



HRFT

Human Rights Foundation of Turkey

**TREATMENT and REHABILITATION
CENTERS REPORT
2002**

Ankara, July 2004

Türkiye İnsan Hakları Vakfı Yayınları : 35

Yayına Hazırlayanlar:
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ISBN: 9217-42-5

Türkiye İnsan Hakları Vakfı, Türk Medeni Yasası'na göre kurulmuş,
hükümet dışı ve bağımsız bir kuruluştur.
Statüsü 30 Aralık 1990 tarihli ve 20741 sayılı Resmi Gazete'de
yayımlanarak yürürlüğe girmiştir.

BULUŞ Tasarım ve Matbaacılık, Ankara
Tel: (312) 222 44 06 • Faks: (312) 222 44 07

**This report was prepared and printed
with the financial support
of the European Commission**



**English version of
the Treatment and Rehabilitation Centers Report - 2002
is available at the HRFT**

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PREFACE

Ümit Erkol*

Human Rights Foundation of Turkey started to operate after its legal tender came into force in 1990. From that time on, one of its fields of operation has been the treatment and rehabilitation of torture survivors. Having started to its works in a single flat under highly narrow circumstances, the HRFT today carries out its activities through five Treatment and Rehabilitation Centers at five different cities as well as a Documentation Center and a Headquarter.

Having taken its first steps in 1990, the HRFT has provided treatment and rehabilitation services for overall 7910 persons till the end of 2002. Besides, it now works as a reference center, and it has been awarded many times both at the national and international sphere. Under these circumstances, the HRFT experiences both the felicity of this success and the discontentment of living in a country where torture is still systematically applied.

As being one of the most significant problems in the field of human rights, torture issue has maintained its place of importance in 2002 as well. Unfortunately, torture is systematically applied in Turkey despite all promises made.

Beginning after the F-Type Prisons have come to the agenda, hunger strikes and death fasts are still going on. Many activists, who are either still on action or released or who abort the action, have been dealing with serious disorders or sequaleas. In 2002, the HRFT Treatment and Rehabilitation Centers have continued to provide treatment and rehabilitation services for the persons experiencing health problems in this period.

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Following the Preface and Introduction, 2002 Report of the HRFT Treatment and Rehabilitation Centers is composed of two divisions. The first division evaluates the data of 879 torture survivors who applied to our centers. At the end of the first division, the data of the applicants who had hunger strike and death fast related health complaints are evaluated.

The second division covers the article of Prof. Dr. Sebnem Korur Financi, "Istanbul Protocol and Preventing Torture", which evaluates the role of Istanbul Protocol in the struggle to prevent torture; in addition to the article of Dr. Yesim Islegen, "Gynecologic Approach Considering Violence against Women", which brings an approach for determining torture and for the treatment and rehabilitation of torture survivors.

We feel it necessary to apologize from our readers because of the 6-month delay in releasing the 2002 Report of the HRFT Treatment and Rehabilitation Centers. We also would like to express that we feel a duty to cover this gap in 2003.

In addition to its founders, executive board, staff, volunteers and the persons and organizations that it works with, the HRFT acts in concert with all showing solidarity, especially with the Headquarter and Branches of the Human Rights Association, Turkish Medical Association and Medical Chambers. We would like to thank all friends for their sincere solidarity.

INTRODUCTION

Yavuz Önen*

Like in previous years the documentation center of the Human Rights Foundation of Turkey (HRFT) researched human rights violations in our country in 2002 from various aspect. The form and contents very much resemble the structure of the report for the year 2001, carry almost the same titles and include a number of details. In the preface I shall make a general evaluation, will look at international developments and summarize human rights violations.

The general situation

Ankara was disturbed, when the European Parliament (EP) approved the Caucasus report that mentioned the Armenian genocide on 27 February and passed resolutions on the process of democratization in Turkey and the closure of HADEP on 31 March. The Grand National Assembly of Turkey (GNAT) issued a declaration stating, "it soils the people, who took the decision, if a parliament known to be respectful accepts baseless Armenian allegations by ignoring historic facts and passes statements that injure the Turkish history, State and nation."

At a time, when the discussion on harmonization laws to the European Union (EU) were in full swing, Doğu Perinçek, chairman of the Worker's Party (İP), held a press conference on 9 February making e-mails of Ambassador Karen Fogg, Turkey representative of the European Commission (EC), public. During the campaign against the EU the İP alleged that Fogg was conducting an operation on the harmonization laws. The tactical aim was to form a new political party and to change the Prime Minister and the strategic aim was the elimination of the national State. Perinçek accused Foreign Minister İsmail Cem to be an accomplice of Fogg and declared that Fogg had conducted espionage and was a supporter

* President HRFT

of the PKK. He also alleged that the trade union confederations DİSK, KESK and Hak-İş had received money via unlawful ways. The intelligence organization MİT and the National Security Council (NSC) declared that they had no share in obtaining the e-mails. The public prosecutor in Ankara started an investigation on the allegation that the freedom of communication had been violated. He indicted Doğu Perinçek and his deputy Hasan Yalçın. Ankara Penal Court No. 2 acquitted both defendants within the year.

Knowing that the Council of Ministers in the EU might take a decision on full membership of Turkey towards the end of the year important efforts were observed in Turkey concerning human rights. The official area was set by the 57th government (coalition of DSP-MHP-ANAP) by taking legal steps for harmonization and forming some human rights organs. The changes were put in three different "packages for democratization" and the civil society lived through a dynamic process.

It must, however, be stated that the civil society did not directly participate in the activities or rather was excluded from it. The armed forces and the NSC was able to influence public opinion with their doubts and views and the GNAT and government that were to decide on the legal changes only listened to this voice. Once again the process of democratization lost against the national security concept with its major aim of exterminating the threat against the indivisible unity of the State and nation.

In the second half of 2002 Turkey entered the atmosphere of an early election. As a result of the 3 November elections the traditional parties MHP, ANAP, DYP and DSP that have played an important part of the political life in Turkey for the last 20 years all stayed below the 10 percent mark and did not enter parliament. The Justice and Development Party (AKP) that was founded after the closure of the Virtue Party (FP) under the chairmanship of Recep Tayyip Erdoğan gained 34.29% of the votes and was represented in the GNAT with 363 deputies. This was the first time after many coalition governments that a single party gained a majority that was sufficient to even change the Constitution.

Because of restrictions on political activities of Mr. Erdoğan the 58th Government was formed under Kayseri MP Abdullah Gül. The new government prepared a program that stressed democracy, human rights and human values. At the same time the AKP was busy to ensure that it had no problems with the values of the EU and would do the utmost to make Turkey a member of the EU. Although Recep Tayyip Erdoğan was unable to be the Prime Minister, he made extensive

travels to the USA and EU countries in his position as chairman of the AKP. During these visits he did not take back the promises made on realizing democracy in Turkey.

During the EU summit in Copenhagen on 11 and 13 December 2002 the EU postponed the decision on Turkey's membership for two years. The resolution confirmed a lively phase of reforms in Turkey, but decided to wait for the report of the Council of the EU in December 2004. This was the proof that the timid approach of the 57th government against the tendencies in the NSC had not fulfilled the Copenhagen criteria.

11 September the International War against Terror

An important factor that prevented steps for democratization in Turkey were the activities of States and international institution on "fighting terror" in the world after 11 September. The period was marked with the thesis that national security, in particular the security of the US, was under threat. The whole world lived through a feeling of insecurity and fear of violence and the government started to take legal and other steps in the name of fighting terror. Some organizations were closed down, their possession was confiscated, civil rights were restricted and the stand against human rights violations weakened. The definition of terrorism was broadened to a dangerous extent. In many countries the police was furnished with the right of arrest and deportation without a court's order. Measures against foreigners in the developed countries were harsh and heavy. These countries restricted their policies on migrants and refugees.

The fight against terror was top on the agendas of international institutions such as the UN, NATO, OSCE and the EU. The military and economic powers in the world and the authoritarian regimes created an atmosphere that threatened the hopes of law, justice, freedom and peace. In particular during and after the military intervention in Afghanistan the Geneva Convention was violated, prisoners were tortured and prisoners of war were liquidated in large numbers.

The USA that deploy 270,000 soldiers all over the world did not sign the agreement on an international criminal court that was officially established in July 2002 and has the power to put all dictators in the world on trial. While it is possible in the US to pass death penalties after biased trial and conduct unfair trial at military tribunals the super power insists on trying its soldiers only under its own commanders and American courts. This is a clear indication that those, who behave as being the spokesperson and leaders for democracy and human rights in the world, are in fact the ones, who violate human rights the most.

This eased the prevention of extensive and brave steps that would enable the society in Turkey to take a breath and affect international relations positively.

Changes under the 57th Government

Following the changes to 34 Articles of the 1982 Constitution with the Law No. 4709 that passed the GNAT on 3 October 2001 the 57th Government started to make the necessary legal changes to relevant laws in 2002. The changes of this government were put together in three different packages of "harmonization laws" (also called "adjustment laws"). (1)

On 6 February the GNAT passed the first harmonization law numbered 4744. It entered into force on 19 February after State President Ahmet Necdet Sezer had ratified it. The sentences under Article 159 TPC were lowered and the condition of "endangering the public order" was added to the element of "incitement" under Article 312/2 TPC. (2)

In changing the Law on SSC and the criminal procedure code (TCPC) the maximum length of detention in the region under a state of emergency was shortened from 7 to 4 days and the possibility to extend the period was shortened from 10 to 7 days with the condition that a judge has to take the decision. The possibility of detainees and prisoners to confer with legal counsel, relatives and a physician was included and the condition to inform the lawyer and family of the detainee were added. Thus, finally the possibility of incommunicado detention was removed from the laws. In order to prevent torture, all detainees should immediately be taken to a judge, because the length of detention still allows for torture.

The second harmonization packaged passed the GNAT on 26 March and carried the number 4748. This package included changes to 8 different laws. In connection with the prevention of torture we should mention the provision that the personnel responsible for the violation will have to pay the amount of compensation, which usually the State has to pay according to judgments of the ECHR. Knowing of the practical difficulties in collection the money, we believe that this regulation is no more than a message that "torture is an isolated incident".

¹ You will find an evaluation of the harmonization laws in the appendices to this report.

² For details see the background to the legal system in Turkey.

The second adjustment law amended Article 11 of the Law on Associations and lifted the condition that associations have to get permission from the Council of Ministers, if they want to conduct activities abroad. Article 7 of this law entitled "Ban on International Activities" was lifted and the restriction on activities outside Turkey for associations founded inside the country (Article 11) and restrictions on activities inside Turkey for associations founded outside the country (Article 12) were lifted to broaden the freedoms of associations and foundations in Turkey. However, the government decided to revise this decision and introduced the same restrictions of Articles 11 and 12 again in the third adjustment law.

Further changes to the Law on Association included the possibility for those, who were convicted for having put posters or those, who gave reason for the closure of a political party, to found associations. The prohibition under Article 5 of the Law on "creating a minority" was protected but the definition was narrowed to "create a minority based on the difference of race, religion, sect, culture or language in the country of the Turkish Republic". As a result, obstacles for the foundation of some associations continue to exist.

The third harmonization package passed the GNAT on 3 August and carried the number 4771. This Law abolished the death penalties for all crimes, except for those, committed during war or situations close to war. This is a step forward. We would hope that Turkey also ratifies Protocol 13 of the Council of Europe (CoE) and abolishes the death penalty completely. Another important step was the inclusion of "no penalty is required if opinions are declared orally or visually with the aim of criticism" to Article 159 TPC. Yet, the courts may opt for a wider definition of insults and could punish statements that obviously were intended to be only critical.

Besides the negative aspect in the third adjustment laws to bring back the restrictions in Articles 11 and 12 of the Law on Association a positive step was taken by changes to Article 4 of that Law and Article 1 on Foundation. According to the new regulation foundation of parishes can obtain real estate with permission of the Council of Ministers and work with it.

The third package also made changes to the judicial and criminal procedure code providing for retrials of cases that were subject to verdicts of the ECHR. Another positive step was the opening for publications and lessons in languages other than Turkish. In changing Article 4 of the Law on the High Council on Radio and TV Broadcasting (RTÜK) the opportunity for broadcast in the mother tongue was acknowledged. When RTÜK prepared the relevant statute it concluded that the

new regulation basically aimed at teaching Kurdish citizens Turkish and asked the Prime Ministry, the Chief of General Staff, the Justice and other relevant ministries to send representatives to the following meetings. In these meetings the NSC and MIT were represented, but no NGOs were present. Accordingly a statute was prepared that would not destroy the unity of the country. Diyarbakır Bar Association appealed against the statute that virtually made it impossible to open courses in Kurdish. ⁽³⁾ To put it simple, the statute reversed the legal provisions. At the same time the official TV channel TRT and GAP TV started programs teaching people in Diyarbakır how to speak in İstanbul Turkish.

