AS TO THE ADMISSIBILITY OF

Application No. 24408/94
by Mehmet Selim OKÇUOGLU
against Turkey

The European Commission of Human Rights sitting in private on 14 October 1996, the following members being present:

Mr. S. TRECHSEL, President
Mrs. G.H. THUNE
Mrs. J. LIDDY
MM. E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
H. DANELIUS
F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
M.P. PELLONPÄÄ
G.B. REFFI
M.A. NOWICKI
I. CABRAL BARRETO
B. CONFORTI
N. BRATZA
I. BÉKÉS
J. MUCHA
D. SVÁBY
G. RESS
A. PERENIC
C. BÎRSAN
P. LORENZEN
K. HERNDL
E. BIELIUNAS
E.A. ALKEMA
M. VILA AMIGÓ

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 9 June 1994 by Mehmet Selim Okçuoglu against Turkey and registered on 15 June 1994 under file No. 24408/94;

Having regard to :

- the reports provided for in Rule 47 of the Rules of Procedure of the Commission;

- the Commission's decision of 20 February 1995 to communicate the application ;

- the observations submitted by the respondent Government on 21 February 1996 and the observations in reply submitted by the applicant on 8 April 1996;

Having deliberated;

Decides as follows:

THE FACTS

The applicant, a Turkish citizen born in 1964 and resident in istanbul, is a lawyer. Before the Commission, he is represented by Emire Eren Keskin, a lawyer practising in istanbul.

A. Particular circumstances of the case

The facts of the present case as submitted by the parties may be summarised as follows:

The applicant is the owner of the publishing company Doz Basin Yayin Ltd. Sti which, in April 1991, published a book entitled "Batililasma, Cagdaslasma, Kalkinma-Paradigmanin iflasi" (Westernisation, Modernisation, Development - the collapse of a Paradigm). The book was an academic examination of the socio-economic evolution of Turkey since the 1920s. It analysed and criticised the "official ideology" of the State.

On 2 August 1991 the Public Prosecutor at the istanbul State Security Court charged the applicant, as the owner of the publishing company, with disseminating propaganda in view of the fact that the content of the book amounted to propaganda against the indivisibility of the State. The Public Prosecutor quoted in his indictment certain extracts from a single chapter of the book in which reference was made to "the Kurdish problem". The charges were brought under Article 8 paragraph 2 of the Anti-Terror Law.

In the proceedings before the istanbul State Security Court, the applicant denied the charges and requested his acquittal. He submitted inter alia that it was not possible to reach a conclusion about the book as a whole just on the assessment of certain extracts from a single chapter. He alleged that Article 8 of the Anti-Terror Law was contrary to the Turkish Constitution and the international treaties to which Turkey is a party. He asserted that there is a "Kurdish problem" in Turkey, and that commenting or expressing ideas on this problem cannot constitute an offence.

In a final opinion dated 18 March 1992, the Public Prosecutor requested the conviction of the applicant under Article 8 paragraph 2 of the Anti-Terror Law, and the seizure of all copies of the book.

On 14 October 1992 the Court acquitted the applicant. It held that the book as a whole was an academic work with no elements of propaganda.

The Prosecutor appealed. He submitted that the book had alleged that a certain part of Turkish territory belonged to "Kurdistan" which the Turks had annexed and colonised. Concluding that the book disseminated propaganda against the indivisibility of the State, he requested that the verdict be set aside.

On 4 February 1993 the Court of Cassation quashed the decision of the trial court.

In a judgment dated 5 August 1993, the istanbul State Security Court found the applicant guilty. It first sentenced the applicant to six months' imprisonment and a fine of 50,000,000 Turkish lira. The Court, taking into consideration the good conduct of the applicant during the trial, reduced his sentence to five months' imprisonment and a fine of 41,666,666 Turkish lira. The court relied inter alia on extracts taken from pages 51, 52 and 59 of the book. It concluded that reference to a certain part of the Turkish territory as "Kurdistan" and assertions about its colonisation amounted to propaganda against the indivisibility of the State.

The applicant appealed. In a statement to the Court of Cassation dated 15 December 1993, the applicant's lawyers asserted that the

prison sentence imposed on the applicant was unlawful because the applicant, as the publisher of a book and not of a periodical could be punished only by a fine. They maintained that there should not be any restrictions on the expression of opinions in a democratic society. They reiterated the defence which the applicant had made before the State Security Court.

