A REPORT FROM



HELSINKI WATCH

HUMAN RIGHTS

IN TURKEY'S

"TRANSITION TO DEMOCRACY"

November 3, 1983

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A Helsinki Watch Report

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Helsinki Watch Committee

The U.S. Helsinki Watch Committee was founded in 1979 to monitor domestic and international compliance with the human rights provisions of the 1975 Helsinki accords. Its Chairman is Robert L. Bernstein; its Vice-Chairmen are Orville H. Schell and Aryeh Neier; its Executive Director is Jeri Laber: its Washington Representative is Holly J. Burkhalter.

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This report is partially based on information gathered by Roland Algrant, Helsinki Watch Executive Committee member, and Jeri Laber, Helsinki Watch Executive Director, during a fact-finding visit to Turkey in late September 1983.

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<u>Introduction</u>

by Jeri Laber

"I'm someone who stands on her own two feet. I have a Western mind, my views are more international than most, and, if I feel this way, just imagine how the rest of the people feel...I love General Evren. He saved my country. I shall vote for him."

This conversation took place over drinks in New York's Algonquin Hotel, shortly before my departure for Turkey. The person with whom I was speaking, a successful Turkish businesswoman who divides her time between New York and Istanbul, had tears in her eyes as she described the violence and near-anarchy that existed in Turkey prior to the 1980 military coup. I was moved by her description of what it was like to live under siege with 20 or 30 political assassinations a day, worrying about whether the children would get home safely, barricading oneself indoors before it became dark. I was to hear many more such tales in Turkey, both from supporters and from detractors of the current regime; they talked about bombings of homes and offices, death threats to innocent people and blackmail at gunpoint by terrorists demanding money for some "cause."

The Reagan Administration is right when it points out that the pre-coup violence in Turkey was untenable, not only

for Turkish citizens but for the U.S. government which has made Turkey the third largest recipient of U.S. military and economic aid. It is wrong, however, to use the pre-1980 violence to justify unqualified U.S. support for General Evren and the military junta that seized power in the coup. The replacement of anarchic terrorism with state-imposed terror will not give Turkey the stability that the U.S. government seeks to ensure.

The tens of thousands of young people incarcerated in Turkish prisons since the coup are probably not all guilty of violence, and, even if they were, there is no justification for the premeditated atrocities to which they have been and are still being subjected. Moreover, Turkish authorities are · systematically destroying the independent institutions in Turkey that would provide the basis for a pluralistic society in any eventual democracy. Traditional political parties, universities, trade unions, bar associations, the Turkish Writers Union, the press and a number of other previously autonomous bodies essential to the protection of human rights have been banned or are being brought under centralized control. Their leaders have been dismissed, imprisoned or driven underground. The destruction of these centers of independent thought and action lays the groundwork for totalitarianism in Turkey, rather than for a "transition to democracy."

Certain unresolved questions remain concerning the

necessity for the 1980 "bloodless coup" and the intentions of the generals. It appears that the same generals who brought an abrupt end to terrorism in Turkey in 1980 had unlimited power to suppress violence during the two years that preceded the coup, when martial law was already in effect. Did they, as many seem to believe, intentionally allow the violence to intensify in order to justify their seizure of power? Those who hold this view paint a classic picture of a power-hungry military elite intent on perpetuating its own rule and status. Another view, equally plausible, is that the generals are neither eager for power nor corrupt, but rather are motivated by a naive, patriotic sense of mission to "clean up" the country's problems with crisp military efficiency. Those who hold this view say that the junta truly misunderstands the nature of the democratic process and believes that democracy can be created, indeed imposed, from above.

Both theories, while interesting, are becoming increasingly irrelevant. Intentions hardly matter under circumstances where power is centralized under a strong military President, a system of checks and balances is absent from the Constitution, voters have no real choice at the polls and the autonomy of independent interest groups has been destroyed. In any case, authoritarianism can not be considered "benevolent" when it is based on the sufferings of thousands, tucked out of sight in military prisons.

Freedom of expression has been destroyed in Turkey. Almost without exception, the people with whom we met were afraid to be mentioned in this or any other such report. Under the Turkish Penal Code and various martial law decrees they can be punished with prison sentences or even death for expressing views contrary to those of the regime. Even the press, which is still fighting to maintain some measure of independence, has been forced to use self-censorship in order to survive.

Under these circumstances there are, of course, no human rights monitoring groups in Turkey, nor are there, as far as we could see, any organized networks of intellectual dissent. Applications for official visits to Turkish prisons by international organizations — including the International Committee of the Red Cross and Amnesty International — have been refused by the Turkish government. The U.S. Helsinki Watch Committee also ran into difficulties in planning its fact-finding mission to Turkey.

Roland Algrant and I visited Turkey on behalf of the U.S. Helsinki Watch Committee from September 24 to October 1, 1983. Our purpose — to get some first-hand information about human rights practices — seemed especially important with regard to Turkey. Despite criticism by governments and the press in Western Europe, branding Turkey as one of the most egregious human rights offenders among the countries

that signed the Helsinki Final Act, relatively little information about human rights in Turkey has appeared in the U.S. press. U.S. disinterest in Turkey is attributable, in part, to the fact that most Turkish emigres have sought refuge in Europe rather than the United States; thus, there is no ethnic constituency here to supply information to Congress and the various human rights monitoring groups. In addition, the U.S. State Department maintains an upbeat attitude toward developments in Turkey, assuring the U.S. public that Turkey is in "transition to democracy" now that law and order have been restored.

Our visit to Turkey was frowned upon from the start, first by State Department officials who informed us that the Turkish government was discouraging all visits before the elections and that a visit by us would be a "disadvantage to U.S. foreign policy interests," then by the U.S. Embassy in Ankara which advised us to come at a more convenient time, and finally by the Turkish Foreign Ministry which ——despite strong pressure from several influential U.S. Congressmen and eventually from the U.S. Embassy staff as well ——refused to grant us any appointments with Turkish government officials. Perhaps the Turkish government knew that it could rely on U.S. Embassy personnel to explain the Turkish government's policies and to present them in the most favorable light. This was done by the Embassy staffs in both Ankara and Istanbul, who were at the same time very cooperative in

setting up some excellent appointments for us with "non-official" Turkish citizens. The Turkish government did not try to prevent those meetings, nor any of the others that we were able to arrange on our own.

representing a variety of professions and attitudes.

Included among them are professors, journalists, lawyers,
businessmen, trade unionists, ex-diplomats, publishers,
artists and writers. We also met with recently released
prisoners, torture victims, parents and spouses of prisoners
and people presently being tried. In all instances, we were
impressed with their courage and credibility. Some of these
people had never spoken to an American before. Others were
more worldly --their names would be familiar to our readers,
if we were free to use them. Instead, we must protect the
identities of the exceptional people whose information, views
and concerns have enriched the body of this report.

Situit

I. ABUSE OF INDIVIDUALS AND THEIR RIGHTS

The rights of many thousands of individuals in Turkey are being violated every day. People are detained under harsh, often unbearable conditions. Torture is used in Turkish prisons with a savage cruelty that almost defies description. The rights of the large, Kurdish-speaking minority in Southeastern Turkey are being suppressed with exceptional brutality. Freedom of speech has ceased to exist for anyone who disagrees with the views of the government.

The fact that we were asked not to mention the names of many of the people who are sources for this report is an indication of the fear that exists among the Turkish people. They are intimidated, and with good reason: They know that they can be prosecuted for their words alone. They do not wish to suffer the fate of the victims whose cases they have reported to us. To prevent recognition, we have made slight changes in describing some of the specific cases in this chapter.

1. Arrest and Detention

"The 56,486 persons tried or awaiting trial as a result of the military crackdown on terrorism in Turkey may not constitute an unusually large number in view of both the ferocity and spread of the 1979-80 terrorism and the 822,000 illegal weapons confiscated by the authorities."

"Dateline Turkey: The Case for Patience," by Nicholas S. Ludington, a journalist, and James W. Spain, U.S. Ambassador to Turkey in 1980-81, Foreign Policy Quarterly, Spring 1983.

The 1980 military coup began with mass arrests.

Prominent parliamentarians, political leaders and trade unionists were detained. Thousands of young activists suspected of terrorism were rounded up. In May 1981, the Turkish government announced that in the first seven months of the coup --as of April 10, 1981 --122,609 "suspected extremists" had been arrested.* The New York Times of May 24, 1981, reported a figure of "more than 100,000," attributing it to a NATO report.

By November 1981, one year after the coup, Turkish authorities claimed that 30,000 "political extremists" remained in the prisons, some convicted and some awaiting trial. The U.S. State Department in its Country Reports on Human Rights Practices for 1982 cites Turkish government statistics of 37,000 by the end of 1982. The same Country Reports also cites other figures: 56,486 people detained in

The New York Times, May 4, 1981.

Turkey since the imposition of martial law in 1978, about half of whom had been tried and sentenced. Although there is no way to verify the figures, it is evident that, even using the official Turkish government statistics, we are talking about enormous numbers of people who have been detained at some time or another under martial law.

The most recent figures were given by Turkish authorities on July 7, 1983. They are the lowest official figures to date --21,121 political prisoners* --and they have been greeted with skepticism both in Turkey and abroad. The people we met in Turkey gave us unofficial estimates of the number of political prisoners ranging from 50,000 to over 100,000. One such estimate came from a staunch supporter of the regime, a businessman on close terms with the generals: "Of course there are more than 100,000 prisoners in Turkey," he told us. "Everyone knows that, and many think there should be more!"

Most of the political prisoners in Turkey today are very young; some are still in their teens. Under martial law they may be held for 45 days in interrogation centers without charges and without seeing their families or lawyers. This is more than enough time for intensive torture, which is practiced routinely after arrest in order to extract

^{*}Agence France Presse, July 7, 1983.

evidence and confessions. Most of those arrested are subsequently charged with terrorist activity and sent to overcrowded prisons where they are held under deplorable conditions, sometimes waiting for years to be tried. They suffer repeated beatings and torture, are often deprived of letters and visits from their families, and eventually end up in mass trials, sometimes with several hundred other defendants, which then drag on for months. Some of these people will eventually be found innocent or acquitted for lack of evidence. But they will have experienced several years of "slow justice" awaiting trial, an experience intended to punish and intimidate them.

"I don't understand," the wife of a political prisoner told us. "They say we are going to a democracy, with elections and so forth...but in the prisons, it's a very hard time."

Prison conditions, already abysmal, have apparently worsened considerably in the past half year. This was attested to by two recent large-scale hunger strikes by prisoners protesting prison conditions. One strike occurred in early September and involved some 2,000 prisoners at the military prison in Diyarbakir. Agence France Presse reported on September 14 that two of the hunger strikers in Diyarbakir had died and that 30 more were in comas.

The other hunger strike took place in Istanbul in July and apparently lasted for three weeks, involving four prisons

and 1,500-2,000 prisoners, many of whom are charged with non-violent crimes. An appeal we were given by the parents of the Istanbul hunger strikers contains the following description:

"...in the first week of the strike the prisoners appeared at their trials fatigued and drained. They were brought in and out of the courtroom by officials who served as crutches to them. They tried with their parched lips, dimmed eyes and short breath to explain their problems, but were unsuccessful in their efforts. They looked like ghosts and had lost all their human qualities."

We were unable to verify news reports of deaths resulting from the Istanbul strikes. Nor could we confirm a persistent rumor that we heard both in Ankara and in Istanbul —that the hunger strike ended only after the guards began to torture a small group of prisoners in front of the others over a two-day period and declared that the torture would continue until they all ceased striking.

We were told that prison conditions have become worse, not better, since the July strikes. There are new administrators in the prisons and stricter rules. Some U.S. Embassy officials expressed the hope that new, stricter prison regulations would inhibit prison officials from allowing torture; the Turkish citizens we interviewed seemed to think that stricter rules will hurt the prisoners by making it more difficult for them to report torture.

2. Torture

"I had been given orders that after the preliminaries were completed all prisoners with the exception of the aged, women and children, the lame and the diseased, should be struck with a truncheon once or twice each below the waist in their rude places and on the palms of their hands and they should be warned not to come to prison again. I am not going to deny my order. My aim is to ensure discipline." -- Commander of Mamak Military Prison*

Torture is outlawed in the Turkish Penal Code and the 1982 Constitution. Turkish authorities have responded to international criticism of torture in Turkey by condemning torture and announcing that torturers are being punished.

