

Physicians for
Human Rights

September 2013

Contempt for Freedom:
State Use of Tear Gas as a
Weapon and Attacks on
Medical Personnel in Turkey

PHR

Physicians for
Human Rights



*Protesters hold up their hands as they gather in
Taksim Square before clashing with Turkish riot
police in Istanbul on June 22, 2013.
Photo: BULENT KILIC/AFP/Getty Images*

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About Physicians for Human Rights



Physicians for Human Rights (PHR) uses medicine and science to document and call attention to mass atrocities and severe human rights violations.

PHR was founded in 1986 on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations. PHR's investigations and expertise are used to advocate for persecuted health workers, to prevent torture, to document mass atrocities, and to hold those who violate human rights accountable.

PHR has worked in more than 40 countries, including Afghanistan, Bahrain, Burma, the Democratic Republic of the Congo, Iran, Iraq, Kenya, Libya, Sudan, Syria, and the United States.

In 1996, PHR documented the widespread and systematic use of torture in Turkey and the complicity of physicians in this practice. In 1999, PHR led the international effort to develop United Nations Guidelines on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol.

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A protester waves a Turkish flag during a demonstration on June 9, 2013 in Gündoğdu Square in İzmir.

Photo: OZAN KOSE/AFP/Getty Images

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Acknowledgments

This report was written by Michele Heisler, MD, MPA, Physicians for Human Rights (PHR) volunteer medical advisor, PHR board member, professor of internal medicine and health behavior and health education at the University of Michigan Medical School, research scientist at the Ann Arbor VA's Center for Clinical Management Research, co-director of the University of Michigan's Robert Wood Johnson Foundation's Clinical Scholars Program, and associate director of the University of Michigan Medical School's Global REACH program; Vincent Iacopino, MD, PhD, PHR senior medical advisor, adjunct professor of medicine, University of Minnesota Medical School, and senior research fellow, Human Rights Center, University of California, Berkeley; DeDe Dunevant, PHR director of communications; and Eliza B. Young, MA, PHR publications coordinator. This report is based on research conducted by Michele Heisler, Vincent Iacopino, and DeDe Dunevant during a one-week investigation to Turkey (June 25–July 2, 2013).

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Methods and Limitations

Findings contained in this report are based on a one-week investigation conducted in Istanbul and Ankara, Turkey from June 25 to July 2, 2013.

The Physicians for Human Rights (PHR) team gathered independent evidence of excessive use of force and violations of medical neutrality. In order to assess the nature and extent of these abuses, PHR conducted 53 interviews with medical and non-medical victims and witnesses of police violence and violations of medical neutrality. The team also interviewed representatives of organizations who are in the process of documenting abuses. The team examined secondary information from other sources, including the Turkish Medical Association (TMA), the Human Rights Foundation of Turkey (HRFT), the Human Rights Association (HRA), the Contemporary Lawyers Association, the Turkish Bar Association, and other nongovernmental organizations. PHR requested interviews with Turkey's minister of health on multiple occasions, but the interview was not granted. For the qualitative domains of semi-structured interview instruments, the team adapted health and rights instruments used by PHR in similar settings in which excessive force and violations of medical neutrality had occurred. The PHR team sought to triangulate eyewitness accounts with reports from other witnesses, news reports and video footage, legal records, medical documentation, and other sources.

PHR's Ethical Review Board (ERB) approved this research. PHR has had an ERB since 1996 to ensure protection of human subjects in its research and investigations. PHR's ERB regulations are based on Title 45 CFR Part 46 provisions (see: <http://ohsr.od.nih.gov/guidelines/45cfr46.html>), which are used by academic Institutional Review Boards (IRBs). All of PHR's research and investigations involving human subjects must be approved by the ERB and conducted in accordance with the Declaration of Helsinki as revised in 2000.

For all interviews, the PHR team obtained informed oral consent from each interview subject following a detailed explanation of PHR, the purpose of the investigation, and the potential benefits and risks of participation. Before each interview, PHR staff ascertained whether the interviewee wished to remain anonymous. For those who requested anonymity, PHR investigators made every effort to protect their identities. PHR researchers did not record their names, nor did they make audio or video recordings of these interviews. They conducted interviews with interpreters in private offices. Participants could stop the interview at any time or refuse to answer any questions. Since the identities of many victims of violence during the demonstrations had already been made public, most of the interviewees granted permission for their names to be included. All medical and legal personnel interviewed authorized the use of their names in this report.

Given that this was an emergency field investigation conducted over a short time frame of seven days, it is subject to limitations in duration, scope, and access. The scope of the current investigation did not permit a full analysis of all written and video documentation of events. The following PHR investigative study should be considered as a snapshot in time, with partial rather than complete accounts or prevalence reports of human rights violations. Notwithstanding these limitations, the study produced sufficient firm data to make informed recommendations.

Executive Summary

In response to peaceful protests that began in May 2013, the Turkish government used unnecessary and excessive force and attacked independent medical personnel who courageously provided care to the injured in accordance with international medical ethical standards and Turkish law.

Demonstrators initially assembled to protest against a government-supported plan to raze Gezi Park, a section of Taksim Square in Istanbul. The violent government response to the peaceful protests ignited widespread demonstrations throughout Turkey, which transformed into broader protests against Prime Minister Recep Tayyip Erdoğan's autocratic governing style and his departure from Turkey's longstanding policy of secularism.

Turkey is obligated under international law to respect the right to peaceful assembly, freedom of expression, the right to health, and freedom from torture and other cruel, inhuman, and degrading treatment or punishment. In violation of these obligations, the Turkish government used unnecessary and excessive force¹ against protesters and treated protesters and medical first responders as criminals, which served to escalate the scale of the protests and ultimately led to violent police actions. As a North Atlantic Treaty Organization (NATO) partner and candidate for European Union accession, Turkey must be expected to uphold the highest human rights standards.

Physicians for Human Rights (PHR) conducted a one-week investigation in Istanbul and Ankara from June 25 to July 2, 2013. During this investigation, PHR interviewed more than 50 victims and others who witnessed violence

against protesters, attacks on medical personnel, and other violations of medical neutrality.² The findings of the PHR investigation corroborate the reports of human rights violations documented by the Turkish Medical Association (TMA), the Human Rights Foundation of Turkey (HRFT), the Human Rights Association, the Istanbul Progressive Lawyers Association, the Contemporary Lawyers Association, and the Turkish Bar Association, as follows:

- The police systematically used tear gas as a weapon on hundreds of thousands of demonstrators, firing tear gas canisters and capsules directly at protesters at close range, in confined spaces, and in other areas with no outlet for escape. Some 130,000 canisters were reportedly used against protesters.³
- The police fired rubber bullets and live ammunition directly at protesters at close range, reportedly used water cannons spiked with chemical agents (likely tear gas), and beat and detained hundreds of protesters.
- As of July 2, 2013, the TMA had collected medical information on more than 8,000 injuries due to tear gas, rubber bullets, water cannons, beatings, and live ammunition. There were at least five civilian deaths caused by unnecessary and/or excessive use of force and other demonstration-related injuries. In all, 61 protesters were severely injured, including 11 people who lost their eyes. As of July 10, 2013, the HRFT had conducted approximately 200 medical evaluations of injured protesters in accordance with the Istanbul Protocol standards.⁴ According to the HRFT, the physical and psychological evidence in each case was reported to be consistent with torture and/or ill treatment.
- Police and other law enforcement officials attacked clearly identifiable, independent medical personnel and medical facilities with tear gas, water cannons, and rubber bullets. Police beat and detained dozens of physicians and other medical personnel for providing emergency medical care to those injured during the demonstrations.
- The Ministry of Health (MOH) not only failed to provide adequate medical care to the injured – as it does in earthquakes and other medical emergencies – but it also requested that medical personnel report the names of both injured protesters and those medical personnel providing care to the wounded.
- In the absence of adequate emergency services by the MOH, thousands of independent physicians and other medical personnel provided essential emergency care as individuals and through the organization of the TMA.
- The MOH submitted a health bill in July 2013 that remains on the agenda in the Turkish parliament. If passed, the bill would criminalize the provision of “unlicensed” or “unauthorized” emergency medical care not only to demonstrators, but also to anyone in need of emergency medical assistance in Turkey. This legislation would be in direct conflict with Articles 97 and 98 of the Turkish penal code, which make it a crime for medical personnel to neglect their duty of providing emergency care to those in need.⁵



*Riot police fire tear gas bombs to disperse protesters at Harbiye near Taksim Square in Istanbul on June 16, 2013.
Photo: OZAN KOSE/AFP/Getty Images*

On May 28, 2013, a small group of environmental activists staged a sit-in to block planned construction to redevelop Gezi Park – the last green space in central Istanbul. A replica of 19th-century Ottoman barracks, containing a shopping mall, was supposed to replace the park, in addition to the construction of cultural centers, including an opera house and a mosque. The historic Ataturk Cultural Center was also scheduled to be demolished as part of the plans.⁶ Critics argued that the urban redevelopment plans were decided quickly and without adequate public discussion.

