party branches etc. According to the knowledge of the participants, the only humanitarian organisation with activities in the area is "Heyva Sor a Kurdistane" (Kurdistan Red Crescent). The activities of this organisation are illegal due to its name, and also limited because of the general security situation in the area.

Some of the participants maintained during the discussion, that the problem of internal displacement is aggravating and does not get sufficient attention from the international community.

At present the position of UN bodies is weak in Turkey, and UN has no supervisory mandate. One of the problems, one of the participants argued, is that it seems obvious that international attention to the problem of displaced persons in the country will contribute to the recognition of the fundamental political problems in Turkey. The humanitarian problem of displacement cannot be solved without a peaceful solution to the Kurdish problem.

One of the participants compared the situations of internal displacement in Iraq and Turkey. In the period from 1975 to 1988 a policy of forced displacement was carried out in Iraq. Initially the process was similar to the process now taking place in Turkey, where strategic areas and border zones were emptied. Later the policy of displacement took an even more cruel form, concluding in the 1988 "Anfal-operations". 90 percent of the Kurdish villages in Iraq were laid in ruins up to 1988.

The policy of displacement in South East Turkey has still not taken the same systematic form as in Iraq in the 1980s, although more than 2200 villages have been emptied, it was stated by one of the participants. The Anfal-operations could take place because the international community did not pay any attention to the problem. International attention will be crucial to prevent a further aggravation of the situation to take place in Turkey.

One of the participants pointed to the problem that currently internally displaced persons in Turkey have no access to humanitarian aid, while the humanitarian prob-

lems in Iraqi Kurdistan are being addressed mainly by non-governmental organisations which are not able to provide sufficient relief.

Although it is possible that the international community will be able to influence Turkey to address the problem of internally displaced persons, there are still several pitfalls to be considered, it was argued by some of the participants.

There is a danger that Turkey will "plead guilty to a lesser crime", and accept economical support from the international community to address the humanitarian and political problems of internally displaced persons, but without addressing the root causes of the problem. Initiatives have already been taken to build "strategic villages" in the areas which has faced destruction of Kurdish villages. The aim of the Turkish authorities seems to be to cover the humanitarian needs of the displaced persons, and control the ethnic composition of these new villages. Giving economical support to such a policy would mean contributing to ethnocide and ethnic cleansing, it was claimed by some of the participants.

Some practical steps were proposed by the participants:

- A main concern is to secure access to the area for international organisations, official delegations, human rights observers and other non-governmental organisations to produce reliable information. United Nations' instruments and the Moscow mechanism under the Organisation for Security and Co-operation in Europe (OSCE) should be used to secure documentation and assessment;
- a further step would be to direct international pressure on Turkey to address the problem of internally displaced persons in the Kurdish regions, and to put an end to the policy of denying the existence of the problem;
- the area should be made accessible for humanitarian organisations to grant a minimum of help to the internally displaced persons;
- registration has to take place along with regular enrolment in the schools for displaced children and granting of political rights to displaced adults;
- in addressing the problem of internally displaced persons, the root causes of the problem have to be addressed as well. A political solution of the Kurdish problem is crucial;
- the ultimate goal of a sound approach to the problem of displaced persons would be to make possible voluntary return to the evicted rural areas. A durable resettlement in the evicted rural areas demands a political solution and also connects the problem of internally displaced persons to the issues discussed by the three other working groups.

## **How to improve the human rights situation in Turkey?**

In the panel discussion on how to improve the human rights situation in Turkey, the panel participants were allowed to make short introductions, and draw up their main

comments and proposals for improvements of the human rights situation in Turkey.<sup>96</sup> In the following reporting, a selection of comments and proposals expressed during the session is presented in a thematic order.

*Freedom of expression.* – During the session it was stressed by many of the participants that a major hindrance for further development of Turkish democracy is that the people living in Turkey cannot express themselves freely, e.g. not discuss the Kurdish problem. In addition, there seems to be no willingness on the Turkish authorities' part to enter into a dialogue at this stage. It is therefore necessary to reform the Turkish laws to enlarge the space for political discussion if one is to succeed in settling the conflict between the Turkish army and the PKK, and start a process of peaceful development in all regions of the country, it was argued.