"Ours is the first administration in Turkey to take action," boasted General Evren.** The U.S. State Department in its Country Reports for 1982 praised the Turkish government for its forthright approach to the problem, reiterating that it is "the first in Turkish history publicly to admit that torture -- a practice that existed under past civilian regimes -- had occurred and to punish offenders."

Yet despite congratulations and self-congratulations, it is clear that torture continues not only in police stations right after arrest, but in the military prisons as

^{*}Quoted in a statement by Amnesty International, Human Rights in Cyprus, Greece and Turkey, Hearing before the House Subcommittee on Human Rights and International Organizations, April 14, 1983, p. 102. (Cited as "Hearings")

^{**&}quot;Dateline Turkey: The Case for Patience," by Nicholas Ludington and James W. Spain, Foreign Policy Quarterly, Spring 1983. (Cited as "Ludington, Spain")

well. We met with recent victims of torture, young people who had been in prison as recently as three months before. They literally shook with fear as they spoke, afraid that they would be thrown into prison again for having dared to meet with us, a step they took in order "to tell the story for the people who are still in there."

One young man was partially paralyzed as a result of torture. Others bore marks and bruises from beatings. told of solitary confinement in dark rooms, beatings, electric shock applied to fingertips and genitals, being forced to stand naked on one foot for many hours, being blasted with cold water, deprived of access to toilets, and all the while hearing the screams of other prisoners being tortured. One young woman described how debased she felt when, hearing the footsteps of the quards, she found herself; hoping that they were coming for her friend and not for her. Another young woman was forced to "confess" when they brought in her younger brother and began torturing him. A young couple, married for six months, were raped repeatedly in each other's presence; the husband later complained to the prosecutor, who responded: "What did you expect us to do, pat your cheek?" Another young man cannot bring himself to tell his best friend that he watched him being horribly tortured: "The memory of my own torture is easier to live with than this secret I must keep from my friend!" One of the torture victims we met had subsequently been tried and

acquitted; he had been charged with hanging leftist posters, an "act of terrorism" punishable by death.

We also met with a small group of parents who had been denied visits with their imprisoned children for more than six months. They were breaking the law by talking to us, and the atmosphere was tense. The women described how they leave for prison each day as if they were going to a job. They wait around, hoping for news of their sons and daughters. What they hear is not good: Their children have been beaten and tortured, forced to stand naked for hours in the freezing rain, subjected to humiliating body searches. A young girl was put in a sack with a cat; they were both beaten until the cat went wild. One young man who complained about torture in court was beaten by his guards in front of the judge.

A father described how he had gone to the prison to ask about his son and was taken inside, held for ten days and tortured with electric shocks. He knew of more than 200 parents, both men and women, who had had the same experience.

Another father spoke in halting English:

"We were away on a trip last year. They came for our son. He was 18 years old. He belonged to no Party. A friend of his was tortured. He gave our son's name. We have seen him only once in prison. He has been tortured. We can not tell anyone what is happening. We are taxpaying citizens and ask only that our children be given their rights."

He was a large, brusque man, the father just quoted, ashamed of his impotence before the unbending terrorism of the state.

Later, when we said good-bye, he suddenly burst into tears.

We were given copies of dozens of petitions and appeals on behalf of political prisoners and told that more than 8,000 parents of prisoners had signed such appeals. Most were drafted during the prisoners' hunger strikes this past summer, and they appeal for an improvement in prison conditions. The complaints in the appeals reiterate what we had been told. The writers are concerned about the health of the prisoners, about beatings and torture and isolation. They complain about "immoral body searches," about deprivation of letter-writing materials and of visiting rights. They complain that their petitions go unanswered and that mothers and fathers who sign petitions are themselves arrested, beaten and abused. They claim that "tortures which are extremely ugly, illegal and contrary to all the basic precepts of human dignity have accelerated." They speak of 80 known cases of people who were arrested and have since disappeared. They mention "new torture techniques applied by specially trained personnel."

The petitions give glimpses of the depths of parental anguish: "We do not know if our children are dead or alive"... "The Metris military prison administration has not let us see our children for the last three years"... "Our children have been cut off from the outside world and are left all alone with their destiny and death -- on top of everything they are detainees, not even convicts"... "These

sons and daughters share the future of this country --Is this how we are going to win back our children, is this how punishment will bring betterment?"..."We are certain that you, who hold the faith of Turkey in your hands, as its ruler, understand as well as, if not better than, we the meaning of the loss of children to their mothers and fathers."

We were also given copies of receipts for 100 telegrams, sent on June 17, 1983, to General Evren and other officials by parents and relatives of the Metris Prison hunger strikers who had been chased from the prison grounds when they assembled in support of their children earlier that day.

Attempts are made to conceal torture. Some prisoners' families, for example, are allowed to "visit" only by telephone so that they cannot view the effects of torture and so that conversations can be more easily monitored. Sometimes the evidence "disappears," and a defendant's statements of ill-treatment are "missing" from the file at the time of the trial.*

Deaths of those in custody are also concealed. The family of Mustafa Hayrullahoglu, for example, was told, after months of inquiries, two different stories of how and when he had died. The martial law prosecutor's version was that he killed himself five days after his detention in October 1982.

Hearings, Amnesty, p. 104.

The public prosecutor's version was that he became sick in custody and died on his way to the hospital in November. The family was not permitted to open the grave to see the body.*

On the other hand, reports of torture are apparently surfacing more frequently in court testimony. We were given recent records from a court trial in Diyarbakir, for example, which contain testimony made in court by prisoners who reported that they were raped anally with truncheons and badly beaten in order to prevent them from testifying in their own defense. The document also indicates that the court accepted this evidence of torture and complied with a demand to inform the Martial Law Command. From this and other reports we heard, it appears that in a number of instances judges have refused to accept confessions or other evidence obtained through torture.

In March 1982, responding to an Amnesty International report, the Turkish government acknowledged that there had been 15 deaths from torture since 1980 and asserted that the security officials responsible for the deaths were being punished. In October 1982, however, the Turkish government said that out of 204 prison deaths reported only four were caused by torture. Twenty-five were attributed to natural causes, 15 to suicide, five to escape attempts, and 25 to

^{*}Ibid. p. 104.

killings during clashes. In a statement submitted at the April 1983 Congressional Hearings, Amnesty International reported that it had requested investigations in the cases of 100 people said to have died in custody since the coup, and had received replies from the Turkish government concerning 74 cases. Some replies indicated that the prisoner had in fact died, but according to the government, death was caused by suicide, accident or illness. About a third were said to be under investigation or in a trial stage. In eight cases, the prisoners were still alive. Amnesty does not know whether there were investigations of the remaining inquiries to which it received no reply.

Turkish authorities, in at least a handful of known cases, have taken steps to punish torturers. An article in Milliyet of June 25, 1983 cites an Appeals Court ruling that death by torture is premeditated murder, subject to the death penalty. The ruling applied to three security officials convicted of the deaths of three torture victims. It is not clear, however, whether the death penalty was applied.

An article in <u>Cumhuriyet</u> of June 15, 1983 reported a decision of "breach of duty" against the Ministry of the Interior in a death-by-torture case. The Ministry was ordered to pay a steep fine to the parents of the dead prisoner.

One of the stiffest sentences reported was given to

police superintendent Mustafa Haskiris, who was sentenced to a 14-year term by an Ankara military court as punishment for torture.* We were told, however, that he was released on bail the day before the sentencing and has since disappeared.

Other cases that have been reported show sentences that are generally light in relation to the crime, and a lack of consistency in implementing them. Cumhuriyet reported on January 26, 1982 that police superintendent Enver Gikturk was sentenced to one year in prison for killing a suspect under torture but still keeps his post at police headquarters in Ankara. Eleven police officers accused of killing a political detainee, Ibrahim Eksi, at Ankara police headquarters were acquitted by the military court. ** According to Cumhuriyet of September 5, 1982, an officer and five soldiers from Mamak Military Prison were tried in September 1982 for beating detainees. The Prosecutor demanded three-month to three-year prison terms. The Manchester Guardian reported on December 8, 1982 that four policemen in the Eastern Turkish city of Erzurum were jailed for three years for using torture to extract confessions.

The most recent statistics we have seen on the Turkish

^{*}Le Monde, January 24-25, 1982.

^{**}Info-Turk, February 1982.

government's attempts to punish torturers come from Assistant Secretary of State Richard Burt in a letter to Helsinki Watch, April 4, 1983:

"As of March 16, 1983, the (Turkish) government reported a total of 594 cases of alleged torture or mistreatment of prisoners since the 1980 military takeover. As of March 16, 313 cases were still under investigation, 215 had been dismissed as groundless, and 66 had been referred to the courts for prosecution. Of these 66 cases, 46 are still under trial, and 20 have been completed. In connection with the completed cases, 45 officials have been acquitted, and a total of 31 officials, including a superintendant, 4 deputy superintendants, a sergeant, a corporal, and 24 police officers have been convicted and sentenced."

Indications that the Turkish government is making some gestures toward punishing officers involved in torture, usually in extreme cases resulting in a prisoner's death, are encouraging. It has been argued that even a few such gestures will have a sobering effect on would-be torturers. It should certainly make it easier for judges to exclude evidence and confessions from trials when it is shown that they were elicited through torture. An attorney active in the defense of political prisoners told us: "If the judge is the right kind, evidence given under torture will be thrown out."

The extent and persistence of torture in Turkish prisons, however, indicates that there is still a long way to go. The government has not confronted the problem of intolerable prison conditions which in themselves are a form of torture. Nor does it seem concerned about the greatest

problem of all: the fate of the tens of thousands of young people who are still being held. They cannot remain in prison forever. Sooner or later they must be reintegrated into Turkish life -- peacefully, one would hope. But continued abuse of a large segment of a generation that has yet to come into its own -- and the effect of this abuse on a still larger circle of relatives, friends and sympathizers -- does not bode well for Turkey's future.



3. Freedom of Expression

"My husband is a very democratic person, very much against terrorism and anarchy. But the soldiers know he's a Marxist, that is enough." -- Wife of a political prisoner, Istanbul, September 1983.

Article 26 of the new Turkish Constitution purports to guarantee "freedom of expression." Yet many Turkish citizens are now on trial or serving prison sentences for their ideas, rather than their actions. In addition to the examples in this section, Section II of this report cites many instances in which free speech and expression have been stifled in cases involving politicians, labor union leaders, professors, high school teachers, journalists, publishers, writers, peace activists and lawyers.

Many Turkish artists and authors have been prosecuted for their works. Whatever the form of expression --poetry, acting, cartoons, films, essays --it may be banned by the military authorities as "Communist propaganda:"

--The president of the Turkish Writers Union, Aziz

Nesin, was sentenced in March 1983 to 10 years in prison for

"Communist propaganda" consisting of an early article,

"Socialism and Morality" and a book, We Haven't Gone Far

Enough, published in 1961.*

--An actress, Isik Yenersu, was prosecuted in the spring of 1983 for "condemning the Republic" after she read

^{*}Le Monde, March 22, 1983. The case was subsequently postponed.

two poems by a Turkish Communist poet, Nazim Hikmet, at a 1981 meeting in Paris to celebrate his birthday. She was also fired from her job in the State Theater. The meeting had been organized by the Turkish-French Friendship Association and supported by the French Ministry of Culture. In her statement to the Military Prosecutor, she described the poems as "the most patriotic in the world."* After a trial that lasted several months, she was acquitted in early October.

- -- Nazim Hikmet Through Pictures, a book by the comic actor Mujdat Gezen, was banned in the Aegean and southern areas of Turkey by martial law authorities, according to Cumhuriyet, May 19, 1983.
- -- Ghandi, a film about the Indian nationalist and spiritual leader, has been banned in Turkish cinemas; videocassettes have been confiscated.
- -- A poet, Arif Damar, was sentenced in 1982 to three months in jail for having banned publications in his home, according to Yanki, September 20, 1982.
- --A three-year prison sentence was sought in early 1983 for the Istanbul manager of Lufthansa who had an outdated globe in his Istanbul office. It referred to "Kurdistan" in describing the section of eastern Turkey inhabited by Kurds,

^{*}Milliyet Sanat, March 1, 1983.

an ethnic group that the Turkish government has long refused to recognize. The globe appeared in a publicity photo for Lufthansa printed in the Istanbul Rotary Club magazine. "He is such an unlucky man," a Lufthansa official reportedly commented. "No one can remember how long ago the photo was brought here or who did it. No one bothered about such things until now."*

--Four artists who complained to the National Security

Council about artistic and financial corruption in the State

Opera and Ballet were fired, according to a March 21-27, 1983

issue of Yanki.