In a decision of 16 December 1993 which was delivered on 22 December 1993, the Court of Cassation, upholding the cogency of the State Security Court's assessment of the evidence and its reasoning in rejecting the applicant's defence, dismissed the appeal.

After the amendments made by Law No. 4126 of 27 October 1995 to the Anti-Terror Law, the istanbul State Security Court re-examined the applicant's case. On 19 April 1996 the Court held that the above mentioned amendments could not be applied to the applicant's case as he had already served his sentence.

B. Relevant domestic law

Article 8 of the Anti-Terror Law No. 3713 of 12 April 1991

<Translation>

"No one shall, by any means or with any intention or idea, make written and oral propaganda or hold assemblies, demonstrations and manifestations against the indivisible integrity of the State of the Turkish Republic with its land and nation. Those carrying out such an activity shall be sentenced to imprisonment between two and five years and a fine between 50 and 100 million Turkish lira.

If the offence of propaganda referred to in the preceding paragraph is committed by means of periodicals, as defined in Article 3 of the Press Law No. 5680, the owners of such periodicals shall also be punished by a fine, to be determined in accordance with the following provisions:

- For periodicals published at less than monthly intervals, the fine shall be ninety per cent of the average real sales of the previous month;

- [for printed works that are not periodicals or for periodicals which have recently started business, the fine shall be ninety per cent of the average monthly sales of the highest circulating daily periodical.]

In any case, the fine may not be less than 100 million Turkish lira.

Responsible editors of these periodicals shall be sentenced to imprisonment from six months to two years and to half of the fine determined in accordance with the foregoing provisions."

In a judgment dated 31 March 1992, the Constitutional Court found the clauses enclosed in brackets in the text of Articles 6 and 8 of the Anti-Terror Law to be contrary to the Constitution and annulled them. The Constitutional Court held that the annulled text would cease to have effect six months after the date of publication of the annulment decision in the Official Gazette. The decision was published on 27 January 1993 and therefore these clauses ceased to have effect as of 27 July 1993.

COMPLAINTS

1. The applicant complains under Articles 9 and 10 of the Convention that his conviction for publishing an academic book constituted an unjustified interference with his freedom of thought and freedom of expression, and in particular with his right to receive and impart information and ideas.

2. The applicant complains under Article 14 in conjunction with Article 10 of the Convention that his conviction for publishing a book, in which certain political opinions contrary to the State policy were expressed, constitutes discrimination on the ground of political opinion.

3. The applicant complains under Article 7 para. 1 of the Convention that his conviction was based on a provision which did not constitute an offence under domestic and international law. He asserts that the relevant clause of Article 8 paragraph 2 of the Anti-Terror Law, under which he was tried, had been annulled by the Constitutional Court. The annulment took effect before his conviction by the court. He maintains that at the time of the judgment there was no penal provision applicable to print media owners like himself and that he had been unlawfully sentenced by an analogy being made between his case and that of an editor. He alleges that his conviction contravenes the principle "nullum crimen, nulla poena sine lege".

4. The applicant complains under Article 6 para. 1 of the Convention that his case was not heard by an independent and impartial tribunal. He asserts in this regard that one of the three members of the State Security Court is a military judge answerable to his military superiors whose presence prejudices the independence of the Court.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 9 June 1994 and registered on 15 June 1994.

On 20 February 1995 the Commission decided to communicate the application under Articles 10, 14, 7 and 6 para. 1 of the Convention, to the respondent Government, pursuant to Rule 48 para. 2 (b) of the Rules of Procedure.

The Government's observations were submitted on 21 February 1996, after an extension of the time-limit fixed for that purpose. The applicant replied on 8 April 1996.

On 4 December 1995 the Government submitted information concerning the amendments made to the Anti-Terror Law (Law No. 3713) and the developments in the cases of persons convicted and sentenced under Article 8 of the said Law. The applicant submitted his comments in reply on 11 March 1996.

THE LAW

1. The applicant first complains that his conviction for publishing an academic book constituted an unjustified interference with his freedom of thought and freedom of expression, and in particular with his right to receive and impart information and ideas.