On May 31, the peaceful encampment of protesters was raided,⁷ with riot police setting fire to the tents and firing tear gas and water cannons in an effort to clear hundreds of demonstrators from the park. In a PHR interview with one of the protesters, 18-year-old Mavi Özkalıpçı described the encampment as follows: “Sincerely, it was the most peaceful environment I had ever seen. In the first few days, the people in the tents would discuss and read books throughout the day, and the group would sing songs at night. I felt very secure, despite the crowd. Everyone performed ‘random acts of kindness.’ I don’t recall buying food even once throughout the protest. People distributed free food, blankets, and water to us.”

The Istanbul authorities’ aggressive response to the peaceful demonstrations sparked public outcry and prompted thousands more to pour into Taksim Square in solidarity with the protesters.⁸ Özkalıpçı noted that, even in the face of excessive force by the authorities, demonstrators remained peaceful. She recalled, “I witnessed certain cases where a demonstrator showed an act that may turn violent, but the group immediately warned the person, reminding him/her of the peaceful, non-violent ideology behind the protest.” The unnecessary and excessive use of force by police triggered protests in other Istanbul districts, as well as other Turkish cities, including Ankara and İzmir. The sit-in quickly escalated into broader protests against Prime



Police use a water cannon to disperse protestors outside Turkish Prime Minister Recep Tayyip Erdoğan's working office in Beşiktaş Istanbul, on June 2, 2013, during a third day of clashes sparked by anger at his Islamist-rooted government. Photo: OZAN KOSE/AFP/Getty Images

Background on the 2013 Protests in Turkey

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Minister Recep Tayyip Erdoğan, spiraling into the largest anti-government demonstrations the country has witnessed in years.⁹ The authorities continued to use tear gas, TOMAs (Toplumsal Olaylara Müdahale Aracı, armored water cannon designed for riot control) and Scorpions (Otokar Akrep, a light reconnaissance vehicle) to break up protests throughout June.

The harsh police crackdown on peaceful protesters fueled further demonstrations and in some cases led to retaliation from protesters, including the throwing of rocks and other objects at police. In many areas, demonstrators tried to defend themselves by erecting barricades from plant pots, garbage bins, paving slabs, and street signs, as well as burnt out vehicles, metal sheeting, and other building material.¹⁰ At times, demonstrators reportedly threw Molotov cocktails at the police in response to the firing of tear gas canisters and rubber bullets and the use of TOMAs.¹¹ Prime Minister Erdoğan's dismissive response to the demonstrations – alleging that marginal groups staged the protests and claiming protesters were “arm-in-arm with terrorism”¹² – contributed to increased tensions and inspired additional protests. Despite the sometimes-aggressive retaliation by protesters, police response was excessive and not proportionate to the threat they faced from demonstrators.

Since May 31, more than 2.5 million people have reportedly taken part in demonstrations.¹³ The protests engulfed several cities and spread to a majority of Turkey's 81 provinces,¹⁴ drawing a broad spectrum of demonstrators, including students, professionals, trade unionists, Alevi,¹⁵ Kurdish activists, and environmentalists, in addition to secularists. The protests expanded to include political demands, exposing frustration among a portion of the Turkish population with Erdoğan's accumulation of power during his last 10 years in office and his moves away from Turkey's tradition of secularism. Erdoğan has won three successive general elections and holds a parliamentary majority; he is considered one of Turkey's strongest prime ministers ever. His party—the ruling Justice and Development Party (AKP)—has won the past three elections, securing 49.95 percent in the 2011 vote.

The protests came to represent a much wider range of grievances within Turkish society, uniting those generally dissatisfied with Erdoğan's rule.¹⁶ Some argue that the prime minister's governing style has become more authoritarian, and note that, despite economic advancements and early democratic reform, there are signs of increasing intolerance for dissent.¹⁷ Secularists accuse the prime minister of working to dismantle Mustafa Kemal Atatürk's secularist state established in 1923.¹⁸

Opponents claim that Erdoğan has an Islamist agenda and is targeting secular lifestyles, which has manifested in social reforms, such as limitations on alcohol sales, the loosening of headscarf restrictions, warnings against public displays of affection, as well as public statements urging all Turkish women

to have three children and calling for restrictions on abortions (legal in Turkey since 1983).¹⁹ Some Turks are also concerned about judicial independence, arguing that the Turkish judiciary has become politicized.²⁰ Others criticize the government's targeting of the media, jeopardizing media independence and instilling a culture of self-censorship among journalists. Additionally, hundreds of military officers have been jailed for allegedly plotting a coup against Erdoğan in recent years.

According to an assessment conducted by the Turkish Medical Association (TMA) in mid-July, more than 8,000 people were injured in the demonstrations in 13 different cities across the country,²¹ and at least five civilians lost their lives.²² A separate online survey published by the TMA on June 27 indicated that more than 11,000 people had been exposed to chemical weapons/riot control agents.²³ Police reportedly fired 130,000 tear gas canisters in the first 20 days of the protests and the government is said to have placed large orders to replenish these supplies.²⁴ As of July 10, more than 3,600 people had been detained in relation to the protests, while more than 130 others had been arrested, according to the Human Rights Foundation of Turkey (HRFT).²⁵ Reports on June 23 of a balance sheet issued by the Turkish Interior Ministry indicated that 4,900 individuals were detained during the protests and 4,000 people were injured.²⁶ According to the TMA, 18 medical personnel and students were detained for between five hours and three days, though all were eventually released.

Turkish Authorities Use Unnecessary and Excessive Force

Summary of Medical Evidence and Witness Accounts from the TMA and HRFT

The TMA has collected medical information on more than 8,000 injuries due to tear gas, rubber bullets, water cannons, beatings, and live ammunition. In all, 61 protesters were severely injured, including 11 people who lost their eyes. At least five civilians were killed during the demonstrations, some due to the unnecessary and/or excessive use of force against protesters.

After conducting approximately 200 medical evaluations of injured protesters in accordance with the Istanbul Protocol standards, the HRFT concluded that the physical and psychological evidence in each case is consistent with torture and/or ill treatment intentionally and systematically inflicted on large populations of protesters.²⁷

PHR reviewed the physical and psychological evidence collected by the HRFT that was available on 169 of the 200 clients they examined. PHR's findings are summarized as follows:

- Nearly all (94 percent) of the 169 individuals were exposed to tear gas and experienced multiple symptoms, including respiratory problems; skin rashes; hyperemia (redness due to inflammation) of the pharynx, eyes, and tympanic membranes; hoarseness; hearing loss; high blood pressure regardless of age; asthma attacks; and allergic reactions.
- 87 of the 169 individuals were injured by the impact of gas capsules (canisters), which resulted in soft tissue trauma. Specific injuries included head trauma and/or lacerations (17), skull fractures (4), eye trauma (14), fractured bones around the eyes (7), loss of vision (6), and bone fractures of the extremities or ribs (6).
- 15 of the 169 individuals had evidence of soft tissue injuries, lacerations, abrasions, and subcutaneous bleeding resulting from water cannons knocking them to the ground.
- 5 of the 169 individuals presented with soft tissue injuries due to rubber bullets.
- 26 of the 169 individuals had soft tissue injuries due to blunt trauma or broken bones that were consistent with their accounts of beatings with punches, kicks, batons, sticks with nails, and iron rods.
- Virtually all of the 169 applicants reported experiencing anxiety and intense fear. Some reported experiencing somatic reactions, such as palpitation, shortness of breath, and physical tension. The psychological symptoms reported included sleep disturbances, loss of appetite, difficulty concentrating, flashbacks, breathing problems, and memory loss.
- The HRFT's psychological assessments revealed the following diagnoses: Acute Stress Disorder (49),²⁸ subthreshold Acute Stress Disorder (10), Major Depressive Disorder/Depression (MDD) (3), and subthreshold MDD (1).
- Detained protesters and healthcare workers reported sexual harassment by police officers.
- One individual was taken by undercover police, forced into a car, and subjected to beatings, pistol whipping, and death threats while a gun was placed against the victim's head.
- Some individuals in police custody and in prisons reported that police forcibly obtained blood and saliva samples without consent.

The police in Turkey are using tear gas canisters as bullets.

– Dr. Metin Bakkalcı, secretary general of the Human Rights Foundation of Turkey

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Tear Gas Used Unlawfully as a Weapon on a Massive Scale

The scale and consistency of reports of injuries from police use of tear gas in Istanbul and Ankara that PHR documented, as well as accounts from multiple other sources,²⁹ suggest that Turkish authorities misused tear gas.

The European Court of Human Rights concluded in a 2012 ruling that Turkish authorities misused tear gas against a demonstrator in what amounted to inhuman and degrading treatment. (See Appendix.) Given this decision, Turkey's recent use of tear gas and other forms of unnecessary and excessive violence against peaceful protesters, or those under police control, would constitute inhuman and degrading treatment on a massive scale.

Examples of misuse include targeting tear gas canisters directly at people and shooting tear gas into small, confined spaces. Eyewitnesses also reported that water sprayed from water cannons "burned their skin" and left a rash, suggesting the possible combination of chemicals into the water used by authorities.