Perhaps the best indication of the threat to free expression in Turkey is the fact that, almost without exception, the more than 50 individuals with whom we met during our recent visit were afraid to be quoted or even mentioned by name. Most of these people are not in any trouble themselves, but they know that there are martial law decrees prohibiting discussion of all sensitive topics, and they are fearful of arrest for expressing their views.

^{*}The Guardian, March 23, 1983.

4. Cultural Rights of Minorities

"I am a Kurd. There are Kurds in Turkey." -- Newspaper interview with Serafettin Elci, a former cabinet minister, 1978.

Officially, there are no Kurds in Turkey. In 1981, Mr. Elci was sentenced to two years and three months in prison for the statement quoted above.* Similarly, according to an Amnesty International release of August 17, 1982, Ismail Besikci, a sociologist who is not himself Kurdish, was sentenced to 10 years in prison in March 1982 for describing Kurds as an ethnic group to his students.

There are approximately 18 million Kurds in the Middle East, living in a region that now spans Turkey, Iraq, Iran, Syria and the Soviet Union. Between eight and ten million of them live in Turkey. ** The Kurds are the largest ethnic minority in Turkey, and are considered the only one that could possibly pose a threat to Turkish national unity.

After World War I, the Treaty of Sevres provided for an independent Kurdistan and Armenia, but the treaty was never ratified and both provisions were dropped from the Treaty of Lausanne in 1923. Since then, Kurdish nationalist movements have gained strength, particularly in Iran and Iraq.

Kemal Ataturk's social revolution "was designed to

The New York Times, March 27, 1981.

^{**}Cultural Survival, Inc., Boston, Massachusetts.

transform the remains of the polyglot, cosmopolitan Ottoman Empire into a nationalist state ideologically identified with the culture of the peasantry of Anatolia."* Since the 1920s, Kurds have been officially categorized by the government as "Mountain Turks."

The new Constitution continues this policy in Article 26, which guarantees freedom of expression, except in prohibited languages. Publication in Kurdish is, in fact, prohibited by law. People have been arrested for selling Kurdish music tapes and jailed for possessing Kurdish language cassettes; store owners have been forced to change their signs from Kurdish to Turkish.**

The authorities' main concern is with any "autonomist" Kurdish movement which, of course, is forbidden. Thousands of Kurds have been imprisoned since the coup, some accused of violence "aimed at secession," and others charged simply with "separatism" or with "affirming the existence of Kurds as an ethnic minority." Two hundred Kurds were arrested in 1980 for "attempting to divide the Turkish nation into ethnic groups" and "introducing languages other than Turkish into the school system."***

^{*}Turkey: A Country Study, edited by Richard F. Nyrop, The American University, Washington, D.C., 1980.

^{**}Cultural Survival, op. cit.

^{***}The New York Times, November 20, 1980.

Six months after the coup, The New York Times of March 27, 1981 reported that 2,280 Kurdish nationals had been arrested. Several hundred members of the Kurdish Workers party were put on trial, accused of forming "armed gangs" to "annex" southeastern Turkey. The death sentence was requested for 97. One defendant who tried to inform the judge of torture and unsanitary prison conditions was told that "this is between you and the prison authorities."*

Others were told to make their statements after the rollcall. Two defendants collapsed and were carried out by soldiers; eight were forcibly removed because of their statements. The defendants' lawyer, Huseyin Yildirim, was brutally tortured over a period of months, and eventually sought political asylum in Sweden.

In May 1983, 35 Kurdish revolutionaries were sentenced to death, 28 to life imprisonment and 331 to assorted jail terms. One hundred seventy eight were acquitted.** Reports of torture continue, as in the case of Mumtaz Kotan, who was sentenced in July 1982 to eight years for his membership in a Kurdish organization, Rizgari, and for alleged secessionist activities. According to reports by Amnesty International, he is in critical condition from torture that started in July 1983. Amnesty warns that appeals on his behalf should not

^{*}The Washington Post, April 14, 1981.

^{**}The New York Times, May 25, 1983.

refer to him as a Kurd because of the authorities' refusal to recognize the Kurds. Similarly, Halil Aksoy, a Kurdish teacher and member of the Turkish Teachers' Unity and Solidarity Association, has been charged with separatist activities as a member of the Socialist Party of Turkish Kurdistan (TKSP). He is reported to be in critical condition from torture received during a prison hunger strike in early August. His brother died in custody three years ago after torture for which three policemen were sentenced to three-year prison terms.*

In June, the government crossed Iraq's border, with the stated intent of destroying "these bandits" -- Kurdish guerilla camps in Iraq. The attack may in part have been retaliation for an incident in May in which Kurdish militants killed three Turkish soldiers. It has been suggested that there may also have been an agreement to help Iraq take care of its "Kurdish problem" so that Iraq could concentrate on its war with Iran.**

The Armenians are a much smaller ethnic minority than the Kurds, numbering approximately 60,000, and concentrated

^{*}Amnesty International release, August 16, 1983.

^{**}The Christian Science Monitor, July 14, 1983.

mainly in Istanbul. Their language is Indo-European and

The Helsinki Watch mission was not able to do independent research regarding the rights of the Armenian minority in Turkey. By some reports, it is a well-integrated Christian community in an overwhelmingly Moslem country. According to a 1982 report by the Commission on Security and Cooperation in Europe, Armenians have "no difficulty" in pursuing their daily lives. On the other hand, the Commission and the Churches Committee on Migrant Workers in Europe * say that the Turkish government has tried to stifle Armenian religious and cultural practices by discouraging parents from sending their children to Armenian schools and by trying to limit the teaching of the Armenian language. Authorities are reported to have taken children out of Armenian schools, claiming that they are not really Armenian despite church documents and birth certificates showing otherwise, and to have insisted on having final approval over the appointment of administrators of Armenian churches.**

The Helsinki Watch hopes to look into these matters at a later date.

^{*}See statement by Desmond Carragher, chairman, Churches Committee on Migrant Workers in Europe, Hearings, p. 87.

^{**}Staff Report on the Human Rights Situation in Turkey, Commission on Security and Cooperation in Europe, October 1982. (Cited as "CSCE Report")

II. DESTRUCTION OF INDEPENDENT INSTITUTIONS

"Mr. Yatron:...How would Project Democracy apply to a country like Turkey which has not had stable democratic rule?

Mr. Abrams:...There are...a large number of countries such as Greece and Turkey...which have had both democratic periods and nondemocratic periods and which have significant democratic institutions.

One of the things it would be trying to do is strengthen those institutions." --Hearings on Turkey Before the House Subcommittee on Human Rights and International Organizations, April 14, 1983.

When the Turkish military seized control in September 1980, it began a continuing and vigilant effort to wipe the slate clean. One strategy has been to dismantle or bring under centralized control all independent bodies, institutions and associations which, individually or collectively, might threaten —or threaten to threaten —the military regime. Governmental repression has been felt, in particular, by political parties and their leaders, labor unions, university professors, teachers, lawyers, and members of the Turkish Peace Association, the Writers Union and the press.

Moreover, instead of relaxing restrictions as the country returned to order, the generals have intensified them. It appears that Turkish authorities have embarked on a long-range program to restructure the institutions that make for a pluralistic society and to establish centralized control.

This strategy was legitimized in the new Constitution.

Article 33 stipulates that no association may pursue political aims, nor take joint action with labor unions, public professional organizations, or foundations. The practical side of this --meetings and demonstrations --is dealt with in Article 34, which states that associations may not hold meetings or demonstrations "exceeding their own scope and aims." And lest an association have too broad a view of its "scope" or "aims," the same Article allows local authorities to prohibit or postpone a meeting or demonstration "where there is a strong possibility that disturbances may arise which would seriously upset public order" or "where acts aimed at destroying the fundamental characteristics of the Republic may be committed" or "where the requirements of national security may be violated." institut kurde

1. Political Parties

The Turkish military junta banned all political parties immediately after the 1980 coup. Some 240 former political leaders were barred from future political activity for ten years. Actions were taken against former political leaders who remained outspoken.

Former Prime Minister Bulent Ecevit was tried three times and imprisoned twice in 1982. His first two-month jail sentence was for criticizing the government decision abolishing political parties. His second jail sentence, for three months, was for violating a ban on political statements by former party leaders. He was acquitted of a separate charge of defaming his country in an interview he allegedly gave to a Norwegian newspaper. Mr. Ecevit now lives under close surveillance in a suburb of Ankara. He is sometimes allowed to travel, sometimes not. He receives visitors with great care because he knows that he could be prosecuted for comments they later attribute to him.

In the summer of 1983, another former prime minister, Suleyman Demirel, spent three months in forced exile under arrest in a military camp in Canakkale, an action taken to prevent him from influencing the election campaign.

The junta's intent was to develop completely "new" political parties to participate in the 1983 elections. However, this turned out to be more difficult than it

anticipated. (See "The 1983 Elections," pp. 63-69.) It was forced to ban 12 of the 15 political parties that formed, at least three of which attempted to continue the traditions of the pre-coup mainstream parties. Two of these parties now have legal status, but the generals have just enacted further legislation to prevent them from having a voice in the 1984 municipal elections.

2. Trade Unions

Special constitutional provisions apply to labor unions, which since the 1960s had substantial political strength in Turkey. Articles 51 and 52 stipulate that they may pursue "economic and social rights," but not "a political cause." Under martial law, military authorities may prohibit strikes, boycotts and slowdowns.

Soon after the coup, the military government moved against the leftist trade union DISK, the second largest trade union in Turkey. DISK was organized in 1967 as a left-wing splinter group from the largest Turkish trade union Turk-Is. DISK has been more combative in its strikes than Turk-Is. It is described as anti-capitalist, and its strategies have included street demonstrations and significant wage demands.*

More than 308 DISK members were initially arrested.

Some were later released, while additional members were arrested. A trial began in December 1981, to which new defendants continue to be added. The DISK defendants, according to recent Amnesty International reports, now number 72. Among them are Ahmet Isvan, former Mayor of Istanbul, who is charged with supporting DISK, and Professor Sadum

^{*}Statement by the European Parliament Socialist Group, Hearings, p. 109.

Aren, a DISK adviser. Many of the arrested DISK members have apparently been tortured.

The DISK defendants have been charged under Article 146 of the Penal Code, 62 of them under Paragraph 1 which carries a mandatory death penalty. Amnesty International in its 1983 Report points out that the "indictment does not state explicitly that the defendants committed or advocated acts of violence, and they were not charged with any specific violent acts."

Another suspended union is the rightist labor union, MISK. Its leaders were also arrested after the coup, but they have since been released.

Two other labor union trials began in March in Istanbul. One involves the main public employees union, Genel-Is. Three of its local union presidents and 36 of its leaders have been accused of "furthering the aims of communism." The second involves the oil workers union, OLEYIS. Forty-one of its leaders and members are accused of having "worked along the lines of Marxist-Leninist ideology." These unions have not been officially banned, although that may be one of the goals in prosecuting them. Their members continue to pay dues to a government appointee.

^{*}Hearings, European Parliament, p. 110.

Turk-Is, the largest union and one of the few still functioning since the 1980 coup, was formed in 1952 and is less militant than DISK. According to its President, Sevket Yilmaz, it now has 1,800,500 members. Turk-Is has been forbidden to undertake political activity or to strike. Free collective bargaining has been replaced by compulsory wage arbitration carried out by a nine-member Supreme Arbitration Board on which there are two worker representatives.

"Even though we are deprived of this fundamental right, we keep the union strong," said Mr. Yilmaz, during a recent meeting. He hopes that collective bargaining will resume in 1984, and that the union will have some influence on the new parliament. According to a new labor union law, however, unions must organize 10 percent of the workers in an entire industry in order to have collective bargaining rights. The Ministry of Labor is to determine how many workers are in any given industry. This law could easily preclude collective bargaining when workers have been organized only at the factory level.

Turk-Is was reported to have persuaded the government to remove some labor restrictions -- a ban on payroll deductions of union dues, and some limits on the right to strike -- from the draft Constitution.* Mr. Yilmaz told

^{*}U.S. Department of State, <u>Country Reports on Human Rights</u> Practices for 1982.

us that Turk-Is was also responsible for the attendance at the DISK trial of an International Labor Organization mission, which he described as the first and only such visit to the DISK trial by a foreign labor delegation. He appeared to have mixed feelings about the DISK defendants, claiming that they used trade unionism as a pretext for ideological activities: "If the trials were for trade union activity, we would be the first to be tried." Mr. Yilmaz pointed out that he was "not in a position to know or protest about the trial." He did express concern about the length of the trial and whether there were innocent people among the defendants.