“The human rights problems generally and the Kurdish problem specifically cannot be solved through violence, but only through dialogue”, it was maintained by one of the participants. “And the need for a solution is obvious to everybody. The Turkish economy is down, and there is a growing discontent among people with the ongoing conflict. All political parties must therefore be free to function and take part in the debate.”

*Current attitudes to the conflict.* – The large majority of the people in Turkey is in favour of a friendly settlement of the conflict, one of the participants stated. The human rights associations in Turkey have more than 20 000 members. The September 1995 strikes, counting more than 160 000 people, show that workers are tired of the war-like situation. In addition, hunger-strikes have been taken up as a weapon against the hard-line of the Turkish authorities.

A main problem in Turkey, however, is that the state is not run by politicians, but by the military, one of the participants stated. As long as there is an armed conflict, the military will keep its power. The media is also controlled by the military elite, and the court rulings are not fair and independent, it was stated.

The conflict severely damages the Turkish state, with strong setbacks of the economy, it was underlined by other participants. “From a national interest point of view, there are very good reasons for settling the conflict, and to find a peaceful way of accommodating minority groups and start developing the economy in the eastern parts of the country as well”.

Another point made during the discussion was that Turkey's wish to join the European Union taken into consideration, the precondition for such a treaty should not only be solving the current armed conflict with the Kurds, but also the overall poor human rights situation in Turkey.

*The importance of human rights.* – To succeed in developing the Turkish democracy, one must raise knowledge and awareness of human rights on all levels of the society, it was stated by several participants. Both Turkish and Kurdish nationalism, as well as other extreme groups, represents a problem in this context. The ongoing conflict leads to increased support for extreme viewpoints, and has severely harmed the social structure of the Kurdish population. The Kurds today are scattered all over

---

<sup>96</sup> The panel consisted of Kerim Yildiz, Akin Birdal, Feridun Yazar and Yasar Kaya.

Turkey. Exact figures do not exist, but estimates are given that up to 10 million Kurds live in the Western parts of the country, basing their basic income on respectable business and farming or illegal activities, such as drug-dealing and prostitution. Only five million remains in the traditional Kurdish areas in Southeast Turkey.

The universality of human rights means that the geographical or strategic position of Turkey is irrelevant as an excuse of its human rights violations, one of the participants stated. The threat from Islamic fundamentalism is to some degree real, but not to the extent the government is pleading. However, the most efficient mean to fight fundamentalism, is not through terror, but by economic and social progress, as history shows.

It was underlined by some of the participants that it is important to see the Kurdish problem in a humanitarian perspective. Since 1992 the war between the Turkish army and the PKK has raised to a new level, with grave abuses of human rights and of the laws of war, as has been frequently reported by reliable sources.<sup>97</sup>

“Not only Kurds are killed by the Turkish government, but also left wings, racists and islamists”, it was underlined by some of the participants. There is a general, serious human rights problem in the country. As long as Kurds have been willing to deny their culture, they have been treated as equal to the Turks. That is why one may see Kurds in leading positions.

Internal problems among the Kurds was mentioned as a problem in this context by some of the participants. There is a lack of unity among the Kurds when it comes to the fundamental question on how to enter into a dialogue with Turkish authorities, and what methods which should be used to further a political solution of the problem.

## Proposals

1) One of the proposals raised during the discussion, was to establish a committee, open for all the human rights organisations in Turkey, to draw suggestions and recommendations for improvement of the present situation. It was underlined by several participants that a main hindrance for a positive development in the conflict areas, is that human rights organisations, and among them the International Committee of the Red Cross, have been denied access to the areas both by PKK and the Turkish government. Along with establishment of the proposed human rights committee in Turkey, the access-problem will have to be solved. Fact-finding missions should be allowed to go to the south-eastern parts of Turkey.

<sup>97</sup> The previously cited November 1995 Human Rights Watch report, *Weapons Transfers and Violations of the Laws of War in Turkey*, was for obvious reasons not available at the seminar. It confirms that “[i]n an effort to root out PKK fighters and sympathizers from southeast Turkey, the government has adopted increasingly brutal counterinsurgency measures, in clear violation of international law.” To make the balance, the subsequent sentence should also be rendered: “The PKK, for its part, has also systematically engaged in violations such as summary executions and indiscriminate fire.” Op.cit. page 1.