Thus formulated, the applicant's complaint is in fact directed against an alleged infringement of his freedom of expression. The Commission has examined this complaint under Article 10 (Art. 10) of the Convention which provides as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority

and regardless of frontiers. ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

The applicant further complains under Article 14 of the Convention in conjunction with Article 10 (Art. 14+10) that his conviction for publishing a book, in which certain political opinions contrary to the State policy were expressed, constitutes discrimination on the ground of political opinion. Article 14 (Art. 14) reads as follows:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The applicant also complains on the basis of the same facts of a breach of Article 7 (Art. 7) of the Convention. He complains that his conviction was based on legal principles which did not exist at the time of the commission of the offence.

The Commission recalls that in the particular case of restrictions on the freedom of expression taking the form of criminal sanctions, Article 7 (Art. 7) must be taken into account in addition to the more general requirement of lawfulness laid down in Article 10 para. 2 (Art. 10-2) (No. 8710/79, Dec. 7.05.1982, D.R. 28 pp. 77).

Therefore it has examined the complaint together with Article 7 (Art. 7) of the Convention which in its first paragraph reads as follows:

"1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed."

The Government first argue that at no stage in the proceedings did the applicant invoke the relevant provisions of the Convention.

The applicant contests this argument and claims that he has raised the substance of all complaints made before the Commission in the domestic proceedings.

The Commission refers to its established case-law to the effect that the person who has raised in substance before the highest competent national authority the complaint he makes before the Commission has exhausted domestic remedies. Even where the Convention is directly applicable in a State's domestic law (as is the case in Turkey), the person concerned may also rely before the domestic courts on "other arguments to the same effect"(No. 7367/76, Dec. 10.3.77, D.R. 8 pp. 185, No. 11425/85 Dec. 5.3.85, D.R. 53 pp. 76). In this respect the Commission notes that in the present case the applicant asserted before the Court of Cassation that his conviction for criticising the oppression of the Kurdish people constitutes a serious threat to his freedom of expression and that the imposition of a prison sentence was

unlawful.

Consequently, the Commission finds that the requirement as to the exhaustion of domestic remedies has been satisfied and that the application cannot be rejected on the basis of Articles 26 and 27 para. 3 (Art. 26, 27-3) of the Convention.

As to the substance of the case the Government maintain that the interference with the applicant's rights under Article 10 (Art. 10) of the Convention was prescribed by law, i.e. by Article 8 of the Anti-Terror Law. They state that in the impugned book the author made a reference to a certain region of Turkish territory as "Kurdistan", and asserted that "the Republic of Turkey had colonised these territories". The Government assert that according to Article 8 of the Anti-Terror Law these forms of expression constitute propaganda against the indivisible integrity of the State. They also state that the comments made by the author in his book constitute a provocation of enmity and hatred between the Kurdish and Turkish societies which serves to mobilise people revolt. They consider that the domestic courts therefore interpreted the law reasonably.

The Government also maintain that the applicant's conviction was part of the campaign to prevent terrorism carried out by illegal organisations, and consequently served to protect territorial integrity and national security. They submit that it is generally accepted, in comparative and international law on terrorism, that restrictions on Convention rights will be deemed necessary in a democratic society threatened by terrorist violence, as being proportionate to the aim of protecting public order.

As to the necessity of the measure in a democratic society, the respondent Government state that terrorism strikes at the heart of democracy, the fundamental rights which that concept enshrines and the judicial and political systems. They state that the freedom of expression constitutes one of the essential foundations of a democratic society. However, in a situation where politically motivated violence poses a constant threat to the lives and security of the population and where advocates of this violence seek access to the mass media for publicity purposes, it is particularly difficult to strike a fair balance between the requirements of protecting freedom of information and the imperatives of protecting the State and the public against armed conspirators seeking to overthrow the democratic order which guarantees this freedom and other human rights.

In this respect the Government claim that the decisions of the istanbul State Security Court and the Court of Cassation did not exceed the margin of appreciation conferred on States by the Convention.

Accordingly the Government submit that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

The applicant contests all these arguments. He maintains that his prison sentence was unlawful because he is the publisher of a book and not of a periodical and therefore could only be punished by a fine.

The applicant also alleges that his conviction was not for any legitimate purpose under the Convention. He states that he was convicted because he had published a book in which the author used certain expressions such as "Kurdistan" and had asserted the questionability of the "official reality" in his book. The applicant considers that the views expressed by the author were within the limits of permissible criticisim.

Furthermore the applicant maintains that the criminal sanctions imposed upon him were not necessary in a democratic society. He explains in this connection that the book in question, taken as a

whole, was an academic work with no elements of propaganda.