3. The Universities and Schools

Before the coup, Turkish universities were relatively autonomous centers of teaching, research and publication.

The right of university faculties to decide who would be appointed and what would be taught was guaranteed by the 1961 Constitution.

Now, however, both the curricula and the administration of the universities have been brought under state control.

This has been achieved through provisions of the Higher

Education Act of November 1981 and the 1982 Constitution, and through various ad hoc regulations.

Underlying these laws is a utilitarian view of higher education; that is, education as a way to train individuals to be productive members of the economy. The existence of different schools of thought is considered to impede, rather than advance one's education. Other values traditionally associated with higher education, such as self-fulfillment, or knowledge "for its own sake," are regarded by the ruling military as luxuries, and this attitude is reflected in regulations intended to discourage intellectual diversity.*

The new laws also reflect a desire to silence the politically active intelligentsia. Although the violence of

^{*&}quot;Turkish Universities in Transition," Canadian Association of University Teachers Bulletin, September 1982. (Cited as "CAUT Bulletin")

the 1970s, unlike that of the 1960s, took place in the streets more than on the campuses, students were involved and professors were blamed for teaching and encouraging "extremist" or "subversive" ideas.

After the Higher Education Act took effect, approximately 200 faculty members were fired without notice, and 233 more resigned in protest.* In February 1983, another 26 professors were fired and 22 more resigned.** In Turkey we met with unemployed former professors who are not allowed to make public statements about their dismissals. Many of them had tenure and are no longer young; it is not easy for them to find work or to plan their futures.

In addition, hundreds of high school teachers have been fired for political reasons since the coup. In January 1982, the National Education Minister told the Consultative Assembly that 1,254 teachers were under arrest and that 1,311 had been fired.*** Thirty members of the Turkish Teachers' Unity and Solidarity Association were sentenced in the summer of 1983 to prison terms ranging from three months to eight

^{*}The Wall Street Journal, May 12, 1983.

^{**}Helsinki Watch, Update #2, April 1983. According to the European Parliament's statement (Hearings, p. 112), 230 university professors were fired, a larger number were transferred to distant campuses, and over 500 colleagues resigned in protest.

^{***} Hurriyet, January 15, 1982.

years.

The Higher Education Law basically gives the President, in this case General Evren, and his cabinet control over university faculty and administrative appointments.

Candidates for university presidents and deans are proposed to the President by a Council on Higher Education. The Council has 23 members, the majority of whom are appointed directly by the President from among nominees of the cabinet and the military. The rest are chosen primarily by university representatives, but they must receive the President's endorsement.* Council members may be either retired military officers, government employees or university professors. In practice, it appears, most Council members are from outside the universities.

Under the new law, the central authorities determine the curricula of different disciplines according to the country's "needs." Professors must work a minimum number of hours per week, and teaching loads, in general, have increased.** One intrusive feature of the new law is an article allowing the Council to send faculty, for two-year stints, to understaffed universities in remote cities of

^{*&}quot;New Turkish Education Law," William Hale, <u>Index on</u> Censorship, March 1982.

^{**}CAUT Bulletin, op. cit.

eastern and central Anatolia, where library and research facilities are inferior. To refuse the rotation is to resign with no possibility of joining another university or public sector institution.* The provision, while ostensibly justifiable on egalitarian grounds, is in practice a useful way to isolate or penalize faculty members without dismissing them.

The new law also incorporates a number of laws previously enacted to regulate broad areas of student and faculty life unrelated to personnel or curriculum. Neither students nor faculty may join political parties or "any kind of parallel organization." Students may be expelled if they disrupt the university with boycotts or sit-ins, participate in "anarchical or ideological incidents," or encourage others to do so.** A dress code prohibits beards and specifies the length of mustaches. Men must wear ties, except on hot summer days. Women may not wear short skirts, boots or excessive make-up, and whatever they wear must not be of an extravagant color.

The activities of high school teachers and students are also subject to strict regulation. A law enacted in October

^{*}Hale, Index on Censorship, op. cit.

^{**} Ibid.

1983 bans teachers, high school students, and civil servants generally from forming any kind of association. In 1982 it was reported that a high school student in Eskisehir received a three-year jail sentence for smoking while the national anthem was being played.*

The 1982 Constitution assures government control over the expression and publication of ideas and research. Article 130 says that teaching staff may "freely engage in all kinds of scientific research or publication" --except where that activity is directed against the existence and independence of the State or the "integrity" or "indivisibility" of the nation. Article 26 implicitly allows the government to outlaw foreign languages. Article 27 allows it to ban foreign publications. Subsequently, a bill was enacted declaring that the mother tongue of Turkish citizens is Turkish, and banning any activity, spoken or written, aimed at using other languages as a mother tongue.

Since the coup, a number of textbooks have been banned.

In May 1983, 27 foreign publications printed in English,

Arabic, French, Turkish, German and Italian were banned.

Most are obscure publications, with the exception of the

French weekly, Le Nouvel Observateur.** Professors have been

^{*}The Guardian, September 25, 1982.

^{**}Demokrat Turkiye, July 12, 1983.

investigated for using texts translated from Western scholars. There has also been a proposal to merge the Turkish Language Association and the Turkish Historical Society and put them under control of the undersecretary of the Prime Minister. These autonomous societies have awarded prestigious prizes to scholars and writers.

In short, higher education is now designed for production and requires "nationalistic, devoted, hard working young people uncorrupted by foreign ideas."* Charged with their nurture is a well-trained civil servant, the university.

^{*}CAUT Bulletin, op. cit.

4. The Turkish Peace Association

The Turkish Peace Association was founded by the Istanbul Bar Association in 1977 as an outgrowth of the 1975 Helsinki accords which encourage independent citizens' activities. Its goals were to promote nuclear disarmament, compliance with the Helsinki agreements and the peaceful settlement of international disputes. It has protested the neutron bomb, as well as NATO plans to arm Europe with cruise and Pershing II missiles.

More than 50 mass organizations were represented on the Association's General Council. Peace Association delegates went to international conferences, sometimes at the request of the Ecevit government. Delegates from the Peace Association also attended a 1978 meeting in Athens of the Soviet-dominated World Peace Council.* Several members of the Peace Association were subsequently elected members of the World Peace Council, but this, we were told, was done in absentia (a practice which appears to be a common one within the World Peace Council). We were told that the Turkish Peace Association also had contacts with Western peace groups.

Leading members of the Turkish Peace Association were arrested in February 1982 and held in prison for ten months

^{*}END Special Report: Turkey: Peace on Trial, Merlin Press, London, 1983.

under harsh and degrading conditions before being released in December 1982. Twenty-six are now on trial, accused under Penal Code Articles 141 and 142 which prohibit forming organizations or making propaganda aimed at achieving the domination of a social class over other social classes.

All of the defendants on trial are prominent citizens in a variety of professions and organizations of importance in pre-coup Turkish life. The defendants include the President of the Istanbul Bar Association, the head of the Turkish Medical Association, the General Secretary of the Turkish Writers Union, the wife of the former Mayor of Istanbul, a former diplomat and ambassador, several former members of Parliament, and some prominent writers and journalists. The Peace Association trial has attracted more international attention than the many other mass trials now taking place in Turkey. A photograph of the defendants when they appeared in court after months of imprisonment, dressed in prison clothes and with shaved heads, aroused considerable shock and protest from their professional colleagues throughout the world.

A few of the defendants in the Peace Association trial have been charged in the Writers Union trial as well.

Charged under Article 141 for activities involving several organizations, they face the possibility of a death sentence.

One defendant --a painter named Orhan Taylan --was arrested in August on a new charge, this time of being a Communist

Party member. We were told that as he was taken from the Istanbul Court to Ankara, Mr. Taylan told the court that he had never been a member of the Communist Party: "If I ever say that I am, it's because of torture." Fifteen days later, in Ankara, he confessed to Communist Party membership.

We were allowed to attend a session of the Peace
Association trial in Istanbul on the morning of September 29.
The court sessions take place two days each week and all defendants, including those who live in other cities, must be present. The trial takes place in a courtroom within the Metris Military Prison complex and security is very tight: No papers, pencils, notebooks, cameras, or pocketbooks were allowed in the courtroom. We were the only observers that day.

The defendants sat on hard, backless benches and were not allowed to cross their legs. Uniformed soldiers stood at attention throughout the room, contributing to an exceedingly grim atmosphere. The prosecution had completed its case and had demanded prison terms ranging from eight to 30 years, and the defense was presenting its arguments. We listened for several hours although, even with the help of an interpreter provided by the U.S. Embassy, we were unable to follow the discussion. Our attendance was significant enough to be reported in the Istanbul press.* It appears that we were the

^{*}Cumhuryet, September 30, 1983.

first American observers to attend this important trial.

The Peace Association is a leftist group which seems to have a good deal of ideological diversity within its general membership. We were told that those on trial, members of the former Executive Committee, are mainly left-wing followers of the Ecevit party. They apparently are being prosecuted for their beliefs and associations, but there is also reason to believe that the authorities are using their membership in the Peace Association as a pretext to silence some prominent critics and the institutions that they represent. In the words of one sympathizer, the Peace Association defendants are "hostages, held to intimidate other Turkish reillik kriige intellectuals."

5. The Bar Association and the Right to Counsel

A decree published in August 1983 forbids the Turkish bar associations, along with other professional associations, from engaging in any activity that is not "stipulated as their objectives by the law," and in particular, any political activity.* The decree also deprives the bar associations of their autonomy by placing them under the jurisdiction of the Ministry of Justice, thus enabling the government to control qualifications for membership and decisions concerning publications.

In addition, according to a September 23, 1983 article in The New Statesman, "a new decree ensures that any lawyer who is merely charged with an offence shall be disbarred... Any lawyer brave enough to defend anyone charged under martial law risks losing his job, his freedom, and maybe his life."

Orhan Apaydin, president of the Istanbul Bar
Association, was arrested with other members of the Turkish
Peace Association. The Istanbul Bar Association is expected
to be prosecuted for not expelling him. The date of the
order to arrest the Peace Association coincides with the day
on which Mr. Opaydin agreed to represent defendants in the
DISK labor union trial. Similarly, the original defense

^{*}Cumhuriyet, August 6, 1983.

lawyer for DISK, Ercumend Tahiroglu, who was arrested and held one day shortly after the trial opened, will be tried this year for contempt of court. Nadir Latif Islam, a lawyer defending the right-wing National Action Party, was arrested and held one day. He also faces trial this year.

Two other lawyers who have been detained and tortured --for no apparent reason other than their attempts to represent defendants charged with political crimes --are Serafettin Kaya and Huseyin Yildirim.

Mr. Yildirim, a Kurdish lawyer, was imprisoned in Diyarbakir Military Prison from autumn 1981 until summer 1982. He had attempted to defend the Kurdish Workers' Party, but was himself charged under Article 125 of the Turkish Penal Code. The Article prohibits acts intended to put the State under the sovereignty of a foreign State or "to separate a part of its territory from the Administration of the State." After months of severe torture, Mr. Yildirim was released, but he was not allowed to represent the Kurdish Workers' Party. He was advised to leave Turkey, and he eventually applied for political asylum in Sweden, where he now lives.*

^{*}Amnesty International releases, February 17, 1983, and September 14, 1983.

6. The Turkish Writers Union

Members of the Turkish Writer's Union are also on trial, in large part because they have associated with DISK, the Turkish Peace Association and other associations. The Union has approximately 500 members, including most of Turkey's prominent writers.

Seventeen of the Union's directors and one member have been charged with exceeding the union's original economic and cultural objectives. The directors face sentences of between eight and fifteen years, and the member from one to five years. The defendants have apparently "illegalized" their formerly legal union by supporting the activities of other organizations, by engaging in activities that at the time were legal, but have since been made illegal. These include:

- -- supporting DISK's protests against the State Security Courts;
- -- supporting the Turkish Bar Association's attempt to abolish the death penalty;
 - -- praising the Turkish Communist poet Nazim Hikmet;
- -- participating in a May Day demonstration organized by DISK;
- -- having relations with DISK, the Turkish Peace
 Association and other organizations which at the time were
 also legal.*

^{*}Cumhuriyet, January 6, 1983.