2) The media should be allowed to inform and debate freely on the current problems. This is a necessary precondition for starting a process of national reconciliation and strengthening of the democratic forces, it was argued by many of the participants.

3) Another proposal was that there should be built network and established co-operation between Turkish and Kurdish democratic forces, international non-governmental human rights organisations and other democratic movements or parties.

4) The need for constitutional changes was underlined by several participants. At present one is not allowed to express views against the constitution or the so-called "national interests". Several participants also underlined that abolishment of the Anti-terror Law, and reforms of many other national laws are needed to make Turkish legislation and practice in compliance with the international standards.

5) Several of the participants argued that the most important international human rights instrument to be applied on Turkey, is the European Convention on Human Rights. From 1987 until 1995 there have been 664 complaints to the European Commission of Human Rights against Turkey; 60 of which have been pronounced admissible. "The rulings in these cases will undoubtedly establish a pressure against Turkey", it was argued by several participants.<sup>98</sup>

According to some participants, however, it is not realistic to believe that the Turkish authorities voluntarily will enter into a dialogue on its human rights problems. Consequently, they argued in favour of submitting an interstate complaint against Turkey under the European Convention on Human Rights. This complaint would have a dual function: 1) It would open channels for a "forced" dialogue with the Turkish government; 2) an independent inter-governmental body will have the opportunity to look into the cases and establish the facts. Such fact-finding will be able to disclose *patterns* of human rights violations, which is not possible under the individual complaints procedure, which has to treat complaints over similar abuses independently.

In 1982, the Scandinavian countries, France and the Netherlands each lodged an inter-state complaint against Turkey before the European Commission of Human Rights. These joint applications alleged violations of a number of human rights, including the right to be free from torture or inhuman or degrading treatment or punishment (article 3 of the European Convention), the right to liberty and to fair trial

<sup>98</sup> In December 1995 two reports from the European Commission on Human Rights were made public. In Application No. 21893/93 the applicants alleged that their homes were burnt and that they were forcibly and summarily expelled from their village by Turkish State security forces on 10 November 1992. The Commission concludes that there has been violations of Article 8, 3, 5 (1), 6 (1), 13, 14, 18 of the Convention and Article 1 of Protocol No. 1 to the Convention.

Application No. 21987/93 concerns the applicant's treatment and conditions during his detention in police custody in November-December 1992 and the failure to bring him before a judge or to provide him with an effective legal remedy. The Commission concludes that there has been violations of Article 3, 5 (3) and 6 (1).

The cases will be brought to the Court, which will take the final decision regarding violations of Convention provisions.



(articles 5 and 6) and the rights to freedom of association and expression (articles 9, 10 and 11).

In 1985, the parties reached a friendly settlement in the case. The settlement focused almost exclusively on issues raised under article 3 of the Convention (prohibition of torture, inhuman and degrading treatment or punishment). Amongst the terms of the friendly settlement, the Turkish government undertook to "have special regard to the strict observance by all public authorities... of obligations assumed by Turkey under article 3 of the European Convention on Human Rights."

"Although the case was settled (without a final judgement) in 1985, the past decade has seen continuing and serious violations of human rights in Turkey, and it is therefore time for a new inter-state complaint against Turkey", it was argued by some of the participants.

6) The European Parliament and the Parliamentary Assembly of the Council of Europe, should require that fundamental rights and freedoms, as defined in the European Convention on Human Rights, are safeguarded by Turkish authorities as a condition for participation in the EU and in Council of Europe, it was argued by several participants.

7) It was also proposed by some of the participants that ILO-mechanisms should be used to further respect for the right to association and other trade union rights. The trade unions play a crucial role for strengthening of Turkish democracy, it was argued by several participants.

8) Some of the participants pointed to foreign examples on how similar conflicts have entered into a more positive development. The situation in Northern Ireland was mentioned as one example. A precondition for starting such a peace-process, is, however, that the Kurds are accepted as a dialogue partner both nationally and internationally, it was argued by some of the participants.

