

Case Study

Recent Cases of Women as Human Rights Defenders in Turkey and Near East

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Received: February 03, 2019; **Accepted:** February 12, 2019; **Published:** February 14, 2019;

Abstract

Human rights defenders and especially those active for women's rights are under increasing pressure and face persecution due to the international tendency to disregard human rights that is supported by a shift to trust authoritarian governments. The article draws attention to recent cases of women active as key experts in human rights and for women's human rights and summarises risks and strategies in the relevant cases. The article is based on data received from the respective countries. Professional ethics demands a firm stance against human rights abuses, but strategies appear to be so far insufficient to adequately support and protect those women at risk because of their unwavering compliance with these principles.

Keywords: Trauma, Persecution, Gender, Human Rights, Doctors at Risk, Torture

Introduction

The atrocities committed during the Second World War have led to a general agreement on basic human rights, such as the freedom from torture, to be recognised as "non-derogable", which means they cannot be suspended under any circumstances, including national emergencies. This has been confirmed also in basic contractual systems, such as in the EU Charter of Fundamental Rights [1], as EU members states had been exposed to some of the most extreme atrocities, and in "the International Covenant on Civil and Political Rights"[2], followed by a number of treaties and humanitarian standards by the UN and other organisations.

It is a frightening development, that human rights and respect for these standards are now openly questioned by leading politicians not only in autocratic countries or dictatorships but also in European democracies, such as Austria, where the right wing party Minister of interior has reportedly been summoned to the countries' president as he proposed that the European Human Rights Convention might have to be disregarded and legal standards should „obey politics“ and not rule of law, though he later tried to play down his statements [3] (note: In Austria most fundamental human rights are protected by the constitution and by international treaties the country has signed). Other examples are the disregard for the prohibition of torture in US Guantanamo or the treatment of asylum seekers in Australia [4], but also in some EU countries.

The implementation of the above standards needs effective strategies requires international monitoring and control or

sanctioning mechanisms and institutions such as the International Criminal Courts, (who can only become active in countries who have signed the "Rome" statute), the European Court of Human Rights, the UN Committee against Torture, the UN special rapporteurs, and the High Commissioner on Human Rights. The principle of "Universal Jurisdiction" offers the option of starting a criminal prosecution against perpetrators of fundamental violations also in third countries, where a survivor might seek protection [5].

Human Rights Defenders as health care professionals [6] as the third important group besides journalists and lawyers - in the respective countries play a crucial role in calling attention to infractions and in supporting victims, which are with increasing frequency women.

Medical doctors have together with other groups taken a strong position in many countries, speaking up against torture or gender specific severe human rights violations such as FGM [7–9]. This is also due to the fact that professional ethics as supported by the World Medical Association and outlined in the WMA "Code of Ethics" do not only prohibits any support or participation in human rights violations [10–14], but also encourages health care professionals to speak out against such acts that do not only endanger rule of law and civil society, but also lead to long term adverse mental health consequences. Professional umbrella organisations such as the WMA and World Psychiatric Association have underlined the need of doctors especially in „dual obligation situations“ [15] when they are employed by governments to speak up even when violations are ordered by governmental institutions or their superiors, and

further publications have taken up this issue in regard to Turkey [16–20]. Comments also stress the need to support such human rights defenders, due to the substantial danger resulting from such actions to the professional, but also their own lives, safety and health but also to that of their families and relatives [21]. While guidelines are strict, no sufficient mechanisms exist so far to offer adequate protection to those professionals, who follow their ethical standards. The UN have consequently confirmed the right to protection in the General Assembly Resolution A/RES/53/144 adopting the Declaration on human rights [22] that states specifically

Articles 1, 5, 6, 7, 8, 9, 11, 12 and 13 of the Declaration provide specific protections to human rights defenders, including the rights:

- To seek the protection and realization of human rights at the national and international levels;
- To conduct human rights work individually and in association with others;
- To form associations and non-governmental organizations;
- To meet or assemble peacefully;
- To seek, obtain, receive and hold information relating to human rights;
- To develop and discuss new human rights ideas and principles and to advocate their acceptance;
- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;
- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To unhindered access to and communication with non-governmental and intergovernmental organizations;
- To benefit from an effective remedy;
- To the lawful exercise of the occupation or profession of human rights defender;
- To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
- To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad).