7. The Press

A Turkish journalist told us that being a reporter in Turkey today is like being a sailor: "Each day you test the water, check the tides, get the smell. If the weather is favorable, you sail right in. If someone has been victimized, you pull back. You learn to ride with the current."

Not all the journalists we met, however, were as resigned to what they described as a nerve-wracking system of censorship and self-censorship that has effectively throttled freedom of the press. One publisher described his newspaper as suffering from an "identity crisis" with columnists taking different paths: Some retreat into allegory, others seek subjects of no political significance, still others support the restrictions and write as they are told.

An editor explained: "Orders are telephoned in each day. We are told not to criticize the decrees of the generals, or the election procedures. We can't write about prison conditions or hunger strikes. If we get permission to attend a trial, we have to obey the press restrictions. We can't report testimonies in court about torture, and we can't even say that we have been prevented from reporting certain things. Our readers may not even know that we are writing under censorship."

Notices of forbidden topics are tacked up daily on newspaper bulletin boards: "There are so many; we might

forget." Some journalists actually phone the authorities in advance to find out if a subject is permissible. They don't want to be responsible for having their papers closed down; frequent closures can drive a newspaper, which must by law continue to pay its workers, into bankruptcy.

Several journalists told us about an "art of coexistence" that has developed between the authorities and the press. We were told that when his newly formed Social Democracy Party was barred from the election, Mr. Erdal Inonu issued a statement to the press. One newspaper called the authorities and was told not to publish it. The authorities called all the other newspapers, and the statement was never published. Mr. Inonu is nevertheless being tried, and the fact that he distributed the statement is among the charges against him.

Certain Turkish newspapers were permanently closed soon after the 1980 coup: Aydinlik and Democrat on the left, and Hergun on the right. The publisher of Aydinlik was sentenced to two years imprisonment for "insulting the armed forces."*

In the weeks preceding the 1982 referendum, discussion of the final version of the Constitutuion was strictly curtailed. Similarly, Turkey's preparation for the 1983

^{*}Country Reports for 1982, op. cit., p. 1012.

elections has been accompanied not by greater freedom of debate but by investigations, prosecutions and imprisonment of journalists, and by temporary closings of newspapers on the left, the right and the center.

Nadir Nadi, for example, 75-year-old publisher of the left-wing daily <u>Cumhuriyet</u>, was sentenced to 2 months and 20 days in prison in May 1983 for reprinting a 22-year-old article that opposed a plan, similar to one now being considered, to put the autonomous associations of history and language under state control. <u>Cumhuriyet</u> was closed for three weeks in January after the article appeared. Mr. Nadi has since been acquitted after an appeal by the Turkish Ministry of Defense. This was, apparently, in response to international protests and has been attributed in particular to an unusual event --the attendance at Mr. Nadi's trial of Mr. Daniel Newberry, U.S. Consul General in Istanbul.

Oktay Akbal, a columnist for <u>Cumhuriyet</u>, has also been sentenced, in his case for criticizing the draft

Constitution. He started a three-month term in August for an article entitled "Our Duties as Citizens."*

The conservative daily paper, <u>Tercuman</u>, was closed for 23 days in August after a series of articles by columnist
Nazli Ilicak, wife of <u>Tercuman's publisher</u>, denounced

^{*}The New York Times, August 29, 1983.

dictatorships and praised parliamentary democracy. "Turkey has spent 100 years fighting for democracy. Sometimes the sun of democracy has disappeared but later reappeared because each night always comes between two days," she wrote. Mrs. Ilicak is now charged with inciting people to rebellion and insulting the government. She could receive a sentence ranging from 18 months to eight years. In 1982 she spent three months in prison for violating Martial Law Decree 52.**

Also closed for ten days in August was the centrist daily, Milliyet, after a columnist, Metin Toker, observed that Turkey would not be considered a democracy if it refused to allow the new Social Democracy Party to participate in the elections. Mr. Toker, a conservative who had been sympathetic to the coup, is now serving a three-month sentence for having criticized a decision by the ruling junta.*** According to his friends, he is, understandably, disillusioned. "If you cannot write freely," a journalist told us, describing what he considered to be a general feeling among journalists, "then what's the point of writing at all?"

^{*}Ibid.

^{**}Country Reports for 1982, op. cit.

^{***} The New York Times, August 29, 1983.

Nokta, a popular political weekly was closed for about 10 days in August 1983. It had published an interview with the leader of the True Path Party, which already had been "vetoed" by the junta for its unlawful resemblance to the prohibited party of former Prime Minister Demirel.* In June 1983, an issue of Yanki was removed from circulation for "contravening the Martial Law Command's orders."**

Ideas published abroad fare no better. Former Prime

Minister Ecevit was sentenced in July 1982 to three months in prison for an interview he gave to a Dutch television station and an article he wrote for Der Spiegel. They were found to be violations of Martial Law Decree 52.

Mr. Ecevit maintained that he did not violate Decree 52 in the television interview, either because the journalists "were more concerned with current issues...than the past or future of Turkey; or because these journalists, who knew of Decree 52, were considerate enough to refrain from asking my views on 'the past or future political or legal structure' of my country so as not to cause trouble."*** The article in Der Spiegel concerned Kemal Ataturk, founder of the Turkish

^{*}Ibid.

^{**&}lt;u>Hurriyet</u>, June 8, 1983.

^{***}Bulent Ecevit, Defense Testimony Before the Military Court in Ankara, July 6, 1982.

Republic. Mr. Ecevit's defense was that he had expounded

Ataturk's, and not his own, understanding of past and future

political structures of Turkey.

That he was forced to defend himself in such a manner is in itself troubling. Mr. Ecevit stated in court: "I find it embarrassing on behalf of my Nation, for a politician who has served as Prime Minister, Minister, member of parliament and party leader, to have been put in a position where he has to defend himself on the grounds that he 'did not express his views on the past or future political or legal structure' of his country; on the grounds that he did not commit such a 'crime'...I do not believe that this would add to the prestige of the Nation."*

Foreign journalists stationed in Turkey have their own complaints: "This is a horrible country for quoting people," one journalist told us. "If you quote them, they go to jail."

Leaving the country to write elsewhere may also be barred by the military authorities. Ismet Imset, a 24-year-old Turkish journalist employed by United Press International, wanted a passport to go to London for a training course. When he applied at the police passport office in March 1983, he was blindfolded, beaten and

Ibid.

ultimately released. After complaining about this to UPI and the American Embassy in Ankara, he was promised a passport by the authorities, only to be disappointed again and again. In July he was told that he must await trial on a five-year-old charge of having ties to groups trying to overthrow the government.* It is believed that the pending trial, which essentially bans him from traveling abroad, is in retaliation for his complaint about his treatment at the police station, treatment which may well have been intended to intimidate other Turkish nationals from working for foreign news agencies.

A new press law under consideration at the time of our visit would allow for local officials to seize a newspaper before it is released and afterwards to inform the court, which would have 48 hours to decide how long the paper was to be closed. None of the journalists we met seemed comfortable discussing the provisions of the law. A draft reportedly provides for stiffer sentences for certain offenses, such as a minimum jail sentence of one year for editors who refuse to reveal the name of the author of an unsigned article.**

According to an article in <u>Cumhuriyet</u> on June 16, 1983, the draft press law sets jail terms of from six months to two

^{*}The Washington Post, July 16, 1983.

^{**}The New York Times, March 27, 1983.

years; allows the public prosecutor's office to confiscate not only publications but printing equipment; prohibits publication about legal investigations or indictments before such information is released in the courtroom; requires special permission to publish newspapers or any other material by foreign nationals; stipulates that executive editors may be punished by jail terms under a section concerning "responsibility for crimes committed through the press;" and provides fines and jail terms for persons smuggling into or distributing within Turkey publications printed in foreign countries which are deemed hostile to the state.

Revealing his exasperation with the myriad of directives and decrees that affect him, one newspaper editor told us that he had read the draft press law once and then thrown it away. He said that the press in Turkey is still much more free than the press in Poland, the Philippines, or Chile. "But we were once much freer. In the last 20 years we became used to thinking by Western standards."

Another editor, a man who had initially supported the coup and the suspension of democratic freedoms and who still believes that Turkey needs "some kind of authoritarianism," has learned the hard way: "When you lose your freedom, you suddenly notice that it is something. We are safe now, but we are not free." His work has been profoundly affected:

"As an editor, life is really difficult for me. There are no

definite rules. In order to function you have to pretend you're the martial law government, to feel and think like them. It's inhuman, degrading, dishonest."

III. THE LEGAL BASIS FOR REPRESSION

"First we have to realize that, as is true elsewhere in the world, the strongest force to improve human rights practices is democracy." --Statement on Turkey by Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs, before the Subcommittee on Human Rights and International Organizations of the House Foreign Affairs Committee, April 14, 1983.

Turkish military authorities, trapped by their own promises at the time of the 1980 coup and by U.S. expectations of a "transition to democracy," are making a parody of the democratic process. The content of the new Constitution, as well as the conditions under which it was ratified, cast a large shadow over the overwhelming vote of approval it received in 1982. The Constitution paved the way for parliamentary elections in 1983, but well before the elections were to be held it became clear that they would not present a real choice. Thus, despite semblances of democracy -- a popularly-approved Constitution and a three-party general election -- the Constitution and numerous ad hoc laws and decrees enacted after the coup have institutionalized martial law practices in the Turkish legal structure. In addition, the new regime relies excessively on certain antiquated, and highly undemocratic, provisions of its penal code, some dating back to the 1930s and modeled after the Italian penal code under Mussolini.

1. The 1983 Elections

On April 29, 1983, General Kenan Evren, head of Turkey's military junta, set a date --November 6, 1983 --for the general elections. They are the first elections since General Evren and his military forces seized power in September 1980 and abolished the parliament. The United States State Department was pleased with the announcement of the elections: "We welcome this development and applaud the steadfastness shown by the Turkish Government in carrying out the return to democracy," said Alan Romberg, a State Department spokesman.*

The announcement of the elections was not without some preparation. In the weeks and months prior to the announcement, General Evren's military government had been purging the country of even mild opposition to its rule.

University professors, for example, were fired for being too leftist, a newspaper was closed for three weeks for reprinting a 22-year-old editorial concerning the need for independent cultural institutions, and an actress was tried on the charge of "condemning the Republic" for reading two poems by a Turkish Communist poet, Nazim Hikmet, at a meeting in Paris to honor his birthday.**

^{*}The New York Times, April 29, 1983.

^{**}Milliyet Sanat, March 1, 1983.

All political activity had been banned in Turkey since the coup. Political parties in existence at the time of the coup had been outlawed, and some 240 individual leaders had been barred from all political activity for a ten-year period. The rules announced by General Evren in April stipulated that only new parties would be permitted to participate in the election, and only as long as they did not resemble the old ones.

Under the election law promulgated by the military regime, parties could submit applications beginning May 16. To participate in the election, a party would have to organize in at least half of Turkey's 67 provinces, and at least 30 of its founding members would have to be "approved" by the ruling National Security Council by August 24.

The first party to register was the Nationalist

Democracy Party, headed by a retired general, Turgut Sunalp,

and joined later by Prime Minister Bulent Ulusu. It is

described as "centrist" and said to support membership in the

Atlantic alliance and the European Economic Community, better

relations with Moslem countries, * and to have as a "main aim"

the combatting of Communism. ** It is openly backed by the

current military regime, and its founding members, of

^{*}The New York Times, May 16, 1983.

^{**}The Washington Post, August 20, 1983.

course, gained the requisite approval.

The numerous other parties that applied, however, were not as successful, even those with reportedly widespread support. Barely two weeks after the application period had opened, the National Security Council banned the Grand Turkey Party. At the same time, 16 politicians --among them, former Prime Minister Suleyman Demirel --were banished to a military base in Canakkale where they were held under arrest for three months and released on September 30, just five weeks before the elections. The Grand Turkey Party, General Evren explained, closely resembled Mr. Demirel's Justice Party. other words, it was a former party, and former parties had been outlawed. Perhaps the elections would be postponed, General Evren warned, should former political leaders try to use new parties as a way to regain power.* To further deter them, as well as "extremists," from gaining power, the National Security Council a few days later gave local martial law commanders authority either to confine persons regarded as a threat to national security to their home districts, or to expel them to restricted areas, where they would be forced to live for five years.** And on June 13, the National Security Council published an elections law amended so that

^{*}The New York Times, June 2, 1983.