#### **Part IV**

**The role of the international community to improve the human rights situation in the areas inhabited by Kurds**

Institut kurde de Paris

Institut kurde de Paris

## The Role of the International Community to Improve the Human Rights Situation in the Areas Inhabited by Kurds

Although the question of the role of the international community to improve the human rights situation in the areas inhabited by Kurds was commented upon during the previous discussions at the seminar, there was a special session at the end of the seminar devoted to this question.

### *Turkey's role*

It was widespread agreement among the participants on the importance of the international community in strengthening respect and protection for human rights in all the states with Kurdish minorities. Many of the participants also supported the view that Turkey plays a key role for improving the human rights situation of the Kurds. It is bound by the European Convention of Human Rights and Fundamental Freedoms, and wants to be a part of Europe, at the same time as it is playing a leading role in the region. Consequently, it was argued by some of the participants, the international community, comprising both non-governmental, governmental and, inter-state organisations should direct a lot of attention towards the situation in Turkey, and try to influence the situation there.

In relation to Turkey, the role of the Council of Europe was underlined by several participants. It has both legal and political means to influence its member states. An inter-state complaint should be considered, "but must be carried out by more than one country", it was argued by one of the participants.

"We must not only focus on Turkey when we are discussing the human rights of the Kurds, but include other countries in the area to get a comparison. Regimes have interaction with each other. Turkey must not end up being the only scapegoat. We have to take geo-political factors into account", it was argued by one of the participants. "The state ideology in Turkey should have been based on pluralism, but there is a vast difference between Kemalism and the Iranian constitution", he stated.

### *International committee for the human rights of the Kurds*

One of the participants argued that "[t]he United States, the Council of Europe, the European Parliament, the United Nations, the Organisation of Security and Cooperation in Europe and other relevant inter-state organisations should establish an international body with the task of monitoring the human rights situation in Turkey".

Several participants underlined that the Turkish human rights problem is especially linked to Europe, since Turkey is a member of both the Council of Europe and NATO, and wants to join the European Union.<sup>99</sup>

One of the participants commented on this proposal by informing about that “[t]here already exist an international committee for the human rights of the Kurds, which has met with 17 European states and the United Nations Secretary General, but it has not yet succeeded in starting a dialogue with the Turkish government. This committee focuses on Turkey because it is a leading factor for the other states in the area.”

### *“The dialogue problem”*

Some of the participants claimed, however, that the dialogue problem exists on both sides. “While the Kurds state that they are positive towards a dialogue, they often carry out a rather hostile monologue”, it was stated by one of the participants.

“It is obvious that the Kurds want peace, but there is a need to learn from organisations like PLO and ANC. We must try to make a better representative organ for the Kurds. At present there is no clear-cut organ or legal representative”, it was argued by one of the participants. Others argued that although the Kurdish Parliament in Exile has some shortcomings, it has the authority to represent the Kurds. “It is entirely up to the Kurds themselves to decide how to solve their problems, not for the Norwegian Institute of Human Rights or others. A committee must be made after this meeting for open dialogue!”, one of the participants stated.

Other participants underlined the need for political will on both sides. The Kurds have lost some of their sympathy because of violent acts committed in Germany, internal fights in Iraq, and the unclearness of the politics of PKK. The world wants both PKK and Turkey to respect human rights, and it therefore was an important step forward when PKK signed the Geneva conventions. But even after this they have carried out violence against civilians, it was claimed by one of the participants.

Both PKK and Turkey must become more democratic. “We all want a dialogue, but this conference has shown that some Kurds force their ideas on others”, it was stated by one of the participants.

The violent guerrilla war has led to grave abuses, but also helped PKK to reach some of their aims, one of the participants stated. “The present situation is dangerous. The conflict may turn into a civil war. The Turks now start talking about *the Kurds* as an enemy, not only the PKK.”

PKK should seek partners, since Kurds will always be a minority in the countries where they live, one of the participants argued.

---

<sup>99</sup> The current agreement on a customs union was not yet ratified at the time of the seminar.

