



CHAPTER 5

Politics of Neutrality, Human Rights and Armed Struggles: The Turkey Example

Ozan Kamiloglu

INTRODUCTION: HEGEMONY OF HUMAN RIGHTS DISCOURSES AND LOSS OF ALTERNATIVES

This chapter concentrates on debates that started during 1993 in the İnsan Hakları Derneği¹ (IHD—Human Rights Association) of Turkey regarding the adoption of the extended mandate of Amnesty International (AI) that came out after the 20th International Council Meeting in Yokohama, Japan (referred as Yokohama declaration throughout the debates),² and still resonates with many current issues in human rights. By looking at discussions within a local actor (the IHD) surrounding this declaration, which expanded AI’s mandate to include work on abuses by armed opposition groups (as well as by the State), this chapter aims to track the appropriation, interpretation and resistance to human rights discourses of AI and other international NGOs. This analysis shows that the debates reflect the broader historical and political context of the immediate aftermath of the collapse of the Soviet Union. It is in this very specific context that the discourses by organizations categorized as “leftist” lost their moral ground

O. Kamiloglu (✉)
Birkbeck, University of London, London, UK
e-mail: o.kamiloglu@bbk.ac.uk

© The Author(s) 2019
G. Blouin-Genest et al. (eds.), *Human Rights as Battlefields*,
Human Rights Interventions,
https://doi.org/10.1007/978-3-319-91770-2_5

77

for emancipatory politics, and turned instead to an emphasis on rights protection. Thus, the debates within the IHD, triggered by the Yokohama declaration, can be read as a search for a language that can accommodate both, on the one side, the revolutionary ideals and grammar of its participants and, on the other, the depoliticized nature of human rights work in the climate of the 1990s. I argue in this chapter that this endeavor to accommodate often conflicting discourses is the very characteristic of the contemporary politics of human rights: a constant translation and appropriation of its global discourses by local narratives of resistance, and the limitations of this translation after the end of Cold War.³ As such, Hopgood (2013, p. 178) reminds us about the neo-Westphalian world in which the Human Rights (uppercase) of the West lacks coherence, but where “lowercase human rights, a non-hegemonic language of resistance allied to a variety of causes and motivations” appears to be still operative. Likewise, Upendra Baxi (2006, p. 23) highlights the plurality of human rights made up of “resistances and struggles” against the “dominant and hegemonic” position assumed by a quasi-religious and “universal” human rights. These two different understandings of human rights do not constitute autonomous spaces, but are rather the two sides of a hegemonic struggle, and translations, adoptions, and changes in the meaning of human rights in different time and space is a part of this struggle.

In this respect, this chapter argues that the expansion of the human rights discourses during the 1980s and 1990s from a more ‘state-centric’ approach to monitoring armed opposition and searching for justice for victims is a symptom of what French philosopher Jacques Rancière (2006) calls ‘the ethical turn of aesthetics and politics’ in the article with the same name. The debate within IHD reveals that the loss of the political goes side by side with a turn to victims for the political opposition, so that the various discursive encounters within the left over which path to take for emancipation are transformed into debates as to which forms and kinds of violence to be in favor of or against. This turn eventually led to a discussion over the grammar and language of human rights—which includes the meanings of violence, rights, neutrality, and so on—that inevitably carries the legacy of the grammar and language used in the past by revolutionary actors. These debates that divide revolutionary activists over the scope of human rights activism reflect, on the one hand, what Foucault (1988) calls the “modern rationality,” which in its extreme leads to loss of the political, and, on the other, an attempt to imagine possible different futures through transmitted meaning of words and political positions from the past.

There is a relatively rich literature on the relations between human rights discourses and Western powers, which also considers de-politicization, or loss of utopias.⁴ Also the literature on appropriation, translation and invention of human rights ideals by the ‘Third World’ has gained volume in recent years.⁵ By focusing on an NGO from Turkey, this chapter highlights the dynamism in human rights discourses between the universal and the particular. Human rights discourses are informed by past experiences of local actors and global powers; they are at the same time specifically situated in time and place while still being informed by timeless universal ideas. The article shows that human rights discourses lose their emancipatory potential if they lose their connection to the circumstances of the violation, instead of either focusing on the instant of (bodily) harm or resorting to a vague and abstract universal language. These two alternatives are eventually correlated and inevitably entail de-politicization of human rights discourses.

The first section of the chapter will provide a background to the debates by presenting the history of the IHD and the impact of Amnesty International’s Yokohama declaration in relation to that particular history. The second section will focus on the debate that took place in the bulletin of the organization: it shows how some of the arguments reflect the Foucauldian “modern rationality” and advocate for an expansion of human rights activism, while others resist this rationality in different ways by using the revolutionary lexicon. The third section theoretically analyzes this opposition. On the one side, the modern rationality in its extreme form leads to a de-politicization of humanitarian activism, mainly by equating the violation of human rights with bodily harm; on the other side, the human rights grammar and meaning of words are appropriated and embedded into a revolutionary language to resist this de-politicization.

BACKGROUND OF THE YOKOHAMA DECLARATION: HISTORY, CONTEXT AND DEBATES

The Global Context

The AI’s press release following the meeting in Yokohama, Japan in 1991 states that⁶:

Perhaps the most far-reaching decision taken in Yokohama was to expand Amnesty International's mandate in relation to abuses committed by opposition groups. Amnesty International has for many years condemned the torture or killing of prisoners held by opposition groups. It will now additionally oppose other deliberate and arbitrary killings and hostage-taking by armed political opposition groups. [...] Amnesty International opposes deliberate and arbitrary killings whether the victims are assassinated individually or are killed in indiscriminate attacks.