The Law on Education and Teaching Foreign Languages and Turkish citizens learning different Languages and Dialects” changed. Private courses were allowed that would be subjected to the Law on Private Education Enterprises. Publications and courses should not violate the basic principles of the Republic as stated in the Constitution and could not be against the indivisible unity of the State with its land and nation. The NSC was entitled to determine the languages, for which course could be held. The Chief of the Council for Exercise and Behavior in the Ministry of Education was asked to develop the necessary statute, the implementation of which was left to the Council of Ministers.

While creating the impression to accept variety in society by amending several laws, the reality in daily life showed a different picture. Students, who presented petitions to their rectors asking for Kurdish as an elective course and parents, who wrote petitions to directors for national education asking for Kurdish lessons in school, were put on trial and subjected to violence. About 1,700 people were detained. The Ministry of Justice issued a circular announcing that petitions for Kurdish lessons were an offense under the jurisdiction of state security courts. The Ministry of the Interior and chiefs of security told the institutions of education that the students had to be disciplined. An intra-university council said that the campaign belonged to a separatist organization. In Diyarbakır, Van, Tunceli, Adana, Muş, Elazığ, Malatya, Mardin, Mersin, Hatay, Yozgat, Bursa, Ankara, İstanbul and İzmir the petitioners were put on trial under Article 169 TPC for aiding a sheltering militants of an armed gang. The administrations of schools and universities dismissed students temporarily or permanently, but administrative courts frequently stopped such orders from implementation. The example below shows that things might turn out differently.

³ Please look at the appendix section for the regulation and the appeal of Diyarbakır Bar Association.

In Diyarbakır lawyer Osman Baydemir appealed in the name of his client Hamit Koçak against the decision to expel him for six months from Dicle University. Diyarbakır Regional Administrative Court decided on 19 February to stop the disciplinary punishment from being implemented. We have quoted this decision in our report and want to thank the presiding judge Yurtman Toksöz and the members Sema Akin and Hasan Öncal for this lesson to ministers, deans and rectors, prosecutors, judges and chiefs of police, who believe it to be a crime to ask for education in the mother tongue.

Despite legal progress on developing the Kurdish language and culture restrictions and preventive measures remained dominant. Like in Hınıs (Erzurum province) the population was put under pressure to participate in Turkish courses. It is obvious that a determined resistance and program exists to make the systematic assimilation of Kurds permanent.

Problems with Kurdish names continued. Article 16/4 of the Law 1587 on Registration provides that children cannot be named in a way that do not conform to our national culture, the rules of moral and tradition and injure the public. Accordingly, the command of the gendarmerie in Dicle district (Diyarbakır) prepared a list with 600 names and asked the public prosecutor in Diyarbakır to act on it. A number of these cases are still underway.

The ban on using the Kurdish language in public continued. The board of HADEP in Bağcılar district (İstanbul) is on trial for having shouted "Long Live the First of May" in Kurdish (Biji Yek Gulan). A minibuss driver was convicted under Article 169 TPC for having played a cassette of Soze Feleke. Kids were beaten for having spoken Kurdish in school; music groups were forced to stop performing, when they sang Kurdish songs and Kurdish theater plays were banned.

OHAL-State of Emergency

The GNAT decided in line with the proposal of the NSC to lift the state of emergency (OHAL) in the remaining provinces of Diyarbakır and Şırnak as of 30 November. OHAL had been introduced in 11 provinces (Diyarbakır, Hakkari, Şırnak, Tunceli, Batman, Bingöl, Bitlis, Mardin, Muş, Siirt, Van) on 19 July 1987 by decree 285 with the force of law. Actually the region had been under extraordinary rule since December 1978. Following the incidents in Kahramanmaraş on 26 December 1978 martial law had been introduced in Ankara, Adana, Bingöl, Elazığ, Erzincan, Erzurum, Gaziantep, İstanbul, Kars, Malatya, Kahramanmaraş, Sivas and Şanlıurfa to be followed by Adıyaman,

Diyarbakır, Hakkari, Mardin, Siirt and Tunceli in April 1979. Until the military coup of 12 September 1980 martial law had been introduced in three more provinces and was extended to cover all provinces after September 1980.

The lifting of OHAL is an important development, even though it has not been reflected in every day's life. Some 70,000 temporary village guards continue to occupy the land of internally displaced people, burn down houses and villages, kill, rape, form gangs, deal with drugs and commit other crimes as an additional armed unit of the State.

Violations of the right to life continued in 2002. At least 144 people lost their lives as a result of infringement of security personnel, village guards, political killings by unknown assailants, explosions of mines and other devices, attacks of armed groups, civilian or armed clashes. In İstanbul, Batman and Mersin one person each died in custody. During the year two persons "disappeared" (Coşkun Doğan and Sıddık Kaya). Eight corpses were found, but could not be identified. In 2002 a total of 365 people applied to the HRFT asking for treatment, because they had been tortured.

The number of casualties among refugees is even higher. A total of 124 asylum seekers died by drowning in the sea, suffocation on lorries or freezing to death.

Impunity

Looking at some trials on extra-judicial executions I would like to show, how security personnel is protected. In connection with the killing of the alleged DHKP/C militant İsmail Kahraman a trial is continuing. Among the defendants are the police officers Nihat Çulhaoğlu and İsmail Erşan. Nihat Çulhaoğlu has been tried in 3 similar cases and İsmail Erşan in five such cases. They were always acquitted and the court rejected to order their arrest.

In Akkise town, Ahırlı district (Konya) Hasan Gültekin was killed, when some 100 gendarmerie soldiers started to fire at the crowd. Three people were injured. Defendant lieutenant Ali Çalışkan maintained that the crowd attacked them with sticks and stones and, although he did not order to shoot, the soldiers opened fire in self-defense and took shelter in the vehicles. Five soldiers, who were heard as witnesses, stated that the commander did not order to shoot and they only fired into the air, when the villagers attacked them. The trial is still underway.

The lawyer Fuat Erdoğan, Elmas Yalçın and İsmet Erdoğan were killed in İstanbul in 1994. Allegedly they belonged to the DHKP/C. İstanbul Criminal Court No. 5 acquitted four police officers arguing that they acted in self-defense.

As a general rule suspects of torture and death in custody were not brought to trial. Some cases that resulted in trial as a result of determined families and interested public used to last for years reaching the time limit. The few cases of convictions came with very low sentences that frequently were suspended. In the case of the juveniles of Manisa the pressure of the public and sensitivity of some judges could be terminated shortly before the time limit was reached.

Torture

Within the adjustment to the EU the maximum length of detention was shortened, the ban on contact to the outside world for detainees (incommunicado detention) was abolished and the requirement to get permission before suspects of torture can be tried was lifted. According to the new legislation sentences for torture cannot be suspended, commuted to fines or pardoned. The maximum sentences for torture offenses were increased. Suspects shall not be able to continue their job during the trial. Compensation imposed by the ECHR will have to be paid by the perpetrators.

But despite all these positive developments the political will has not affected the daily life. Arbitrary detentions continue. In 2002 violence as a method of wearing people out and interrogate them in special places, centers of the police and gendarmerie, during house raids continued and there was no decrease in the number of tortured people. Relatives were not informed of detention and met with difficulties if they wanted to see a detainee. The methods of torture conform to the methods of previous years. They are applied in different institutions and towns executed by specially trained personnel. All this shows that torture is applied systematically as a political choice.

In the prisons nothing much changed compared to previous years. Pressure, torture and the restriction of right (mostly without any proper reason) continued in all prisons in particular the prisons of type F. During the year 42 people died in prison, 20 of them as a result the death fast action.

Neither the Justice Ministry nor any other official institutions took any step to end the hunger strikes and death fast actions that continue since the year 2000. But the situation of the prisoners and the death fast was dropped from the public agenda. Only journals with leftist contents discussed the problem and the practice of isolation continued.

Freedom of Thought and Expression

Scientists, researchers, publishers, journalist, trade unionists, officials of associations, political parties, human rights defenders and organizations, students, writers, artists, mayors, teachers, lawyers and many citizens were prosecuted for "crimes of thought". Minor amendments of Articles 159 and 312 TPC and Articles 7 and 8 LFT did not inspire prosecutors and judges to interpret the freedom of expression wider. Books were confiscated and the authors and publishers out on trial.

On pressure of the police the Ministry for Culture withdrew the permission for the film "Great Man, Small Love" which the director Handan İpekçi had created with the support of the same ministry. In December the public prosecutor in Bakırköy indicted Handan İpekçi on charges of having insulted the security forces.

Governor and police chiefs banned a large number of plays, concerts and other festivals in particular in the OHAL region.

What to do?

The picture of democracy and human rights outlined above shows the problems Turkey and its society has to solve and overcome. That needs first of all a civilian executive, in other words a civilian government. Just one party that has the necessary majority to even change the Constitution forms the current government.

One may ask, "Will the AKP do what is required?" Looking at the program of the government and the given messages it appears that the AKP will not be able to fulfill this mission. This government missed to take strategically important points in the campaign for democracy and human rights on its agenda.

The need for a democratic constitution was not expressed and there is no initiative in this direction. The NSC has protected its status. It has become clear that the state security courts, as one of the most effective tools for exerting pressure on basic rights and freedoms, will continue to exist. The 58th Government acted, as if a Kurdish problem never existed. Although OHAL ended the 70,000 village guards stay on duty and continue to commit crimes. The agenda does not include compensation for people, who suffered from the war, there are no regional economic projects to have the internally displaced people return to their homes. There is no tendency of abandoning the system of isolation in the F-type prisons. There are no signs for a general amnesty, an urgent need of society.

Turkey can solve the problems of democratization by changing the strategy that gives priority to the military-police structured state and the security of the State. Innovations that accept a state of law based on human rights and protects the freedoms of the citizens by accepting a togetherness based on a variety of language, religion, ethnic and cultural difference, instead of standardization, grants independent and impartial hearings in court and closes the way to exploitation and fraud.

The way Portugal, Spain and Greece installed democracy despite similar deficiencies and problems in the last 30 years, Turkey can go through the same process.

Turkey has the social potential and dynamics for the establishment of real democracy. In case that these dynamics get on the stage and act in international solidarity against global exploitation and violence our dreams of democracy and human rights can come true.

**HRFT
Treatment and Rehabilitation
Centres Report**

**2002
*Evaluation Results***

EVALUATION RESULTS OF THE HRFT TREATMENT AND REHABILITATION CENTERS FOR 2002

Torture has been defined in various national and international documents. However, this description of physician from Turkey reflects the reality of Turkey in a most concise way, which is "torture is an epidemic disease, whose active pathogen is human beings. The Human Rights Foundation of Turkey carries out its activities in the field of providing treatment and rehabilitation services for torture related health problems, providing social and legal assistance for torture survivors and documentation of torture cases. Besides, it publishes annual reports in order to share its works with human rights defenders and health professionals working for fighting against torture. If these reports reverberate all over the globe as an anti-torture voice, weariness of hundreds of HRFT employees and friends, who unselfishly work in a country with full of obstacles, would be relieved.

METHOD

During 2002, total 965 persons applied to the Treatment and Rehabilitation Centers of the Human Rights Foundation of Turkey (HRFT). Among these applicants, 30 of them were the relatives of torture survivors; 51 of them applied due to their hunger strike (HS) related health problems; and there were data shortages for 5 of the applicants. Therefore, the evaluations regarding torture processes have been made on the basis of the data of 879 applicants.

In addition to 51 persons who applied due to their HS related health complaints, total 185 applicants, including the ones having both torture and HS related health problems, underwent a special treatment program due to their hunger strike/death fast (HS/DF) related health complaints. For this special group, there will be a summary evaluation under a separate title at the end of this division.

In the evaluation of the data of 879 applicants, a form was used that was made up of 47 questions. These were concerned with social and demographic characteristics, information about the time spent under custody and in prison, the methods of and the places where torture was carried out, mental and physical complaints as well as diagnostic information.

Following issues have been determined as the major obstacles against reporting of the works done: Standardization problems caused by the collection of data from different centers and recalling problems of some applicants.

WORKS OF THE TREATMENT AND REHABILITATION CENTERS

I. APPLICATIONS RELATED TO TORTURE and MALTREATMENT

A. Social and Demographic Characteristics

The evaluations in this division were made on 879 applicants with complete data. The number of applicants to the different centers was as follows: 342 persons in Istanbul; 183 persons in Diyarbakir; 152 persons in Izmir; 149 persons in Adana and 53 persons in Ankara. Istanbul Center of the HRFT, with a 30 % increase, has been in the front rank as in the previous years.

When the distribution of applicants according to months is taken into consideration, it becomes apparent that the number of applications was higher in January with 107 persons. Concerning the distribution of applications according to months, one can observe a little increase in October and November. However, the level of this increase does not require to be explained by a special reason.