### *Methods of influencing the situation*

In addition to strict legal methods (individual and inter-state complaints procedures etc.), the international human rights instruments should also be used for political lobbying, some of the participants claimed. "The problems are of a political nature, thus we have to act in a political way", they argued.

Arms sale, military co-operation and trade relations should be linked to human rights concerns, it was stated by several participants. Especially United States and the European Union play a crucial role in this respect. "The United States has to be involved, but the signals from state officials are vague even though the cold war is finished. It seems that Turkey is considered to be too important for strategic purposes, to be subject to heavy criticism for its human rights policy", one of the participants maintained. "US policy in the area seems to be influenced by the Turkish government."

"It is important to keep international focus on the problem", some of the participants argued. Network-building between non-governmental organisations both at national and international level should be supported. It is crucial to strengthen civil society and increase awareness of human rights on all levels in the countries concerned, it was argued.

"The extent of the problem must first of all be recognised by the international community", it was underlined by one of the participants. "And the Kurdish problem is directly related to the right to free speech. To allow freedom of speech and free debate is the first step to solve the problem."

The international community has an important task in supporting the democratic forces both among Turks, Iraqis, Syrians and Iranians as well as the democratic forces among the Kurds, some of the participants stated. The tendency of using only military means to solve conflicts, are widespread in all camps. "We have to teach the youth about human rights and peaceful conflict resolution", one of the participants underlined.



## Appendices

Institut kurde de Paris



## Appendices

### Invitation letter

#### **Invitation to an international Seminar on Human Rights in areas inhabited by Kurdish groups in Turkey, Iraq, Syria and Iran – September 22-25 1995, Oslo, Norway**

The Norwegian Institute of Human Rights hereby has the honour of inviting you to a Seminar on ways to improve respect and protection of human rights in areas inhabited mainly by Kurds, i.e. Southeast Turkey, Northern Iraq, and some parts of Iran and Syria.

The human rights situation in Turkey will be given most attention, not only because Turkey has the largest Kurdish population, but also since we believe it is there the potential for improvement is greatest. Turkey is a member of the Council of Europe and a party to its main human rights instruments.

The Seminar intends not only to explore facts about the situation in these areas, but also to discuss the causes of human rights violations and ways and means to improve the situation. The media and human rights organisations report on grave human rights violations against civilians in Turkey; among others arbitrary arrest and imprisonment, torture and extrajudicial executions. Acts of terror, from whatever source, also give grounds for serious concern. The Seminar will consequently have to deal in some depth with criterias and possible models for solving these problems.

The Seminar will focus on dialogue and constructive contributions. Changes of present state-borders will *not* be discussed at the Seminar. Relevant themes, however, will include the prospects of decentralisation and the application of linguistic and cultural rights recognised in international human rights law.

The seminar intends to bring experts and other concerned individuals from different spheres of society together, in a constructive dialogue resulting in ideas and suggestions on how to strengthen respect for human rights.

The Seminar is an expert meeting, not a political forum. It will not be a venue for negotiations. Some of the participants invited, however, hold high positions and wield some influence on their communities, and might therefore be able to bring the constructive suggestions back to their respective environments. The list of invited participants is enclosed together with a tentative program.

The working language of the Seminar will be English, but, if necessary, simultaneous translation into and from Turkish will be provided.



## Practical arrangements

The participants should arrive Friday 22 September at Fornebu airport, Norway, where they will be met by representatives of the organising committee of the Seminar. The Seminar will be held at Triaden Hotel & Conference centre, 10-15 min. by car from Oslo Centre.

The seminar will end on Monday 25 September at lunch-time, making it possible for all participants to leave Oslo on the 25th.

All travel expenses, meals and accommodation during the period of the seminar will be covered by the organiser; which can, however, only offer economy-class tickets. Please fill in the enclosed registration form, and we will do the bookings for you. **Please register as soon as possible.**

Final program and practical information will be sent the participants in due time.

The Seminar has received financial support from the Norwegian Royal Ministry of Foreign Affairs.

