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The European Effect and Diffusion of the Human Rights Norms in Turkey

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This article analyzes the effect of the Europeanization process in promoting the adaptation of universal human rights in Turkey. I argue that the recent human rights reforms by the Turkish government occurred as a result of Turkey's bid to join the European Union. I discuss the contradiction between the exercise of domestic sovereignty and implementation of the universal standards of human rights as the main characteristic of the Europeanization process on the issues of torture and freedom of association. As a state-centric country, Turkey initially interacts with the Europeanized universal human rights on the governmental level by making adjustments in its legislature; then negotiates the limit and space of implementation of the human rights with the public and the civil society. Thus, the adaptation of the universal standards of human rights occurs as a two-level process of diffusion; first from top-to bottom, and then from bottom-to-up through the advocacy of Turkish civil society.

I discuss the nature of human rights as universal norms, realist and liberal conceptualizations of national sovereignty and then argue on the role of the European Convention on Human Rights promoting these norms in Turkey. The paper concludes with an analysis of the relationship between the Turkish Government and several European Institutions in the light of recent positive changes in the Turkish government's determination to eliminate torture and to extend the freedom of association for Turkish citizens.

Human Rights as Universal Norms

The idea that states should respect human rights dates back to the writings of Rousseau (1762) and Locke (1689), the US. Bill of Rights (1789) and the French Declaration of the Rights of Man and of the Citizen (1789) (Ishay, 1997; Weissbrodt and O`Toole, 1988). In last couple of decades of the 20th century however, the promotion of human rights has

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been conceptualized as an appropriate part of foreign policy making and international relations. Donnelly (2003) and Forsythe (1991) emphasize the relevance of the human rights to IR theorists and political scientists. Donnelly explains the evolution of the concept of rights as a response to the development of the modern state and the industrial revolution. He characterizes rights as a social construction that provides the conceptual tools that aims to protect the individuals from the affirmations of the state and the market (2003).

While the intellectual groundwork of the international human rights developed mostly in Europe and the United States, their establishment on the international level as well as their justification reflects more culturally diverse sources (Schmitz and Sikkink, 2002). Keck and Sikkink claim that " the passage of the Universal Declaration of Human Rights in 1948, and the subsequent widespread ratification of the two general human rights treaties, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights provide international standard definitions and benchmarks for what constitutes international human rights" (2001: 2). The nature of universal human rights as a mobile set of norms is viewed as a threat to the sovereignty of the nation state by those benefiting from the status quo. For example, in many civil conflict situations there are some segments within the security forces that benefit from the cessation of human rights in the conflict area in order to extract political leverage and economic benefits from the violence. Diffusion of universal human rights occurs through prioritization of a certain set of norms over another within a process of inclusion to a supra-governmental political entity.

National Sovereignty

Sovereignty in classical terms is understood as the possession of territory through the use of coercive power, with clear-cut boundaries that include the people that live within those boundaries (Krasner, 1999). Since the Treaty of Westphalia (1648), sovereigns agree to operate only within nation-state boundaries. Krasner calls this domestic sovereignty (1999). It implies a hierarchical relationship between the sovereign and the subordinates. Internal sovereignty requires a single political hierarchy with its peak in the "sovereign" that effectively controls the territory claimed by the state (Lake,

2003). According to the classical conceptualization of sovereignty, externally each state is an independent unit of its own, not bound by any superior authority, and is equal of all other sovereign states. Sovereignty entails recognition by other similarly recognized states (Bull, 1977). Kenneth Waltz, the neo-realist, defines a formal equality between nation-states asserting "none is entitled to command; none is required to obey."(1979:88). Krasner (1999) and Jackson (1990) call this the international legal sovereignty or the juridical sovereignty. Yet this classical conceptualization of sovereignty does not distinguish between the internal and external sovereignty. Internal or domestic sovereignty of a state meant that the state has the right to use violence over the citizens and restrict and protect the rights of its citizens. During the course of the 20th century the relationship between domestic sovereignty and external sovereignty was emphasized more clearly, in a way that the external sovereignty of the state has begun to be defined by the way it treats its citizens.