Furthermore, AI lists (1992) in the first report published after the Yokohama meeting, a wide range of examples of such abuses by armed political opposition groups, such as FARC (Revolutionary Armed Forces of Colombia), ELN (National Liberation Army), Sendero Luminoso (Shining Path) of Peru, the Liberation Tigers of Tamil Eelam (LTTE), the Irish Republican Army (IRA), Euskadi Ta Askatasuna (ETA), and the Kurdistan Workers' Party (PKK). With this declaration, AI stepped into humanitarian action not only against states but also against armed opposition groups through the concept of "deliberate and arbitrary killings and hostage-taking" (Baehr 1994). In addition to the Geneva Convention, customary rules of international humanitarian law by the International Committee of the Red Cross (ICRC) and several UN Security Council resolutions as well as other statements by UN bodies provided a legal framework that made armed groups potentially responsible for human rights abuses (Clapham 2006; Barbara Ann Rieffer-Flanagan 2009; Dudai and McEvoy 2012). Yet, this extension of AI's mandate, together with a similar turn in Human Rights Watch's approach during the 1980s (Goldman 1993), sparked a fundamental discussion among various local human rights groups around the world over the question of violence and especially minorities' right to protect themselves from their oppressors, as well as how human rights should be defined (Dudai and McEvoy 2012). In order to understand the discussion that took place in the Turkish context, a brief overview of the history of the IHD is needed to explain where the association stands historically in the Turkish political landscape.

IHD and the Turkish Context

After the introduction of multi-party elections in 1950, Turkey witnessed three coups: in 1960, 1971, and 1980. During the last coup, the most violent one, more than 650,000 people were detained and thousands were

systematically tortured and killed by security forces.⁷ Prisoners responded to systematic torture with, among other tactics, hunger strikes, resulting in multiple deaths. After the official end of the coup in November 1983, the Turkish state imposed compulsory prison uniforms, which triggered a wider wave of hunger strikes in 1984 and 1985, predominantly in Diyarbakir, Mamak, Sagmacilar, and Metris prisons (Bargu 2014, p. 181), probably inspired by the 1981 hunger strikes of IRA and INLA (Irish National Liberation Army) prisoners.⁸ Prisoners' hunger strike and following fasting unto death led to the founding of the Solidarity Association for the Families and Relatives of the Arrested (TAYAD).⁹ Nevertheless, the activities of the group have been suppressed; members have been detained, and harassed by police.¹⁰ Still, they managed to mobilize wider parts of society, which was a factor in the partial success of hunger strikes in prisons: prison clothing was abolished as a result of the continuous struggle of the prisoners and their families. It is important to emphasize the struggle of TAYAD in order to understand the political situation of the country during the years when IHD was founded. IHD is probably today the most important human rights NGO in Turkey, despite the repression it has been subject to. In particular, 23 members have been assassinated, many others faced long sentences, local branches have been closed, and the NGO itself has been demonized by the mainstream media as the common enemy of people during the intense war against the PKK. The main goals of the association are: monitoring human rights violations, preparation of reports about them, and transmission of its findings to the general public. Hüsnü Öndül, head of IHD, defines the IHD as an organization with more "general aims" than TAYAD.¹¹ According to one of the early activists of IHD, the lawyer Ercan Kanar (1997, p. 5), TAYAD was lacking an outlook based on the universality and indivisibility of human rights, and was not concerned with mobilizing norms on human rights. IHD stated that it had been founded as a response to the state violence of the 1980 coup.¹² It is therefore possible to assert that IHD was founded as a collaboration of prisoners' families and leftist intellectuals and lawyers of the time, as a response to abuses in prisons and widespread torture, and then evolved into a human rights NGO with wider interests. This is the distinctive character of the association: instead of starting with a predetermined human rights agenda and set values and strategies, the association was from the beginning open to discussion over the meanings of human rights. It was a collaboration between grassroots organizations and those who had been subject to violations themselves and those who can use the

language of human rights that has been widely accepted in the West, such as lawyers and intellectuals.

The 1991 decision of AI to condemn the abuses of armed political organizations led to turmoil in IHD. Members disagreed over the necessity to adopt AI's position, and the bulletin of the association became the cornerstone of arguments from both sides, which often turned into a discussion over the meaning of human rights.¹³ What is common in all these debates was (1) the projection and construction of the neutrality claim of the Western human rights discourses¹⁴; (2) a linear construction of time and development that flows through and from the West; and (3) the ethi-cization of the political through universal notions such as individual freedom structured by the West. These debates illustrate how the language of human rights is constantly appropriated, translated, and performed. According to Nicola Perugini and Neve Gordon (2015), the politics of human rights is thus a struggle over different forms of interpretation and translation of their meaning, and it is fundamental to think about how different actors interpret the human rights grammar in their worldviews and how these in turn are informed by this translation. Thus, the meaning of human rights activism is, on the one hand, situated in a particular place and time and, on the other hand, relational to the universal notions invented by the West that inform human rights movements. It is the tension between these two aspects that puts human rights discourses at the same time into the grammar of resistance movements, the lowercase human rights discourses, and into the discourses of the power holders, the uppercase Human Rights. The debates within the IHD, where the question of violence became the focal point, reflected this dynamic of human rights. In this particular case, the principle that requires all forms of violence to be condemned by human rights organizations was challenged, mainly because of the distinctive revolutionary experiences of the organization and its activists.

YOKOHAMA DEBATES IN THE IHD

The Yokohama Declaration was published in the bulletin of the association for the first time in March 1993, which launched the discussions.¹⁵ Following the years after the hunger strikes (1992–1994), IHD was trying to take a stand in favor of universal rights for all, with a particular focus on

the right to free speech, the right to fair trial, and the right to life. Thus, the Yokohama discussions should be read in parallel with this search of universal norms within the association. For example, Ercan Kanar (1994, p. 28), the head of the IHD Istanbul branch and a well-known human rights lawyer, wrote mostly in favor of “overcoming the dogmas of the 1970s” and embodying a human rights culture in the country.¹⁶ His arguments are supported in articles published the same year by others, such as the head of Izmir branch, Yesim Islegen. Kanar (1994, p. 28) summarizes different positions in the debate over Yokohama Declaration:

According to one approach, only the violations of states should be targeted [by IHD]. The second approach does not underestimate the violations of alternative power structures, but still mainly targets the State. A third one does not make any distinction between the state and the opposition; and as a demonstration of neutrality, speaks only of the violation itself.