^{**}The New York Times, June 5, 1983.

the generals could veto not only new party members, but their chosen candidates as well.

On June 23, the National Security Council banned 21 founding members of another party -- the Social Democracy Party, headed by Prof. Erdal Inonu, an American-trained nuclear physicist and son of Turkey's second president, Gen. Ismet Inonu. The Social Democracy Party was said to continue the traditions of the Republican People's Party of former Prime Minister Bulent Ecevit. The Social Democracy Party and the True Path Party -- another new party said to have links to Mr. Demirel -- may well have enlisted the popular support that had once gone to the two mainstream parties that dominated Turkish politics in the decade before the coup. Both parties were eliminated from the elections when their final lists of founding members were vetoed. They continue to have legal status, but recent legislation, barring the participation of any new parties in municipal elections, effectively precludes them from the electoral process for the next five years.

By September, twelve of the fifteen political parties that had sought to participate in the elections had been eliminated. According to The New York Times of September 22, 1983, 672 prospective candidates had been vetoed from a total of 883 that had been proposed. Of the 883 candidates, 400 were put forward by the three approved political parties and 483 were independents.

Not only were the parties not to participate in the election, their views were not to be publicized. In August, the National Security Council temporarily shut down Nokta, a popular political weekly, after it published an interview with the leader of the True Path Party. The centrist daily, Milliyet, was closed for ten days and a columnist, Metin Toker, was tried and sentenced for warning that Western organizations would be skeptical of Turkish democracy if it eliminated the Social Democracy Party.* Mr. Inonu was summoned to martial law headquarters in Ankara because he had asserted that, given the political crackdowns, democracy would not be restored. He now faces trial, among other things for sending his views to the newspapers, even though the papers were prevented from publishing them.** In this way, parties were eliminated, reports silenced, and critics punished.

From this process, only two parties emerged as fit, from the junta's point of view, to challenge its favored party, the Nationalist Democracy Party. One, the Populist Party, has also been favored by the generals as the "loyal opposition." Considered left of center, it is headed by Necdet Calp, a former governor, who until March was an

^{*}The New York Times, August 29, 1983.

^{**}The New York Times, August 21, 1983.

Under Secretary to the Prime Minister. The other, the Motherland Party, is headed by Turgut Ozal, a conservative economic reformer who until the summer of 1982 was a Deputy Prime Minister under the junta. Mr. Ozal's role in the election is unclear. Some believe that, as the only apparently independent candidate, he may attract both left and right in a "protest vote." Others believe that Mr. Ozal has already agreed, or will soon agree, to a coalition government under Prime Minister Ulusu.

As a Turkish journalist commented, "the left will have the sad choice of voting for puppet Calp or casting blank ballots ... 40 percent of the Turkish electorate is thus being disenfranchised."* Almost without exception, each of the scholars, journalists and other professionals whom we met during our September visit to Turkey expressed concern about how to cast his or her ballot in what was frequently described as "the election farce." "If I leave my ballot blank," we were told in one interview, "it might be filled in by the people who do the counting. The only alternative is to vote for all three candidates and thus invalidate the ballot."

Another Turkish journalist put it this way: "I will vote for everyone, since Evren likes them all so much." He

^{*}The Christian Science Monitor, September 6, 1983.

went on to compare the Turkish elections with the "lifting" of martial law in Poland: "We will continue to have martial law in another guise --General Evren in civilian clothes, instead of a uniform."

Despite this criticism, there appeared to be no organized campaign urging citizens to invalidate their ballots; organizers of such activity would quickly be picked up and imprisoned. We also encountered some cautious optimism about the elections, a hope that the 400 deputies to parliament might after a time form their own connections with various interest groups and thus become more representative.

Regardless of which party gains control of the 400-seat parliament, General Evren and the National Security

Council will retain significant power. This is ensured by the 1982 Constitution, which designates General Evren as civilian President for seven years, gives him the right to dissolve the parliament, and designates the National Security Council generals as his advisers. In addition, on October 22, two weeks before election day, General Evren announced that martial law will remain in force in Turkey "for some time" after the elections because of a "threat of terrorism."*

^{*}The New York Times, October 23, 1983.

2. The 1982 Constitution

"It looks like an imperial edict rather than a constitution." --Hasan Isik, former Defense Minister and Foreign Minister, The New York Times, October 22, 1982.

The first Constitution of the Turkish Republic was enacted in 1924, in reaction to the "long struggles against the sultans." It was intended to create a strong legislative body, assuming that "there would be no need to protect the nation against its own true representatives." As it turned out, however, a number of civil liberties abuses stemmed from the unbridled legislative powers it provided: "It was not impossible for the legislators to pass laws which would render civil liberties meaningless."

In 1961 a new Constitution was enacted, one that was designed in part to curb majoritarian abuses of civil liberties. It provided a more detailed Bill of Rights to limit legislative attempts to restrict civil liberties.

Essential in this was a provision for judicial review so that the legislature could not simply override the Constitution.**

The 1961 Constitution has since been criticized for

^{*}Introduction to Turkish Law, ed. by Tugrul Ansay and Don Wallace Jr., Society of Comparative Law, Ankara, Turkey; Dobbs Ferry, N.Y., Oceana Publications, Inc., 1978, pp. 27-29.

[&]quot;" <u>Ibid.</u>, pp. 28-30.

helping to create parliamentary deadlocks that eventually led to the crisis of leadership that preceded the 1980 coup.

Instead of amending provisions of that Constitution, however, General Evren presented a new Constitution in 1982, one that concentrates excessive power in the executive branch, removes checks to that power, and restricts the Bill of Rights.

Defenders of Turkey's new Constitution, the U.S. State Department among them, like to point to the fact that it was ratified in November 1982 by 91 percent of the Turkish voters. This is seen as further evidence of Turkey's steadfast march toward democracy under its current military leadership. The evidence deserves examination, both of the document and of the circumstances under which it was ratified.

On September 12, 1980, General Kenan Evren, who until that day had been Chief of the Turkish General Staff, declared himself head of state in a "bloodless coup," and, with the help of his armed forces, abolished the Grand National Assembly. General Evren and the heads of the Turkish Army, Air Force, Navy and Gendarmerie formed a National Security Council and assumed the functions of the dissolved parliament. They extended martial law to the few areas where it was not already in effect, and a flurry of law-making ensued.

First, the National Security Council issued the "Law on the Constitutional Order," which ensured that General Evren and his four new council members would retain their seats and functions, executive and legislative, until a new parliament, to be formed later, resumed the work.* Another law allowed martial law commanders broad discretion to restrict freedoms —of the press, association and assembly, in particular. For example, one could be sentenced for up to two years in prison for propagating "erroneous, unfounded or exaggerated information in a manner to create alarm or excitement among the public," and the penalty would be double if this were done through the news media. Criminal laws were to be enforced by the military, in military courts, and sentences of up to three years could not be appealed.**

One extraordinary provision stated that in the event that a National Security Council action conflicted with a provision of the existing 1961 Constitution, it would be regarded as a constitutional amendment and would prevail. With such "actions" occurring regularly, one could hardly know from one day to the next what was constitutional and what was not. The country was no longer governed by its written Constitution.

The purpose of all this, according to General Evren, was to put an end to terrorism and to reestablish a "secular

^{*}Country Reports for 1981, op. cit.

^{**}Amnesty International 1981 Report.

republic, based on sccial justice, individual rights and freedoms, and human rights."* But the means employed -- to punish with no distinction between violent and non-violent acts and to do so even before a person has been charged, to limit the ability of guilty and innocent alike to defend themselves, and to permit torture -- were hardly humane or sensible.

Assembly appointed by the military. Criticism of the draft was allowed to some extent. Criticism of the final version was banned, but it was to this version that a number of controversial provisional articles were added. Those who urged citizens in the streets to vote "no" were reportedly arrested. Ballots were white "to approve" and blue "to reject," and the envelopes into which they were to be slipped were translucent.** "It was a truly open referendum," a Turkish professor explained to us with a smile. "Everyone could see how people voted."

General Evren promoted the Constitution on television, reminding voters of the pre-coup violence: "If you don't forget these days, then history cannot repeat itself," he

^{*}Country Reports for 1980, op. cit.

^{**}The New York Times, June 2, 1983.

said.* This was an effective tactic on the General's part, and, indeed, many who voted for the Constitution were voicing confidence in the regime that had restored law and order in Turkey. Others were responding to General Evren's hints that he and his martial law regime would remain in power if the Constitution were rejected. The "choice" for them was between General Evren with a Constitution and the possibility of eventual democracy, and Evren with no chance of democracy at all. Given all these factors, it is not surprising that the Constitution and General Evren were approved by 91 percent of the voters.

It is hard to say what the new Constitution guarantees, since the "guarantees" of fundamental rights and freedoms are accompanied by lengthy lists of exceptions, entire areas, vaguely described, in which rights and freedoms are not guaranteed.

-- Freedom of the press is guaranteed, EXCEPT that anyone:

"who writes or prints any news or articles which threaten the internal or external security of the State or the indivisible integrity of the State with its territory and nation, which tend to incite offense, riot or insurrection, or...who prints or transmits such news or articles to others...shall be held responsible under the law relevant to these offenses...Periodicals published in Turkey may be temporarily suspended by court sentence if found guilty of publishing material which contravenes

The New York Times, November 9, 1982.

the indivisible integrity of the State with its territory and nation, the fundamental principles of the Republic, national security and public morals." (Article 28)

This press provision would seem to establish, if anything, not a guarantee of freedom of speech, but penumbras of unprotected speech. It resembles Article 142 of the Turkish Penal Code, which makes it a crime to issue propaganda "with the purpose of establishing the domination of one social class over others." The Penal Code is vague and has been used repeatedly, both before and after the coup, to close newspapers and jail journalists who criticize the government or its policies; its vagueness is effectively sanctioned in the new Constitution.

Other constitutional provisions guarantee that certain individuals, or groups of individuals, will not enjoy the freedoms of association and assembly. Most striking about these provisions is that they preclude the most traditional forms of political participation to individuals and groups most likely to exercise them.

-- The right of association is guaranteed to every individual EXCEPT that associations may not:

"pursue political aims, engage in political activities, receive support from or give support to political parties, or take joint action with labor unions, with professional organizations or with foundations... Associations deviating from their original aims or conditions of establishment, or failing to fulfill the obligations stipulated by law shall be considered dissolved." (Article 33)

-- The right to march in demonstrations is guaranteed,

EXCEPT that:

"associations, foundations, labor unions, and public professional organizations shall not hold meetings or demonstrations marches exceeding their own scope and aim." (Article 34)

- -- According to Provisional Article 4, persons who were political party leaders as of January 1, 1980 and thereafter may not form, become members of, or assume any functions in new parties for 10 years after the enactment of the Constitution. The same applies for a five-year period to those who were members of the Turkish parliament as of that date.
- -- According to Article 76, Judges, prosecutors, professors, and public employees may not run for election unless they resign from their positions.

In addition to the lengthy provisos attached to the exercise of individual rights, there are three general articles that are provisos in themselves. One lists a number of vague "aims" to which no rights or freedoms attach. The second and third articles say that rights and freedoms may be restricted and suspended in circumstances that could be interpreted to apply to just about any situation:

-- No rights or freedoms:

"shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or

creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas..."

-- Fundamental rights and freedoms:

"may be restricted by law, in conformity with the letter and spirit of the Constitution, with the aim of safeguarding the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, public interest, public morals and public health, and also for specific reasons set forth in the relevant articles of the Constitution." (Article 13)

Fundamental rights and freedoms may be partially or entirely suspended "in times of war, mobilization, martial law, or state of emergency..." (Article 15) A state of emergency may include a "serious economic crisis." (Article 119)

In short, it is hard to have even a general idea under the new Constitution of what one's rights really are or when they may be exercised. Nor does the structure of government offer much reason to believe that government abuses of rights can be checked. For example, Article 125 states that "acts of the President of the Republic in his own competence, and the decisions of the Supreme Military Council, are outside the scope of judicial review." The President may also dissolve Parliament, call for new elections and submit amendments to referendum. And, as mentioned before, the Constitution guarantees General Evren a seven-year term as civilian president.