The applicant, in conjunction with the interference with his freedom of expression, also complains that his conviction for publishing an academic book, in which certain political opinions contrary to the State policy were expressed, constitutes discrimination on the ground of political opinion.

With regard to the amendments made by Law No. 4126 to Article 8 of the Anti-Terror Law, the applicant observes that they were made after he had served his sentence and therefore were not applied in his case.

The Commission has conducted a preliminary examination of the parties' arguments. It considers that this part of the application raises complex factual and legal issues which cannot be resolved at this stage of the examination of the application, but require an examination of the merits. Consequently, the above complaints cannot be declared manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other grounds for declaring them inadmissible have been established.

2. The applicant complains under Article 6 para. 1 (Art. 6-1) of the Convention that his case was not heard by an independent and impartial tribunal. In so far as relevant, this provision reads as follows:

> "1.In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal..."

The Government maintain that this part of the application is ill-founded and abstract. In this context they state that the applicant did not raise any complaint related to the fairness of his trial and the lack of independence and impartiality of the tribunal.

Accordingly the Government submit that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

The applicant states that one of the three members of the State Security Court is a military judge answerable to his military superiors whose presence prejudices the independence of the Court.

The Commission has conducted a preliminary examination of the parties' arguments. It considers that this part of the application also raises complex factual and legal issues which cannot be resolved at this stage of the examination of the application, but require an examination of the merits. Consequently, this complaint cannot be declared manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other grounds for declaring it inadmissible have been established.

For these reasons, the Commission, unanimously

DECLARES THE APPLICATION ADMISSIBLE, without prejudging the merits of the case.

H.C. KRÜGER	S. TRECHSEL
Secretary	President
to the Commission	of the Commission

ANNEX

Application No. 24408/94
OKCUOGLU v. Turkey

THE QUESTION OF

THE "NATIONAL CHARACTER" OF THE NATIONAL STRUGGLE

"A nation oppressing another cannot be free"
K. Marx

The Kurdish question occupies an important place in the analysis of the National Struggle and of the evolution of the Turkish social formation. Although extremely important, the Kurdish question and the process of colonization of Kurdistan are the subject of another book. Furthermore, the question is not exclusively related to Turkey. It constitutes a genuine knot both in the making of domestic policies (the form of political regimes) of four states (Turkey, Iran, Iraq and Syria) in the region and the shaping of their relations with imperialism as well as in the "specific" character the relationship between these four neighbouring states has acquired.

It is mainly for two reasons that we intend to discuss this question, even though to a limited extent, within the plan and scope of this book: To reveal the irrationality of the official ideology and the real nature of the National Struggle. In other words, whether the so-called "War of Liberation" was a true "Movement of Liberation" will be put to debate. The confinement of Kurdistan within the limits of four separate states (ignoring the small area within the Soviet Union) certainly gives the imperialists an easy "control" over these four states. Although the Kurdish question bears great importance also in the maintenance of the imperialist status quo in the region, we will not offer here an analysis of this aspect of the question.

Those scholars, writers and thinkers who are geared to the production of the official ideology, or those who refrain from contradicting it, have taken pains to avoid the question. A handful of scholars who attempted to take up and discuss this question scientifically have been punished severely. They know that "to reveal shame is even a greater shame"! Here the character of the relationship between science and the dominant ideology is revealed once again. This is just like what Napoleon said to university rectors in one of his directives: "You will teach positive things suitable for the monarchy. No metaphysics, no ideological chit-chat"...

Yet, however hard they may have tried to ignore it, to forget it and to leave it to oblivion, this phenomenon is quite visible even within a totally distorted history. If one does not consider another people to be worthy of what he considers his people (or himself) to be worthy of, if one considers certain freedoms essential for himself but not so for others, can he be really concerned with freedom?

Every analysis of the evolution of Turkish social formation is invariably doomed to remain impaired unless the Kurdish question is incorporated in it. A sound analysis of the totality is impossible when one of its integral parts is ignored. Any attempt to analyze a social process by excluding one of its constituent elements will inevitably undermine the scientificalness of that analysis. There exist so deep-rooted double standards that some of the Turkish intellectuals "react" to racist-fascist oppression in some far-off places in Africa, Asia or Latin America but turn a blind eye to the tragedy a nation has been going through right under their noses and are turned into fanatic chauvinists when it comes to the Kurdish question; that they are opposed to dictators except those in their past, and so on. The Turkish intellectuals need certainly to do a self-questioning, and, in order to do that, they need to get rid of the policeman in their minds, who directs their thinking!