For him, human rights struggles seek to build a tradition and culture of human rights: “Would it be possible to build a culture and tradition of human rights, if we close our eyes to atrocities of the opposition?” (Kanar 1994, p. 28). In this line of argument, the insistence over the subject of human rights is striking: the focus should be the violation itself, instead of the actors in the conflict, their role in the human rights violation and their relative power. In the context of the Yokohama declaration, what is being discussed as violations is killing, given that AI explicitly underlines deliberate and arbitrary killings and hostage-taking by armed political opposition groups. Kanar (1993, p. 34) also makes reference to other forms of bodily violence such as torture, capital punishment, and assassinations. What Kanar highlights as the culture and tradition of human rights is very much informed by the human rights discourses in the West and subsequent adoptions of these discourses by the local activists. Kanar insists upon the need to “find universality in the human rights struggle” (1994, p. 28), and considers international agreements and treaties as triumphs to follow. He is clear about it: “In the way strike actions are being followed by labor agreements, and it is impossible to undermine the importance of them, one has to consider international agreements in this manner” (1994, p. 28). Thus, for him, these agreements have to be followed. His perspective orientated the struggle toward what he calls “free individual, free society,” through the universal principles and international agreements, which originated in the West. The rationale for this position can perhaps be

reduced to this scheme: the universality of human rights, which can form a tradition and culture of human rights, is possible only by showing neutrality, and the only way of being neutral is to focus on the suffering of the victims. For him, this is the way to change Turkish society for the better, which he encapsulates under the motto of “free individual, free society.”¹⁷ Likewise, Yeşim Islegen (1993, p. 40) argues that “the human rights culture is not developed enough in our country” and for a better-developed human rights culture, “we need proportionality, neutrality and transparency, and a human right understanding that does not change with daily politics.” In both of the arguments, the notion of development emerges as a motive of human rights struggle, which inevitably sees Western societies as an example of what human right struggles should aim for.

It would be a mistake to consider the position that underlines the need to embrace the international standards as a liberal one. Instead, it is arguably a very modern one. The arguments of Kanar and İşlegen are very much in line with what Foucault (1988, p. 161) called the “modern rationality.” Foucault (1988, p. 161) reminded us that

the main characteristic of our modern rationality in this perspective is neither the constitution of the state, the coldest of all cold monsters, nor the rise of bourgeois individualism. [...] I think that the main characteristic of modern political rationality is the fact that this integration of the individuals in a community or in a totality results from a constant correlation between an increasing individualization and the reinforcement of this totality.

Therefore, focusing on the violation itself, as Kanar and others advocated, led to the individualization and criminalization of historical injustices, by reducing them to acts of victims and perpetrators. It also led to the reinforcement of human rights as totality, through the notion of the human, our shared totality. The Western human rights discourses are thus about the creation of a culture of human rights (totality) and victimization (individualization). Focusing on Amnesty International and Human Rights Watch, Bal Sokhi-Bulley (2016) shows how “the policing technologies are represented by the criteria they must satisfy in order to secure their status as ‘suitable’ participants to rights discourse” in order to secure attendance at the UN and ECOSOC (The United Nations Economic and Social Council) meetings: that is to be visible and countable. This is, according to Sokhi-Bulley (2016), the policing of International NGOs and humanitarian government through human rights.

However, what we see in the IHD case is the other face of the human rights discourses: they are not only a policing tool, but also an ideological one, whose mechanisms are much more complex than traceable relations of power. Thus, there are different ways of looking at the structure of human rights movements: the first one is the genealogy of dependency through the power relations of the West and the rest (technologies of power). The IHD, for example, does not receive any fund from the UN or other international bodies as a principle. The other one, which is even harder to spot and resist, is how the logic of modernity emanating from Western institutions became the blueprint for thinking about politics (political technology of individuals). What Foucault called modern rationality appropriates its totality (universal principles) and also its individual (individual harm as defined by international agreements and conventions). The more individuals' rights are violated, the more the totality calls for judgment. However, Foucault (1988) does not mention explicitly in "The Political Technology of Individuals" how modern rationality is actually also a Western rationality, which has been adopted by the rest, often in conflict with the history and social and economic dynamics of the society. It is a very complex articulation of power that the human rights discourses of non-Western countries resist, adopt, and translate.

In another essay published in the bulletin of IHD, Ercan Kanar (1993, p. 34) asks for example, "How are you planning to go to further levels if you don't win the people on the street, give them trust, and show a principled decisiveness?" Thus, in connection with the point made earlier about "creating a culture of human rights," the adoption of the Yokohama Declaration would help the IHD to a principled decisiveness, a claim for neutrality, and would allow it to bring citizens to a consciousness of human rights. A linear time line of events is, thus, structured from backwardness to development.¹⁸ This narrative of backwardness and human rights as the means to reach further levels is in line with the Matau Mutua's (2001) terminology of Savages/Victims/Saviors which positions human rights NGOs as Saviors. Further levels in this respect, can be reached only if IHD takes a position against the abuses of the armed opposition forces. Only in this way can it show the "principled decisiveness" which is possible in a position of neutrality, that is, by acting against both parties in a conflict, regardless of the circumstances. It is interesting to observe how a radical lawyer like Kanar reaches what is known as the hydraulic model of human rights, that associates more rights with less domination. In this classic linear model of human rights that can be found in human rights textbooks,

global salvation and redemption is achieved through human rights. It is again apparent how Foucault's modern rationality operates: total salvation is only possible with individual rights, thus, "free individual, free society." The correlation between an increasing individualization and the reinforcement of totality is also visible in the instant of the individual harm and the utopian ahistorical totality. As the time becomes instantaneous, focuses on the suffering of the victim and the urgency of the protection of rights at an instant, it becomes simultaneously ahistorical and universal. Human rights embody this tension as a modern political discourse, which demands action because of the urgency to stop the suffering, and concurrently demands an absolute belief in its ahistoricity, therefore its unquestionable universal truth. The correlation between the universality claim and the urgency of the harm, to an extent, explains also why the social and economic rights are never seen as *urgently* requiring action, and thus never able to summon a corresponding accepted universal.