The independent medical doctors who provided emergency medical treatment to individuals who were exposed to water cannon "mist" corroborated these reports. In Ankara, Dr. Hande Arpat, a general practitioner who helped coordinate emergency infirmaries, told PHR, "When I was volunteering in the emergency medical center [in Ankara] I saw severe burns from water cannons that had chemicals in the water. Water cannon pressure alone would not have created burns. But these people had severe burns and were in excruciating pain."

Tear gas canisters shot directly at demonstrators at close range

Of the people the PHR team interviewed, seven experienced injuries from police firing tear gas canisters directly at them at close range, three in Istanbul and four in Ankara. The cases that PHR documented corroborate the large number of cases reported by the TMA, where the impact of tear gas canisters fired from launchers held by police or shot from armored vehicles (TOMAs or Scorpions) caused serious head or upper body injuries. As of the writing of this report, the TMA had documented 11 cases where patients suffered vision loss. PHR interviewed three of the people hit directly in the eye by canisters, one of whom will require a prosthetic eye; medical efforts are still underway in the other two cases to save the injured eyes. As Dr. Metin Bakkalçı, a forensic physician and secretary general of the HRFT, told PHR, "The police in Turkey are using tear gas canisters as bullets."

On June 27, 2013, PHR investigators interviewed Sami Elvan, whose 14-year old son, Berkin, was critically injured by a tear gas canister shot toward his head at close range on June 16. Elvan's son sustained a skull fracture with intracranial bleeding. Elvan stated, "The doctors immediately operated on Berkin. My son has been in the intensive care unit ever since and has not regained consciousness. The doctors say that his chances of survival are '50-50.'" As of the writing of this report, Berkin remained in intensive care, with severe head trauma, including skull fractures; he remains in a medically induced coma.



Dr. Vincent Iacopino, PHR's senior medical advisor, meets with Hasan Kılıçgedik, who was struck in the head by a tear gas canister fired by police in Istanbul.

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On June 28, PHR interviewed two inpatients and the mother of a third inpatient at Istanbul hospitals. All three inpatients sustained serious injuries from tear gas canisters fired at them at close range. The first two inpatients were injured while participating in the demonstrations and the third inpatient—a young woman with first aid training—had been injured while helping volunteer physicians care for injured demonstrators. The first interviewed inpatient, 30-year-old Hasan Kılıçgedik, described being hit in the head by a tear gas canister fired by policemen, “The tear gas canister hit my forehead just above my right eye. Another canister hit my nose. . . . The police officer was only three steps away pointing directly at me with a canister about 5 inches long. The hospital doctors said that I must have been targeted to be killed. Many other patients I met here in the intensive care unit had been targeted like that.” Kılıçgedik described that volunteer physicians came to stop the bleeding and clean his wounds and then carried him on a stretcher to a cab. He explained to PHR, “We couldn’t wait for an ambulance, as ambulances couldn’t get through.” Kılıçgedik was admitted to the intensive care unit of an Istanbul hospital. He had skull, right orbital, and nose fractures, with intracranial bleeding. At the time of PHR’s interview, he had regained vision in his injured eye. Doctors were still working to restore vision in the injured eye of the second inpatient PHR interviewed, who did not wish to be identified. However, the third inpatient, who also asked to remain anonymous, lost the damaged eye and would need a prosthetic one. She was currently undergoing psychiatric treatment, as she was still distraught over the incident.



One of the three tear gas canisters – reportedly collected from the protest sites in Ankara – that were presented to PHR staff during their investigation in country. As this photo shows, this Brazilian-made capsule is beyond its expiration date.

In Ankara, the PHR team interviewed four people who had sustained injuries from tear gas canisters. In an interview on June 29, Muharrem Dalsüren, a maintenance worker for the Municipality of Ankara, told PHR how he was performing his work duties at the intersection of Selanik Caddesi and Ziya Gökalp Caddesi at 4:30 on the evening of June 3 when a police vehicle driving down the street fired a tear gas canister at close range directly into his face. He suffered an orbital fracture and likely will need a prosthetic eye. In a separate interview with PHR on June 29, Mete Elçi, a board member of the Ankara branch of the Human Rights Association (HRA), described how he used his right arm to shield his face when a Scorpion armored vehicle shot a tear gas canister directly toward his face. Elçi stated that the canister hit his right arm leading to deep lacerations to the bone and multiple radial and wrist bone fractures.

Physicians and lawyers interviewed by PHR in Ankara also described the case of 20-year-old Dilan Dursun, who was shot in the head with a tear gas canister on June 16 from 8 to 10 meters away while attending the funeral of Ethem Sarısülük, a demonstrator shot and killed in Ankara by a police officer. Dursun was injured just 2.5 kilometers from where Sarısülük had been killed. The canister fractured the back of her skull, causing brain damage. According to interviewees, she survived only because, when she was injured, she was with a brain surgeon who immediately intervened to save her life. Since being discharged from the hospital on June 28, she has continued to suffer memory loss and speech difficulties.

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Other reports

On May 31, 34-year-old Lobna Allamii was hit in the head by a tear gas canister fired by Istanbul police in Gezi Park. Allamii was among the small group of environmentalists who had camped out to protest plans to demolish the park. After being in a coma for 24 days and enduring two brain operations, Allamii is now partially paralyzed on one side and unable to speak.³⁰

Tear gas intentionally used in confined spaces

In PHR's interviews, witnesses described large amounts of tear gas being fired directly into enclosed spaces, including hotel lobbies, cafes, and a number of buildings in which medical personnel had established emergency medical care services. Several accounts of police shooting tear gas into infirmaries, ambulances, cafes, and other enclosed spaces are elaborated on in the "Violations of Medical Neutrality" section below.

Turkey's supply of tear gas

While in Ankara, PHR was presented with three tear gas canisters that had reportedly been picked up from the scene of the protests. Two were labeled as Condor, a Brazilian company, one of which was past its expiration date. The third was unmarked.

According to reports from June 2013, between 2000 and 2012, Turkey received 628 tons – \$21 million worth – of tear gas and pepper spray from Brazil and the United

States.³¹ In addition to Brazil's Condor Non-Lethal Technologies, American companies have also reportedly profited from Turkey's excessive use of tear gas during the Gezi protests, including Combined Systems, Inc., Federal Laboratories, and Non-Lethal Technologies.³² The United States is a major exporter of tear gas and other crowd control munitions, along with Brazil and South Korea.³³ After reports emerged that Condor products had been found at Turkish protests, the company issued a statement confirming that Condor does sell its products to the Turkish security forces, but claimed that the tear gas is "specifically designed to temporarily incapacitate people without causing them permanent damage or death."³⁴ Brazil's Foreign Ministry also confirmed that Brazilian companies export "non-lethal" weaponry to Turkey.³⁵ Other reports indicate that Turkey receives tear gas from the South Korean manufacturer, DaeKwang Chemical Corporation.³⁶

Turkish security forces reportedly used 130,000 cartridges of tear gas in just 20 days following the outbreak of the protests, nearly draining the country's entire 2013 supply, which totals 150,000 cartridges.³⁷ In order to replenish the stock, the government has issued an unplanned tender for 100,000 new gas bomb cartridges, as well as 60 water cannon vehicles.³⁸

Unjustified Use of Lethal Force by Police

Summary of deaths during the Gezi protests

According to those people interviewed by PHR, at least five civilians lost their lives during the Gezi Park protests throughout Turkey, two of whom died due to direct police violence. All cases should be investigated and prosecuted in accordance with internationally-recognized legal norms.

The cases are summarized as follows:

- Ethem Sarısülük (26 years old) was reportedly shot in the head at close range by a police officer in Ankara during a demonstration on June 1, 2013 after the police were ordered by their superiors to retreat from the protesters. (See below for more information.)
- Mehmet Ayvalitas (20 years old), according to eyewitnesses, was killed on June 2, 2013 when a car (license plate: 61 ES 459) drove into the crowd at Kızılay Square in Ankara – an area that police had closed to traffic during protests. The Ankara Bar Association has filed a criminal complaint about the person who allegedly drove the car.³⁹



Muharrem Dalsüren, a maintenance worker in Ankara who was hit in the face with a tear gas canister fired at close range by police on June 3.

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*A medical team treats a protester as they are surrounded by a cloud of tear gas during clashes with Turkish police near Turkish prime minister Recep Tayyip Erdoğan's office, between Taksim and Beşiktaş, early morning on June 4, 2013 in Istanbul, Turkey.
Photo: Uriel Sinai/Getty Images*

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- Ali İsmail Korkmaz (19 years old), according to eyewitnesses, was attacked and beaten by unidentified civilians (allegedly plainclothes police) on June 2 in Eskisehir while running away from the police.⁴⁰ He suffered a brain injury and subsequently died on July 10, 2013. The cause of death was reported as cerebral hemorrhage (bleeding in the brain) due to blunt trauma to the head. Video footage of the beating was reportedly recorded by a local hotel and submitted to police, but the police claim that the video was irreversibly damaged.⁴¹
- Abdullah Cömert (22 years old) died from injuries sustained to his head on June 4, 2013 in Antakya. The autopsy report indicated that Cömert had received two blows to the head.⁴² Review of the autopsy report by Dr. Şebnem Korur Fincancı (HRFT executive board, chairperson; professor in forensic medicine, Istanbul University; member of the International Rehabilitation Council for Torture Victims) indicated that the cause of death was due to head trauma from a tear gas canister fired at close range. (See below for more information.)
- Zeynep Eryaşar (55 years old) attended the protests and subsequently had a heart attack and died from exposure to tear gas chemicals in Avclar in İstanbul on June 15.