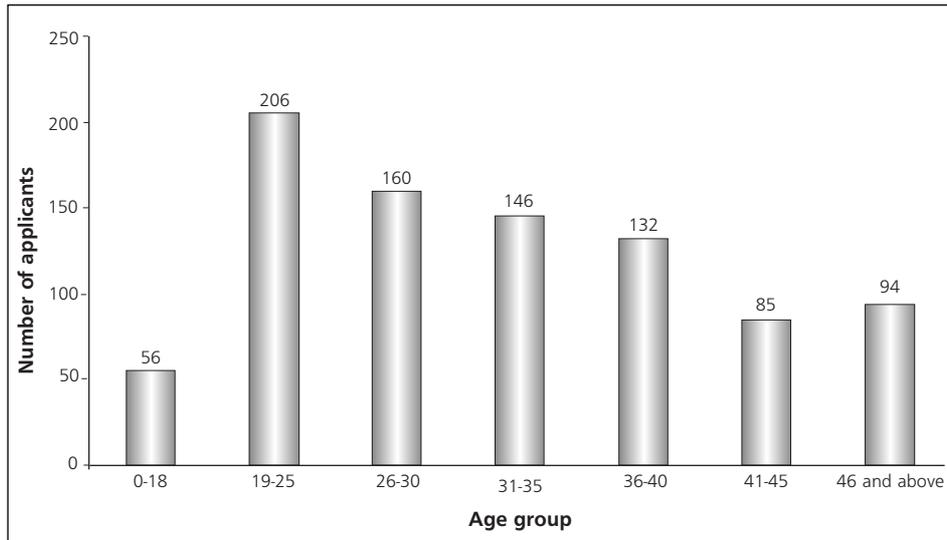
The age of the applicants ranged from 3 to 79 years; and the average age was 32.2 ± 10.1 .

There were 56 persons in the 0-18 age group.

In the law system of Turkey, some arrangements have been made in order to protect juveniles; in that way, it has been ensured that people under the age of eighteen can have a defender appointed without the demand of them.

For the cases under the scope the State Security Courts (SSC), however, procedures of the SSC, not the Code of Criminal Procedures, are in effect. In the judicial procedures of the State Security Courts, this right is not recognized for the juveniles older than the age of eleven (11-18). That is to say, children in this age

Graphic 1. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to age groups



group, who are detained for political reasons, have been deprived of the right to avail of a lawyer while being testified or during an interrogation.

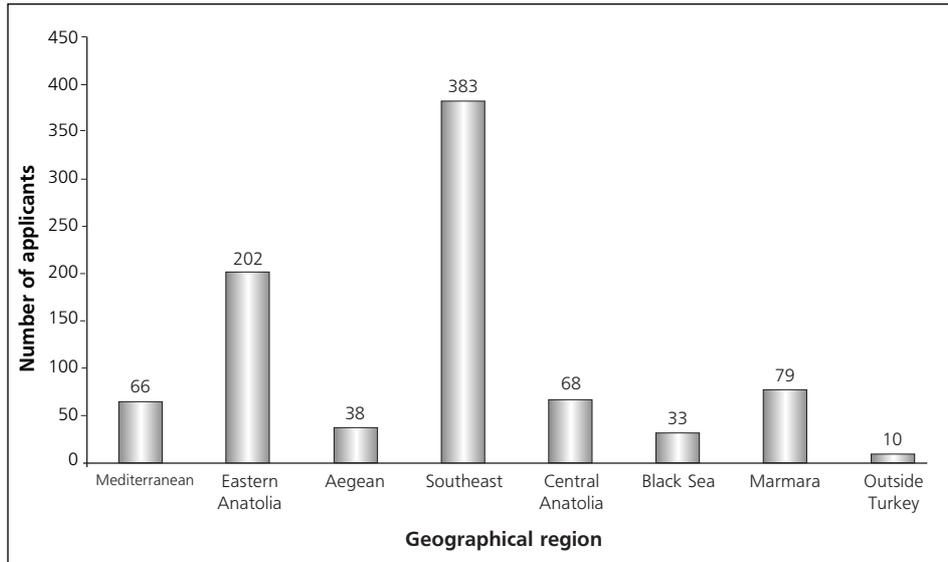
Concerning the genders of applicants, it has been observed that 200 of them were women while 679 of them were men.

When the birth place of the applicants is taken into consideration, it may be seen that there were 383 persons born in the south-eastern Anatolian region (Graphic 2). When the rates of the distribution of population are compared, it is seen that persons born in the south and south-eastern regions take the first place. Predominance of the applicants born in the south and south-eastern regions has been considered as one of the most important reasons behind the predominance of the Kurdish origin citizen who were subjected to torture.

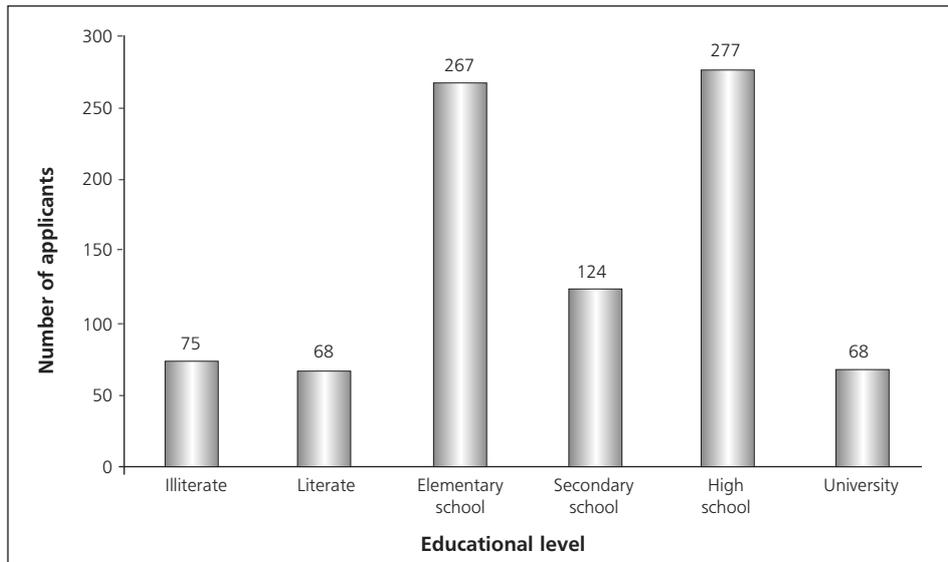
Evaluation of the level of education reveals that 277 persons were high school graduates.

When the occupations of the applicants are taken into consideration, it may be seen that 485 unemployed persons are first in line (Graphic 4). Highness of the unemployment rate is among the significant problems that torture survivors face. Primary reasons behind the increase in the unemployment rate among torture

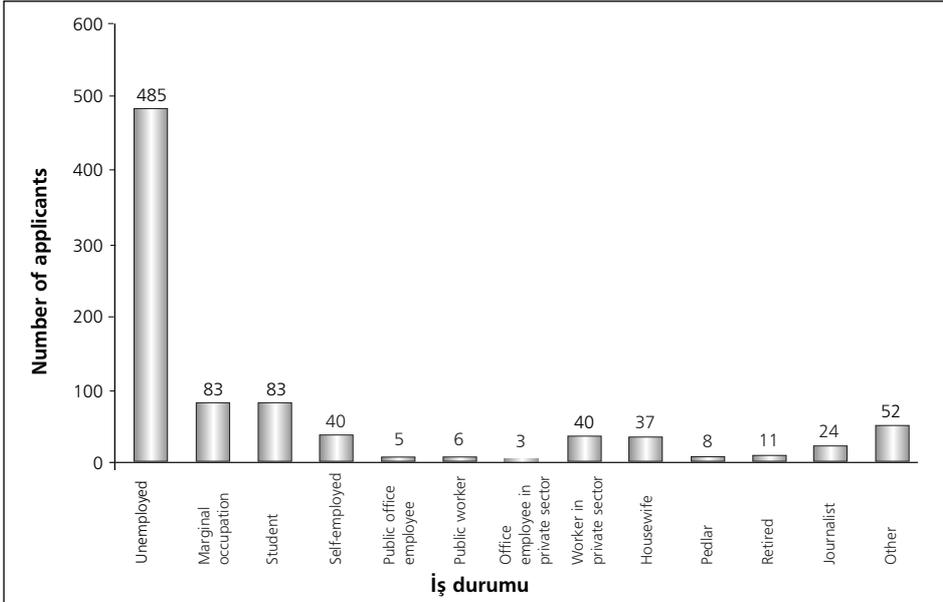
Graphic 2. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to place of birth



Graphic 3. The distribution of the applicants of the HRFT Treatment and Rehabilitation Centers in 2002 according to educational level



Graphic 4. Distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to employment status



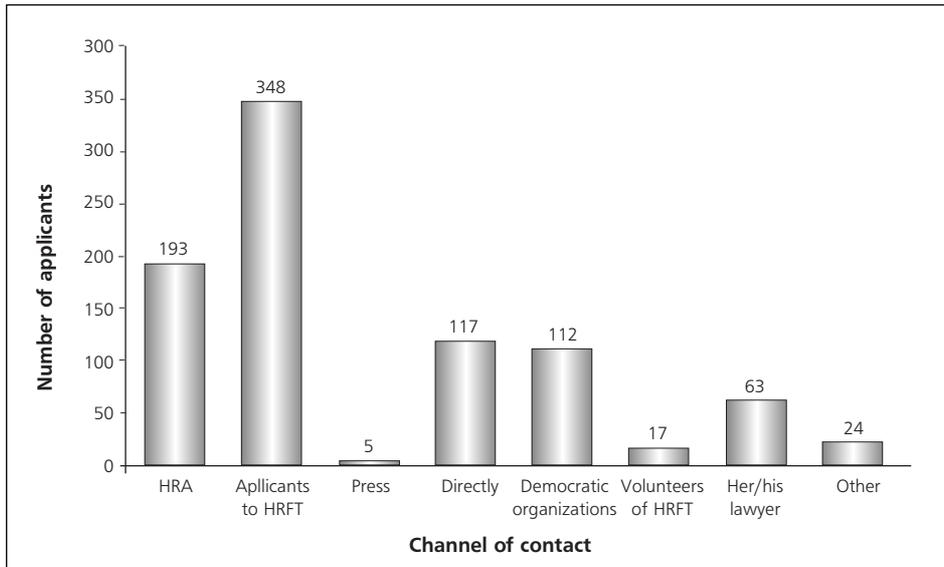
survivors include being fired because of arrest, abortion of education, inability to find work after release from custody or prison because of security records or judicial report and etc.

When sources of information are examined in regard to distribution of references, it may be seen that 348 (39.6 %) persons who were referred by those who had been treated or were being treated in our centers were first in line; and these were followed by 193 persons (21.9 %) under observation by the Human Rights Association (Graphic 5). The increase in the number of applicants who had been referred by other applicants and those applying directly shows that the HRFT has been accepted as an important and trustworthy institution.

B. Period of Torture

During 2002, 365 (41.5 %) persons who applied to the HRFT treatment centers reported that they had undergone torture in 2002 (Graphic 6). The most recent date of torture that applicants had undergone appears as an objective criterion for evaluating the claims on the systematic infliction of torture. Concerning the facts that a small group of people, who were subjected to torture in the last one year, applied to the HRFT for treatment purposes and that there were many

Graphic 5. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to channel of contact

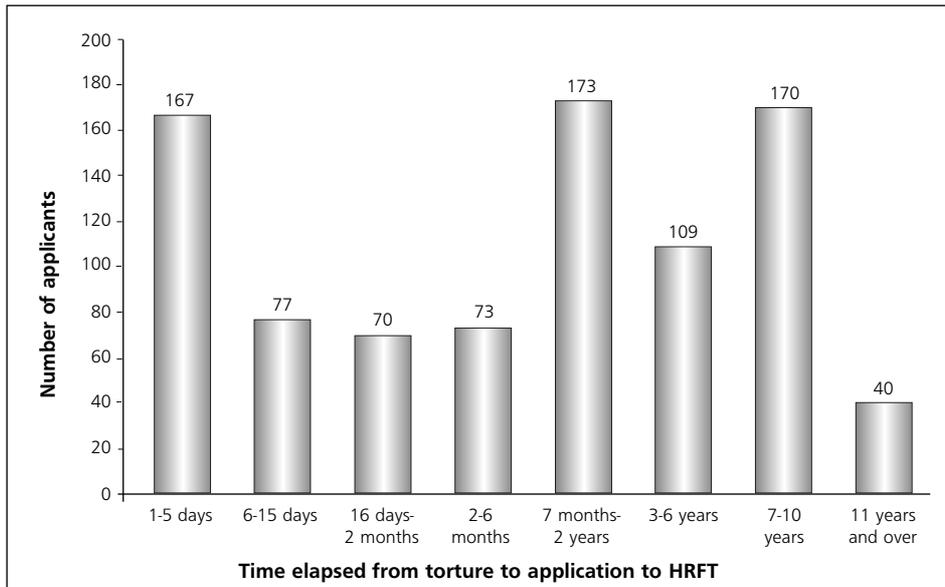


obstacles faced while proving torture practices, application of 365 persons to the HRFT for their having been tortured in 2002 is a meaningful data supporting the claims on the systematic infliction of torture. Relative decrease in the detention periods and the amendments made in the Regulation on Detention and Questioning are far from preventing the use of torture as a systematic interrogation method. Contrary to the assertions of governmental authorities, torture and ill-treatment continued to be a priority problem in 2002 for the human rights agenda of Turkey.