The line of arguments Kanar, Isgoren, and others advocated for has been responded to by a more radical branch of IHD, most of whom define themselves as Marxists and even revolutionaries. The first argument against the adoption of AI's position focuses on the word "arbitrary killings" used in the declaration. In one of the responses to Kanar and others, lawyer Levent Tuzel (1994, p. 25) invites them to look at what Yokohama declaration exactly says:

It is obvious that no one would support arbitrary killings of civilians, torture or kidnappings. What constitutes an arbitrary killing will give rise to further discussions, since it is impossible to have a standard or criteria for this. Forget about declaring support for political actions, it seems it will be impossible to even stay silent for them. I would have accepted the declaration if it was not all violent acts, but only the arbitrary ones that will be criticised by AI, in struggles for rights and class wars. But when AI gives examples from countries like Turkey in this declaration, it is possible to find traces that arbitrariness is considered subjectively for the actions of armed militant organisations.

Tuzel emphasizes the notion of arbitrary since it is set as the standard of acceptability of the violence, according to Amnesty. In a similar manner, another participant in the debate, Ayhan Erkan (1994, p. 24) asks:

It is not possible to show a single human rights activist, who doesn't raise his voice against arbitrary killings, torture or kidnapping. [...] Why has AI come up with this lapalissade [tautology]? [...] Apart from few criminal psychopaths who are the products of class society, is it possible to imagine someone committing such a crime [arbitrary killings]? Which criteria will decide on what is an arbitrary killing? [...] Imperialists are holding all humanity as hostages with the system of paid slavery [labor markets], and colonialism. What if it is necessary to take some people hostage in order to stand against this taking of the masses as hostage? Are we supposed to say let humanity stay hostage?

These striking lines, which perhaps sound partisan to the ears of the Western human rights activists, clearly oppose the idea of defining an imaginary place built upon the term *neutral*. This is what international law has experienced, particularly in the context of the Geneva Convention (Clapham 2006). The convention underlines the proportionality of means to ends, namely physical suffering inflicted in modern warfare is acceptable as far as the ends it serves and the strategic advantage it brings, are worth it. Talal Asad (2003, p. 117) emphasizes, for example, this point, asking “how can the calculated cruelties of modern battle be reconciled with the modern sensibility regarding pain? Precisely by treating pain as a quantifiable essence.” In this respect, the arbitrariness of the violence as the standard of the Yokohama Declaration is an attempt to quantify the killings. As Asad (2003, p. 117) underlines, “Only necessary punishment of non-combatants should be used. But given the aim of ultimate victory the notion of “military necessity” can be extended indefinitely. Any measure that is intended as a contribution to that aim, no matter how much suffering it creates, may be justified in terms of military necessity.” In a similar manner, the violence of the armed organizations would fall into the category of arbitrary since there cannot be any justification in the military or public sense that can justify the killing. Various commentators in the Yokohama debates warned of the danger of establishing a category of killings that can cover only the atrocities of the armed groups, as a consequence of the structure of these conflicts.

These justifications are in close relation to the technological advancement of the parties. Insurgent groups use relatively less controllable and less precise weapons compared to technologically advanced states:

There is no question that technological asymmetry erodes the persuasiveness of the “all bound by the same rules” idea. It should not be surprising that forces with vastly superior arms and intelligence capacity are held to a higher standard in the court of world public opinion than their adversaries. As persuasion, the law in force has indeed become a sliding scale. (Kennedy 2006, p. 139)

Particularly because of these technological advances, the division of violence as arbitrary and deliberate produces, as commentators in IHD highlight, an asymmetry also in the legitimation of the act in public and international law. Kennedy (2006, p. 139) adds that “by internalizing human rights and humanitarian law, you will make your force interoperable with international coalitions, suitable for international peacekeeping missions. [...] Most importantly, we insisted, humanitarian law will make your military more effective—will make your use of force something you can sustain and proudly stand behind.” This indicates another basis of the arguments of the party opposing the Yokohama declaration in IHD, which states that such an adoption would lead to positioning *with* the state. Furthermore, formation of such a category by Amnesty would also serve to categorize killing as civilized (which has an objective, a detailed and deliberate plan that can be seen by the international law) or barbarian (i.e. arbitrary and aimed at terrorizing the society) (Mbembe 2003).

Another important critique of the first position is related to the aims of the association, and more generally to the meaning of the human rights struggle. Levent Tüzel (1994, p. 25) continues in the same article:

Originally it was declared that the Association (IHD) was founded against the violations of rights by the state, that other rights violations were subject to trials by state courts, and security institutions were already fighting against those crimes; that is why there was no need for the association to condemn every instance of violence. [...] In recent years, a new understanding of human rights, which takes sides with the “free individual and free society” is coming to prevail in our headquarters. In this understanding, everything is explained by *human rightsism* and it is argued that the utopic end of a free society is no longer relevant. A kind of denial of class society without denying the classes.