Constructivists emphasize that both externally and internally sovereignty is socially constructed. They claim that although sovereignty has been taken as a given in international relations for a long time, it is more usefully understood now as a social fact or social kind (Bhaskar, 1979). According to Bhaskar sovereignty is conceptualized as reproduction of the system through practice (1979). It is a social fact since it is a basic premise that upon which political actors condition other behaviors. The hierarchical nature of domestic sovereignty and anarchic characteristic of the external sovereignty, according to Wendt, are what states make of it (1999). Christian Reus-Smit (1999) defines sovereignty as one of the three elements of the international society, along with constitutional structure and moral purposes, of the state embodying norms of legitimacy and rightful action. He claims that throughout the course of history the meaning and practice of sovereignty has changed and varied even within relationships in which the parties are clearly not subordinate to a common authority (1999). Thus, change in the moral purposes or the constitutional structure affects the way sovereignty is practiced. So when the relations of power between the sovereign and the governed was redefined after the defeat of the fascist regimes in the Second World War, the sovereign nations agreed to bind themselves by joining international bodies like the United Nations. In other

words, the quality of the relationship between the sovereign, whether a government or a monarch, and the citizen is measured by the international organizations examining how the citizen is treated by the member state.

In the post-Cold War period, international organizations are one of the central elements that define international society, thus distinguishing it from the neorealist conceptualization of the international system as anarchic and power dominated (Buzan, 1993; Wendt and Duvall, 1989). Scholars like Ruggie (1993) and Meyer (1987) who work within the transnational-constructivist school interpret the political order of international society as a network of international institutions. International organizations are formal associations of states that are both issue area-specific and partly transcend through issue areas. Unlike regimes, international organizations act as purposive collective actors made up of states (Keohane, 1989). Their function is to formulate collective goals and to specify appropriate means for achieving them.

The Universal Declaration of Human Rights is a document signed by the then-members of the UN, which presents the governments with the primary responsibility to provide civil, social and economic rights for their citizens. Protection of human rights of the citizens is defined as one of the basic duties of the governments. Throughout the Cold War the UN General Assembly criticized the violation of human rights but refrained from imposing severe penalties on the governments on the premise that it is the responsibility of each state to do; further thinking that contrary action might upset of the balance of power and violation of the national sovereignty. Yet after the end of Cold War, implementation of universal human rights within the domestic sovereign space has increasingly become a precondition for external sovereignty. Although the signatories of the UN Covenants of Political and Economic Rights (1976) retain full residual control, including the authority to decide whether they have violated the covenant, the United Nations is increasingly more active in penalizing member countries through actions like trade embargos.

In the post-Cold War period, it is not only the United Nations that pushes the states for human rights reforms but also the regional supra-governmental polities that have adopted and localized the United Nations Covenants. The aspiring members of these

political entities are asked to implement necessary reforms in the conduct of human rights to bring it in line with the standards of these organizations. The European Union is the most visible example of this phenomenon. The European Union as a supranational political entity establishes behavioral roles for member states that are expected to perform the expected role behaviors (Krasner, 1983; Goldstein and Keohane, 1993). The EU draws the codes of conduct for the human rights from the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) that was drawn up within the body of Council of Europe[1]. The European Convention on human rights takes the 1948 Universal Declaration of Human Rights as its main reference. The Convention is an international treaty that has a voluntary nature with legally binding norms. As other international treaties, it demonstrates a soaring level of specificity on the expectations of behavior from the parties who signed due its area-specific nature. For example it identifies specific codes of conduct against human rights violations emphasized in its various articles. The European Convention on Human Rights serves as a legal document for reference to identify norms at the international level. It maintains such a reference role for the activities of many European Union/Council of Europe bodies.

Process: Turkey's Accession to European Union

Over the last fifty years after the initiation of multi-party system in 1945, Turkish democracy has undergone through three military coups in 1960, 1971, 1980, two low-intensity conflicts, the former, an ideological one between the right and left during the 1970's, and the latter an ethnic one during the 1990's.Several economic crises during this period did not help the formation of a very strong culture of democracy either. The geopolitical location of Turkey both offers opportunities and threats to the maintenance of stability and socio-economic growth in the country. The pro-western inclination of the country dates middle 19th century, 1839 Tanzimat-Readjustment Decree that introduced the concept of citizenship (Mardin, 2000; Berkes, 1964). During this process, first the Ottoman, then the Turkish governments strived to meet the demands of *Europe*, regardless of whether Europe meant the British Parliament or the European Union, by

[1] The convention was opened for signature in Rome in 4 November 1950 and entered into force by September 1953.Taken from the ECHR official website: www.echr.coe.int/Eng/Edocs/HistoricalBackground.htm

making continuous reforms in the constitution and penal code. Yet these reforms and readjustments have not brought Turkey inside the core of the European value system nor deserted it within the Middle-Eastern, Asiatic value system[2]. As a member of the NATO, Council of Europe, OSCE and OECD and a possible future member of the European Union, Turkey holds a crucial position in the policy orientation and value development of the European, North Atlantic organizations.