The HRFT evaluates the group of people applied to the HRFT at most 15 days after when they were last tortured as the ones applied in the "early (acute)" period, while after 16 days and more as the ones applied in the "late (chronic)" period. Out of 879 applicants, 244 persons (28.14 %) applied to the HRFT during the early period. Considering the fact that 365 of the applicants were subjected to torture in 2002, it becomes apparent that 66.84 % of the applicants who were subjected to torture in this year applied during the early period.

761 (86.6 %) of the applicants reported that they were subjected to torture due to political reasons, while 118 (13.4 %) of the applicants stated legal reasons. The rate of the applicants who were detained due to legal reasons to the total number of applicants has increased expressively compared to the last year (last

Graphic 6. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the period when they were last tortured

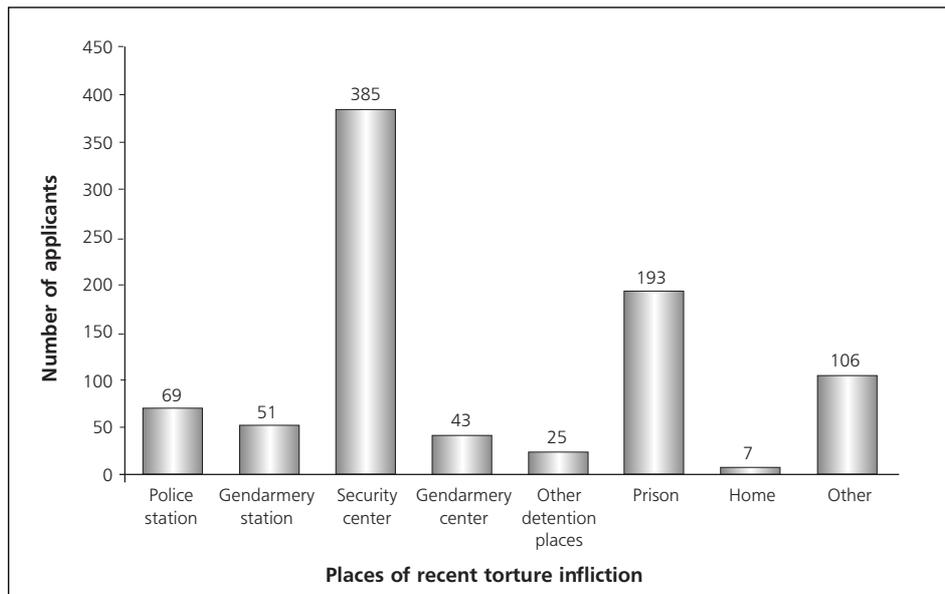


year; 8.6 %). However, the interpretations of applicants show that many people who were detained due to legal reasons and subjected to torture accordingly have not made any application. For the reasons of this limited number of applications, it can be referred that HRFT is not very well-known among these people and these people have a hesitation for application.

206 persons reported that they were subjected to torture in the State of Emergency Region.

Concerning distribution of the applicants according to the place of torture, security centers rank first with 385 applicants as in previous years (Graphic 7). It may be seen that number of applicants tortured in prisons comes second with 193 persons; and this situation supports the assertions that there has been an increase in pressure and torture inflictions in prisons during the period of HS/DF actions. It has been determined that 106 persons reportedly tortured in "other" places like open areas, workplaces and houses. This has been regarded as the result of the fact that violence inflicted in the time of detentions faced during social events, within vehicles and on the streets turned to be a systematic method.

Graphic 7. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the place of most recent torture

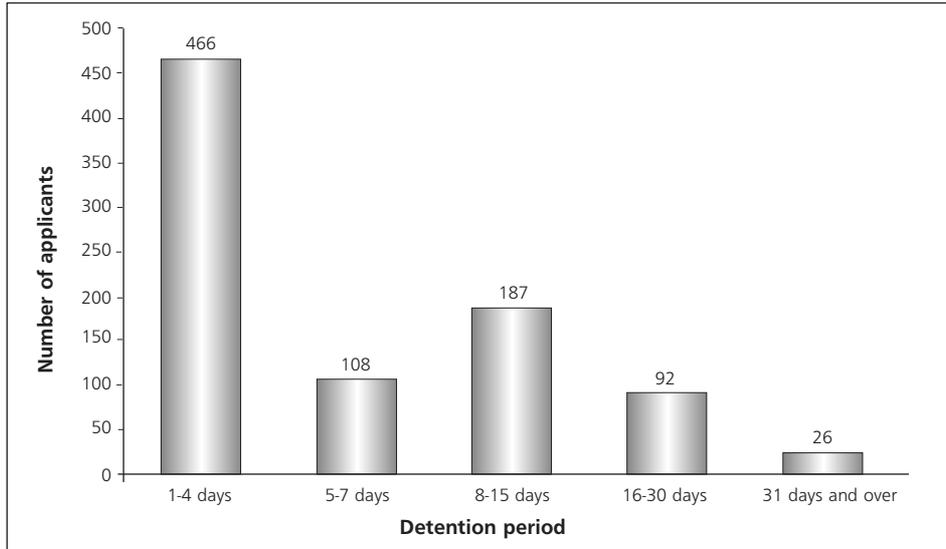


Unofficial detentions and abductions take place under the “other” title as well. Since these events are not acknowledged by officials, it is hardly possible to initiate a legal process against these officials who commit such crimes.

When the distribution of the length of custody is taken into consideration, it may be seen that first in line were 263 persons who has been held for a day, followed by 91 persons held for two days (Graphic 8). Despite the positive consequences of the relative decrease in the detention periods, experiences prove that they are not sufficient enough for the prevention of torture.

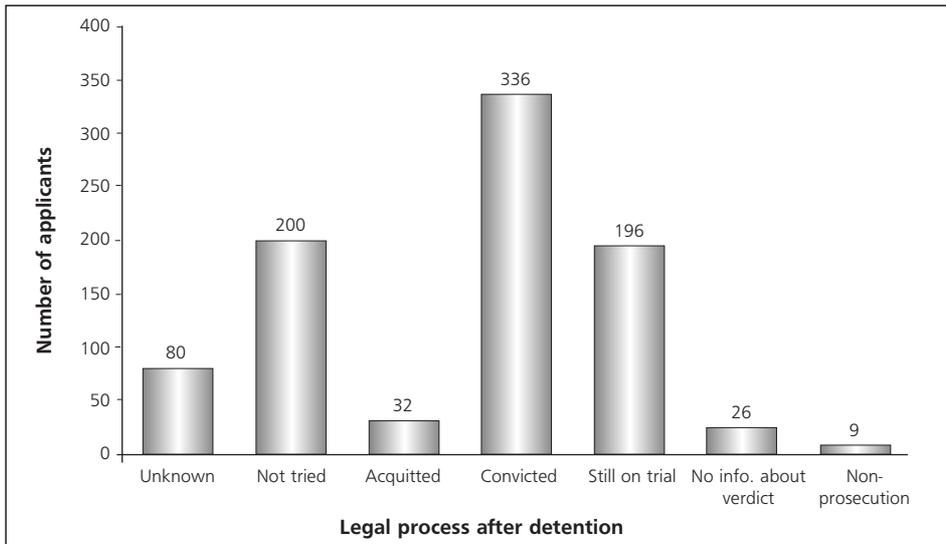
Whether or not the persons were brought to trial after the last period of custody is taken into consideration, it may be seen that 280 persons (31.8 %) were released without having been taken to the presence of a public prosecutor or without having been brought to trial as the public prosecution office/court found it unnecessary or in order to be tried without pre-trial detention. Applicants to the HRFT expressed such complaints that arbitrary detentions and arrests have been used as a kind of punishment method and especially that the evidences have been gathered through methods contrary to the Code of Criminal Procedures during trial processes at SSC’s and that people’s right to defense has been obstructed.

Graphic 8. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the duration of their most recent detention



The results of the legal processes following the most recent detention period of applicants may be regarded as expressive data for the discussions on the justice system (Graphic 9).

Graphic 9. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the legal process that followed their most recent detention period.



The methods of torture reported by applicants to the HRFT centers in 2002 are shown in Table 1.

When the number of torture methods inflicted on applicants was inquired, it was found that 853 persons had undergone two or more methods; while 734 persons (83.5 %) had undergone five or more methods (Graphic 10). Expressions of the persons tortured in different places display the alikeness of the methods inflicted and the approaches of officials. Objective evidences can be reached through the evaluation of individual applications. On the other hand, overlapping of the expressions of applicants with each other supports the assertions that these inflictions are directed from one center, in other words they are systematic.

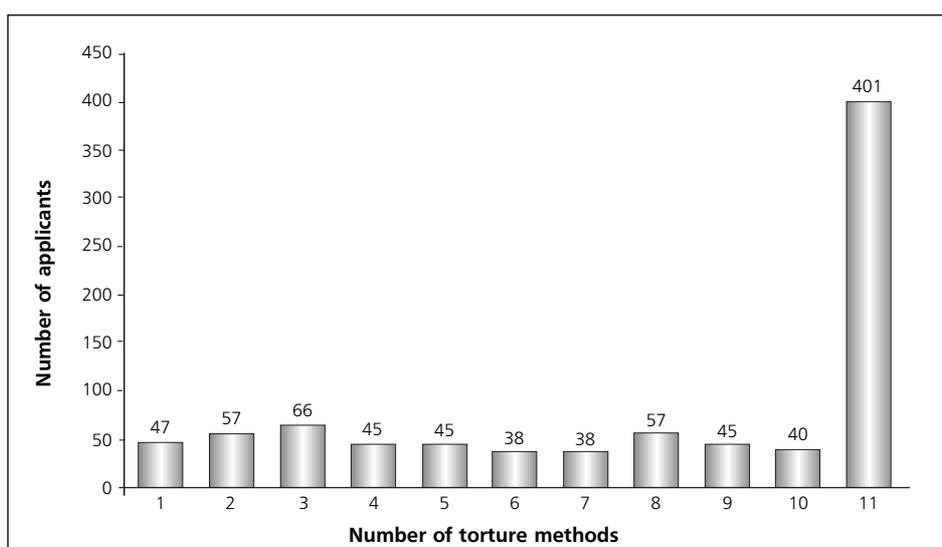
During 2002, 322 applicants declared that they had been detained once, 186 twice and 371 three or more times. This situation can also be regarded as another fact roughly showing that detentions were used as a punishment and dissuasiveness method.