On the other hand, the development of the Turkish fascist movement owes much to the racist policy of denial pursued against the Kurds since the foundation of the Republic. Paradoxically, the "denial" of the presence of the Kurdish Nation is both the most important and

the weakest chain of the official ideology. A nation that exists cannot be vanished by "cognitive negation" and the objective fact remains in place regardless of people's fancies and deliria. Doubtless, this does not mean that fancies, hypocrisy and deliria serve no purpose at all! These have always produced profits for some, have enabled others to get bureaucratic or academic careers and high salaries and have helped yet others to rise in the political arena.

In a book he wrote in the 1930s, which could have been published as late as 1979 and was banned again after 1980, Hikmet Kivilcimli wrote: "The purpose of Kemalism in Kurdistan, in terms of both administration and culture, is to deny the existence of a Kurdish People there and to annihilate and silence that existence in all of its aspects. This is the aim of the administrative and cultural policy". (1)

The name of a region that was known as Kurdistan and referred to so in all documents in the Ottoman times has changed (!) in the course of time. The region was called "Vilayet-i Sarkiye" (Eastern Province) till the 1950s. During that period the words "Kurd" and "Kurdistan" were deleted from dictionaries. Heavy censoring and self-censoring definitely prohibited the use of these concepts. An Ottoman-Turkish dictionary published before 1950 had only one entry under the letter K: "Kürdili Hicazkar". [The name of a makam in Turkish music - Translator]. This should certainly remind the famous scholars of the Turkish Language Society of something! In the Ansiklopedik Türkçe Sözlük (Encyclopaedic Turkish Dictionary) published in 1971, in its second volume containing K entries, the Kurds are defined as follows: "Name of a community comprising mostly Turks who have acquired another language, speak a distorted Persian and live in Turkey, Iraq and Iran, and a member of that group". The region which had been called "Vilayet-i Sarkiye" till 1950 came to be known as "Dogu" (the East) between 1950 and 1960. When the "Planning Period" began in Turkey after 1960, the region was called "Areas with Priority in Development", which was abbreviated as "K.Ö.Y." ["Village"] in "scholarly" publications. By doing this the planners proved how "scientific" they were. Once they called the region a "village", they were to be able to determine "scientifically" how the relationship between the village and the city should be. Nowadays the region has got a new name. It is called the "Extraordinary State Region" ["State of Emergency Region - Translator"]. The official ideology is so skillful! It seems to have gradually imparted to the region an "extraordinary quality". As a matter of fact the region has been an extraordinary one, has lived through extraordinary events and has been oppressed extraordinarily since the 1920s, with martial law being the rule except for a few years. In the absence of martial law, a de facto martial law was in effect.

following definition: "Kurd: An Aryan people. Kurdish: The language spoken by the Kurds, which is a mongrelized version of Persian". Resimli Ansiklopedik Büyük Sözlük [Great Pictorial Encyclopaedic Dictionary] (1982) says: "Kurd: The name of an ethnic group scattered among various Middle Eastern countries and a member of that group"...In the 1980s the military junta chose to make new and original inventions. The "White Book" which the General Staff published and distributed in hundreds of thousand copies in the 1980s offers something interesting:

> "The upper part of the mountains, the hills, were covered with snow which never melted, be it summer or winter. In sunny days, a glass-like layer would top the snow. Above it would be hard, beneath it would be soft.
>
> When one walked on this snow, the place where he put his feet would depress, making sounds like "cart-curd". This was the reason the eastern Turkmens were called Kurds. What the separatists call Kurd is in fact the name of the sound heard when highlander Turks, those living in snowy places, walked on

snow". (2)

Having "effaced" Kurdistan from the world map, the official history, or more broadly the official ideology, had to "vanish" the nation inhabiting that place. A "remedy" was devised. The Kurds were announced to be "mountain Turks". The Mountain Turks, although Turkish by lineage, Turkish in essence, were different from the True Turks in two respects. For one thing, they were mountain dwellers! And they had forgotten Turkish as they lived in mountains! There must be an interesting relationship between being a mountain dweller and forgetting one's own language!

What is strange is that these people who forgot their own language while inhabiting mountains were able to learn another language. This may allow one to conclude that it is easier to learn another language than forget one's own! They ended up speaking "a distorted Persian"... This logic certainly allows another conclusion: those who forget their own language cannot learn another language perfectly! One cannot help but ask the question why these people were not able to acquire a distorted Spanish or Chinese instead of Persian!