Turkey became a member of the Council of Europe on 9 August 1949 as one of the first members. It has ratified the European Convention on Human Rights and recognized the right of individual petition to the European Court of Human Rights on 1987[3]. Following that date, ECHR began to receive an increasing number of applications lodged against[4] Turkey every year.

The constructivist school of human rights points out that the global acceptance of human rights norms since 1945 followed a two-stage process that could be labeled as a norm cascade (Finnemore and Sikkink, 1998; Sunstein, 1997). According to this model 'support for a particular norm gathers slowly until reaching a threshold. Thereafter adoption by other members in the community occurs more rapidly and leads to a cascading effect' (Schmitz and Sikkink, 2002: 15). The relations between Turkey and *Europe* demonstrate how both the legislation and the implementation of human rights reforms in Turkey do occur as a result of the former's willingness to be a core part of the latter. That brings us to the question in relation to the Turkish Government's motivation for the acceptance of human rights reforms required for the entry into the EU: Is this only a rhetorical acceptance to please the European demands for an eventual EU membership or the start of a cascade effect?

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[2] I do not intend to come up with categorizations of cultural islands like Toynbee (1948) or Huntington (1993). The concept of a value system is actually raised by the European Union as opposed to the *other,* read Middle Eastern or Asiatic in the case of Turkey. The Republic of Turkey since its inception on 29 October 1923 defined itself within the family of modern civilization without any explicit reference to any civilization whether Europe or Asia (Preamble of the 1982 Constitution of Turkey).

[3] Turkey ratified the European Convention on Human Rights on 18 May 1954 and recognized the right of individual petition to the European Court of Human Rights on 28 January 1987

[4] Applications lodged against Turkey on human rights violations in 2002 was a number of 3036. Judgments of the ECHR on the merits are as follows: 105 of which 54 violations, 2 non violations, 45 friendly settlements and 4 striking out.
http://www.coe.int/T/e/com/about_coe/member_states/e_tu.asp

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The pace of the human rights reforms in Turkey lies in the contradiction between the thinking based on the need to preserve the presence of the Turkish government on the everyday life of the citizens and efforts to extend the quality of it. In the preamble of the 1982 Constitution that has been written after the 1980 military coupe, stress has been laid on the fact that the Turkish nation "as a full and honorable member of the world family of nations" must safeguard the everlasting existence, prosperity and material as well as spiritual well-being of the Turkish Republic. According to Article 2 of the 1982 Constitution, one of the main characteristics of the Republic of Turkey is to respect human rights. In the same article the fundamental qualities of the Republic of Turkey are enumerated, as "a democratic, secular and social state governed by the rule of law". The preamble of the 1982 constitution constructs a definition of internal sovereignty based on the prosperity of the Republic while depicts its support for the protection of the human rights of its citizens as a sing of its external sovereignty.

The constructivist scholarship is divided into two main camps on the issue of national sovereignty - those of state centric and non-state centric perspectives. The constructivists who take the state as their unity of analysis proceed with a systemic view that has been characterized by the states as the actors (Wendt, 1999), while others recognize the non-state actors along with the norms and ideas in the study of international relations (Schmitz and Sikkink, 2002). The state centric view prefers to attain a sociological institutionalism in terms of their preferred process of norm diffusion (Thomas, et al., 1987) emphasizing on the role of the "scripts" and the "mimetic imitation" (Krasner, 1999: 64). Non-state constructivist theory on the other hand emphasizes a socialization of norms, normative socialization (Risse, Ropp and Sikkink, 1999). Logic of appropriateness is the main discursive trait in both arguments, while the constructivists leaning to the role of normative socialization attempt to demonstrate an essential change in the constituent's identity through the acceptance of norms. For the sociological institutionalist perspective there is no problem with the norm rhetoric and the behavior (Meyer 1997). On the contrary one of the biggest issues in the implementation of the human rights norms is the gap between the rhetorical commitment and "actual rule-conforming behavior" (Schmitz and Sikkink, 2002: 16).