Note: Mehmet Sarı, a police officer, died on June 5, 2013 after reportedly falling off a bridge while pursuing protesters in the southern province of Adana.

In interviews, PHR gathered additional information on the incidents surrounding the deaths of Sarısülük and Cömert, outlined below.

Ethem Sarısülük

In interviews with PHR on June 30, Kazım Bayraktar, the lawyer representing Sarısülük's family, presented the forensic medical reports and statements from police and three eyewitnesses, as well as video recordings,⁴³ of the June 1 incident. Bayraktar stated the following:

As the police chief's statement also confirms, the deputy police chief had ordered the police to retreat. The eyewitnesses all also agreed that all the other police had retreated except for Ahmet Şahbaz, the police officer who shot Ethem. Officer Şahbaz dropped his shield on the ground and started running toward the demonstrators with his gun and baton raised. He started kicking a demonstrator who was lying on the ground. Then, he got his 9 mm pistol, and with his hand upwards, he shot a couple of times. He then held his gun over his shoulder pointing behind him and shot backwards toward the demonstrators as he turned to run back toward the line of police.

Three weeks passed before Officer Şahbaz was arraigned. Şahbaz was released on June 24, as he was deemed to have acted in self-defense.⁴⁴ Sarısülük's family subsequently filed an objection to his release, which on July 3 was rejected by the Ankara Eighth Criminal Court of First Instance. On July 12, an indictment against Şahbaz was submitted to the Ankara Sixth Aggravated Felony Court, with the prosecutor demanding that the officer be sentenced to up to five years in

prison. However, on July 17, news reports indicated that the trial had been suspended, which Bayraktar claimed was unlawful and an effort to prevent the prosecution of a state worker.⁴⁵

On July 1, when the team spoke with Ethem's brother, Mustafa Sarısülük, who was with him when he was killed, he said:

It is so difficult. I saw him there lying on the ground. Ethem has become an example, but over the years there have been many other Ethem's. The government has used state terror and violence against the people over many years. The police have killed many people. This is still happening. Unfortunately, nobody is being punished. There is a lack of law. I have little hope that the police who killed Ethem will come to justice. That is the reality in this country.

Abdullah Cömert

PHR interviewed Dr. Fincancı of the HRFT who reviewed the autopsy findings for Cömert. Dr. Fincancı explained that Cömert had received several blows to his head and reported that the cause of death was brain injury related to a tear gas canister shot directly at his head, which resulted in the avulsion (tearing of the skin) of a large crescent-shaped flap of scalp from the skull, as well as a depression fracture of the skull. The impact of the injury led to cerebral hemorrhage and subsequent death.

That bullet was not just to kill Ethem, but a bullet to kill the demands of the people.

– Mustafa Sarısülük, brother of slain protester, Ethem Sarısülük

Turkish Authorities Use Unnecessary and Excessive Force

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Rubber Bullets Fired at Demonstrators at Close Range

Many protesters were injured by rubber bullets during the protests. Several interviewees described being with people who were hit at close range by rubber bullets. One interviewee, a 19-year-old recent high school graduate who did not wish to be identified, described being at Gezi Park in Istanbul on June 16:

The police were 50 to 60 meters from us and were shooting rubber bullets and tear gas canisters at our heads. ... I was trying to protect my head. I was behind a car and was trying to go into a house. A rubber bullet hit me in my left eye. I fell to the ground. ... People said that the police wouldn't let ambulances through to help me, and if the ambulances came they would bring in tear gas canisters to the police. So, they got a taxi and carried me to the hospital.

The bullet hit his lower orbital bone and went up through the eye. The orbital fracture was repaired, and – when PHR spoke with him – he had already had two operations to try to save his eye. At the time of PHR's interview, it was not known whether vision could be restored in the affected eye.

One volunteer physician interviewed by PHR in Ankara described efforts by volunteer physicians to distinguish between injuries from canisters and those from rubber bullets:

The majority of cases we saw were people injured due to gas canisters fired in the face or chest. We also saw a number of serious maxillofacial (face and jaw) injuries consistent with rubber bullets. There were several cases in which the rubber bullet was stuck in the cheek, and we couldn't remove it. It was easy to identify the ecchymotic (bruised) appearances of the bullets and the canisters, because they were different from each other. I also saw a lot of "tram lines" on people's arms, faces, and chests from being hit with police batons. [Note: "Tram line" lesions are virtually diagnostic of police baton injuries.]

Police Beat and Detain Demonstrators

As of August 2, the HRFT reported that more than 3,700 people had been detained throughout Turkey in connection with the Gezi Park events.⁴⁶ In Ankara, PHR interviewed two human rights lawyers, Candan Dumrul and Deniz Özbilgin, who described some of the 90 legal cases of detainees they are handling in Ankara, including several cases of women who were sexually assaulted (breast and genital fondling) and/or threatened by police while being driven to detention centers.

One 23-year-old woman PHR interviewed in Ankara, Deniz Erşahin, provided a detailed description of the sexual threats and abuse she experienced and witnessed during her 33-hour detention on June 16. She told PHR that she and several friends were arrested at Kızılay while watching the funeral procession for Sarısülük, who was shot and killed by Officer Şahbaz on June 1. Erşahin recalled that after she and a male friend were grabbed by police officers, she watched as police beat him with batons on his face and body until he was bloody. Erşahin stated that in the van to the police station, police officers groped her, kicked her legs, threatened her with rape, and made lewd, sexual insults toward her. She described not being allowed to go to the bathroom, not receiving water, and being threatened by police during her detention in the anti-terrorism unit of an Ankara detention center.



"Tram lines" produced by blunt trauma caused by police beatings with batons during the protests in Istanbul. Photo: Human Rights Foundation of Turkey

Doctors and other medical personnel have an ethical duty to prevent illness and to care for the sick and wounded, regardless of political affiliation, race, or religion.⁴⁷ These ethics of medical practice date back at least 2,300 years and are part of Islamic traditions as well.⁴⁸ The Islamic Code of Medical Ethics contains five principles that have been in practice since the early days of Islamic culture to guide physicians' ethical behavior.⁴⁹ Governments, in turn, have an obligation to protect physicians' independence and their special role within society as they impartially heal the sick and treat the injured.⁵⁰

A physician's ethical responsibility during time of peace is identical to that during time of war,⁵¹ and the government must refrain from interfering with this professional duty and the general functions of health systems during times of conflict, unrest, or peace.⁵²

Medical neutrality⁵³ requires:

1. The protection of medical personnel, patients, facilities, and transport from attack or interference;
2. Unhindered access to medical care and treatment;
3. The humane treatment of all civilians;
4. Nondiscriminatory treatment of the injured and sick.⁵⁴

The principle of medical neutrality embodies international medical ethics and is codified in the Geneva Conventions, which set the standard for international humanitarian law, or the laws of war.⁵⁵ Although international humanitarian law may not apply to the recent unrest in Turkey, as it is not an armed conflict, principles of medical neutrality are reinforced in various human rights treaties that Turkey has a duty to uphold. International human rights law applies during times of civil unrest, unlike international humanitarian law, which only applies during armed conflict.⁵⁶

Turkey, a NATO ally and candidate for full European Union membership, has ratified a number of the major international human rights treaties⁵⁷ – including the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – that provide a solid foundation upon which norms of medical neutrality stand.

The ICCPR, for example, forbids arbitrary arrest and detention⁵⁸ and describes very limited situations in which derogation from this principle is allowed.⁵⁹ The arbitrary arrest and detention of medical personnel violates this international treaty.

The ICESCR codifies the right to health and explicitly calls on governments to provide access to medical care in a non-discriminatory manner for those in need.⁶⁰ The willful blocking of medical care to those in need violates this treaty.

Additionally, CAT forbids governments from torturing its citizens and from engaging in acts of cruel, inhuman, and degrading treatment.⁶¹ This prohibition on government action relates to all potential victims, including individuals in need of medical care. Subjecting patients or those in need of medical services to torture or cruel, inhuman, and degrading treatment stands in clear violation of CAT.

The recent attacks on civilians documented in this report violate these human rights treaties and place Turkey in breach of its international legal obligations. In addition to violating well-founded international human rights law, attacks on medical professionals interfere with their ethical obligations to provide unbiased care to those in need. The World Medical Association's International Code of Medical Ethics and Medical Ethics Manual describe the duties of physicians, which include administering emergency care and adhering to principles of non-discrimination.⁶² Governments must not infringe upon the duties of medical professionals and should not target or punish those who seek to uphold these internationally recognized principles.