Tuzel argues that the aim of IHD should be documenting the violations of the state since it is these violations that are not documented, not visible,

or not being taken to the courts. According to him, the aim of IHD has always been to use international treaties and pressure or public opinion to counter abuse of power by state. What now makes IHD responsible for the violations of other armed groups? This is a significant question particularly in the context of a claim of neutrality. As we have seen, one part of the discussion highlighted the importance of neutrality since it is also a way to convince and win the trust of ordinary people and therefore to foster a human right culture among citizens. This is only possible by what Tuzel later in the article calls “taking sides with the state.” This example shows that to make the claim of neutrality is actually to get into a negotiation about the meaning of human rights struggle for public acceptance of the association and the human rights culture *in general*. In this sense for Tuzel, there is a danger of having an NGO “taking sides with the state”: if they condemn the armed groups with human rights language, this would eventually legitimize the state itself. It would also mean that the state is taking sides with the respectable human rights discourses, next to the respected NGO. This is a concession for Tuzel, since those armed groups are already chased by the state forces, and any abuse they have committed is already documented by state institutions. Moreover, courts are also prosecuting them according to the criminal law of the state, mostly with the aggravated sentences attached to terrorism charges.¹⁹ Therefore, on the basis of this argument, the rationale behind the human rights NGOs that aim to protect individual rights against the State cannot be imported to the violations by armed groups. This argument demonstrates that the claim of neutrality is actually the very politics of rights struggles. Neutrality becomes the term for the de-politicization of this very political relationship. In this particular context, neutrality means also to make the language of human rights available to states and thus to support their claims to legitimacy for their actions in the public and international arena.

Ayhan Erkin (1994, p. 24) also points in the same direction as Tuzel:

The world crushed socialism, now, it seems, the target is revolutionary movements in the less developed countries. [...] But how come Yokohama becomes an issue in the IHD? Here is why: 1) Since the human rights struggle is not being considered with a class perspective, which classes AI represents is obscure. 2) Not being able to look with the lens of class resonates with a ‘beyond class’ approach. The AI’s approach that says, “we are against both this and that” goes together with the worry about falling into double standards. And eventually, the state and state supporting media’s side prevails. 3)

In the same way as the private law of bourgeoisie hides the property relations of the bourgeoisie, international norms and agreements hide the reign of the imperialists.

The claim of universality (beyond classes) and neutrality of human rights discourses hides the conflictual character of human rights behind the clarity of meaning of neutrality. As Fitzpatrick (2014, p. 125) states, human rights “claim explicitly, and foundationally, an operative universality whilst being, and inevitably being, a particularity.” The universality and the particularity of human rights are interconnected by being ahistorical in universal principles but always urgent in the need to intervene. The argument Ayhan Erkin develops here is against the mainstream lexicon on human rights that “speak only of the violation itself”; in other words, uncovering instances of violation instead of structural underpinnings of the violent situation.

In an article from 1994, Özcan Sapan (p. 22), another activist lawyer from IHD, in relation to Yokohama declaration, asks the question,

Does Amnesty International think they are the *Institute of Standardisation of Human Behaviours* that decides what fits to it and what doesn't? [...] AI is interested not in the processes through which human becomes a victim, but the notion of victim itself. It can be said that it highlights the violence of opposition. [...] It equates the violence of a local group with that of the State. [...] If we push the reading of the Yokohama declaration a bit more, we face with this notion that is not directly in the text: Terrorist! [...] Although it is not mentioned in the text, Amnesty International says ‘there is no just war’, and in this way it closes its eyes to institutions of the state like the judiciary, the police, interrogation centers, and prisons that take the shape of headquarters of dissuasion for those in opposition. It misses the fact that revolutionary violence is in the form of a self-defense against the state violence, although it seems to restrict itself with arbitrary violence for now.

The claim of neutrality and exclusive emphasis on the suffering caused by violations by the human rights lawyer inevitably avoids a more systematic critique. The use of violence becomes the only yardstick giving meanings to the political. This moving away from a structural critique, according to Perugini and Gordon (2015, p. 45), manifests itself as, “the constitution of the violation as a case and the appeal to the violating state to correct the violation, constitution of the violation as a routine to be administered in the human rights standards and reduction of structural colonial violence

to a series of symptoms.” Özcan Sapan foresees the fact that this reduction would eventually create the use of the term terrorist for the combatants of armed movements.

BETWEEN THE UNIVERSAL AND THE PARTICULAR

While considering the particularities of the Turkish context, it is interesting that both parties in these discussions turn to writings of Marx in order to justify their arguments. One can even say that peculiarly, the discussion over human rights and violence is translated into a discussion over different Marxist interpretations throughout Yokohama debate, since both parties are able to translate their arguments into a Marxist lexicon.

As some of the actors complain, the debate actually turns to a discussion over utopias, and how to reach them. If human rights discourses claim to solve all problems of the world, they have to widen their territory of influence, and this is how ultimately the ethics of violence takes the place of the politics of violence. This is what Jacques Rancière discusses in his article “The Ethical Turn of Aesthetics and Politics” (2009). For Rancière, ethical turn “signifies the constitution of an indistinct sphere” which is the elimination of the distinction that separates moral judgments and politics; or, in other words, the elimination of the distinction between “*what is* and *what ought to be*.” Rancière refers to it as the distinction of fact and law. This creates, according to Rancière, the inclusion of “all forms of discourse and practice beneath the same indistinct point of view.” For Rancière (2009) the ethical turn is also the conjunction of two phenomena: “On the one hand, the instance of judgment, which evaluates and decides, finds itself humbled by the compelling power of the law. On the other, the radicality of this law, which leaves no alternative, equates to the simple constraint of an order of things.” In parallel with what Foucault called the modern rationality that correlates more individual rights (i.e. more instantaneous, particularly in this context by focusing on the urgency of reacting to bodily violence) with founding of a community (humanity, nation), Rancière also underlines the moment of instantaneous judgment and the universal law. After the ethical turn, the moment of judgment becomes more instantaneous, and in this way, supports the totality, the law, that informs the judgment (and vice versa). Turning the rights violation into instantaneous bodily violence leaves less chance for alternatives, since it eventually takes its justification from the unquestionable universal law that it claims to reflect. This eventually leads to the labeling (with

labels such as terrorist) of those who are not within the reach of its universals, its law. As the human rights discourses expand the kinds of problems they can solve and consequently their reach, being outside of that border becomes even more dreadful, since the universal law that informs the discourse is even more absolute (in this case “you shall not kill”).