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My perspective on this paper is analogous to that of Checkel who prefers to use both models as means of analyzing how certain states adopt certain norms (1998). Checkel identifies two dominant diffusion pathways: "bottom-up societal mobilization" and "top-down elite learning" (1998:16). In the first case, non-state actors and policy networks are united in their support for norms; they then mobilize and coerce decision makers to changes made in the state policy. Norms are not necessarily internalized by the elites. The second diffusion mechanism emphasizes the social learning, not political pressure, by leading agents to adopt "prescriptions embodied in the norms; they become internalized and constitute a set of shared intersubjective understandings that make behavioral claims" (1998:16). Turkey's adaptation of the European Convention of Human Rights has started as a top-down elite learning through the Europeanization process of the country yet through time led to a bottom-up socialization process that forced the Turkish governments take further steps against the violation of human rights in the country.

The political structure of Turkey is state-centric (Avcioglu, 1998; Keyder, 1989). The diffusion of norms in Turkey has to go through the state to resonate at the societal level. The dominant process in the diffusion of norms has traditionally been from top-to-bottom or through the initiation of a dominant class in the society. The diffusion of the human rights norms in that sense is initiated through the Turkish state apparatus. But after the initiation phase, the implementation and internalization of these norms are negotiated between the government and the civil society groups. The social justice awareness of the sixties and seventies were examples of such initiation (Keyder, 1989). The civil society groups have close ties and connections with the transnational advocacy groups. These groups largely support the actions of the Turkish civil society organizations in order to extend the space for political civil action in Turkey. For example the Human Rights Association of Turkey has support from a broad transnational network of human rights organizations .The association publishes semi-annual reports on the accounts on the human rights violations in Turkey and challenges the narrative of the respective Turkish governments since 1986(taken from the website of the TIHD).

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The Europeanization process makes the contradiction between the state-centric conceptualization of domestic sovereignty based on the every day presence of the state in citizens' lives and the Turkish state's commitment to the elevation of the human rights standards of its citizens, both of which are stated in the preamble of the constitution (1982), more apparent than ever. Inevitably moving into a distinct definition of domestic sovereignty based on a more inclusive and pluralistic culture of democratic tolerance puts the strengthening Turkish civil society network and the Turkish bureaucracy at odds.

The European Union takes the principles of the European Convention on Human Rights as its core values and expects any of its future members to ratify all the protocols of the Convention. Europeanization is defined as agreeing on mutual set of values among the constituents of Europe (White, 2001). The state apparatus feels threatened by the challenges imposed through the Europeanization process that itself has initiated with the *necessary* adjustments in the constitution and in the penal code. For example President Ahmet Necdet Sezer, a former head of the Constitutional Court of Turkey, used his right of veto on the reforms underlining possible threats to national security of the country (Belgenet, 30 June 2003).

Recent Reforms

At the Brussels Summit of the European Council of Presidents, Turkey has been declared as ready to start the accession negotiations with the European Union in 2005, concluding that Turkey has met the necessary Copenhagen criteria following a series of reforms in the past four years (Presidency Conclusions of the European Council, 17 December 2004). Starting with the "candidacy status" granted at the Helsinki Summit of 1999 (12 December 1999), reinforced with the EU-Turkey Accession Partnership agreed on March 2001, Turkey has first convinced the European Union that the EU could open accession negotiations in the near future (Presidency Conclusions of the European Council, 13 December 2002) and then finally achieved the status of starting the accession negotiations. Thus in the last five years, the Europeanization process of Turkey of the last two hundred years, is now being defined within the axis of Turkey's possible accession to the European Union (EU) (Eralp, 2005). The prospect of a future EU membership became the most important catalyst for human rights reforms in Turkey.