To put it mildly, the new Constitution creates a

"strong executive." Yet Elliott Abrams, in his April 14, 1983, testimony at Congressional Hearings said that too much criticism of the "strong executive" feature of the new Constitution "is unjustified," and called the Constitution "quite democratic." He observed that "our own Constitution certainly has been a great model of a strong executive," ignoring the fact that it also has a system of checks and balances. Mr. Abrams commented: "Unlike many military regimes throughout the world, the military authorities in power, Turkey have never intended to remain in power ... "

3. The Penal Code and the Martial Law Decrees

"...as far as I know, I am the only politician in Turkey or in the world who is tried or sentenced for having expressed views on 'the past or future political or legal structure' of his country. Such a concept of crime is not known to the world. Such a concept of crime is an original contribution of the present Turkish administration to the world of law." --Former Prime Minister Bulent Ecevit's defense testimony, July 6, 1982.

Generally, political prisoners are charged with terrorism, or with supporting extremist organizations ("extremist" includes labor unions, the Turkish Peace Association and ethnic groups), or with anything that resembles an effort to overcome a "basic economic or social order" of the State, or an effort to "speak favorably" of doing so. The charges usually fall under certain specific articles of the Penal Code or under certain Martial Law decrees of the past few years that often appear to have been issued to meet a specific problem and apparently would prevail over the Constitution, should a conflict ever arise.

The Penal Code articles were enacted in the 1930s for use against Communist groups* and have been a source of controversy ever since. They were used in the 1960s and 1970s, primarily against leftists. The Turkish Bar Association has asked for their abolition, as did former Prime Minister Ecevit's party in 1978. They survived a

^{*}Turkey: A Country Study, op. cit.

challenge under the 1961 Constitution; undoubtedly they would survive a challenge under the 1982 Constitution, which seems to share their underlying values with respect to the balance between "order" and "liberty." As one prominent lawyer told us: "These articles have always been a danger. If one wants to use them, they are always there."

These are flexible laws. They can be used by martial law authorities to isolate, punish or destroy just about any political opponent:

- -- Article 141* forbids individuals to form or attempt to form or to have anything whatsoever to do with the activities of an organization aimed at establishing the supremacy of one social class over another, or at abolishing a social class or at abolishing any of the basic economic or social principles of the country. Punishment under Article 141 runs from eight to 15 years -- and even to death for individuals involved in such organizations. Membership alone may be punished by five to twelve years.
- -- Article 142 prohibits "propaganda" in support of actions prohibited under Article 141. Punishment runs from five to 10 years. Even speaking favorably of propaganda can result in imprisonment for six months to two years.

^{*}Translations of the Penal Code Articles are from The Turkish Criminal Code, Intro. by Dr. Neuzat Gurell; Fred B. Rothman & Co., South Hackensack, New Jersey, 1965.

Punishment is increased by one-half if the offending idea is published.

Articles 141 and 142 are frequently used against leftist activists, journalists, publishers, translators, and scholars.

- --Article 146 prohibits attempts by force to change the Constitution, in whole or in part, or to hinder the functioning of Parliament. It also prohibits advocating, encouraging or helping such action, whether one does so in writing, orally, or "by affixing posters." The punishment, in all cases, is death, even if the action "does not result in the committing of the crime." Article 146 is the article used against "terrorists." It makes no distinction in punishment between advocating terrorism or committing a terrorist act.
- -- Article 140 forbids publishing or giving in a foreign country false or exaggerated news or information about the internal affairs of the State, information that would compromise its prestige or influence abroad. The punishment is imprisonment for not less than five years. The same punishment applies to anyone who engages in any activity detrimental to national interests. This article was rarely used before the coup.
- -- Article 125 has been used against the Kurdish minority, which is generally charged with "separatism." It punishes by death anyone who tries to put part or all of the

State "under the sovereignty of a foreign State," to decrease the State's independence, or to separate a part of its territory from the Administration.

--Article 163 has been used against right-wing religious political parties and Islamic religious sects. It punishes activities in connection with societies when the intent is to adapt, "even partially, the basic social, economic, political or judicial orders of the State to religious principles and beliefs." The punishment runs from six months to seven years depending on the degree of involvement. Leading members of the National Salvation Party received sentences of from two to four years under this Article in February 1983.

-- Finally, there are the numerous martial law decrees, the most astounding of which is probably Martial Law Decree Number 52. That law prohibits persons from expressing views "in accordance with their own understanding" on the "past or future political or legal structure of Turkey." It was briefly modified to allow criticism of the 1982 draft Constitution, but not of the final version. Decree 52 also prohibits commentary on trials and investigations of political or labor leaders. **

^{*}Bulent Ecevit, op. cit.

^{**}Country Reports for 1981; 1982, op. cit.

IV. THE U.S. ROLE

"Turkey's ties to the West must not rest solely on shared security interests. We must also share common goals, and social and political values. A repressive Turkey, based on weak democratic principles and institutions will not, in the long run, be the effective eastern bastion of the NATO alliance which we all hope it to be. Turkey, to be a truly effective and stable alliance partner, will need to end its repressive measures and return to the rule of law which is the only real safeguard of democracy and liberty, two of the most important principles linking Turkey to its NATO allies."

—Staff Report on the Human Rights Situation in Turkey, Commission on Security and Cooperation in Europe, October 1982.

"Section 502B of the Foreign Assistance Act prohibits security assistance to a country whose government 'engages in a consistent pattern of gross violations of internationally recognized human rights' unless there are extraordinary circumstances. We do not believe that this is descriptive of Turkey." --Richard Burt, Assistant Secretary of State for European Affairs, in a letter to Helsinki Watch, April 4, 1983.

Turkey is the third largest recipient of United States military and economic aid. If the aid package requested for Turkey by the Administration for fiscal year 1984-85 is approved -- and there is every reason to assume that it will be -- our aid to Turkey will rise to nearly one billion dollars next year. This includes \$759 million in military assistance and \$175 million in economic aid. Only Israel and Egypt receive more.

Despite the fact that the European Economic Community, in response to Turkey's human rights abuses, has withheld an aid program of \$625 million from Turkey since 1981, despite the

provisions in our own Foreign Assistance Act prohibiting economic and military aid from the U.S. government to gross human rights offenders, the Reagan administration continues to increase its financial support to Turkey.

One glance at a map explains Turkey's strategic significance. Poised at the crossroads between Europe and the Middle East, sharing boundaries with Greece, Bulgaria, the Soviet Union, Iran, Iraq and Syria, Turkey is a crucial and potentially vulnerable NATO outpost. Its position is even more important now that Iran is no longer a site for U.S. bases and the Papandreou government has expressed misgivings about the presence of U.S. bases in Greece.

Twenty-five of NATO's 88 divisions are in Turkey. U.S. and Turkish intelligence agencies share electronic surveillance facilities in Turkey that monitor Soviet military operations across a sea and land border that runs some 1,000 linear miles. American security interests in Turkey have been described as "very direct and specific:"

The United States maintains electronic monitoring facilities there that provide valuable intelligence on the Soviet Union; enjoys landing and overflight rights; has F-4 squadrons at Incirlik Air Base near Adana; uses Turkey for Sixth Fleet port calls; is committed to sending troop reinforcements during an emergency; keeps several thousand U.S. servicemen in the country; and needs Turkish cooperation to counter any Soviet push toward the Middle East oil fields.*

^{*}Ludington, Spain, op. cit., p. 162.

Because of its commitment to Turkey, the U.S. State

Department was much alarmed by the political and economic
turmoil in Turkey before the 1980 coup, especially because
Turkey's pre-coup civilian governments were not always
sympathetic to U.S. military interests. The advent of
General Evren and a military junta committed to subdue
terrorism and eager to accept U.S. financial assistance did
much to allay the U.S. government's concerns. James Spain,
U.S. Ambassador to Turkey at the time of the coup, described
the U.S. response:

"On September 12...we in the Embassy faced a judgment about what was happening and what it would mean for the United States for the future. We made a judgment very promptly that this would, in fact, return Turkey to democratic government."

Although Turkey's passage to democracy seems increasingly remote as the years go by, the U.S. government has stood by its initial judgment. Its encouragement and publicly-expressed support has bolstered the Evren regime: In October 1982 Turkish Foreign Minister Ilter Turkmen announced that Turkish-American relations had never been better.**

U.S.-Turkish relations have improved, however, at the expense of our ties with Western Europe. Disagreements

^{*}Spain, <u>Hearings</u>, <u>op</u>. <u>cit</u>., p. 16.

^{**}Ludington, Spain, op. cit., p. 163.

within NATO over policies toward Turkey are damaging the alliance as well.

In September 1983, the Council of Europe's Political and Legal Affairs Committee, in response to human rights violations and to the banning of parties from the Turkish elections scheduled for November, passed a resolution that the parliament to be elected on November 6 would not "be considered as representing the Turkish people in a democratic manner," and therefore would not be permitted to participate in the work of the Council's Parliamentary Assembly.

In October, the resolution was approved by the Council's Parliamentary Assembly. The European Parliament passed a similar resolution with some minor changes and extended the freeze on EEC aid to Turkey. It is generally assumed that, unless the Turkish government takes major steps to improve its human rights record or withdraws from the Council on its own, Turkey will be expelled from the Council of Europe by the end of 1983.

Both the Council of Europe and the European Parliament are awaiting the outcome of complaints filed by Denmark, France, the Netherlands, Norway and Sweden in July 1982 with the European Commission of Human Rights in Strasbourg. The complaint is now in mediation, and Turkey's response to it is confidential.

The complaint was filed under Article 24 of the

European Convention on Human Rights. It alleged that the Turkish military government had violated a number of the Convention's Articles, including its prohibition of torture and its guarantees of liberty and security of person, the right to a fair trial by an impartial tribunal, and freedom of thought, conscience, religion, expression and association. The complaint also noted that there was no "public emergency threatening the life of the nation" — the justification Turkish military authorities had given for their actions.

The U.S. State Department immediately criticized the European countries' complaint, calling it "shortsighted"* and questioning "whether filing applications of this kind is the best way to promote human rights in Turkey."** It reiterated its belief that "the Turkish government is moving in good faith to implement its schedule for a return to stable parliamentary democracy and full constitutional freedoms."***

U.S. defense of Turkey has not only been a source of discord between the United States and its West European allies, it has also damaged the credibility of U.S. human rights policies elsewhere. This was especially evident at

^{*}The New York Times, July 10, 1982.

^{**}Department of State Daily Press Briefing, July 9, 1982.

^{***} Ibid.

the Helsinki review talks in Madrid when the United States strongly condemned the imposition of martial law in Poland, only to be reminded by the Eastern bloc countries and certain neutral and nonaligned nations about the situation in Turkey.*

The widely-distributed February 1982 USIA television program "Let Poland Be Poland" was ridiculed in Europe, and even among some of the very people whose cause it was intended to serve, because the Turkish Prime Minister appeared on the screen condemning martial law in Poland.

Among other things, the U.S. administration's steadfast support of Turkey reflects its concern about meeting certain provisions of the U.S. Foreign Assistance Act, especially Section 502B which prohibits security assistance to

"a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance."

The section goes on to say that in preparing any report or statement on a country's human rights record, consideration should be given to

"(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

^{*}CSCE Report, op, cit.

(2) the extent of cooperation by such governments in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights."

assistance in Section 116 of the Foreign Assistance Act. In addition, the House Foreign Affairs Subcommittee on Europe and the Middle East recently placed conditions on its foreign aid bill which are expected to be approved in conference committee. The conditions stipulate that aid to Turkey cannot be raised above the 1983 level unless the President certifies that (1) additional military assistance is needed for Turkey to fulfill its NATO obligations; (2) Turkey is taking steps to settle the Cyprus conflict; and (3) Turkey is implementing a program for prompt return to democratic rule and internationally recognized human rights.

On the basis of the information we have assembled in this report, one might argue that Turkey is engaged in a consistent pattern of gross abuses of internationally recognized human rights. Moreover, Turkey has reportedly denied access to Turkish prisons on at least two occasions to the International Committee of the Red Cross and to other international organizations as well. If that is the case, Sections 116 and 502B of the Foreign Assistance Act would require the termination of all United States military and economic aid to Turkey except aid to meet basic human needs.

Such a cutoff of aid to a strategically important ally

would clearly be a drastic step. In the view of Helsinki Watch, there is much that could be done short of such a drastic step. To begin with, the State Department should change its policy of unqualified support for Turkey and speak out vigorously about human rights abuses there, using its considerable leverage with the Turkish government to bring about real change in policy and practice.