Violations of Medical Neutrality: Attacks on Medical Personnel and Medical Facilities

The MOH Failed to Provide Adequate Medical Services to Demonstrators, and Ambulance Services Faced Restrictions on Access

The Turkish MOH routinely responds to public emergencies with humanitarian and emergency medical assistance and welcomes the assistance of independent medical personnel. This precedent has been observed in natural disasters, such as earthquakes. During such crises, the MOH generally implements an action plan in proportion to the need. In the case of the Gezi Park events, in which an estimated 2 million people took to the streets throughout Turkey and more than 8,000 people were injured, no such action plan for emergency relief was evident, and the MOH did not provide adequate emergency medical care. The MOH's failure to respond to the emergency medical needs of thousands of demonstrators is inconsistent with its stated Health Transformation Program,⁶³ a health system that claims to ensure the right to health and universal health coverage for everyone in Turkey.

Many individuals interviewed by PHR were unaware of any MOH provision of emergency medical services in the area around the demonstrations. Some eyewitnesses interviewed by the PHR team reported that state ambulances transported supplies of tear gas to the police. According to Dr. Ozdemir Aktan, chairperson of TMA Central Council, "The government provided no crisis intervention, no emergency medical personnel. There were some MOH ambulances in the area, but not enough given the extent of injuries and needs. Moreover, because the roads were blocked off, ambulances often could not get into the area."

Other interviewees claimed that the government and MOH were completely absent. Dr. İncilay Erdoğan, a coordinator of medical infirmaries in Istanbul, stated in her interview with PHR, "It is a lie that there was any support from any governmental entities to get people to hospitals by ambulances. The government and ministry did not send ambulances. When we had to send somebody to a hospital, we had to call private hospital ambulances." Dr. Yasemin Demirci, the coordinator of the medical infirmary at the Dolmabahçe Mosque in Istanbul, recalled, "The last day at the mosque infirmary, I was responsible for calling ambulances. I called 112 [Turkey's emergency telephone number]. The ambulance personnel there said that they could not come because they were not allowed to come."

Dr. Demirci also referred to a rumor that other interviewees had mentioned, but could not confirm. He stated, "The protesters said that several days earlier an official ambulance came in and transferred pepper gas to the police, so the protesters did not want an official ambulance to come in." PHR was unable to investigate this accusation during the field investigation. However, whether or not the rumor is true, the spread of reports of ambulance assistance to police may have resulted in fewer calls for public ambulances in the demonstration areas, further increasing the need for on-site medical triage and emergency care. In Ankara, Dr. Arpat, emergency infirmary coordinator, stated the following during an interview with PHR:

The MOH did not themselves provide medical service. They did not make any provisions for medical care at the sites of the demonstrations. Protesters had heard rumors that 112 ambulances were carrying weapons for police so protesters were stopping them. I did not hear of any cases that ambulances were ever doing that. Usually, they do provide medical services at public events but these were not provided. Normally, at any public event, there are also measures taken so ambulances are right there. But none were taken in this case. Normally, 112 ambulances arrive in 8 to 12 minutes. These services were not functional during these days.

The MOH also failed to apply international standards on the effective medical documentation of torture and ill treatment,⁶⁴ included in the Istanbul Protocol,⁶⁵ even though the standards were developed in Turkey and the MOH has participated in large-scale Istanbul Protocol trainings. Unfortunately, according to the medical personnel with whom PHR spoke, the practice of police coercion of forensic medical evaluations and the failure of medical experts to accurately document forensic medical evidence of torture and ill treatment – practices that PHR documented in 1996 in Turkey⁶⁶ – persist with little or no change.

Violations of Medical Neutrality: Attacks on Medical Personnel and Medical Facilities

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Independent Medical Personnel Provided Independent Emergency Medical Care to Demonstrators

According to the TMA, in the absence of adequate emergency services by the MOH, thousands of independent physicians and other medical personnel provided emergency care as individuals and through the organization of the TMA, in accordance with their medical ethical duties and Turkish law. Dr. Aktan of the TMA explained to PHR that the TMA heard through social media on May 31 that people needed doctors for medical assistance, as ambulances could not get into the demonstration areas. He recalled that astounding numbers of physicians and medical students went to meet the need. Dr. Aktan stated that the TMA received calls from people who wanted to help, from other doctors and nurses, and from people looking to donate medical supplies. The TMA posted a request for assistance on their website and emailed all TMA members. In response, they received 1,000 applicants to help with the medical assistance effort. A group of health care professionals gathered right near Taksim and opened the first infirmary. They provided a phone number that could be used as a call center and used social media to provide information on the infirmary's location. Many medical students also volunteered and were paired with licensed physicians. Dr. Aktan noted that most of the medical volunteers had never participated in any prior demonstration before and did not know what to expect.

Dr. Aktan noted that TMA members were at Gezi Park by the second day of the demonstrations. Although the medical assistance effort was initially disorganized, volunteers eventually developed a network of medical infirmaries. Dr. Fincancı of the HRFT explained, "Emergency care to the injured proved to be essential for effective triage of injuries. Not all injuries required visits to the emergency room or hospitalization, and many people received emergency care who refused to go to a hospital emergency room for fear of being detained as did happen to many who went to hospitals."

Dr. İncilay Erdoğan, infirmary coordinator in Istanbul, described the difficulties of providing emergency medical assistance in the face of fears of police reprisals:

One night, I was the organizer of medical aid, and I moved the location of three first aid centers. It was like war. We kept moving from one place to another, like a camp. I asked one protester to tell me when the police were coming near. There were more than 20 first aid centers and three infirmaries, two in the park and one in the Hotel Divan. The police kept attacking us, so we kept moving where we were trying to provide medical assistance.

Dr. Savaş Çömlek, an anesthesiologist and critical care physician, described his role in the provision of emergency care in the early days of June near Gezi Park:

After the tents in Gezi Park were burned, I went to provide medical care. Police were shooting tear gas right at people in the crowd, using the canisters as if they were rifles. Many were injured and calling for a doctor. It was a very small, closed area. Police did not leave space for people to run away so people were stuck in the closed area. I tried to talk to some police to ask them to stop because people were injured. They did not stop, so I helped some injured people go into the Divan Hotel.

Several people had been injured by tear gas canisters. One person's head was lacerated by a tear gas canister, somebody had a heart attack, and another was suffering from a severe asthma attack. A lot of people were in shock and panic. The police did not allow ambulances to pass. We called 112 for ambulances, but none came. We were able to send some injured people to Şişli Hospital by taxi.

In his public statements, Prime Minister Erdoğan criticized the emergency medical efforts, claiming that medical personnel and patients in the infirmary set up in the Dolmabahçe mosque, had shown disrespect to the mosque. The prime minister stated, "Protesters entered the Dolmabahçe mosque with their shoes on, consumed alcoholic beverage there, and through that acted disrespectfully to this country's religious sacred places – and in the name of what? Environmentalism."⁶⁷ The mosque imam refuted these claims, stating that there had never been any disrespect shown in the mosque during the weeks of medical services. The mosque's muezzin, Fuat Yıldırım, stated that no alcohol was consumed at the mosque.⁶⁸ Dr. İncilay Erdoğan, who coordinated services at the mosque, emphatically stated to the PHR team, "I can tell you that my friends and I opened and closed the mosque, and I can say that nobody brought beer or showed a lack of respect for the mosque."

18 Violations of Medical Neutrality: Attacks on Medical Personnel and Medical Facilities

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Police Attacked Mobile Infirmaries

Medical personnel were targeted from the very beginning of the protests. When the police entered Gezi Park and burned tents in the early days of the protests, the TMA infirmary tent was also burned. The physicians PHR interviewed described their experiences providing emergency care and the direct attacks on infirmaries they witnessed. A principal theme was the pervasive sense of insecurity and fear of attacks by the police. Dr. Cem Aritürk, a cardiovascular surgeon PHR interviewed at the Istanbul TMA office, explained, "In every infirmary, we had Plans A, B, and C. We knew we were not safe just because we are doctors. We constantly had plans for moving medications, oxygen tubes, supplies, and patients before the police came." Aritürk noted, "The police would follow injured people to the infirmary and then throw the tear gas in. The doctors felt that this was a message that we should all leave and stop helping people."

They [the police] attacked infirmaries full of injured people with tear gas. Some of the people ran out waving the emergency health care flags asking the police to stop, but they did not stop...

– Dr. Savaş Çömlek

Dr. Fincancı of the HRFT told the PHR team that on June 11 she witnessed the intentional firing of tear gas into the Gezi Park infirmary, which was clearly identified as a medical first aid center. Dr. Çömlek, who also saw police attack infirmaries, recounted to PHR:

They attacked infirmaries full of injured people with tear gas. Some people ran out waving the emergency health care flags asking the police to stop, but they did not stop. I saw them shoot...the window of the ambulance out, with the canister landing inside the ambulance right in front of the infirmary in the Divan Hotel. The police were 5 to 10 meters away from the ambulance when they shot the tear gas canister into it. It was a private ambulance with the red cross on it. There were no protesters there when this happened. There was no provocation.