The discussions in the IHD of Turkey during 1990s carry the legacy of the line that has been inherited from the revolutionaries and the left of parliamentary politics in the Turkish political scene of 1970s. That line seems to be translated into the landscape of human rights discourses: while both parties are appropriating humanitarian approaches to limit the state power, one wants to keep the instance of judgment open to evaluation and decision by considering many different factors, and other calls on human rights law to solve “many problems of the world.” The Yokohama declaration shows how human rights discourses expand their influence over politics. As Rancière (2004) states: “if those who suffer inhuman repression are unable to enact human rights that are their last recourse, then somebody else has to inherit their rights in order to enact them in their place.” If this argument is considered in parallel with the claim of neutrality, the place of the neutral always belongs to an outside. This outside is a troublesome place, in which one has to look from the point of view of the victim. The neutral is in the outside, therefore, the adoption of AI’s position, simultaneously demands human rights activists to be outside the history they are part of, social and economic relations they are part of, inequalities they observe, and their ideas over the sources of violations. The neutrality claim inevitably demands of activists alienation from themselves. If IHL provides justification for Western states to “bring democracy” in the form of military interventions, concurrently it demands that human rights activists, in the rest of the world, step out of their own history that shaped their identity.²⁰

Samuel Moyn (2012) calls human rights “the minimalist utopia of anti-politics” in the times of its breakthrough, the late 1970s. In a similar manner, Jacques Rancière (2004, p. 307) summarizes this dilemma neatly: “When [rights] are of no use, you do the same as charitable people do with their old clothes. You give them to the poor. These rights that appear to be useless in their place are sent abroad, along with medicine and clothes, to people deprived of medicine, clothes, and rights. [...] They become humanitarian rights, the rights of those who cannot enact them.” The debates over the adoption of Yokohama declaration in the IHD show that the picture is more nuanced than this. Receivers of the human rights

discourses engage with them, transform them, and use them in different ways than their original intention. The poor, or those who need the protection of their basic rights, are not as passive as the uppercase human rights discourses imagine them. The debates in the IHD didn't end up with the adoption of AI's position but the contrary, IHD members refused to implement this position in their 1992 and 1994 meetings. In the same way, human rights discourses are strangled with the absolute law, that reflects the universals of the rulers, they also can affect those universals, by taking legitimacy from field work and risks, they can hold their positions, their past, and their respective ideologies, and consequently disrupt the moment of judgment. The past of the human rights defenders' shared value systems and their imagined universals are sometimes not easy bedfellows, and self-coherence is possible only with a critical interrogation of the given value systems. This indicates not the end of human rights, but many lives of human rights discourse.

CONCLUSION

In her book *In Defence of the Terror* Sophie Wahnich (2012, p. 48) asks "how could the agents of a public vengeance that led to the spilling of blood claim the sentiment of humanity?" She analyzes September Massacres during the French Revolution and highlights a conflict over human sentiments, between the sentiments of natural humanity and political humanity, which also determined the political camps. One of these sentiments is (p. 52)

committed to saving bodies indifferently (those of friends, enemies, accomplices, traitors, slaves) so as not to injure its sentiment of natural humanity, was attached above all to the life of each human being *as such*, while other was attached to preserving the meaning a person wishes to give to life, to the common wellbeing.

If one of these sentiments that is driven by one set of universals is dedicated to saving bare lives, the other sentiment is dedicated to protecting mutual liberty. Humanity thus is not any more a natural sentiment but a political one, not a descriptive one but a prescriptive one. Although not as sharp as this example, the debates in IHD is one of those times in which these two sentiments find themselves in a conflictual position. While one party demands an understanding of human rights taking into consideration

the violation and victims, and aims to dream of a utopia which is born out of these individual rights, the other sees it as one of many struggles, and tries to combine those different struggles with the aim of mutual liberty. The ironic part in this picture is the way that the moral authority of human rights discourses that is gained through a history of protection of minorities and individuals from state violence is easily converted to a violence/non-violence—victims/perpetrators question. After the ethical turn, since the harm is reduced to that of instantaneous bodily harm, it is difficult to separate the law from the fact. The political motives behind the judgment are indistinguishable from the ethical ones, which are absolute. Revolutionary human rights defenders complicate this established understanding of rights and utopia, by making visible the politics behind it, only by resisting the lure of acceptable narratives, via unexpected translations of revolutionary lexicon to human rights discourses.

NOTES

1. Most of the work of the association and its structure can be seen from <http://en.ihd.org.tr/>. Unfortunately, the bulletins that are the main material of this chapter are not digitalized and published only in Turkish. All translations in this chapter are mine.
2. For more information on the results of this meeting, see Amnesty International Report. 1992. Available at: <https://www.amnesty.org/en/documents/pol10/0001/1992/en/>.
3. Steven L. Robins (2008, p. 2), in the South African context focusing on the struggle between the emancipatory politics and rights speech over the same period of time, states that “[r]adical keywords and concepts such as socialism, national liberation, class struggle, people’s revolution, resistance to racial capitalism and colonialism-of-a-special type, were replaced with tamer words such as rights, citizenship, liberal democracy, nation-building, transformation, black economic empowerment (BEE) and so on.”
4. Some of the seminal works are Costas Douzinas (2007), *Human Rights and Empire: The Political Philosophy of Cosmopolitanism*, Samuel Moyns (2012), *The Last Utopia*, and Wendy Brown (1995) *States of Injury*.
5. Some relevant examples of literature on the human rights and the Third World are Upendra Baxi (2006) *The Future of Human Rights*, José-Manuel Barreto (2013) *Human Rights from a Third World Perspective: Critique, History and International Law*, Martti Koskenniemi, “Colonization of the ‘Indies’: The Origin of International Law?” in *La idea de América en el Pensamiento Ius Internacionalista del Siglo XXI*, ed. Yolanda Gamarra