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In the last 4 years Turkey is going through a transformation in the priorities of the value systems that are in line with the Accession Partnership. In a three year period (2001-2004) in line with the priorities of the accession partnership with the EU, two major constitutional reforms in 2001 and 2004 and eight legislative packages have been passed between February 2002 and July 2004 (Communication Paper of the European Commission, 6 October 2004) . New codes have been adopted including a Penal Code and Civil Code. The reforms in the constitution provide a larger space for the expression of political speech. Turkish Grand National Assembly abolished the death penalty by ratifying the Protocol No.6 and No.13 of the European Convention, permitted broadcasting and teaching of minority languages including Kurdish (Communication Paper, 6 October 2004). A very important reform was the change in the Article 90 of the Turkish Constitution in May 2004 that has brought the supremacy of the international treaties over the internal law. In cases where the domestic law conflicts with the international treaties, the human rights norms implicated in the international treaties will be taken as the reference and the Turkish courts will be obliged to implement these resolutions directly. The last paragraph of Article 90 of the Constitution reads, "International agreements duly put into effect carry the force of law. No appeal to the Constitutional Court can be made with regard to these agreements, on the grounds that they are unconstitutional" (Constitution of the Republic of Turkey, 1982 as amended in 2004).

As of April 2005 the European Union repeats its commitment to open negotiations with Turkey in October 2005, yet asks Turkey to implement further reforms in the areas of "religious freedom, protection of minorities and the exercise of cultural rights, social rights and the removal of discrimination, as well as relations between civil society and the army" (EU General Affairs and External Relations Council Press Release, 26 April 2005). As can be seen from the recent reforms in Turkey and declarations of the European Union the concept of domestic sovereignty in Turkey based on an omni-present state in citizens lives transform into a redefinition of the domestic sovereignty based on inclusion and tolerance promoted by the normative socialization process of EU accession as has been put by non-state constructivists (Risse, Ropp and Sikkink, 1999), through

top-down elite learning, complying process as has been defined by the sociological institutionalist scholars (Meyer, 1997).

The reports and reviews of the European Union on Turkey's progress is based on the country's interaction with the European Court of Human Rights. The accession partnership signed in 2001 also refers to the need for Turkey to reform its laws in line with the European Convention on Human Rights. The abolition of the death penalty in all circumstances with the ratification of Protocol.6 and Protocol.13 signifies Turkey's commitment to the Convention. Yet it is the process-issues like the *prevention of torture* and maintaining and extending *freedom of association* that needs constant attention and communication between the Turkish government and civil society that bring the greatest challenge in Turkey's path to EU membership.

Prevention of Torture

Domestic sovereignty in a classical realist sense is tied to maintaining the monopoly on the use of coercive power on the people that live in the boundaries of a clear-cut territory (Hobbes, 1968). According to the 17th century Hobbesian definition, state maintains the right of harming its citizen whenever it sees that the citizens' deeds might cause harm to the well-being of the state and the nation. Through the last four hundred years as has been discussed earlier definition of domestic sovereignty has become defined less on the territory as its external pillar, but more with the international conventions that the country binds the limits of its domestic sovereignty as a respectable member of the family of independent nations. The uses of violence on human beings are condemned as unlawful by the Universal Declaration of Human Rights (1948). And later the limits of state violence have been more specifically defined by the UN Convention against Torture in 1984.

According to the Article 1 of the UN Convention against Torture, torture is "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed

or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (1984). The European Convention for the Prevention of Torture (1987) binds the signatory countries of the Council of Europe to follow a zero-tolerance policy against torture which Turkey has signed. The European Union takes this document along with the European Convention on Human Rights (1950) as reference in its negotiations with Turkey on the issue of torture.

Article 4.1 of the Accession Partnership called on Turkey to " strengthen legal provisions and undertake all necessary measures to reinforce the fight against torture and ensure compliance with the European Convention for the Prevention of Torture" and suggested Turkey to " further align legal procedures concerning pre-trial detention with the provisions of the European Convention of Human Rights and with the recommendations of the Committee for the Prevention of Torture" (European Council Decision, 8 March 2001). As the UN Committee against Torture (2002) and the European Committee for the Prevention of Torture have indicated (2004), the most important step Turkey could take to curb torture would be to ensure that all detainees have access to legal counsel from the first moments of detention. The CPT report on Turkey specifically indicates that "in the interests of the prevention of ill-treatment, it would be preferable for persons in respect of whom an extension of custody is sought to be always physically brought before the prosecutor responsible for deciding the question of extension, and for them to be able to be assisted by a lawyer at this hearing" (2004: Article 16). The length of custody for the detainees before having an access to an attorney in the cases that fell under the jurisdiction of the State Security Courts has been referred as the situations where torture happened (CPT Report 2004, CAT Report 2002). Therefore Turkey was asked by the European Commission to abolish the State Security Courts and reduce the length of pre-trial detention (EC Regular Report, 9 October 2002 and 5 November 2003).