Another physician helping in a volunteer infirmary in Istanbul described to PHR, "Police had shot people with tear gas and rubber bullets. My colleague and I ran with inhalers to help people. I was so exposed to tear gas that I had such bad bronchial constriction that I could not breathe at all. My colleague treated me with several immediate puffs of inhalers."

Dr. Incilay Erdoğan described her experience to the PHR team:

The police really targeted us medical personnel. They were shooting tear gas canisters into our infirmary area... I personally have allergic asthma. I had to constantly be taking pills and using inhalers. Three times on June 22 they attacked us with gas bombs. There were no demonstrators on the road outside, but they came in a whole army to our street, looked around, and shot a tear gas bomb directly into the second story window of the library in an engineering building that we had been using for three weeks. We had a sign that said 'first aid center.' It was a medical center. The tear gas bomb exploded right next to me.

During an interview with PHR in Ankara on June 30, Dr. Arpat recalled:

The police shot gas canisters outside on the street. Then the street was blocked. We were anticipating a raid, but we reassured ourselves that even in war doctors are allowed to provide medical treatment, so why would the police raid us? But the police started to swarm into the building [where the emergency medical center was located]. They shot tear gas at the infirmary entrance and then entered... We were choking with tear gas. We just were wearing surgical masks. Two of our colleagues went out in white coats and identification showing they were doctors. They were beaten harshly and insulted. Then the police disappeared.

In a June 29 interview with PHR in Ankara, Adnan Vural, a medical technician, described being in the Mülkiyeliler volunteer infirmary on June 2 when the police threw tear gas canisters into the infirmary and tried to beat the injured as they were brought inside the medical center.

Violations of Medical Neutrality: Attacks on Medical Personnel and Medical Facilities

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Police Attacked, Beat, and Detained Medical Personnel Who Provided Care to Injured Demonstrators

Physicians interviewed by PHR described multiple instances where medical personnel were reportedly directly targeted by police for helping injured demonstrators. One Istanbul volunteer physician interviewed on June 27 described, “Last Saturday, I was wearing a beret that said that I was a doctor. The police were deliberately shooting at my beret. Finally, I took my beret off. It didn’t help. If anything it hurt that I was a doctor. They were aiming at the doctors. They didn’t want us there helping the protesters.”

Dr. Çömlek described what happened when he and three nurses brought their medical equipment to a peaceful demonstration scheduled for June 16 near Gezi Park:

In a partially closed area, there was an attack of tear gas. We treated one injured person. In an empty area, we ran into a group of police. I immediately said that I was a doctor and that the women were nurses. They said, “If you are a doctor what are you doing here?” I felt that they were treating me as a terrorist. I kept repeating that I was a doctor but they grabbed me by my upper arms roughly, leaving bruises.

Dr. Fincancı stated, “In such emergency situations, there is a need for proper independent medical care. The government is trying to punish independent medical personnel who provided emergency medical care, as though it is a crime to help those in need of care.”

According to the TMA, 18 health professionals were detained while providing medical care to people injured during the demonstrations: 13 in Istanbul, four in Ankara, and one in Mersin. In Ankara, PHR interviewed a 25-year-old recent medical school graduate, Utku Gürhan, who was detained by police while he was providing medical care in the volunteer infirmary in the Fincan Café. He described what happened on June 2 after a group of special forces threw tear gas canisters into and then entered the café, which was clearly marked as an “infirmary,” with all staff inside wearing white medical coats:

The forces then started to wreck our medical equipment. They were discussing whether to use pepper gas. I showed them my medical identification, and said that we were just providing humanitarian assistance. One policeman seemed convinced, but another policeman said that they should take me. He threw me down the stairs and then bent my arm behind my back and scratched me. I yelled that I would not resist but they kept roughly bending my arm behind my back. ... A policeman and another one started beating me over my liver. One hit with his fist.

In the police van, Gürhan reported that he continued to be beaten and insulted. In the detention center, he told PHR that he and the other detainees were not provided with water and were not allowed to go the toilet for eight hours. Gürhan recalled that he did his best to help injured detainees, including fixing and splinting the displaced elbow of one man. He told PHR that he was released after 36 hours, during which

time he reportedly received no food. Gürhan described that when he was released from detention, the police told him that if he was detained again, he would be sent straight to the “anti-terrorism unit,” so he did not provide emergency medical care again after being released. Gürhan told PHR, “I felt bad knowing that people were being injured and needed medical help, but was too afraid to go back and help. There are things I would do better clinically. All my medical school professors were always telling us to imagine if we were on top of a mountain with a patient, what would we do? I was trained with that philosophy and got to live it during these recent events.”

Although the focus of the PHR investigation was on attacks against medical personnel, interviewees also provided information and documentation on lawyers being detained. On June 30, Serbay Köklü, manager of the Ankara Branch of the HRA, stated that 28 attorneys had been arrested from the HRA and the Contemporary Lawyers Association. He also reported that some 48 attorneys were detained for approximately 10 hours, and many were beaten after holding a press conference at a courthouse in Istanbul 7 to 10 days before their interview with PHR. Köklü said that they were detained at police headquarters, where many were thrown to the ground, punched, kicked, and beaten with batons. According to Köklü, there are forensic photos and reports corroborating these allegations. A legal case has been initiated against the police.⁶⁹

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MOH Requested that Medical Personnel Report the Names of Both the Injured and Those Providing Care

On June 13, the MOH sent out a circular requesting a variety of different information on the “volunteer infirmaries” established around the Gezi protests, including the names of injured demonstrators and medical personnel providing care to the wounded. The memo also asked why permission from the MOH had not first been sought before establishing these infirmaries. On June 17, the TMA responded in writing that they were not going to release the names of the doctors or the patients. The TMA physicians that PHR interviewed argued that the effect and intent of this mandate was clear: to identify and punish protesters and the medical personnel who provide them with emergency care.

In response to the MOH request, the TMA stated the following:

We want to share with our people that as physicians:

- *We solemnly pledge to consecrate our lives to the service of humanity,*
- *The health of our patients will be our first consideration,*
- *We shall respect the secrets that are confided in us even after the death of our patients,*
- *Our colleagues will be our sisters and brothers,*
- *We shall not permit considerations of creed, nation, ethnicity, party politics or social standing to intervene between our duty and our patients,*

The rendering of medical treatment is an ethical response to a need not a political response to the unrest.

- *We make these promises solemnly, freely and upon our honour.
Declaration of Geneva - Professional Oath, 1948.⁷⁰*

The reporting request by the MOH resulted in injured demonstrators refusing to seek medical treatment out of fear of detention, ill treatment, and/or arrest under false charges. As one of several physicians interviewed described:

After the MOH order... a lot of the people we treated were too afraid to go to the hospital emergency room. We just had the capacity to perform triage, to stabilize people so they could be safely transported to the hospital. Some of the patients I treated with serious injuries refused to go to the hospital. They insisted on going home. I worry about what happened to them. Also, none of those people are in the records of the TMA on numbers and types of injuries. The TMA numbers thus don't begin to cover all the number and extent of injuries.

While most hospital emergency medicine and inpatient medical personnel reportedly complied with the MOH reporting request, according to PHR's interviewees, many health professionals refused to breach the confidentiality of the patients they cared for, providing care without formally documenting it.

MOH Bill Under Consideration in Parliament Seeks to Criminalize the Provision of “Unlicensed” or “Unauthorized” Emergency Medical Care

In early July 2013, the MOH submitted a health bill that remains on the agenda in parliament. If passed, this legislation would criminalize the provision of “unauthorized” or “unlicensed” emergency medical care, not only to demonstrators, but anyone in need of emergency medical assistance in Turkey. Article 33 of the health bill⁷¹ states:

...any person who provides unlicensed health service or any unauthorized person who renders health service shall be punished between 1 year to 3 years and punitive fine is imposed up to one hundred thousand days.

Such legislation is in direct conflict with Articles 97 and 98 of the Turkish penal code (TPC), which make it a crime for medical personnel to neglect their duty of providing emergency care to those in need.⁷² While the parliament was in recess at the time this report was written, the bill was scheduled to be considered when parliament reopens in October 2013.

By providing emergency assistance to the injured, medical personnel in Turkey are fulfilling their duty under the International Code of Medical Ethics and provisions in the Turkish penal code.⁷³ The rendering of medical treatment is an ethical response to a need not a political response to the unrest. The criminalization of emergency medical care in Turkey comes as no surprise, as Prime Minister Erdoğan has repeatedly referred to the protesters and medical personnel as “çapulcu,” meaning looters or vandals in Turkish.⁷⁴

Government forces in Turkey have engaged in unnecessary and excessive violence against protesters that constitutes ill treatment (cruel, inhuman, and degrading treatment or punishment) on a massive scale and – in some cases – torture. The state has used tear gas as a weapon, at close range, directly targeting individuals, and in confined spaces; it has indiscriminately used rubber bullets and water cannons spiked with chemical agents (reportedly tear gas), as well as unjustified lethal force; it has detained and beaten hundreds of protesters after they were under police control; and it has intentionally targeted clearly identified medical facilities and medical personnel who attempted to provide emergency medical care as required by the Turkish penal code and Turkish law. Such acts of violence have been celebrated by Prime Minister Erdoğan as “legendary heroism,”⁷⁵ rather than condemned and perpetrators held to account.