- (Zaragoza: Institución Fernando el Católico, 2010) and “Empire and International Law: The Real Spanish Contribution,” *University of Toronto Law Journal* 61 (2011), and also Arturo Escobar, “Imperial Globality and Anti-Globalisation Movements,” *Third World Quarterly* 25 (2004): 210.
6. Statute of Amnesty International is amended by the 20th International Council meeting in Yokohama, Japan, August 31–September 7, 1991, and defined a *mandate* that is for either the promotion of certain goals or opposition to certain practices. The points raised in this press release found place in the *mandate* of AI.
 7. The number is approximate and taken from the Parliamentary Research Committee Report, Cilt 2, September 2012. See also Info-Turk, Monthly Bulletin, October 1988, and *Kayasu v Turkey*, no. 64119/00, ECHR 2008.
 8. For information about hunger strikes before held by Kurdish independence movement particularly. See: Bargu, B. (2014). *Starve and Immolate*, Colombia University Press, New York.
 9. For a full list of hunger strikes and death fasts in this period, Ertugrul Mavioglu Asılmayıp da Beslenenler: Bir Eylül Hesaplaşması [Those Who Were Not Hanged but Fed: Settling Accounts with September 12]. Istanbul: Babil Yayınları, 2004. And Bargu, B. (2014). *Starve and Immolate*, Colombia University Press, New York.
 10. Lois Whitman (1989, p. 114) states “The group has been indicted ten times, charged with violations of the Associations Law because of its press conferences, statements and conferences. (...) In 1987, for example, a case was brought against 18 TAYAD directors in connection with a demonstration in front of Sagmalcılar Prison.”
 11. This is the expression used by Hüsnü Öndül, Akademi Notları, presented in the Human Rights Academy Diyarbakır Branch seminars, 2016. Available at: <http://www.ihd.org.tr/akademi-egitim-notlari-dort-insan-haklari-konusu/>. Accessed Dec 18, 2017.
 12. Thousands of people gathered for IHD’s first meetings in Istanbul, Diyarbakir and Izmir, and this mobilization was directed toward the goals of ending torture, calling for a general political amnesty and the abolition of death penalty (IHD. 2008). For more information see “History of Human Rights Association (IHD).” Available at: <http://en.ihd.org.tr/index.php/2008/12/08/history-of-human-rights-association-ihd/>. Accessed Dec 18, 2017.
 13. The bulletin has been published whenever possible, commonly two or more each year. Also, there was a special edition for Yokohama debates in this period.
 14. Drawing borders of ‘Western human rights discourses’ is always difficult, given that, as this chapter tries to show, there is a constant translation and

(re)appropriation of human rights discourses between actors and institutions. I follow definition and descriptions of José-Manuel Barreto (2013). He highlights “the Eurocentric theory of human rights presents itself as objective and universal and, while it assumes exclusive authority and legitimacy, it condemns a Third World approach to impossibility or silence. [...] This predisposition is accompanied by a tendency to give a notorious and unfair weight to the events occurring in Europe. This is the case in Hegel’s philosophical notion of “universal history,” from which Asia, Africa and the Americas are excluded. By framing human rights in conceptions of history based exclusively on European milestones the theory of rights remains within a Eurocentric horizon of understanding. Having been born out of the experience of bourgeois revolutions, European theories of human rights deal mainly with relations between state and society, or between governments and individuals, putting aside the problematic of interactions between empires and colonies.” In this sense, what ‘Western’ corresponds is not necessarily geographical, but about narrations of history, universals and eventually power.

15. First publication of the Yokohama Declaration was in the IHD Bülteni (Bulletin of Human Rights Association). 1993. Sayı 49–50.
16. Kanar makes reference to a general dogmatism of the left, rather than any particular one.
17. Bulletin of Human Rights Association, 1994, pp. 56–57.
18. Arturo Escobar (2011) in *Encountering Development*, on the notion of development underlines, “Perhaps no other idea has been so insidious, no other idea gone so unchallenged.”
19. How to define the actions of armed groups (human rights abuses, or breaches of local or international criminal law) is an important and relevant discussion (Dudai and Mcevoy 2012).
20. For an application of how the ethical turn has been reflected to transitional justice processes see Robert Meister (2011).

REFERENCES

- Amnesty International Press Release. 1991. Though Stand Against Killings, Hostage-Taking by Violent Groups, ORG 50/14/91, Sep 7.
- Amnesty International Report. 1992. London: Amnesty International Publications.
- Asad, Talal. 2003. *Formations of the Secular: Christianity, Islam, Modernism*. Stanford: Stanford University Press.
- Baehr, Peter R. 1994. Amnesty International and Its Self Imposed Limited Mandate. *Netherlands Quarterly of Human Rights* 12 (1): 5–21. <https://doi.org/10.1177/016934419401200102>.