Table 1. Torture methods inflicted on the applicants to the HRFT Treatment and Rehabilitation Centers in 2002

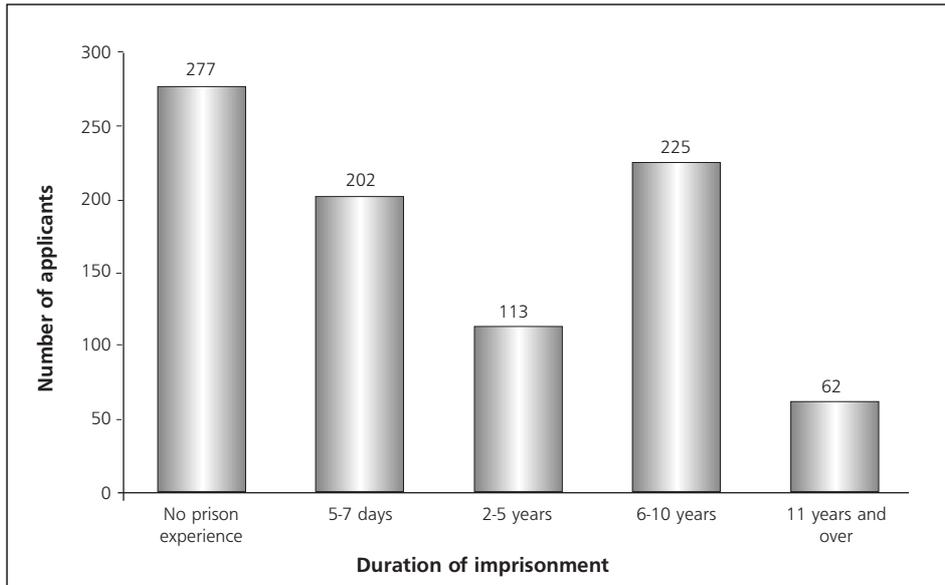
Torture Method	Number	%
Blindfolding	570	64.8
Insulting	818	93.1
Death Threat	570	64.8
Threats (other than death threat) against the person	603	68.6
Threats against the relatives	276	31.4
Sexual harassment	312	35.5
Rape	31	3.5
Beating	766	87.1
Falanga (Bastinado)	137	15.6
Electricity	319	36.3
Suspension on a hanger	272	30.9
Pressurized/cold water	342	38.9
Squeezing testicles	264	30.0
Pulling out hair/mustache/beard	228	25.9
Cell isolation	422	48.0
Restricting food and water	410	46.6

Forcing to wait on cold floor	348	39.6
Restricting defecation and urination	345	39.2
Strangling	117	13.3
Mock execution	145	16.5
Forcing to witness (visual/auditory) torture to others	276	31.4
Forcing to listen to marches or high volume music	256	29.1
Asking for serving as an informer	129	14.6
Restricting sleep	291	33.1
Forcing to extensive physical activity	184	22.1
Burning	19	2.2
Torturing in the presence of relatives	80	9.1
Forcing to obey non-sense orders	168	19.1
Stripping naked	411	46.7
Forcing to lie on ice	45	5.1
Forcing to eat/drink unknown substances	22	2.5
Continuously hitting one part of the body	140	15.9
Other	269	30.6

Graphic 10. The distribution of number of torture methods inflicted on the applicants to the HRFT Treatment and Rehabilitation Centers in 2002



Graphic 11. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the period spent in prison



The distribution of the torture methods inflicted on our 602 applicants while they were in prison is shown in Table 2.

Table 2. Torture methods inflicted in prison on applicants to the HRFT Treatment and Rehabilitation Centers in 2002 who have spent time in prison

Torture Method	Number	%
Insulting	433	71.9
Beating	356	59.1
Forcing to obey non-sense orders	126	20.9
Restricting food and water	87	14.5
Restricting defecation and urination	58	9.6
Threats (other than death threats) against the person	234	38.8
Death threat	136	22.6
Cell isolation	185	30.7
Forcing to witness (visual/auditory) torture to others	59	9.8
Forcing to wait on cold floor	73	12.1
Pulling out hair/mustache/beard	81	13.5

Forcing to extensive physical activity	45	7.5
Continuously hitting one part of the body	21	3.5
Restricting sleep	48	7.9
Forcing to listen to marches or high volume music	36	5.9
Stripping naked	135	22.4
Pressurized/cold water	44	7.3
Falanga (Bastinado)	33	5.5
Sexual harassment	52	8.6
Blindfolding	23	3.8
Threats against the relatives	40	6.6
Strangling	29	4.8
Electricity	9	1.5
Suspension on a hanger	10	1.7
Mock execution	21	3.5
Asking for serving as an informer	11	1.8
Torturing in the presence of relatives	26	4.3
Squeezing testicles	33	5.5
Forcing to lie on ice	6	0.9
Burning	15	2.5
Forcing to eat/drink unknown substances	5	0.8
Rape	4	0.6
Other	143	23.7

Frequently, the use of torture and ill-treatment in prison is done during searching and inspection of prisoners' rooms, coming and going to the visits by lawyers and family, to hospital or court.

Out of 602 applicants with a history of imprisonment, 601 persons having complete data were asked to evaluate the prison conditions under 8 headings as positive, satisfactory and negative. These data are shown in Table 3.

Expressions of the applicants show that conditions in prison clinics are unsuitable due to insufficient equipment and personnel; transfers to hospitals may be subjected to obstructions with the pretext of insufficient number of security forces; and demands of gendarmeries and security forces to be present in the room during medical examinations in hospitals with security reasons result in the

Table 3. The evaluation results of the information regarding prison conditions in 2002, which were gathered from the applicants to the HRFT Treatment and Rehabilitation Centers who have spent time in prison

	Positive	Satisfactory	Negative
Nutrition	4	72	525
Accommodation	2	70	529
Hygiene	3	62	536
Communication facilities	2	59	540
Health services	1	52	548
Access to open air and sports facilities	2	112	487
Reaching media	5	62	534
Conditions of transfer	4	38	559

hindrance of the right to undergone medical treatment for many times (concerning the natural reactions of physicians and convicts to this situation that is contrary to human rights and medical ethics).

The applicants had the following complaints in regard to the period of forensic examination after custody: being not able to stay alone with forensic physician; physicians' not listening to the complaints of the applicants carefully and not reporting in detail; indifference to demanding consultation and using medical imaging methods; and problems in objective reflection of the findings to the reports.

As to the samples of forensic reports, it has been also observed that standard report forms are not used or that history and findings are not completed in due form.

When existing forensic reports are evaluated, it may be seen that divisions of psychological evaluation have not taken part in forensic reports in standard manner yet, although there are limited number of such divisions in forensic reports.

In the information forms, an expressions that "the situation could not be determined" was put, when persons could not give a "yes" or "no" answers to the questions relating to the forensic examination. The number of patients for whom the situation could not be determined for the first for questions of the report prepared by forensic physician were so little. Since one copy of the reports

issued are not given to defendants and their lawyers, the situation could not be determined for 128 applicants in regard to the question asking whether the report was suitable. This shows that a copy of a forensic medical report prepared after the period of custody should be given to the person or lawyers. In practice, on the other hand, the report only reaches them when an official complaint is lodged and with great difficulty. If the person does not lodge an official complaint, information in regard to torture, which is a subject for public allegation, remain in files in report that are either right/wrong or sufficient/insufficient.

In order to prevent torture and ensure that torturer officials are punished, forensic examinations should be done in a proper manner and forensic reports should be issued properly and in accordance with the real findings. For this to be realized, it is clear that trainings planned for the widespread and active implementation of the UN document Istanbul Protocol would be useful.

C. Treatment Process

This section aims to evaluate the treatment processes of 879 applicants to the HRFT who had been subjected to torture. For this particular evaluation, description of the HRFT's work approach would help to understand this process better. The persons applying to the centers pass on to the physician their history of torture and complaints in their own words. During the presentation of complaints, the physician wants applicants to state the complaints that were related to torture in detail. Then, the physician makes his/her own evaluation; requests laboratory tests s/he thinks necessary; and states his/her approach to applicants expressively. During the final stage, the history, examination and tests are evaluated together in order to determine whether the illnesses are related to torture. At this stage, the important point is to evaluate the health of an individual as a whole.

At the end of this evaluation, applicants are informed about the means of possible treatment methods for the disorders that are not related to torture. Then, the HRFT Treatment and Rehabilitation Centers carry out the treatment of disorders that are directly related to torture. For treatment and rehabilitation, the preferred program is presented to applicants; and the necessary planning is made after an evaluation with applicants (i.e. specific situations of applicants may affect this program). Afterwards, the program is put into practice.

Certain criteria are used while evaluating the relationship of torture with the diagnosed disorders. It is in a way that there may be direct relationship; torture may trigger or reveal an underlying disorder; or the disorder may be unrelated to torture.

This division evaluated complaints, diagnoses, treatment methods and treatment processes separately. In regard to their connection with the treatment processes, diagnoses are evaluated under the scope of following options:

- a. "torture or prison experience as one of the etiological factors";
- b. "torture or prison experience as the basic etiological factors";
- c. "torture or prison experience as the factor triggering the occurrence of pathology or aggravating the picture;
- d. "no etiological relation found with torture or prison experience";
- e. "no etiological relation determined with torture or prison experience".

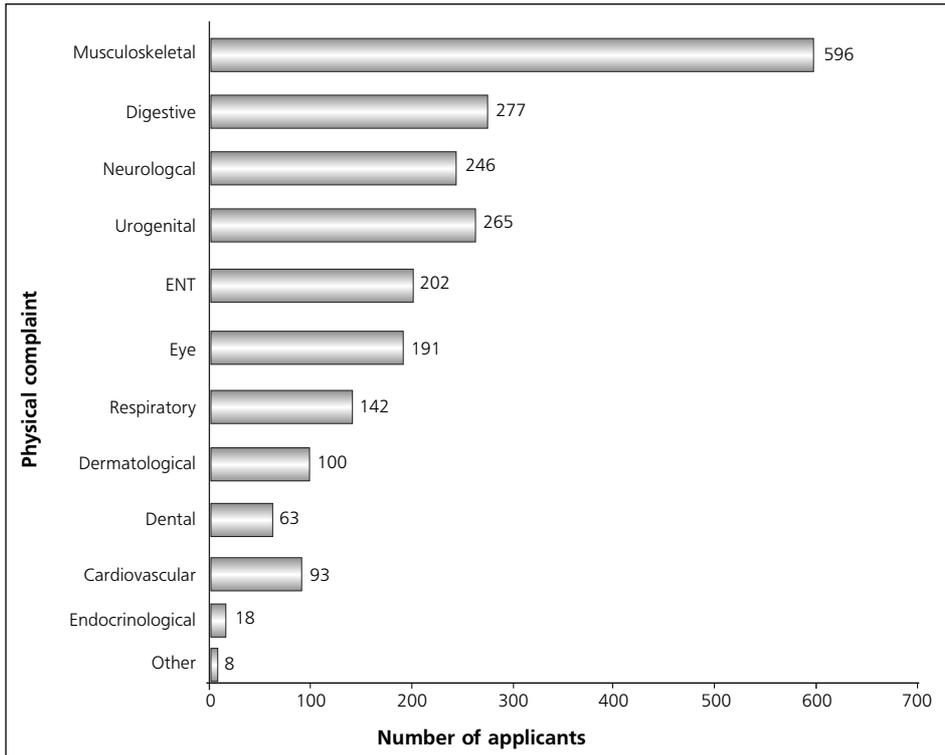
In the evaluation of the diagnoses of applicants, the diagnoses treated under the scope of "a, b and c" options are interpreted as the diagnoses related to torture process.

When the complaints of 879 persons who applied to the HRFT Treatment and Rehabilitation Centers in 2002 are analyzed, it can be observed that the complaints of 305 persons were only physical; 54, only psychological and 520, both physical and psychological. Applicants have been increasingly admitting that individuals could also be psychologically affected after torture inflicted on them; and this situation has been specified as a factor allowing quick and active therapeutic relation.

When the physical complaints of the applicants are evaluated in connection with the level of frequency, it may be observed that musculoskeletal system ranks first as in previous years (Graphic 12). As the diagnoses are examined, it is seen that there was at least one physical diagnosis for 79.6 % (700 persons) of the applicants. Physical diagnoses of the applicants are shown in Graphic 13.

For some of the applicants who stated their physical complaints, there were not any physical disorders diagnosed in relation to these complaints. For example, no sign of a physical disorder was diagnosed in 154 of the 596 applicants with musculoskeletal complaints. For some of these 154 applicants, the period of relationship established with the foundation was not sufficient enough to diagnose the existing disorder. For some of them, on the other hand, it was

Graphic 12. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to their physical complaints



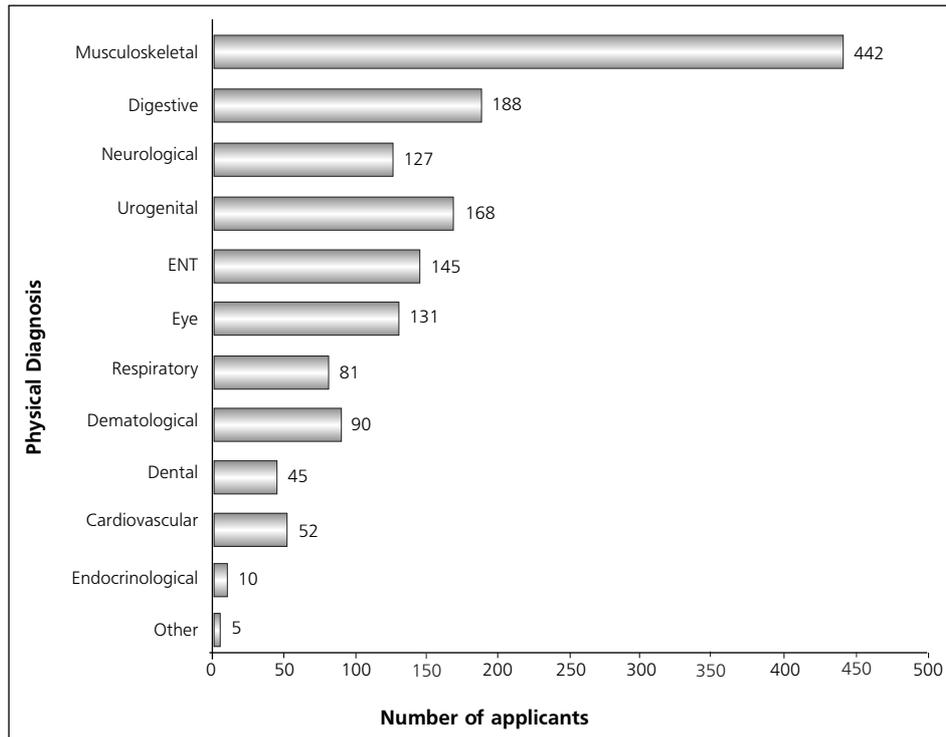
diagnosed that there was not any organic origin of the complaints. The ones who consented on proposed psychological evaluation and treatment program underwent the treatment program.

