

Executive
Summary

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*

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.

Executive Summary

In response to peaceful protests that began in May 2013, the Turkish government used unnecessary and excessive force¹ 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

Policy Recommendations

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.⁶
- 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 practices⁷ 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 MOH circular requesting that medical personnel report the names of injured protesters and medical providers to authorities.



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

Policy Recommendations

continued

- 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.
- 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.

Endnotes

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>.
3. "Turkish Police to Buy 100,000 Gas Bomb Cartridges," *Hurriyet Daily News*, June 16, 2013, <http://www.hurriyetcailynews.com/turkish-police-to-buy-100000-gas-bomb-cartridges.aspx?pageID=238&nID=49075&NewsCatID=341>.
4. V. Iacopino, O. Ozkalipci, C. Schlar, K. Alden, T. Baykal, R. Kirschner, et al. *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol)*. UN Office of the High Commissioner for Human Rights, 2004, HR/P/PT/8/Rev.1, <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.
5. Turkish Criminal Code, Article 97 and 98, November 2004, <http://legislationline.org/documents/action/popup/id/6872/preview>.
6. 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>.
7. 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.

The full report can be found at:
physiciansforhumanrights.org/turkey-protests-2013



Nobel Peace Prize
Co-laureate 1997

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New York, NY Boston, MA Washington, DC
Headquarters