This violence against hundreds of thousands of Turkish citizens and the criminalization of emergency medical care reflects a policy of contempt for basic human rights and human dignity. We call upon Prime Minister Erdoğan and the Turkish government to demonstrate their respect for the rights and dignity of all Turkish citizens through an immediate end to both the use of tear gas and attacks on medical personnel providing emergency care to those in need.

Turkey remains obligated to uphold all human rights treaties they have ratified and to respect the fundamental rights of its citizens. PHR calls on the government of Turkey, the international community, and the U.S. government to implement the following recommendations without delay.

To Prime Minister Erdoğan and the Turkish Government

- End policies of contempt and criminalization of basic rights and freedoms, including peaceful assembly and freedom of speech.
- Immediately end *all* use of tear gas in Turkey – as it has been systematically used as a weapon on a massive scale with devastating health consequences – until such time as the government has implemented full investigations of misuse, held perpetrators accountable, removed perpetrators from the security forces, and trained all security officers on the proper use of riot control materials.
- Prohibit all forms of violence against peaceful protesters and respect United Nations standards for the use of force, which must always be based on the principles of necessity, proportionality (minimum level of force), legality, and accountability.⁷⁶
- Ensure comprehensive training on the proper use of force and adherence to international law for all current and future members of law enforcement.
- Ensure accountability mechanisms for all those responsible for excessive use of force and other human rights violations.
- Require that riot police display identifying numbers for command and control and accountability purposes. After Turkey has fully addressed the issues related to the improper use of tear gas (as outlined above), the government must ensure that riot police warn protesters before any use of force in accordance with international best practices⁷⁷ and then record any use of tear gas and/or other riot control materials.
- Immediately release and cease further detention of those who were simply exercising their right to peaceful protest.
- Require that the parliament and the Ministry of Justice obtain and publicly report a comprehensive summary of all protest-related injuries documented by the Forensic Medicine Department.
- Prohibit all attacks on medical personnel who provide emergency assistance to injured protesters. Hold all perpetrators of violence against medical personnel and/or facilities accountable according to fair and transparent legal procedures.
- Repeal the recent Ministry of Health (MOH) circular requesting that medical personnel report the names of injured protesters and medical providers to authorities.
- Respect Articles 97 and 98 of the Turkish penal code, which make it a crime for medical personnel to neglect their duty of providing emergency medical care to those in need, and immediately suspend recently proposed legislation that would criminalize the provision of “unlicensed” or “unauthorized” emergency medical care by independent medical personnel.

Policy Recommendations

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- Support the independence and autonomy of the Turkish Medical Association (TMA), the Human Rights Foundation of Turkey (HRFT), and other respected independent organizations for their critical contributions to the health and human rights of Turkish citizens. These organizations are highly respected by the international medical community for their integrity and the quality of their work.
- Adhere to provisions of the Turkish constitution that affirm the independence of the TMA and other semi-independent organizations, and end efforts to make these organizations dependent on state ministries.
- Cooperate with any investigation by the special procedures of the UN Human Rights Council.

To the International Community

- End exports of tear gas to Turkey until the government of Turkey has conducted full investigations of misuse, held perpetrators accountable, removed perpetrators from the security forces, and trained all security officers in the proper use of riot control materials.
- Use voice and vote through multilateral institutions to press Turkey to implement the recommendations listed above in order to protect human rights and respect medical neutrality.
- Support ongoing efforts by the Council of Europe Commissioner for Human Rights to conduct an investigation into Turkey's excessive use of force against protesters.
- Support a country visit to Turkey from the UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.
- Support an international summit, including experts from the legal, medical, public health, and law enforcement communities, to develop guiding principles on the use of tear gas.

To the U.S. Government

- Suspend export licensing of tear gas to Turkey until the government of Turkey has conducted full investigations of misuse, held perpetrators accountable, removed perpetrators from the security forces, and trained all security officers in the proper use of riot control materials.
- Pass the Medical Neutrality Protection Act, H.R. 2033, which authorizes accountability mechanisms for governments that attack health workers, facilities, transport, or supplies.
- Pass legislation that would prohibit the export of tear gas or other riot control items to any government that is using such items to repress peaceful dissent.
- Use bilateral negotiations to press the government of Turkey to make swift and measurable progress on the recommendations outlined above.



People run away as Turkish riot police fire tear gas on Taksim Square on June 11, 2013. Turkish police fired massive volleys of tear gas and jets of water to disperse thousands of anti-government demonstrators.

Photo: BULENT KILIC/AFP/Getty Images

Relevant Legal Standards

International Standards on the Use of Force

The United Nations has established best practices for the use of force, which must always be based on the principles of necessity,⁷⁸ proportionality,⁷⁹ legality, and accountability.⁸⁰ All actions must aim to protect and preserve human life and dignity.⁸¹ Moreover, before resorting to force, security forces must attempt to use non-violent means – such as presence, dialogue, information, and de-escalation – when dealing with peaceful assemblies. When the threat level is more serious, such as unlawful but non-violent assemblies, a show of force is acceptable, but with less-lethal

means and weapons. Only when a situation has escalated to present an imminent deadly threat should law enforcement officials apply proportional and reasonable use of lethal force. Where the lawful use of force or firearms is unavoidable, law enforcement officials must exercise restraint, minimize damage and injury, respect and preserve human life, ensure that assistance and medical aid are rendered to any injured or affected persons, ensure that relatives of the injured are notified, and ensure that the arbitrary or abusive use of force is punished as a criminal offense. Exceptional circumstances, including political instability or public emergency, cannot be invoked to justify any departure from these principles.⁸²

In most instances, based on eyewitness accounts and extensive interviews, PHR concluded that police and other security forces throughout the Gezi Park protest events faced no imminent threat to their lives or the lives of third persons. Moreover, while interviewees noted cases of rock throwing and construction of barricades in response to the harsh police crackdown on initially peaceful demonstrations, PHR investigators received no evidence to suggest that protesters were armed or carried weapons during the demonstrations.

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Turkish Law

The right to peaceful demonstration is provided for under Turkey's constitution. Article 34 states, "Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission."⁸³ Such demonstrations may only be restricted by law on the grounds of "national security, public order, prevention of commission of crime, protection of public health and public morals or the rights and freedoms of others."

The Turkish penal code (TPC)⁸⁵ includes a number of provisions that make it a crime for any public officers to cause physical and/or mental pain. Article 94 of the TPC states:

(1) Any public officer who causes severe bodily or mental pain, or loss of conscious [sic] or ability to act, or dishonors a person, is sentenced to imprisonment from three years to twelve years.

(2) The punishment may not be reduced in case of commission of offense;

a) Against a child who cannot protect himself due to corporal or spiritual disability,

b) Against an attorney or another public officer by virtue of office, the offender is sentenced to imprisonment from eight years to fifteen years.

(3) In case of engagement in any act defined as sexual harassment, the offender is punished with imprisonment from ten years to fifteen years.

(4) Other persons who participate in commission of an offense are punished likewise the public officer.

(5) The punishment to be imposed may not be reduced even if the offense is committed by negligence.

Article 95⁸⁶ of the TPC provides for increased punishment by one half to one fold if the offense causes the following: weakening of sensory or bodily functions of the victim, continuous difficulty in speaking, distinct facial mark, risk of life, incurable illness or vegetative existence of the victim, loss of sensory or bodily functions, or distinct facial change, among others. In cases where the torture causes broken bones in the body, the offender is sentenced to eight to fifteen years in prison according to the effects of the broken bone on vital functions. In the case of death of a person from torture, the offender is sentenced to life imprisonment.⁸⁷

While the TPC provides for non-punishment for self-defense in Article 25,⁸⁸ Turkish law also requires a proportional relationship between the imminent necessity to protect oneself, the seriousness of danger, and the means used to eliminate this danger. Also, TPC Article 27 reduces punishment (by one-sixth to one-third) if the infliction of physical and/or mental pain is unintentional or executed in negligence; there is no punishment in the case of self-defense as a result of "excusable excitement, fear or anxiety."⁸⁹

In addition, TPC Articles 97 and 98 require medical personnel to provide emergency medical care.⁹⁰ Article 97 of the TPC protects individuals from abandonment, including victims of illness, injury, or death:

(1) Any person who abandons another person who is under protection and observation due to state of disability bound to old age or sickness, is sentenced to imprisonment from three months to two years.

(2) If the victim suffers an illness or subject to injury or death due to abandonment, the offender is punished according to the provisions relating to aggravated offense.

Article 98 of the TPC makes it a crime for medical personnel to neglect their duty of providing emergency medical care to those in need:

1) Any person who fails to render assistance to an old, disabled or injured person at the extent of his ability, or fails to notify the concerned authorities in time, is punished with imprisonment up to one year or punitive fine.

(2) In case of death of a person due to failure in rendering assistance or notification of concerned authorities, the person responsible is sentenced to imprisonment from one year to three years.