Method

In the following article we explore recent cases of women active for human rights and especially women's human rights that are health care professionals and the international support given (or not given) in each case.

Professor Sebnem Korur Fincanci, working originally as head of department of Forensic Medicine of Istanbul University, is one of the internationally most prominent experts in the forensic assessment of gross human rights violations, such as torture. She is co-author of the joint UN/WMA standard for the interdisciplinary documentation and investigation of torture and Inhuman and Degrading Treatment ("Istanbul Protocol") [23]. She has participated in a number of important investigations, [24] including the UN lead investigation of mass graves in Srebrenica. She has been active in the peace movement and has been a trainer in the forensic documentation of human rights violations in many countries and projects.

The Turkish Medical Association and the Human Rights Foundation of Turkey (HRFT) that has close links to the Medical Association, and is led by former chairs of the Turkish Medical Association (TMA), have been active against the again increasing use of Torture [25,26] and gross human rights violations in the country [27–29] that have been observed and criticised by many international organisations including the EU, Amnesty International, Council of Europe CPT [30] and the UN.

Women are frequently imprisoned together with their children and exposed to torture in Turkey, and suffer from special hardships such as exposure to sexual violence and to gender based problems during detention such as harassment and hygienic conditions [31] see also CPT report 2017 [30]. Both separation from children and joint detention under inadequate conditions or torture must be seen as especially traumatic for women.

Prof. Dr. Şebnem Korur Fincancı and the leadership of the TMA were imprisoned already as part of pre-trial detention in 2016, leading to international protests by many including the Austrian Medical Association, Amnesty International [32], Amnesties network health professionals that supports human rights defenders [33] and the World Medical Association, whose press release stated that "the WMA President Dr. Yoshitake Yokokura condemned the arrests and the threats of physical violence and the criminal complaint that has been made against the TMA.

"The WMA fully supports our Turkish colleagues in their public statements that war is a public health problem. The WMA has clear policy that physicians and national medical associations should alert governments to the human consequence of warfare and armed conflicts. "The Turkish Medical Association has a duty to support human rights and peace and we are alarmed about the latest arrests and the criminal complaint. We strongly denounce these attacks on freedom of expression, which is enshrined in article 19 of the International Covenant on Civil and Political Rights that Turkey ratified in 2003." [34]

At that time also World Psychiatric Association who strongly supports Human Rights and the Istanbul Protocol joined with a statement [35] underlining that:

"We strongly denounce these attacks on the freedom of expression of our colleagues, freedoms that are enshrined in article 19 of the International Covenant on Civil and Political Rights ratified by Turkey in 2003."

Shortly after these statements by WMA, WPA and local medical associations, the leaders of TMA were released, but the trial continued and the TMA leadership were sentenced by local courts with an appeal to the regional high court pending.

According to recent published reports by the HRFT HRFT President Prof. Dr. Şebnem Korur Fincancı was recently sentenced to 2 years 6 months imprisonment on a hearing held on December 19, 2018 in Istanbul, Turkey for signing the Peace Petition “We’ll not be a party to this crime!” in January 2016, Prof. Fincancı was being tried together with 542 other academics, with charges of “propagating for a terrorist organization”, in the scope of the „Anti-Terror “Law. She is the recipient of numerous Human Rights prizes, including the German “Hessian Peace prize”.