Table 14 shows the relations of the physical diagnoses to torture processes.

The treatment of 328 out of 825 persons who has applied because of their physical complaints was completed as of 01.01.2003. The treatments of 162 of these applicants as well as the diagnostic investigations of 16 of them have been continuing. As in previous years, 54 applicants gave up the treatment program while diagnostic investigations were continuing; and 127 applicants gave it up in later process of the treatment for various reasons (Graphic 15).

For the application process to the HRFT Treatment and Rehabilitation Centers, it is aimed that all applicants would consult with all members of the treatment

Graphic 13. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to their physical diagnosis

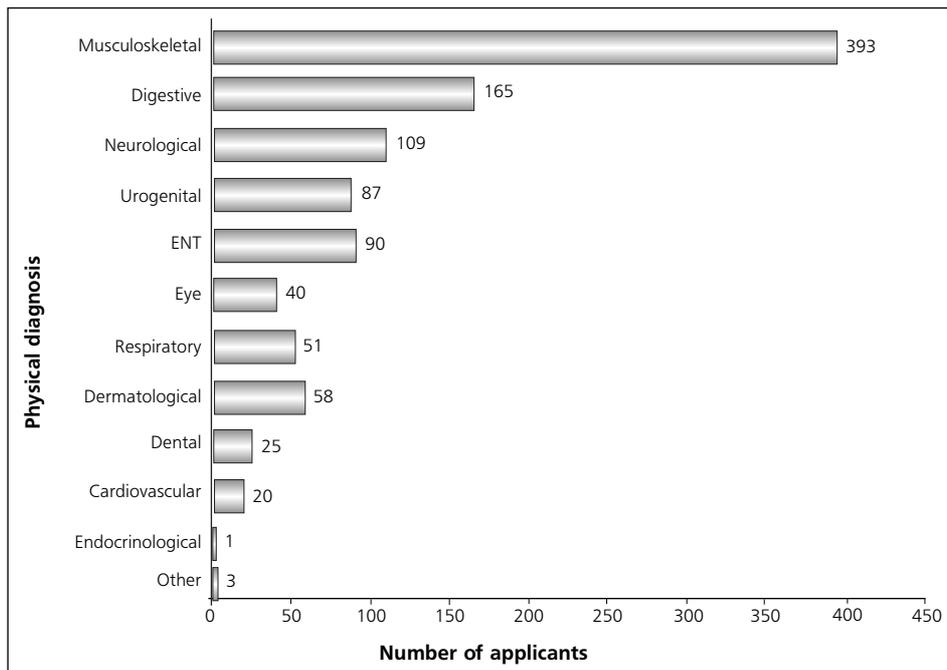


team. However, there is no persistence in the consultation with psychiatrists for whom they are not willing to. For such cases, they are told that they have an opportunity to consult with the psychiatrist whenever they want.

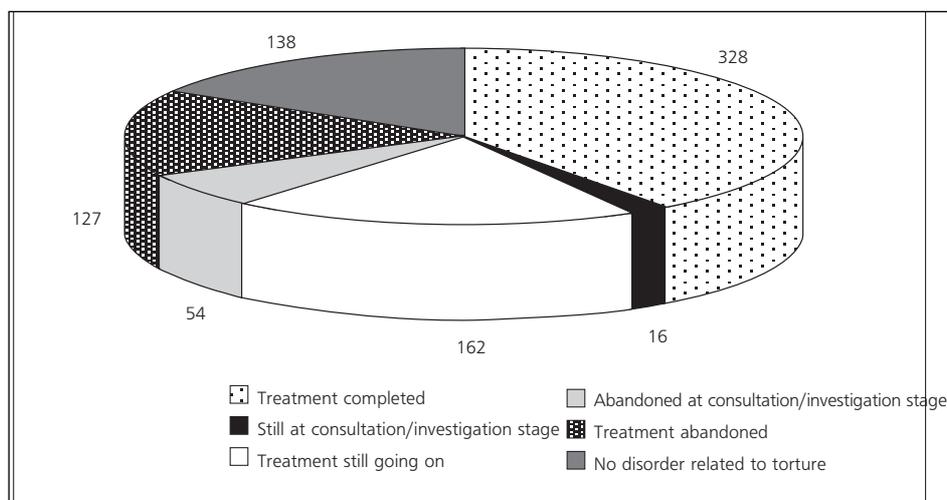
For the acute cases, physical complaints become primary or psychological complaints have not had to appear. For this reason, the applicants in the acute stage are told about the possible problems that may appear in the coming weeks or months without forcing them to consult with the psychiatrist. Additionally, they are suggested that if this happens, they should apply to the center. Out of 879 applicants, 453 of them consulted with psychiatrists of the HRFT Treatment and Rehabilitation Centers. The number of persons who applied to the centers due to their psychological problems was 574.

The distribution of the psychological complaints of 574 applicants are similar that of former years. While difficulty in falling asleep or remaining asleep is the most

Graphic 14. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to their physical diagnosis related to torture



Graphic 15. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to course of physical treatment



common complaint, that is followed by anxiety and difficulty in concentrating (Table 4).

When torture-related psychiatric diagnoses are evaluated in regard to the level of frequency, post-traumatic stress disorder (PTSD) comes in the first as in previous years (Table 5). When 244 applicants with PTSD diagnosis are taken into consideration according to their subtypes, it is seen that the acute form of PTSD was found in 44 persons, chronic in 197 persons, and delayed in 3 persons.

Compared to the initial phases of our works, the classification of psychological diagnoses according to the level of frequency has changed through accumulation of knowledge and experience on the psychological consequences of trauma, psychiatrists' becoming more skilled in recognizing the PTSD as well as in working with torture survivors. In 1997, the rate of the PTSD in all of the applicants was 21.0 %, in 1998 27.5 %, in 1999 38.3 %, in 2000 38.2 %, and in 2001 48.9 %.

When treatment processes of the applicants who were given psychological diagnosis are taken into consideration, it may be observed that the treatment of 131 applicants was completed; of 159 has been continuing; 2 of them are at the stage of diagnosis; 132 of them gave up the treatment program while treatment is continuing (Graphic 16)

Graphic 16. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to course of psychological treatment

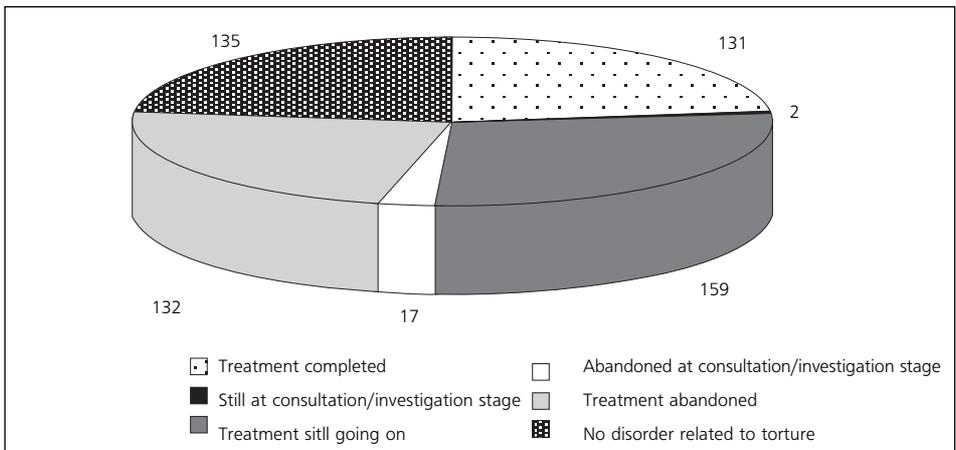


Table 4. The classification of applicants to the HRFT Treatment and Rehabilitation centers in 2002 according to their psychological complaints

Psychological Complaints and Symptoms	Number	%
Anxiety	361	41.1
Difficulty in falling or staying asleep	390	44.4
Concentration difficulties	356	40.5
Weakness, fatigue	307	34.9
Irritability or outburst of anger, tepki eşiğinde düşme	313	35.6
Intense psychological distress at exposure to internal or external cues that resemble an aspect of the traumatic event	274	31.2
Memory impairment	336	38.2
Depressive mood	194	22.1
Increase or decrease in the duration of sleep	290	32.9
Intense physiological reactivity on exposure to internal or external cues that resemble an aspect of the traumatic event	224	25.5
Feeling of detachment or estrangement from others	202	22.9
Agitation (irritability)	165	18.7
Sense of foreshortened future	198	22.5
Markedly diminished interest or participation in significant activities	188	21.4
Recurrent and intrusive distressing recollections of the traumatic event	193	21.9
Recurrent distressing dreams of the event	169	19.2
Hyper-vigilance	177	20.1
Exaggerated startle response	179	20.4
Restricted range of affect (blunted affect)	155	17.6
Flashback experiences and acting or feeling as if the traumatic event were recurring	171	19.5
Diminished psychomotor activity	125	14.2
Efforts to avoid activities, places or persons that arose recollection of the trauma	153	17.4
Change in appetite/weight (decrease or increase)	168	19.1
Dysphoric mood	87	9.9
Response of intense fear, helplessness or horror to the traumatic events witnessed or experienced by others	137	15.6
Efforts to avoid thoughts, feelings or conversations associated with the trauma	132	15.1
Loss of sexual interest	79	8.9
Inability to recall an important aspect of trauma	87	9.9
Suicidal thoughts or attempt	54	6.2
Obsession	28	3.2
Hallucination (visual, auditory, tactile)	9	1.1
Delusion	8	0.9
Use of alcohol or substance(s)	16	1.8
Compulsion	21	2.4

Table 5. The classification of applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to their psychiatric diagnosis

Psychiatric Diagnosis	Number	%
PTSD (Post-traumatic Stress Disorder)	244	27.7
Major Depressive disorder	145	16.5
Acute stress disorder	42	4.7
Generalized anxiety disorder	40	4.5
Somatization disorder	25	2.8
Other anxiety disorders	10	1.2
Adjustment disorder	20	2.3
Schizophrenia	6	0.7
Dysthymic disorder	5	0.6
Other mood disorders	9	1.1
Conversion disorder	3	0.3
Other somatoform disorders	4	0.4
Other psychotic disorders	3	0.3
Panic disorder	1	0.1
Other	13	1.5

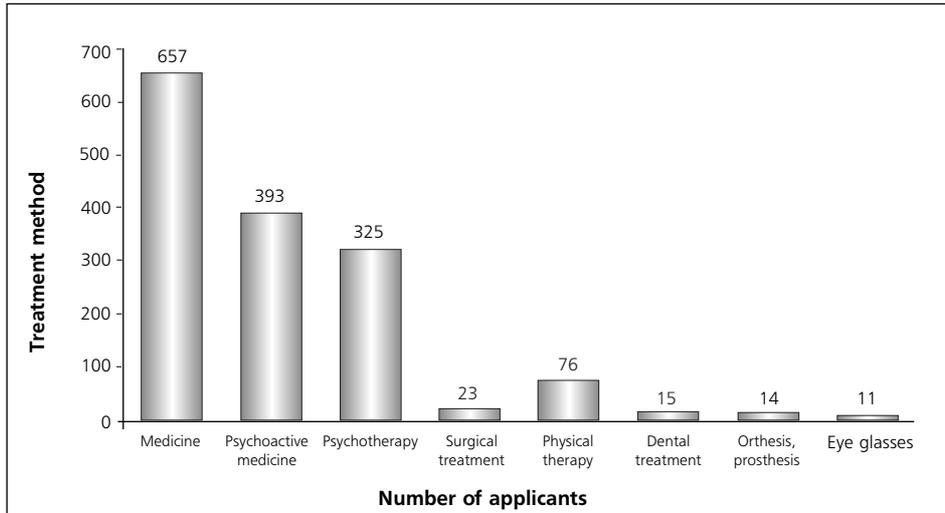
Table 17 shows the distribution of the applicants in regard to the treatment method they received.