The mandate of the State Security Courts have been defined in the annulled Article.143 of the 1982 Constitution as "to deal with offences against the *indivisible integrity* of the State with its *territory* and *nation*, the free democratic order, or against

the Republic whose characteristics are defined in the Constitution, and offences directly involving the *internal and external security of the State*". State Security Courts had a military judge within its body, who was exempt from the civilian control and the scope of actions that are regarded, have been kept wide as possible to minimize the civilian political space. State Security Courts for a long time until their abolition in 2004 were the institutionalized declaration of the Turkish State's explicit commitment to the integrity of the nation in a territorial space. The threats to the integrity of the state were not only expected externally but internally as well. But the main focus of practice for the State Security Courts was prosecuting internal threats. This was an implicit framing of every Turkish citizen as a possible threat to the domestic sovereignty of the Turkish state. The State Security Courts were on the forefront throughout the eighties into the late nineties[5] . As the Human Rights Watch put it in 2003, ' in Turkey detainees held for common criminal offences have the right to see a lawyer as soon as police detain them, but this is delayed for detainees held for offences under the jurisdiction of the State Security Courts' (Briefing Paper, January 2003).

European Convention on Human Rights that has been signed by Turkey as well, emphasizes the presumption of innocence before anyone is proved guilty (supra note 3, art 6(2), at 228). Yet the logic on State Security Courts had been built lied on the presumption of potential guilt against the Turkish state. And the length of pre-trial detention without access to attorney enabled the security officers conduct interrogation on the detainees so to obtain the necessary evidence before the court hearing. In other words Turkey as a signatory of the European Convention agrees that every individual is presumed innocent unless the opposite is proved whereas the state security courts said the opposite. This was an extension of the contradiction in the preamble of the Turkish Constitution. Yet this contradiction was removed with the abolition of the State Security Courts in 2004.On May 2004, the State Security Courts have been abolished and the crimes that have been subject to the jurisdiction of these courts have been transferred to

[5] This period roughly corresponds to the escalation phase of the conflict between the Turkish Government forces and the Kurdish terrorist organization, PKK (Kurdistan Workers Party) between the years 1984 to 1999. After the capture of Abdullah Ocalan, the leader of the PKK by the Turkish security forces in Kenya, PKK has called for a unilateral ceasefire and announced the initiation of a so-called internal democratic transformation.

regional higher criminal courts. Nonetheless the people in pre-trial detention has to stay under police custody for 48 hours instead of 24 hours before being taken to these courts (EC Regular Report on Turkey, 6 October 2004). These people arrested under the jurisdiction of these courts are granted access to attorneys for their defense. According to the EC Report 2004 , individuals under custody for SSC crimes were now more inclined to exercise the right of calling an attorney "in the first quarter of 2004, 46% requested and were given access to lawyers, whereas the figure for the same period in 2003 was 28%" (35). In the first six months of 2004 the Human Rights Association of Turkey received 692 complaints with allegations of torture, a 29% decrease when compared to 2003 (Press Statement, 17 July 2004).

Freedom of Association

Freedom of association is an issue where the Turkish State has been very specific in setting the limits of association. The Article. 33 of the Turkish Constitution of 1982 grant the freedom of associations to the Turkish citizens:

> "Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association. Freedom of association may only be restricted by law on the grounds of protecting national security and public order, or prevention of crime commitment, or protecting public morals, public health" (as amended on 17 October 2001) .

The Article.5 of the previously annulled Law on Associations (1983) that is still in practice due to the veto of the President restricts the foundation of associations claiming that:

> "It is forbidden to establish associations which violate the Preamble of the Constitution. Associations may not be established if their aim is to destroy the 'territorial and national identity of the state', or if they seek to claim that minorities of different races, religions, sects, cultures, or languages exist within the Turkish Republic, or if through the promotion of other languages and cultures other than Turkish they seek for one religion, race, class, or group to win privileges over another group of a certain religion or sect."

The Section 2 of Article.11 of European Convention on Human Rights which Turkey has signed suggests that:

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> "No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State" (1950).