Instead, the State Department has backed itself into the impossible position of trying to justify the performance of the Turkish government. On April 14, 1983, Elliott Abrams, Assistant Secretary of State for Human Rights, testified at hearings on human rights in Cyprus, Greece and Turkey held by the House Foreign Affairs Committee's Subcommittee on Human Rights and International Organizations. Using his own Department's Country Report on Turkey, which contains more than ample evidence of human rights abuses in Turkey, Mr. Abrams chose to discuss Turkish repression in as understanding a light as possible, anticipating criticisms and answering them as best he could.

--Mr. Abrams found it "confusing" that the election of General Evren as President was part of the Constitutional referendum; he "would personally have preferred" that it had been done separately. On the other hand, General Evren would have won in any case "by an enormous margin" in "an election of the ordinary type."

-- The Constitution itself is "quite democratic,"

according to Mr. Abrams. It has been criticized because it has a strong executive, but that is "a reaction against the Constitution of 1961" and "our own Constitution certainly has been a great model of a strong executive."

--"Unfortunately torture has not yet been fully eliminated in Turkey" but "we take encouragement from the fact that the present government has publicly condemned torture...It is the first Turkish government to admit that there were cases of torture and to punish the people responsible for it."

--Censorship has been the military's response "to a sense that there should be a clean break between the previous period of political strife...and the new period." This is something "we can understand," while not believing that it "justifies all of the particular cases where journalists have been charged." In any case, the present period is "transitional" for Turkey, and it is Mr. Abrams' "hope that this limitation on press freedom will similarly be temporary."

--The Evren government is trying to "insulate the universities from politics." "If this is successful, it will create the necessary conditions for academic freedom." Of course the "extreme measures" used to do this "are distasteful to Americans." While Mr. Abrams is "dubious" of the claim that they were necessary to achieve a non-political campus, it is "not one that I can dismiss...given the record

of violence on Turkish campuses."

In concluding his testimony, Mr. Abrams asserted that "Turkey is returning to democracy, with no question...It will be a democracy with all that implies for human rights." He encouraged governments and private citizens to "make their human rights concerns known to the Turkish government" but warned that it was more important to preserve Turkey's allegiance to the West: "If, in properly emphasizing human rights concerns, we isolated Turkey from the Western human rights tradition, the result would be a tragedy." This, in essence, is the State Department's geopolitical position, expressed by the one State Department official who, as Assistant Secretary for Human Rights, might instead have used a rare forum to discuss human rights problems in Turkey with the urgency they require, leaving aside for the moment all other considerations.

The State Department pronouncements about Turkey's human rights record, in which most abuses are explained away, have an inevitable impact on the reporting of abuses by the Embassy in Ankara. Knowing that the policy-makers in Washington want evidence of progress, such developments as the discipline of a torturer are dutifully and prominently reported. And since such information is supplied by the Turkish government it is, of course, considered reliable.

On the other hand, complaints by thousands of Turks that their sons and daughters continue to be tortured may be

ignored. After all, the Embassy has no first-hand knowledge that such torture has in fact taken place; the government has not acknowledged it, nor has any responsible Turkish institution; and the policy-makers in Washington are not particularly eager to obtain such information. Thus, the information that the Ankara Embassy supplies to the policy-makers in Washington tends to support the State Department's public pronouncements and reinforce its conviction that they are accurate.

The U.S. Ambassador to Turkey, Mr. Robert Strausz-Hupe, was not in Turkey when we visited. We met with the Deputy Chief of Mission Mr. Frank Perez, with the head of the Embassy's Political Section Mr. Jay P. Freres and with six or so other members of the political section. Without exception, they expressed identical views about the "popularity" of Turkey's military dictatorship and the fact that Turkey is in "transition to democracy." This unanimity seemed suspect: It made us wonder whether they were afraid to acknowledge, perhaps even to themselves, flaws in the system that might ultimately expose the full extent of repression in Turkey. A sudden outburst by a political officer, the only such comment we were to hear at the Embassy, tends to support our analysis: "If what you say (about arrests and torture) is true, then I want to know about it. I don't want to learn ten years from now that this was going on while I was here and that I was doing nothing about it!"

The Embassy staff was hospitable and solicitous: They went to some lengths to "brief" us and to arrange appointments for us with Turkish citizens. Their attitude, however, was defensive, as if we were potential troublemakers. This was understandable: The Turkish Foreign Ministry, after all, had told them that we were "prejudiced," and the U.S. State Department had warned that those who "properly emphasize human rights," might create the "tragedy" of alienating Turkey from the West.

The Turkish citizens we met were reluctant to have contact with U.S. Embassy personnel. Some were firmly convinced that "the U.S. Embassy is in league with the Turkish secret police," and claimed that "the U.S. Ambassador is almost a member of the junta." Several people reported that the U.S. Embassy, just before the arrest of the Turkish Peace Association members, had gratuitously released USIA bulletins describing the World Peace Council as a front for the Soviet Communist Party and that identical wording had subsequently appeared in the indictment of the Turkish Peace Association.

We were also told about positive actions by U.S. Embassy personnel which had not gone unnoticed ——that the U.S. Ambassador had expressed displeasure about the banning of political parties, that he had been instrumental in making the new labor legislation more lenient. Of great significance to many was the visit by U.S. Consul General

Daniel Newberry to the trial of <u>Cumhuriyet</u> publisher Nadir Nadi, an unprecedented event to which Mr. Nadi's subsequent acquittal was attributed. "Tell the Embassy that coming to the trials really helps," we were told.

A Harvard-trained professor, recently fired from the university, said: "If the U.S. government stood up and said: 'Look, we can't take this anymore,' the generals would be forced to make changes. Where else can they turn?" This was a common theme among many of the people we met. They pointed out that the Turkish military is highly responsive to U.S. demands, that "the U.S. should not threaten to withhold financial aid, but should use political pressure and that the U.S. Congress and the press should call attention to human rights abuses." Some seemed to think that the United States should stay out of Turkish affairs altogether, that it should be "neutral," and "hold back its approval and its open applause." One elder statesman put it this way: "The United States should either refrain from any comment or use the same standards it would apply to itself and say that Turkey is not a democracy.

The U.S. Helsinki Watch Committee knows the frustration of monitoring human rights abuses in the Soviet Union and Eastern Europe where even the most vigorous State Department denunciations appear to have little effect. In the case of

Turkey, however, U.S. attitudes <u>are</u> meaningful. There are actions that can and should be taken, by the U.S. State Department, by the U.S. Embassy, by Congress, by the press, by private professional groups and by human rights organizations. Some suggestions follow.

The U.S. State Department should:

- -- end its practice of acting as a spokesperson for the Turkish government and defending its human rights record;
- -- condemn publicly the systematic use of torture in Turkish prisons;
- -- ask the Turkish government to supply the names and current status of the 21,121 political prisoners officially acknowledged to be in detention or serving sentences;
- -- ask the Turkish government to supply complete information about the discipline of torturers, including their names, the charges against them, the sentences received and their present status;
- -- ask the Turkish government to amend the law which now permits the police to arrest and hold people incommunicado for 45 days before bringing charges;
- -- ask the Turkish government to enforce existing regulations that provide for weekly visits to prisoners by their families;
- -- ask the Turkish government to permit visits to prisons by the International Committee of the Red Cross and by other international organizations;

- -- inform the U.S. Embassy that it wishes to receive detailed information about human rights, both setbacks and progress;
- -- encourage the Turkish government to permit the formation of citizens' Helsinki groups and other nongovernmental human rights organizations;
- -- raise the issue of human rights abuse in Turkey in international bodies such as the United Nations and the conferences that review compliance with the Helsinki Final Act;
- -- ask the Turkish government to end its non-recogition of and discrimination against the Kurdish speaking people of Turkey.

The U.S. Embassy in Ankara should:

- -- work to implement the above-mentioned actions by the U.S. State Department;
- -- appoint a specific human rights officer whose full-time duty it is to seek out and compile information about human rights in Turkey and convey it to the Embassy staff and the U.S. State Department;
- -- make public statements about human rights violations and restrictions of the press, including mention of specific cases, so that the Embassy's firm commitment to human rights is generally known;
- -- use its influence quietly, as well as publicly, to effect institutional changes and to intercede in specific cases;

- -- try to convince Turkish officials that U.S. Embassy officers should be allowed to visit Turkish prisons and to meet with prisoners and prison authorities;
- -- attend political trials as observers, including the ongoing trials of the Turkish Peace Association and the DISK labor union;
- -- maintain relationships based on trust and confidentiality with opposition political figures, journalists, university professors, lawyers and intellectuals, as well as with present and former victims of human rights abuse;
- -- encourage visits by U.S. and international human rights organizations and professional groups and make strong efforts to facilitate meetings for them with Turkish officials and citizens.

The U.S. Congress should:

- -- send frequent Congressional missions to Turkey for the specific purpose of human rights factfinding;
- -- hold regular hearings on human rights practices in Turkey;
- -- require the executive branch to acknowledge Turkey's human rights violations and to identify the extraordinary circumstances that justify Turkey's exemption from human rights considerations under Sections 502B and 116 of the Foreign Assistance Act;

- -- send letters and telegrams and make statements in Congress about Turkish political prisoners and persecuted individuals:
- -- ask the State Department to provide quarterly reports on human rights developments and set up regular meetings with the Turkish Ambassador to the United States to discuss these reports;
- -- ascertain that respect for human rights is emphasized in the International Military Education and Training (IMET) programs we sponsor for the Turkish military.

 The U.S. press should:
- -- devote considerable attention to the human rights situation in Turkey and publicize incidents of human rights abuse there;
- -- assign permanently-based reporters to Turkey so that news coverage from Turkey will be more thorough.
- U.S. professional organizations (lawyers, doctors,
 scientist, labor-unions, journalists, writers, publishers,
 and others) should:
- -- visit and arrange exchange visits with colleagues in Turkey, especially with those whose rights have been restricted:
- -- speak out on behalf of persecuted colleagues in Turkey;
- -- urge international professional groups and national groups in other countries to organize similar and joint actions.

U.S. human rights organizations should:

- -- organize fact-finding missions to Turkey;
- -- monitor human rights developments in Turkey and issue reports;
- -- bring complaints about human rights violations in Turkey before appropriate international bodies, such as the United Nations and the Helsinki review conferences;
- -- work with international human rights organizations in monitoring human rights abuses in Turkey;
- -- cooperate with human rights groups that may form in Turkey to monitor human rights practices there.

The U.S. Helsinki Watch Committee at this time is not advocating that economic or military aid to Turkey be withheld. Instead we advocate an honest assessment of the human rights situation in Turkey and a major effort by the U.S. government and by U.S. citizens to bring about significant change in Turkey's human rights practices.

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We would also like to thank the many Turkish citizens whose views are expressed without attribution throughout this text.

APPENDIX A: CABLE FROM ROBERT STRAUSZ-HUPE, U.S. AMBASSADOR TO TURKEY, OCTOBER 28, 1983

- 2. QUOTE: DEAR MS. LABER: THE UNITED STATES MISSION TO TURKEY IS INTENSELY PREDCCUPIED WITH THE HUMAN RIGHTS SITUATION IN TURKEY. THEREFORE, I WAS SHOCKED BY YOUR COMMENTARY IN THE OCT 19 EDITION OF THE NEW YORK TIMES IN WHICH YOU REPORTED A COUNTROOM INCIDENT IN WHICH PRISONERS WHO COMPLAINED OF TORTURE HAD BEEN BEATEN UP BY THEIR GUARDS IN FRONT OF THE JUDGE. WE WOULD GREATLY APPRECIATE RECEIVING MORE INFORMATION ABOUT THAT INCIDENT, INCLUDING DATE, PLACE AND, IF PQSSIBLE, THE NAMES OF THOSE INVOLVED. WE WISH THAT YOU HAD BROUGHT THIS INCIDENT TO OUR ATTENTION WHILE YOU WERE HERE IN TURKEY.
- 3. QUOTE: WHILE THERE ARE OTHER STATEMENTS IN YOUR COMMENTARY WITH WHICH WE DO NOT AGREE AND WHICH MIGHT NEED CORRECTION, WE WISH TO ASSURE YOU THAT WE WILL INVESTIGATE THE ABOVE INCIDENT TO THE BEST OF OUR ABILITY, WITH A VIEW TO PROMOTING RESPECT FOR HUMAN RIGHTS IN TURKEY. /SIGNED/ ROBERT STRAUSZ-HUPE, AMERICAN AMBASSADOR END QUOTE STRAUSZ-HUPE

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