Hunger Strikes and the HRFT

Having nearly 100-200 days long hunger strike stories, having been subjected to torture and ill-treatment during or before the hunger strike process, having experienced the 19 December operation, the prisoners and convicts released from prisons either through deference of their sentence due to their health problems or court decisions starting from June 2001, especially in July, August and September. The most of these hunger strikers came to the edge of death, went through series of traumatic experiences and also witnessed to the death of their friends. During the period of release from hospitals or prisons, on the other hand, they were subjected to new violations.

Some of these hunger strikers released after they were intervened by force and after their treatment were arranged for a while. Some of them, on the other

Graphic 17. The distribution of the applicants to the HRFT Treatment and Rehabilitation Centers in 2002 according to the treatment method they received



hand, admitted the treatment process after they released; and the treatment process begun. At this stage, how treatments will proceed after release and even how these treatments were initiated appeared as a serious problem. The physicians in Turkey experienced many problems due to limited knowledge in the world medical literature regarding the changes after such a long period of hunger strike and related treatment methods. During the hunger strikes in 1996, the knowledge and experience of the HRFT Treatment and Rehabilitation Centers (especially Istanbul center) significantly contributed to the limited knowledge of the field. At this stage, the assertions on wrong medical intervention and the opinions that these interventions may continue after release disquieted the families. For this reason, the HRFT Treatment and Rehabilitation centers became a focal point for the above mentioned problems and related expectations. Families having concerns on weak or wrong medical intervention were directed to the Central Council of the Turkish Medical Association and Medical Chambers. However, the question of the ways in which related expenses would have been covered remained without addressee. At this stage, executive board of the HRFT took a decision in June 2001 to undertake the treatment of hunger strikers in every way.

Following this decision, the HRFT Treatment and Rehabilitation Centers undertook the treatment expenses and medical care of 329 hunger strikers till the end of

2001; and in 2002, 185 hunger strikers benefited from the treatment and rehabilitation programs.

In 2002, the numerical distribution of the hunger strike related applicants according to the treatment and rehabilitation centers is as follows: 126 in Istanbul; 34 in Ankara; 18 in Izmir; 7 in Adana.

32 of the applicants were female, while 153 of them were male.

Changes in the nervous system after a long period of starvation lead to memory impairment. This was an important factor that prevented us from obtaining information about their health status before their application to the centers.

The most common symptoms related to the nervous system that were determined before treatment include sensitivity to light (photophobia), double vision (diplopia) and visual dimness. This groups of symptoms is followed by the group related to hearing. The latter group includes sensitivity to sound, ringing or buzzing in the ears and a decrease in the ability to hear. In addition to these two groups of symptoms, the following symptoms were detected before treatment: loss of strength, vertigo, memory impairment, impaired maintenance of equilibrium, changes in sensations, difficulty in walking and changes in consciousness.

56 of these applicants whom were evaluated through these symptoms and findings were diagnosed as Wernicke Encephalopathy sequela, while 8 of them as Wernicke Korsakoff syndrome.

CONCLUSION

In Turkey, torture is still systematically practiced and maintains its significant place among the human rights violations. It can also be proved through the diagnoses obtained after the expressions of applicants, medical findings, imaging-laboratory examinations and through the data evaluated in this report reflecting the 2002 works of the HRFT Treatment and Rehabilitation Centers that also witnessed to the things experienced besides treatment and rehabilitation services.

Although the decrease in the period of detention resulted in a relative progress, it has not been sufficient enough for the prevention of torture by its own. It has lead to the changes in the torture methods applied; and in that way, psychological methods and the methods not leaving any trace have rather been utilized.

Sincerity of the promises of the political authorities is questionable through the following issues: lack of concrete steps in practice other than limited legislative regulations proposed by various organizations for the prevention of torture; torturer public officials' going with impunity although it is proved that they inflicted torture; judicial decision not to prosecute anybody for most of the assertions of judges and administrative chiefs; administrative and legal proceedings against the physicians who contributed to the detection of torture inflictions; pressures against the organizations working in the related field such as the HRFT and HRA.

Concerning the court cases related to torture, most of the torturer public officials are on trial on the ground of the Article 245 of the Turkish Penal Code that regulates ill-treatment cases, not of the Article 243 of the TPC that is related to torture. This situation leads to the assertions of torture to be passed over lightly. On the other hand, the sentences are no longer deferred and converted into fine; and these can be counted as positive developments.

As in previous years, Kurdish origin citizens took a large place among the applicants who were subjected to torture in their detention experiences in 2002.

Although human rights defenders have not had a hopeful look at the formation of the Provincial and District Human Rights Committees that was formed through the initiative of the State Ministry Responsible for Human Rights, they have participated in the committees with an opinion to utilize from each and every opportunity. It has been observed that these committees have not been helpful in the prevention for torture because of the reasons like that state authorities employ this committees to act like there is no human rights violation; political choices are not determinant in the election of the members by the governors; authorities of the committees are so narrow in scope; and torture survivors have no confidence in these committees.

Security forces have used brute force and practiced violence during the demonstrations and marches in 2002 as well, which cannot be regarded as a matter of ill-treatment. Despite the fact the fact that many events have been a reflex of public opinion through TV cameras, authorities and responsible persons have continued to remain with impunity.

In 2002, unemployment has continued to be counted among the direct consequences of this process especially for the ones that are on trial due to political reasons; and it has maintained its place of importance as a negative

factor in the treatment process. Social support project, despite narrow circumstances, has been a flicker to hope for the possible things that we can do in this field.

In the forensic medicine reports that are the only way of detecting torture, the evaluation of the visible traumatic lesions only has been a commonly continuing defective practice, although torture is a practice that leaves psychological and physical traces on human beings. Through the endeavors of the Turkish Medical Association, Society of Forensic Medicine Specialists and some psychiatrists, advanced imaging methods have started to be applied and psychological findings have started to partake in these forensic reports. Although they are not sufficient enough, these two can be deemed as positive developments.

On the other hand, the following issues continue to be the main questions of the field: transformation of the Council of Forensic Medicine of the Ministry of Justice both structurally and functionally and the necessity of endeavoring for the anti-torture stand existing in the essence of the profession of medicine to take place in the forensic medicine education and practices.

During hunger strikes and death fasts, hundreds of prisoners and convicts have suffered from sequelae. Having been released through the applications made under the scope of the Article 399 of the Code of Criminal Procedures, some of the convicts were set free. On the other hand, the Council of Forensic Medicine has been issuing forensic reports seriously contrary to the scientific approach; and this situation leads its reliability to be debatable. All these experienced have showed that great number of convicts will continue to experience Wernicke Korsakoff syndrome or other ailments and sequelae; cell-type prison practices will continue to become widespread; and health and human rights problems in prisons will continue to increase.

It has been still a current problem in 2002 that prisoners and convicts, in hospitals where they applied for treatment purposes, are facing negative attitudes that are contrary to both human and patient's rights.

Wishing for a future in which torture and human rights violations are left in the past and that this contributes to a cross national solidarity.

*Studies and Assessments
on Torture
and Its Consequences*

ISTANBUL PROTOCOL AND PREVENTING TORTURE

Şebnem Korur Fincancı*

INTRODUCTION

Determining the procedures and standards of the examination of torture, the **Minnesota Autopsy Protocol** (the Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, United Nations Publication, Sales No. E. 91.IV.1) was adopted by the United Nations in 1991. This adoption played a significant place in preventing the concealment of torture facts through improper autopsies. Paving a way to unusual discussions in Turkey, this autopsy protocol was exposed to serious criticisms and attacks of the ones who uttered this protocol, without being appropriated when it was first uttered. Relating to the inappropriateness of the protocol to the country conditions, disinterest in the protocol of foreigners and even to the possibility that the supporters of this protocol might be traitors and separatist, these assertions went down in history.

After 10 years passed over these discussions, the Minister of Justice of the period, Hikmet Sami Turk, stated on 19 December 2000 that all autopsies should be held in accordance with the Minnesota Protocol. In the same year, another protocol was being discussed at the UN General Assembly; and the name of this protocol was "Istanbul Protocol". The ones who defended the necessity of autopsy standards to comply with the Minnesota Protocol and then was criticized in ten years ago, this time came on the scene with another protocol.

Prepared for the investigation and documentation of the traces of torture, the **"Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment"** (the Istanbul

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Protocol) became a United Nations official document. Now it has principles put to a vote at the UN General Assembly and approved at the international sphere.

The protocol was prepared by forensic medicine specialists, physicians, psychiatrists and psychologist, lawyers and human rights observers and many scientists, total 75 persons from 40 different organizations and from 15 different countries. Starting in 1996, the studies of the protocol continued for 4 years till it was ratified by the 52 member states of the UN Human Rights Commission on 20 April 2000.

This protocol concerns very much forensic medicine specialists, psychiatrists and lawyers. If physicians examine any torture allegation case and issue forensic reports without complying with the procedures defined through this protocol after it was adopted at the UN General Assembly, it comes to mean that these physicians perform their job improperly. To defend the right of their clients, lawyers of torture survivors also need to know about the compulsory conditions defined by the Protocol for proper examination and evaluation.

Diagnosis of Torture and Forensic Reports

Torture, when it is evaluated together with the level of its frequency, can be regarded as an endemia all over the world. With this particularity, its determination and documentation will play a significant role in struggling against this endemia. Issuance of forensic reports can be regarded as documentation and identification of the problem as well.

Istanbul Protocol and Issuance of Forensic Reports from the Point of View of Forensic Medicine Specialists

For torture cases, as for all legal cases, the duty of forensic medicine specialists is to investigate the answer of the question "how?" and to answer this question by evaluating all reachable data in the context of the inter-relation of these data. Put it differently, it is the re-edition of the case.

Correctness of this re-edition has a direct relation with the quality and quantity of the data collected. However, the duty of forensic medicine specialists, other than defining traumatic changes, is to interpret how and in what conditions traumatic changes may occur under the scope of the secondary and tertiary health services. In the same way, the Istanbul Protocol charges physicians on the meaning of facts especially with such an emphasis. While psychiatrists answer the question how

the defined fact may come on the scene after the psychiatric examination, forensic medicine specialists, in the same way, should answer the question how physical facts come into being. Accordingly, the data should be interpreted in accordance with the collaboration between these two areas of specialization and in terms of the existence of torture cases determined.

Torture is a form of violence, which can be diagnosed through comprehensive researches, and by means of methods applied and the quality of the knowledge and technology appropriated for these methods. As the quality of appropriated knowledge and technology increases, it is expected that the quality of medical and laboratory methods utilized for diagnosis increases, and especially that some special laboratory researches are made use of.

While typical intratissue bleedings and bruises can be observed in the case of "beating", one of the most frequently applied torture methods, such traumas caused by wide-surfaced objects may not leave traces on skin. For this reason, advance technology requiring researches, including magnetic resonance, can be essential.

If an electricity applying torturer is not aware of the fact that resistance of a wet skin decreases, electrical burns that a torturer survivor is exposed to become visible. Yet it should be known that if electricity is applied on wet skin, countable results can be obtained only through blood biochemistry in the first 24 hours and that, for example, CPK (Creatine Phosphokinase) values become hundred times more.

All the data obtained should be evaluated collectively; and the compatibility of torture practices stated by the torture survivor with the data obtained should be mentioned in the forensic report. If a report only includes the diagnoses, does not mention the compatibility of the history of torture survivor with diagnoses obtained and does not answer the question "how", it is regarded as an incomplete forensic report under the scope of Istanbul Protocol.

For the prevention of torture, there is not any discrete positioning other than the role undertaken by physicians to prevent epidemic diseases. It is not possible to find a way for estranging the factor and related problem from society without identifying the factor and showing the problem. With this peculiarity, Istanbul Protocol appears as a serious community health study, which constitutes the principles of preventive medicine.

This medical and legal manual was prepared through noteworthy endeavors of physicians and lawyers from Turkey, and with reference to this, it was named Istanbul Protocol. In the same way, the first training studies of this manual were also initiated in Turkey. Following five different training programs held in five different cities for physicians and lawyers, several programs were held in Izmir only for the physicians working in forensic medicine examinations at primary health units. The ones previously involved in the preparation of Istanbul Protocol also participated in the training programs for Judges and Prosecutors which were carried out by the Ministry of Justice.

Approved by the European Union, another international training project will be put into practice in the following days. Being prepared by the joint efforts of the international rehabilitation organizations for torture survivors and the Human Rights Foundation of Turkey, this project will be an important step taken for the prevention of torture all over the world.

As we, the ones working for the diagnosis of torture, did not give up implementing the Minnesota Autopsy Protocol after the criticisms we received in ten years ago, all these were resulted in the acceptance of these standards by the ones criticizing its necessity. The studies for Istanbul Protocol, on the other hand, have already gone down in history as the building stone of the wall put up for the elimination of torture over the globe.