Sincerely

*Asbjørn Eide*  
Director

## Program

### Friday 22 September

- 18.00-22:00 Registration
- 20:00-22:00 Dinner at the hotel restaurant

### Saturday 23 September

- 09:00 Official opening of the seminar by Asbjørn Eide, Director of the Norwegian Institute of Human Rights

#### Session I: Internationally Recognised Human Rights

- 09:15 Introduction to the Seminar: framework and key-issues. Application of universally accepted human rights on the situation of the Kurds. By Asbjørn Eide, Director
- 10:30 Coffee Break
- 10:45 Obligations and requirements for states bound by the European Convention on Human Rights and Fundamental Freedoms, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Introduction by Erik Møse, Judge.
- 12:00 Lunch

#### Session II: Conflict dynamics and human rights violations

Moderator: Lasse Budtz, Journalist

- 13:30 The human rights situation in Iran, Iraq and Syria, by Jon Rud, Lawyer
- 13:50 The human rights situation in Turkey, by Christopher J. Panico, Human Rights Watch
- 14:15 Syria. Introduction by Omar Sheikmous, Researcher
- 15:00 Coffee Break
- 15:15 Iran. Introduction by Miro Aliyar, Sociologist
- 16:00 Iraq. Introduction by Omar Sheikhmous, Researcher
- 17:00 Break
- 17:15 Turkey. Introduction by Yavuz Baydar on freedom of expression

- 18:30 Ending Session II
- 20:00 Dinner
- 21:30 Social and Cultural Gathering at the Hotel

## Sunday 24 September

### Session III: Ways to improve the human rights situation in Turkey

- 09:30 Working groups session
- Working group on how to strengthen freedom of expression, and clarify the role of the media. Chairperson: Lars Gule. Introduction by Altan Tan. Rapporteur: Elin Solberg.
  - Working group on how to further cultural and linguistic rights. Chairperson: Gudmundur Alfredsson. Introduction by Baskin Oran. Rapporteur: Nada Merheb.
  - Working group on how to improve the rule of law in Turkey. Chairperson: Donna Gomien. Introduction by Akin Birdal. Rapporteur: Marianne Rugkåsa.
  - Working group on the future of internally displaced persons. Chairperson: Jan Borgen. Introduction by Daniel Helle. Rapporteur: Trude Falch.
- 11:00 Coffee Break
- 11:30 Reports from the discussions in the working groups. Moderator: Lasse Budtz, Journalist
- 12:30 Lunch
- 14:00 Plenary discussion based on working groups reports.  
Moderator: Asbjørn Eide, Director
- 15:30 Coffee break
- 16:00 Panel discussion: Ways to improve the human rights situation in Turkey. Panel participants: Kerim Yildiz; Akin Birdal; Feridun Yazar; Yasar Kaya.
- 17:00 Coffee break
- 17:15 Plenary discussion
- 18:00 End of discussion
- 19:30 Dinner at the hotel restaurant

---

**Monday 25 September**

- 09.00 Implementation of minority rights by the United Nations, by Gudmundur Alfredsson, Professor
- 09:30 Plenary Discussion: The role of the international society to improve the human rights situation in Iran, Iraq, Syria and Turkey. Moderator: Asbjørn Eide, Director
- 10:30 Coffee Break
- 11:00 Summary
- 12.00 Lunch
- 13:00 Departure for Oslo centre. Sightseeing (with a break in Oslo centre)
- 13.30 Press-conference in Oslo centre