- Barbara Ann Rieffer-Flanagan. (2009). Is Neutral Humanitarianism Dead? Red Cross Neutrality: Walking the Tightrope of Neutral Humanitarianism. *Human Rights Quarterly* 31 (4): 888–915. <https://muse.jhu.edu/>. Accessed 19 June 2018.
- Bargu, Banu. 2014. *Slave and Immolate*. New York: Colombia University Press.
- Barreto, José-Manuel, ed. 2013. *Human Rights from a Third World Perspective : Critique, History and International Law*. Newcastle-upon-Tyne: Cambridge Scholars Publishing.
- Baxi, Upendra. 2006. *The Future of Human Rights*. New Delhi: Oxford University Press.
- Brown, Wendy. 1995. *States of Injury: Power and Freedom in Late Modernity*. Princeton: Princeton University Press.
- Clapham, Andrew. 2006. Human Rights Obligations of Non-State Actors in Conflict Situations. *International Review of the Red Cross* 88 (863): 491–523.
- Douzinas, Costas. 2007. *Human Rights and Empire. The Political Philosophy of Cosmopolitanism*. Abingdon: Routledge-Cavendish.
- Dudai, Ron, and Kieran McEvoy. 2012. Thinking Critically About Armed Groups and Human Rights Praxis. *Journal of Human Rights Practice* 4 (1): 1–29. <https://doi.org/10.1093/jhuman/hus014>.
- Erkan, Ayhan. 1994. Yokohama Bildirgesi. *IHD Bülteni*, Sayı 53.
- Escobar, Arturo. 2004. Imperial Globality and Anti-Globalisation Movements. *Third World Quarterly* 25 (1): 207–230.
- . 2011. *Encountering Development: The Making and Unmaking of the Third World*. Princeton: Princeton University Press.
- Fitzpatrick, Peter. 2014. The Revolutionary Past: Decolonizing Law and Human Rights. *International Studies in Phenomenology and Philosophy* 2 (1): 117–133.
- Foucault, Michel. 1988. The Political Technology of Individuals. In *Technologies of the Self: A Seminar with Michel Foucault*, ed. Luther H. Martin, Huck Gutman, and Patrick H. Hutton, 145–162. London: Tavistock Publications.
- Hopgood, Stephen. 2013. *The End Times of Human Rights*. Ithaca: Cornell University Press.
- İnsan Hakları Derneği. 1993. Yokohama Bildirgesi. *IHD Bülteni*, Sayı 49–50.
- İşlegen, Yeşim. 1993. Yokohama Bildirgesi Üzerine. *IHD Bülteni*, Sayı 49–50.
- Kanar, Ercan. 1993. Uluslararası Af Örgütünün 1991 Yokohama Bildirgesinin Düşündürdükleri. *IHD Bülteni*, Sayı 49–50.
- . 1994. Sorun tek başına Yokohama bildirgesi mi, yoksa insan hakları mücadelesinin uzun erekli kendine özgü politikalarının gerekliliği sorunu mu? *IHD Bülteni*, Sayı 56–57.
- . 1997. İnsan Hakları Mücadelesinde İnsan Hakları Derneği, İnsan Hakları Yazıları. *Ozel Sayı 1*: 3–15.
- Kennedy, David. 2006. *Of War and Law*. Princeton: Princeton Press.

- Kogod Goldman, R. 1993. International Humanitarian Law: Americas Watch's Experience in Monitoring Internal Armed Conflicts. *American University Journal of International Law and Policy* 9 (1): 49–94.
- Koskenniemi, Martti. 2010. Colonization of the 'Indies': The Origin of International Law? In *La idea de América en el Pensamiento Ius Internacionalista del Siglo XXI*, ed. Yolanda Gamarra. Zaragoza: Institución Fernando el Católico.
- . 2011. Empire and International Law: The Real Spanish Contribution. *University of Toronto Law Journal* 61: 1–36.
- Mavioglu, Ertugrul. 2014. *Asılmayıp da Beslenenler: Bir Eylül Hesaplaşması*. Babil Yayınları: İstanbul.
- Mbembé, J.-A. 2003. Necropolitics. Trans. Libby Meintjes. *Public Culture* 15 (1): 11–40 <https://muse.jhu.edu/>. Accessed 3 Apr 2018.
- Meister, Robert. 2011. *After Evil: A Politics of Human Rights*. New York: Colombia University Press.
- Moyn, Samuel. 2012. *The Last Utopia*. Cambridge: Belknap Press/Harvard University Press.
- Mutua, Makau W. 2001. Savages, Victims, and Saviors: The Metaphor of Human Rights. *Harvard International Law Review* 42 (1): 201–245.
- Öndül, Hüsnü. 2017. Akademi Eğitim Notları: Dört İnsan Hakları Konusu. <http://www.ihd.org.tr/akademi-egitim-notlari-dort-insan-haklari-konusu/>. Last accessed 30 Jan.
- Perugini, Nicola, and Neve Gordon. 2015. *The Human Right to Dominate*. New York: Oxford University Press.
- Rancière, Jacques. 2004. Who Is the Subject of the Rights of Man? *South Atlantic Quarterly Spring/Summer* 103 (2–3): 297–310. <https://doi.org/10.1215/00382876-103-2-3-297>.
- . 2006. The Ethical Turn of Aesthetics and Politics. *Critical Horizons* 7 (1): 1–20.
- . 2009. *Aesthetics and Its Discontents*. London: Polity.
- Robins, Steven L. 2008. *From Revolution to Rights in South Africa*. South Africa: University of KwaZulu-Natal Press.
- Sapan, Özcan. 1994. Yokohama Bildirisi İnsan Hakları Kavramı ve Sol içi Şiddet. *IHD Bülteni*, Sayı 54–55.
- Sokhi-Bulley, Bal. 2016. *Governing (Through) Rights*. Oxford: Hart Publishing.
- TBMM. 2012. Parliamentary Research Committee Report. Cilt 2.
- Tüzel, Levent. 1994. Uluslararası Af Örgütü – Yokohama bildirisi ve İHD. *IHD Bülteni*, Sayı 53.
- Wahnich, Sophie. 2012. *In Defence of the Terror, Liberty or Death in the French Revolution*. Trans. D.Fernbach. London: Verso.
- Whitman, Lois. 1989. *Paying the Price: Freedom of Expression in Turkey*. New York: International Freedom to Publish Committee of the Association of the American Publishers.