In November 2003, The European Court of Human Rights found Turkey guilty of violating the above mentioned article of the Convention when it dissolved the Socialist Party of Turkey in November 1998 (Decision# 26482/95, 12 November 2003). In line with the requirements of the accession partnership with the European Union, the new Law on Associations adapted by the National Assembly in July 2004 aims to diminish the state interference in the activities of associations. The restrictions on the establishment of the associations based on race, ethnicity, religion, sect, region or any other minority group are removed in the new law. The new law also eliminates the requirement to inform the local government officials or general assembly meetings, and allows for the establishment of temporary and informal networks for all civil society organizations. Moreover, the law requires that the governors issue warnings prior to taking legal action against associations and the security forces are no longer allowed on an association's premises without a court order (Law#5231, 17 July 2004). Although still not put into practice due to a veto by the President, the legislation of the new law on association indicates a willingness on the side of the Turkish Government to give further liberties to its citizens. The limits of domestic sovereignty are becoming less specific, providing a larger space for freedom of expression. The domestic law of Turkey is further aligned with the European Convention on Human Rights. The change has been initiated by the plea of the Turkish Civil Society to the European Court of Human Rights. The EU membership process helped facilitate the change and influenced the willingness of the Turkish Government to legislate the reform.

Conclusion

The biggest challenge to the construction of a universal human rights regime is the way sovereignty is conceptualized as the state's every day presence in the actions and

thinking of its citizens. International regimes are sets of principles, norms, rules and decision making procedures that define the ends and means of action within specific policy areas and thus establish the expectation of reciprocity (Krasner, 1983). A universal human rights regime is enforced by supra-national political entities on the individual nation states that are willing to become integrated into those supra-national bodies. The European Union enforces the implementation of the universal standards of human rights through its commitment to the European Convention on Human Rights on the candidate countries that are willing to be a part of the Union. Therefore the candidacy status of Turkey after 2001 has initiated a period during which consecutive packages of human rights reforms was legislated in order to bring Turkey's human rights record to the level of the Euro-specified universal human rights regime. Logic of appropriateness holds true for the behaviors of the state. The European Convention on Human Rights provides the criteria of the appropriate behavior for the Turkish State against its citizens, as shared norms of conduct within the constituent entities of the European Union.

This paper argues that universal norms of human rights diffuse in Turkey in a state-centric fashion, from top-to-bottom. But it is the interaction of the so-called bottom, the Turkish civil society, with European institutions that reifies the demand for a more liberal conduct of human rights regime in Turkey. They play a very important role in the negotiation of the human rights norms into the everyday psyche of the Turkish citizens. A number of human rights organizations like the Human Rights Association of Turkey, Mazlum-Der and Human Rights Foundation of Turkey express their vocal support for the extension of democratic tolerance and plurality in Turkey through their campaigns, reports and press releases. As a result of their struggle, today; the Turkish public opinion is much more aware and vocal against human rights violations and the way domestic sovereignty of the state is manifested.

According to the Survey conducted on the project of "Political and Social Dimensions of The Freedom of Expression in Turkey" by the Association for Liberal Thinking (ALT) in October 2002, 73% of the population thinks that the human rights violations are widespread in Turkey and 75% feels that their basic rights and freedoms are being restricted. 55% of the population says that without the European perspective, it

would not be possible to make any legal changes on human rights and freedom of expression. 63% of the population thinks that the EU membership process has a positive impact on the developments on the human rights in Turkey. 90% of the population is familiar to the European Court of Human Rights and 62% of the segment of population who is familiar with ECHR holds positive views about the organization. 82% of the population is also familiar with the activities of the Human Rights Association (HRA) of Turkey with a positive image of 62% (2002).

This article sees the Europeanization process of Turkey as a phenomenon of the last two centuries that is underscored as a result of the candidacy status of Turkey for the EU since 2001. The process that was previously discussed in the light of the reforms in the economy and political system is now seen in the light of the human rights. The reforms in the fight against torture like the abolition of State Security Courts or the new Law on Associations are a few among the many human rights reforms that Turkey is going through during its journey to the heart of Europe. The diffusion of universal human rights norms to the psyche of Turkish society will continue as long as the willingness on the side of the Turkish State and the civil society continues. Nonetheless this is a difficult journey for it requires further concerted determination to redefine the limits of the domestic sovereignty of state in the daily lives of Turkish citizens.

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