## List of Participants

### a) Non-Norwegian Participants

- Agbaba, Ali, Member of the Kurdish Parliament in Exile
- Aksoy, Ibrahim, Politician
- Alfredsson, Gudmundur, Professor, Raoul Wallenberg Institute
- Aliyar, Miro, Sociologist (Iranian Kurdistan)
- Alkan, Xane, Politician
- Birdal, Akin, Chairman of the Human Rights Association (IHD) in Turkey
- Bozlak, Murat, Politician
- Bruinessen, Martin van, Lecturer, Utrecht University,  
Dept. of Oriental Languages and Cultures
- Budtz, Lasse, Journalist
- Burkay, Kemal, Politician
- Düzgören, Koray, Editor in ATV–TV, author in Yeni Yüzyıl
- Firat, Abdulmelik, Member of the Turkish Parliament
- Hemres, Reso, Politician
- Helle, Daniel, Associate Expert, United Nations Centre for Human Rights
- Kaya, Yasar, Head of Kurdish Parliament in Exile
- Khazai, Parviz, Politician
- Kilinc, Mahmut, Member of the Kurdish Parliament in Exile, former member of  
the Turkish Parliament
- Nacar, Ismail, author
- Nezan, Kendal, Head of the Kurdish Institute in Paris
- Oran, Baskin, Associate Professor, Ankara University
- Parlak, Kemal, Politician
- Sheikmous, Omar, Researcher, Stockholm University
- Sigurdsson, Villo, Chairman of Danish–Kurdish Friendship Association and  
member of the Board of the Danish UN–Association
- Slavensky, Klaus, Head of Information, The Danish Centre of Human Rights
- Tan, Altan, author and journalist
- Tanrikulu, Vildan, Politician
- Yazar, Feridun, Lawyer
- Yildiz, Kerim, Executive Director, Kurdistan Human Rights Project, London
- Vaner, Semih, Researcher at Centre d'études et de recherches internationales
- Vali, Abbas, Associate Professor, Department of Politics, University of Wales

### b) Norwegian participants

- Blankenborg, Håkon, Member of the Norwegian Parliament
- Bondevik, Kjell Magne, Member of the Norwegian Parliament
- Borgen, Jan, Secretary General, Amnesty International, Norwegian Section
- Eide, Asbjørn, Director, Norwegian Institute of Human Rights, member of the  
UN Sub–Commission on Prevention of Discrimination and Protection of Minorities
- Falch, Trude, Desk Officer, Middle East, The Norwegian People's Aid
- Folkvord, Erling, Member of the Norwegian Parliament
- Gomien, Donna, Associate Professor, Norwegian Institute of Human Rights

- Gule, Lars, Researcher, Christian Michelsens Institute
- Møse, Erik, Judge
- Merheb, Nada, Researcher, PRIO
- Rud, Jon, Lawyer
- Rugkása, Marianne, graduate student
- Sauar, Erik, Freelance Journalist, graduate student in Cultural Anthropology
- Sverre, Knut, Retired Diplomat
- Steen, Thorvald, President of the Norwegian Authors Union
- Viken, Tove Kari, Member of the Norwegian Parliament

*The participants were invited in their personal capacity; not as representatives of organisations or parties.*



**Observers**

- Akman, Haci
- Alasor, Roni
- Baydar, Yavuz
- Budak, Kadir
- Bulut, Efraim
- Celik, Zeynel Halis
- Cosar, Ali
- Eide, Jon Halvard
- Frøholm, Anne Kjersti
- Haraldstad, Hilde
- Haugestad, Per
- Ingdal, Nora
- Jalalzadeh, Mitra Bagheri
- Kizilocak, Hüseyin
- Lilleås, Ole B.
- Mahvi, Firouz
- Nereid, Camilla
- Okumus, Esref
- Panico, Christopher J.
- Paulsen, Erik
- Skjeseth, Alf
- Solberg, Elin
- Slydal, Beate
- Steinacker, Gurdrun
- Støversten, Helene
- Uemura, Takashi
- Younis, Goran

**Norwegian Institute of Human Rights****- Key Personnel at the seminar**

- Host and moderator: Asbjørn Eide, Director
- Head of Administration: Gunnar M. Karlsen, Editor
- Economy and booking: Mona Laabak, Institute Secretary
- Rapporteur: Njål Høstmælingen, Executive Director
- Assistant: Ruth Meyer
- Assistant: Robert Huseby
- Assistant: Bjørnar Skjesol
- Assistant: Vibeke Greni
- Interpreter: Sehnaz Tahir
- Interpreter: Ebru Yesim Özdoganiar

## Press releases

### 13 July 1995: International Human Rights Seminar in Oslo, September 1995

The Norwegian Institute of Human Rights will arrange an international seminar on "Human Rights in areas inhabited by Kurdish groups in Turkey, Iraq, Syria and Iran" from September 22nd to September 25th.

The human rights situation in Turkey will be given the most attention, not only because Turkey has the largest Kurdish population, but also since the Norwegian Institute believes that the potential for improvement is larger here than in the other states mentioned. Turkey is also a member of the Council of Europe and a party to its main human rights instruments.