International statements were again published by PHR (<https://phr.org/news/turkish-court-sentences-dr-sebnem-korur-fincanci-to-prison-on-false-charges>) and the World Medical Association (WMA) [36] who stated that:

“WMA Chair Dr. Ardis Hoven said: ‘We are shocked at what is going on in Turkey. These physicians, along with many other doctors and health care workers, are being punished for supporting a petition calling on the Turkish government to stop the violence against civilians. These are just the latest examples of the Turkish authorities completely ignoring the most basic human rights by violating the right to free speech. The WMA has repeatedly called on the Turkish Government to call a halt to the appalling harassment of physicians and academics in Turkey following the failed coup in 2016’.

The WMA statement also noted that further women doctors active for human rights are endangered:

“Former members of TMA’s boards, including Dr. Feride Aksu Tanik, a former Secretary General of TMA and official advisor to WMA, are facing trial or sentences on the same charges of supporting terrorism. Many of them have lost their jobs, had their passports cancelled and will never be able to work in public institutions.”

Further statements included one by the respected German Peace Research Institute “Hessische Stiftung Friedens- und Konfliktforschung (HSFK)”, at Hamburg University (IPSH) with the Bonn International Center for Conversion (BICC) <https://idw-online.de/de/news708359>, and a statement was passed by the Polish Bar Association, underlining interdisciplinary solidarity.

Also members of other professions are in danger, as for example the lawyer and human rights activist Eren Keskin, who is according to AI threatened by 40 different court cases [37], while women organisations are closed down [37].

At present it is difficult to seek international protection for Turkish human rights defenders, both due to the restrictions of granting passports and to increasingly restrictive asylum policies of most, including EU, countries.

Discussion

Limitations: Methodologically, it is challenging to get data on the specific situation of women as human rights defenders especially

in authoritarian countries and totalitarian regimes due to the risks and inability to conduct research, any substantial research would potentially endanger both researchers and research subjects. The discussion must be based on well documented individual cases brought forward by independent entities, for example medical associations and by data available on public record. It appears justified to assume, that in other totalitarian regimes, larger numbers of less well published or supported human rights defenders have been persecuted, killed or imprisoned, but due to the persecution and risk to journalists and researchers that are equally at risk no reports or data have been published and case reports must be used to identify problems and discuss and later evaluate possible intervention models. Similar cases have been reported as in Egypt, where Prof. Aida El Dawla, a pioneer on women’s human rights and the fight against torture. She continues to support defenders of women’s rights such as bloggers in spite of the risks involved, and had been imprisoned for her outspoken position.

Conclusion

Women are under special danger if they defend women and patients against war or torture and similar gross human rights violations, and need special protection. Mechanisms are so far not sufficient in offering such protection, though international solidarity is strong. The „war on terror“ appears to be increasingly at risk to be abused against human rights defenders and women must be seen as being at a special risk to face imprisonment and torture.

Governments must be held accountable as also requested by the above United Nations declaration on human rights defenders, a point that must be seen as complimentary to the obligation of professionals as underlined in the WMA Ethics manual and the UN declarations article 11[38]. Universal Jurisdiction can be seen as a contribution if local Justice has been corrupted as part of totalitarian governments with disregard for human rights [5]. For first concrete steps, asylum (international protection) and a way to leave the country should be guaranteed to human rights defenders and international umbrella organisations and Universities should take all necessary steps to support them in respect for their willingness to risk their safety and live to protect women and other vulnerable groups against human rights violations.

Acknowledgement

We are grateful to the Turkish Medical Association members who have supplied data on the above case including summaries of court documents and Austrian Medical Association and to all those who take clear positions to support human rights defenders and women’s rights.

Abbreviations

TMA: Turkish Medical Association, WMA: World Medical Association, UN- United Nations, WPA: World Psychiatric Association

Funding Information

No funding was received by the authors from any side, government or party for this article. Open access was supported by the IERM institute of the University of Vienna.

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Citation:

Thomas Wenzel, Joost den Otter, Lilla Hardi, Siroos Mirzaei, Maria Kletecka-Pulker (2019) Recent Cases of Women as Human Rights Defenders in Turkey and Near East. *ARCH Women Health Care* Volume 2(1): 1–4.