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European Court of Human Rights

In April 2012, the European Court of Human Rights (ECHR) released its final judgment in the case of *Ali Güneş v. Turkey* in relation to a protest against the 2004 NATO summit in Istanbul.⁹²

The Court determined that Turkey violated Article 3 of the European Convention on Human Rights, which states, “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” Ali Güneş was sprayed in the face with tear gas, or pepper spray, while under police control, and authorities subsequently failed to carry out an investigation into the allegations Güneş filed with the prosecutor.⁹³ The court considered:

...the unwarranted spraying of the applicant's face in the circumstances described above must have subjected him to intense physical and mental suffering and was such as to arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.

The ECHR therefore concluded:

...by spraying the applicant in such circumstances the police officers subjected him to inhuman and degrading treatment within the meaning of Article 3 of the Convention.

The Court also noted the concerns expressed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) over the use of such gases in law enforcement:⁹⁴

... [P]epper spray is a potentially dangerous substance and should not be used in confined spaces. Even when used in open spaces the CPT has serious reservations; if exceptionally it needs to be used, there should be clearly defined safeguards in place. For example, persons exposed to pepper spray should be granted immediate access to a medical doctor and be offered an antidote. Pepper spray should never be deployed against a prisoner who has already been brought under control. (CPT/Inf (2009) 25)

In the 2006 ECHR case of *Oya Ataman v. Turkey*,⁹⁵ the ECHR found that tear gas or pepper spray can produce effects such as:

... respiratory problems, nausea, vomiting, irritation of the respiratory tract, irritation of the tear ducts and eyes, spasms, chest pain, dermatitis and allergies. In strong doses it may cause necrosis of the tissue in the respiratory or digestive tract, pulmonary oedema or internal haemorrhaging (haemorrhaging of the suprarenal gland).

The Court's decision in the case of *Ali Güneş v. Turkey* indicates that Turkey's recent use of tear gas and other forms of unnecessary and excessive violence on peaceful protesters, or those under police control, in the Gezi Park demonstrations would constitute inhuman and degrading treatment on a massive scale.

The failure of the Turkish government to take meaningful steps to end ill treatment of protesters is evidenced by subsequent ECHR decisions in 2013. On July 16, the Court held that the safeguards surrounding the proper use of tear gas grenades in Turkey needed to be strengthened in order to minimize the risk of death and injury resulting from their use.⁹⁶ Separately, on July 23, the Court found that the absence of clear and adequate instructions regulating the use of tear gas in Turkey had contributed to the excessive reliance on such weapons by police officers. The ECHR also considered that police officers had failed to show a certain degree of tolerance and restraint before attempting to disperse a crowd that had neither been violent nor presented a danger to public order.⁹⁷

1. United Nations best practices on the use of force state the importance of employing non-violent means before resorting to use of force; exercising restraint and proportionality; minimizing damage and injury; ensuring that the injured receive assistance and medical aid; ensuring that relatives of the injured are notified; and promptly reporting deaths to officials, among other measures. See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27 to September 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990), Arts. 5(a)-(d), 6, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>.
2. The term "medical neutrality" refers to a constellation of obligations that ensure 1) the protection of medical personnel, patients, facilities, and transport from attack or interference; 2) unhindered access to medical care and treatment; 3) the humane treatment of all civilians; and 4) nondiscriminatory treatment of the injured and sick. Doctors' ethical duty to prevent illness and care for the sick and wounded without regard to politics, race, or religion dates back at least 2,300 years and also includes Islamic tradition. Society, in turn, has an obligation to protect physicians' independence and special role within society as they impartially heal the sick and treat the injured. See World Medical Association, WMA Declaration of Geneva, September 1948 (last amended 2006), <http://www.wma.net/en/30publications/10policies/g1/index.html>; George J. Annas and H. Jack Geiger, "War and Human Rights," in *War and Public Health* (Oxford: Oxford University Press, 2008), 37–50; Robert M. Veatch, *A Theory of Medical Ethics*, (New York: Basic Books Publisher, 1981), 22, 57; World Medical Association, WMA International Code of Medical Ethics, October 1949 (last amended 2006), <http://www.wma.net/en/30publications/10policies/c8/index.html>; and World Medical Association, WMA Declaration of Tokyo, Art. 5, October 1975 (last amended May 2006), <http://www.wma.net/en/30publications/10policies/c18/index.html>.
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48. A physician who takes the Hippocratic Oath pledges: "I will apply...measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice." Veatch, *A Theory of Medical Ethics*, 22. In the ninth century, Ishaq ibn Ali al-Ruhawi wrote the *Practical Ethics of the Physician*. In the thirteenth century, Ibn abi Usaybia wrote the Arabic version of the Hippocratic Oath entitled, "Lives of Physicians," which states: "In all my treatment I will strive so far as lies in my power for the benefit of the patients." Veatch, *A Theory of Medical Ethics*, 57.
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53. In a groundbreaking investigation that helped define “medical neutrality,” PHR’s 1989 medical investigation in El Salvador reported on allegations of the assault, arrest, intimidation, and execution of healthcare workers. PHR has published pieces on medical neutrality since 1988, including reports on the West Bank and Gaza Strip (1988); Panama (1988); Chile (1988); El Salvador (1990); Kuwait (1991); Burma (1992); Somalia (1992); Thailand (1992, 2010); India (1993); Mexico (1994); former Yugoslavia (1996); Turkey (1996); Iraq (2003); United States (2003–2007); Libya (2011); Bahrain (2011, 2012); and Syria (2012).
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66. See V. Iacopino, M. Heisler, S. Pishever, and R.H. Kirschner, “Physician Complicity in Misrepresentation and Omission of Medical Evidence in Post-Detention Medical Examinations in Turkey,” *Journal of the American Medical Association*, August 7, 1996, 276, 396–402; See also V. Iacopino, R. Rosoff, and M. Heisler, *Torture in Turkey and Its Unwilling Accomplices*, (Cambridge: Physicians for Human Rights, August 1996).
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72. Turkish Criminal Code, Article 97 and 98.
73. WMA International Code of Medical Ethics.
74. Elena Becatoros and Suzan Fraser, “Erdoğan Calls Turkish Protesters ‘Those Who Burn and Destroy,’” *Christian Science Monitor*, June 9, 2013, <http://www.csmonitor.com/World/Latest-News-Wires/2013/0609/Erdogan-calls-Turkish-protesters-those-who-burn-and-destroy>.
75. “Erdoğan Praises Police ‘Heroism’ Amid Turkish Protests,” *Huffington Post*, July 18, 2013, http://www.huffingtonpost.com/2013/06/24/erdogan-police-heroism-turkey-protests_n_3489582.html.
76. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; UN General Assembly, Code of Conduct for Law Enforcement Officials, U.N. Doc. A/34/46, December 17, 1979, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>.
77. Before law enforcement officials resort to force, they must attempt to use non-violent means, such as physical presence, dialogue, communication of information, and de-escalation of conflict when dealing with peaceful assemblies. See “Policy (Revised): Formed Police Units in United Nations Peacekeeping Operations,” DPKO Ref. 2009.32, March 1, 2010, 9, http://www.un.org/en/peacekeeping/sites/police/documents/formed_police_unit_policy_032010.pdf.
78. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Art. 4, UN Doc. A/CONF.144/28/Rev.1; See also Code of Conduct for Law Enforcement Officials Art. 3, U.N. Doc. A/34/46.

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79. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall (1) exercise restraint in such use and act in proportion to the seriousness of the offense and legitimate objective to be achieved and (2) minimize damage and injury and respect and preserve human life. See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Art. 5; See also Code of Conduct for Law Enforcement Officials, Art. 3.
80. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Arts. 7, 22; Code of Conduct for Law Enforcement Officials, Art. 7.
81. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Art. 3; Code of Conduct for Law Enforcement Officials, Art. 2.
82. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Art. 8.
83. Constitution of the Republic of Turkey, November 7, 1982, Art. 34, http://global.tbmm.gov.tr/docs/constitution_en.pdf.
84. *Ibid.*
85. Turkish Criminal Code.
86. Turkish Criminal Code, Art. 95.
87. *Ibid.*
88. Turkish Criminal Code, Art. 25.
89. Turkish Criminal Code, Art. 27.
90. Turkish Criminal Code, Arts. 97 and 98.
91. *Güneş v. Turkey*, no. 9829/07, §§ 17-18, European Court of Human Rights, April 10, 2012, <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-110262>.
92. European Convention on Human Rights, http://www.echr.coe.int/Documents/Convention_ENG.pdf, Art. 3.
93. Note: The Court did not deem it necessary to examine separately whether Mr. Güneş had also been beaten by police given the Article 3 violation regarding the spraying of tear gas.
94. *Güneş v. Turkey*, paragraph. 39.
95. *Oya Ataman v. Turkey*, no. 74552/01, §§ 17-18, European Court of Human Rights, December 5, 2006, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-78330>.
96. *Abdulla Yaşa and others v. Turkey*, no. 44827/08, European Court of Human Rights, Jul 16, 2013, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122874>.
97. *İzci v. Turkey*, no. 42606/05, European Court of Human Rights, July 23, 2013, <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-4443118-5346250>.



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