The seminar will be arranged in Oslo and shall not only explore facts about the situation in the areas, but also discuss the causes of human rights violations against civilians. Changes of present state-borders will not be discussed at the seminar. Relevant themes will, however, include the prospects of decentralisation and the application of linguistic and cultural rights recognised in international human rights law.

The seminar is intended to be a meeting for experts and other concerned individuals from different spheres of society, bringing them together in a constructive dialogue resulting in ideas and suggestions on how to strengthen respect for human rights.

For further information, contact Gunnar M. Karlsen, tel: +47 22421360

### 22 September 1995: International Seminar on the Human Rights of the Kurds

The Norwegian Institute of Human Rights will hold a Press Conference at Håndverkeren Møtesenter, Rosenkrantz gt. 7 on Monday 25 September between 13:30-14:30.

At the Press Conference, Asbjørn Eide, Director of The Norwegian Institute of Human Rights, will give a briefing on the discussions that took place at the international seminar on "Human Rights in areas inhabited by Kurdish groups in Turkey, Iraq, Syria and Iran" from 22nd to 25th September.

The Institute will also invite some of the participants at the seminar to take part in the Press Conference.

For further information, contact Gunnar M. Karlsen at Triaden hotel, tel: +47 67972700. Fax: + 47 67971055.

### 26 September 1995: International seminar on the human rights of the Kurds

An international seminar on "Human Rights in areas inhabited by Kurdish groups in Turkey, Iraq, Syria and Iran", arranged by the Norwegian Institute of Human Rights in Oslo, Norway, concluded its discussions on Monday 25 September. The seminar discussed both political and legal aspects of the present human rights situation in the areas; giving most attention to Turkey.

As the areas in question are characterised with a complex ethnic composition,



improvements of human rights will require state policies for inter-ethnic tolerance. In Turkey the present denial of the Kurdish reality, will have to be substituted with an open discussion on cultural, economic and social rights, as well as political and civil rights of the Kurds.

The reporting at the seminar, based on Amnesty International and Human Rights Watch documentation, showed that grave breaches of human rights, such as torture, disappearances, political imprisonment and lack of effective legal remedies, occur in all the countries.

The situation in South East Turkey is nevertheless special, related to the armed struggle between the PKK and the Turkish Army. Over 2,200 villages have been burnt down by the Turkish military to weaken PKK's position in the area. It was however stressed at the seminar that also non-governmental entities, such as the PKK, commits serious human rights violations.

Turkey wants to be a part of Europe and the European countries should firmly demand Turkish compliance with the European human rights standards, and in doing so both existent legal and political means should be made use of. The United States plays a crucial role in influencing the overall political conditions for improvements in the area, and should develop a more consistent human rights policy towards the country.

At the conclusion of the seminar, the participants, which consisted of Kurdish and Turkish journalists and intellectuals as well as Kurdish politicians, expressed that the seminar might have contributed to a new dialogue both among different Kurdish groupings and between Kurdish and Turkish liberals. They also underlined the importance of continuous international concern and action for the unsolved human rights crisis in the areas.

Institut kurde de Paris



### Previous Human Rights Reports

- No 1/92: Local and Regional Elections in Ethiopia 21 June 1992  
Report of the Norwegian Observer Group.  
26 pp. NOK 25.-
- No. 2/93: The Referendum on Independence for Eritrea  
Report of the Norwegian Observer Group in UNOVER.  
vii+87 pp. NOK 25.-
- No. 3/94 South Africa's 1994 Elections  
Edited by Elling N. Tjønnelamd  
v+177 pp. NOK 25.-
- No. 4/94 The 1994 Election and Democracy  
in Ethiopia, by Siegfried Pausewang  
vi+82 pp. NOK 25.-
- No. 5/95 The Process of Democratisation in  
Etiopia.. Edited by Kjetil Tronvold og  
Øyvind Aadland. iv+78 pp.' NOK 50.-

Order from  
Norwegian Institute of Human Rights  
Grensen 18 • N-0159 • Norway

ANG  
30