GYNECOLOGIC APPROACH CONSIDERING VIOLENCE AGAINST WOMEN

Yeşim İŞLEGEN*

Sexual Assault and Rape

Any actor who knowingly inflicts sexual intrusion or sexual penetration on a woman through physical force, threat, intimidation or counterfeiting, or who acquire sexual-physical information about her in any way without her consent commits a sexual assault.

Sexual assaults' level of frequency shows diversity from society to society and its complete determination faces with difficulties due to the reason that most of the cases do not apply to the authorized units. The applications, on the other hand, may be from every age and ethnic group, social class and professional group. It was determined that the most widespread risk group was the single women between the ages 17 and 25. Different type of bruises can be observed as a result of sexual assaults and rapes. Traumas over the whole body are observed in the 40 % of these cases. Physical traumas are encountered frequently in old women and children. Other than the physical consequences of the action, the most serious trauma occurs in the psychic structure.

Health professionals play a central role in the collection of evidences and in helping the victim to cope with the assault after the evidence. Physicians may act through wrong behavior patterns fed by the hegemonic culture. Consequently, it causes them to behave in a judging manner, hindering them to be involved in an emphatic relation with the victim. However, these physicians could be largely instrumental in assisting the victim in the case they have the proper knowledge and conscious. Otherwise, judging manners of physicians may cause the victim to

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be re-traumatized, whose life was already in threat and who was already subjected to violence.

Rape is not a crime of sexual desire. Rapists are neither exposed to extreme sexual stimulation nor rejected sexually. Consequently, rapists are not the psychopaths who cannot manage to keep their sexual impulse under control, while victims are not the masochists stimulating men sexually. Although exceptions cannot be a matter of generalization, this does not change the fact that rape is a kind of violence.

Two kinds of rape can be under consideration, the former of which can be observed most frequently. In that case, rapists want to keep every other creature under his control. They intend to content their feelings of inadequacy and insignificance through forcing their victims to obey. This group of rapists fantasizes about the enjoyment of the victim; hence, do not consider that they are doing harm. The victims of this group are generally less wounded. As to the latter, rapists intend to degrade and ill-treat the victim directly. This group of rapists uses sexuality as a method of displaying their hatred and enmity; hence, they beat and assail their victims, and use physical force. Here, the physical force used is an erotic stimulant. In most of the cases, the victims do not get out alive after the assault. The incident of rape may turn from one another or involve both of the two kinds.

Physician's Approach for the Victims of Sexual Assault

In the case of sexual assault, the first physician met is of the emergency service. General approach of the physicians at emergency services is expected to be the collection of evidences through a careful evaluation, giving a support to the patient and treating the urgent problems.

Here, gender of the physician is not a matter of concern. A concerned male physician may be as much therapeutically effective as female physicians. Yet, if a patient prefers to be examined by female physicians, this preference should be respected as much as the conditions allow. The physician should approach the patient free from his/her gender identity, and should focus on the violence dimension of rape. The physician should not identify her/himself with the victim, rather should establish an emphatic relation. In that context, the physician should be careful about the way s/he establishes relationship with the patient and should have a strong intuition. Consequently, s/he should neither behave in a patronizing manner nor show an extreme interest to get the attention of the

patient. Behaving in leisure, calm and supporting manner is much more effective for the patient to regain her confidence. This non-judging manner is especially important when the physician asks questions about the moment of sexual assault. Patient's expressing what she went through is fairly helpful in the treatment process through her regaining confidence.

Anamnesis

Victims of sexual assault may come at the physicians during or after the acute phase. The basic principles remain the same in either phase; yet, only difference occurs in the concrete characteristics of the case.

In the acute phase, the case should be evaluated immediately. Meanwhile, the patient should not be anxious; rather should behave in calm, organized and supporting manner. The interviews and medical examinations should be held in a specific room. If the examining physician is male, a female nurse should be present in the examination room. In the examination environment, there should be nobody other than health professionals. While the history of the patient is recorded, returning and re-recalling of the patient should be paid attention. The interview should be recorded under patient's consent. The details should be paid extreme attention, since the history guides the treatment process.

Emotional reactions of the victim may display fluctuations. Anger, anxiety, fear, trembling and crying may continually replace each other. This should be responded with understanding and not be perceived personally. And sometimes, the victim may be so taciturn and submissive. Unexpressive facial expressions of the victim do not come to mean that she was not affected by the incident; contrarily, it may mean that she was affected more than expected. The emotional condition of the victim may change as a result of the influence of the medical examinations. The victims may be emotionally affected during the time when they are talking about actions they find revolting. While taking information, the physicians should clarify that such methods are widely employed by rapists; and hence, should help the victim to regain her confidence accordingly. This supporting attitude may lower the affection of the patient to a minimum degree. Any disrespectful attitude towards patient's previous sexual life may cause the victim to perceive the gynecologic examination as rape and thus result in serious psychological consequences.

Old rape cases may resist to the medical examination more. Following the assault, the Post Traumatic Stress Disorder (PTSD) and similar tables or traditional ideas

about sexuality may cause victims to react more radically. These cases are more sensitive to be offended psychically.

During the anamnesis, a translator may be employed if necessary. Firstly, the general anamnesis should be taken; then, the physician should go into the details of the assault after the trust-based relationship was established.

Anamnesis:

I) General

- a. Demographic data
- b. Personal history, operations undergone, diseases, injuries,
- c. Medicine, alcohol and substance consumption,
- d. Allergy,
- e. Tetanus vaccine

II) Gynecologic

- a. Last Menstruation Date (LMT),
- b. Gynecological diseases,
- c. Contraception (birth prevention); birth control pill, intrauterine device

The sexual intercourses realized especially 72 hours before rape (date and hour) have an importance for legal concerns.

III) Assault

- a) Date and hour of the assault
- b) Characteristics of the location and place of the incident,
- c) Characteristics of rapist(s)
 - a. Ethnic characteristics (for the forensic examination),
 - b. Number,
 - c. Specific actions,
 - d. Means and methods of assault
 - 1) Gun
 - 2) Threat, intimidation, menace
 - 3) Characteristics of the physical assault
 - 4) Sexual assault

- i. Penetration (complete-partial, vaginal-anal or both)
- ii. Oral assault, rape
- iii. Use of lubricant?
- iv. Use of condom?
- v. Whether ejaculation occurred?
- vi. After-assault cleaning
 1. Bath?
 2. Vaginal shower?
 3. Changing clothes?
 4. Gargling?

Physical Examination and Sampling

During the examination, it is fairly important not to offend the patient. For this particular reason, patience plays an overwhelming role. Physicians should put forth a considerable effort for the relaxation of the patient; and should not make any attempt without her consent. The importance of the issue should be expressed to the patient as she understands. During the examination, the physician should persistently talk with the patient and encourage her.

1. Date and hour of the examination
2. Mental condition and conscious of the patient
3. General physical examination, specific examination and identification of the wounded regions, taking photographs
4. Skin examination, foreign bodies (hair, blood, skin eruptions, swatches, bites, skin spots)
5. Pelvic examination; laceration, erosion, rupture, samples of the microbial examinations like hematoma, neisseria gonorrhoea, chlamydia (gram stain, throat culture, and etc.), sample from the posterior fornix for the forensic examination, evaluation of the presence of motile sperm in the vagina, genetic marker testing of the same sample. Besides, extra sample for DNA analysis, and if necessary, colposcopy and vulvoscopy (this method is important for the micro evidences) would be appropriate for the identification of micro-traumas
6. Rectal examination; and if necessary, anoscopy and similar samplings
7. Oral examination and similar samplings, saliva sample
8. Pubic hair sample and hair sample
9. Nail scrapings

10. Detecting antigen in blood sample (for acquiring information about the assailant)
11. Urine and blood pregnancy test
12. Alcohol and toxic substance testing
13. Retention of the clothes worn during the time of assault in an appropriate manner

Treatment

1. Treatment of wounds; All wounds should be considered as infected wounds and vaginal lacerations should be repaired under general anesthesia.
2. Contraception; Pregnancy risk depends upon various factors. The probability of pregnancy occurred as a result of coitus and in between the menstrual cycle is 30 %. At other times, this rate is 2-4 %. This probability should be expressed to the patient. The following methods can be used as contraceptives:
 - a. Use of combined oral contraceptives (birth control pill) and postcoital emergency contraceptives (after the sexual assault taken vaginally). Postcoital contraceptives are taken in 72 hours after the sexual assault, 2 pills in every 12 hours. This medicine includes 0.05 mg etinilestradiol and 0.5 mg norgesterol. The probability of failure is 0.16-1.6 %.
 - b. Consumption of high dosage estrogen; 2.5 mg ethinyl estradiol can be consumed twice a day for 5 days.
 - c. Use of Intrauterine Device (IUD); some physicians does not recommend the use of IUD's due to the infection risk it employs.
3. Terminating pregnancy upon will;
4. Protection against sexually transmitted diseases: The most significant risks are gonorrhoea, chlamydia and syphilis infection. For gonorrhoea and chlamydia, samples should be taken from all infected persons; and for syphilis infection, serological laboratory examinations should be made after 2, 6 and 12 weeks respectively. Infection rate is 30 % for gonorrhoea, and 1 % for syphilis. All patients should consume antibiotics for protection.

Gonorrhoea	Ceftriaxone	125 mg Im
	Cefixime	400 mg Po
	Ciproflaxacine	500 mg Po
	Ofloxacine	400 mg Po

Chlamydia	Azithromycine	1 gr Po
	Doxycycline	400 mg Po 7 days
	Erythromycine	500 mg Po 7 days
	Ofloxacin	300 mg 7 days

AIDS is an important risk; yet the HIV infection rate is not known definitely. The patients should be encouraged for HIV testing. The test should be repeated after 12 and 24 weeks.

The patient should also be followed for herpes virus, human papillomavirus (HPV) and hemophilus. For Hepatitis B, serological examinations should be realized; and Hepatitis B immunoglobulin (HBIG) as well as routine vaccination should be given to the appropriate cases.

Trichomonas and bacterial vaginosis are among the most frequently encountered infections after sexual assault. The treatments should be held in accordance with metronidazole and ornidazole.

Follow-up

1. One Week After
 - a. General evaluation,
 - b. General physical and gynecological examination,
 - c. Repetition of the microbiological examination in the case of indications, repetition of the pregnancy test,
 - d. Evaluation of the emotional condition and psychological assistance.
2. 12 Weeks After
 - a. Repetition of VDRL (for syphilis infection)
 - b. Repetition of HIV testing
 - c. General evaluation

Psychological Sequella of Rape

Psychological trauma is the most widespread consequence of rape. According to a research, 40 % of the victims experiences sexual difficulties; becomes reluctant to be involved in flirtation type of relationships as if they forbid themselves any kind of intimate relationship and becomes suspicious 1-2.5 years after rape. In another research, the victims of rape went under medical examination 4-6 years after rape. In the research, it was observed that 37 % of the cases went back to normal, while 30 % of them showed not progress. Long-term or short-term

reactions of a victim of rape are not only related to the ways in which she was affected from the incident during the time of the incident. Besides, living conditions, the social assistance she receives, personal characteristic and emotional condition of the victim before the incident do very affect this process. Only a limited number of victims demands assistance during the acute phase; most of them demands after some time passed over the acute phase.

Rape Trauma Syndrome (RTS)

It is a syndrome identified by Ann Wolbert Burgess and Lynda Lytle Holmstrom. RTS occurs in two phases

1. Disorganization (acute or initial) phase: occurs during the first week of the attack;
2. Reorganization phase; occurs one month after the attack.

Disorganization Phase:

Emotional symptoms: During this phase, the victims experience complete disruption of their lives, responding to the rape they experienced, feeling of death, anxiety, feelings of guilt, anger and revenge, shame and distress

Somatic Symptoms: General or local aches, stomach ache, nausea, vomiting, loss of appetite, vaginal, anal or oral discomfort; sleep disorders and cyclical disorders.

Reorganization Phase:

Victims learn to cope with the sexual assault and try to reorganize their lives and personalities. Hence, victims may change their telephone numbers, outlooks, behaviors, jobs and even the cities they live. During this phase of RTS, sexual dysfunction problem may occur. Loss of sexual interest, denial of sexuality, orgasm problems and vaginismus may develop. Phobias may appear against men, sexuality or being alone. As to depression related symptoms, paranoid thoughts, sleep disorder, nightmares, flash-back experiences may be observed. The adaptation disorder occurring in the chronic phase may be defined as post traumatic stress disorder in this phase. Sometimes, insulated conditions may be under consideration, like chronic depression, chronic anxiety, phobias, use of substance(s) and sexual dysfunction. Gynecologists, if they do not know the history of such cases, may encounter with health complaints like chronic pelvic pain, somatophorm disorders, dyspareunia and persistent vaginal flow.