The denial of the existence of the Kurds does not only contradict science but also fundamental human rights. It is said that the British Parliament can do everything other than "making a woman out of a man and vice versa" Similarly our official ideology considers a nation nonexistent. Then it makes them forget their language and teaches them a poor Persian!

While the Ottoman Empire, which had been a party to the imperialist war, was being dismantled and transformed into the Republic of Turkey, it took part also in the process of partitioning of Kurdistan and got a considerable share. In this respect, the National Struggle marks the beginning of the subjugation of the Kurdish Nation rather than being the liberation of a nation in the true sense. For the Kurds, one aspect of the National Struggle represents the partitioning of Kurdistan in agreement with the British. Had the National Struggle really been a struggle for the liberation of a nation, then the Kurdish Nation would not have been subjugated and there would not have been any need for meaningless compulsion, fabricated justifications and lies in this respect... Otherwise, it is impossible to understand why a nation who fought for her freedom subjugated, banished and denied the cultural identity of another nation. The liberation of a nation means that she determines her own destiny. If the self-determination of a nation deprives another nation of the same, then whether the former is a true movement of liberation, a true struggle for freedom, is debatable...

When one's liberation results in the subjugation and colonization of another, this contradicts the concept of liberation. The liberation of a nation from colonialism is a progressive movement. To quote F. Engels "Freedom from national slavery is the basic condition for any healthy and free development" (3) On the same subject Trotsky wrote: "The dawning of national consciousness over an extremely suppressed nationality, that nation's waving the flag of liberation not only against political imperialism but also against cultural imperialism, is an important initial step taken by that nation towards the consciousness of her own human dignity and represents an immense progress for humanity". (4)

No doubt such a movement has no need to fabricate false "theories". Similar compulsions are resorted to only where a true freedom movement has not taken place and freedom has not been achieved... An irrational ideology produced for the purpose of maintaining exploitation and oppression can only be built on ignorance, denial, lies and distortions. Once lies are told, they necessarily produce other lies. An unending road is inevitably taken, in which lies are told in order to hide previous lies.

The methods considered valid and the language used have not changed much throughout history. "The civilized man civilizing the barbarian", "offering civilization to him", "the grafting of culture" by "refined nations" among the "uncultivated", "helping them develop", "the nobleness of the dominant nation and the roughness and ineptness of the oppressed", "the God-given high abilities of the oppressor, their aptitude for culture and civilization", "the incapability of the oppressed, their inability to stand on their own feet", etc...

During the Agri revolt Yusuf Mazhar wrote:

> "Because, as demonstrated by history, these are more capable than the American Indians, but are far more bloodthirsty and cruel...They are deceitful and are totally devoid of certain feelings and civilized propensities. They have been a nuisance to our race for centuries.
>
> I think that it is not possible to break the dark spirit, the rough feelings and bloodthirsty tendencies among this Kurdish mass. Expecting that this will be achieved in the course of a long evolution will cause them to undertake revolts like this from time to time, to disturb peace in the country or to steal, occupying the government constantly... There are great differences between the northern and southern Kurds. We hope that our government, taking this point into consideration as well, will act in a definite and serious manner befitting (!) the motto of the Republic." (5)

Hikmet Kivilcimli comments on what Yusuf Mazhar wrote:

> "According to the ideology of the Kemalist bourgeoisie, 'the Kurds are incorrigible'. The saying that 'the Turkish nation is incorrigible' now fits the Kurds well. Given that they are incorrigible... the logical inference immediately follows. Just like the 'civilized' European Pirates and Pirate States, the holy and sacred Turkish capitalism which is 'not totally deprived of civilized propensities' has a historic mission to accomplish: To eradicate the Kurds who are 'far more bloodthirsty' than the red skins such as the Aztecs and the Incas whose names and traces have been wiped out of the Earth by the white Europeans!... That notorious policy of annihilation." (6)

Colonial policy is characterized by the destruction of the true history of the exploited peoples, denial of their historical past and imposition on them a version of history chosen by the colonialist nation. Therefore, whatever may exist to remind of the history of the oppressed, exploited and subjugated people (collective memory) is destroyed. It is absolutely necessary to remove the roots which hold them upright. This is exactly what the Kemalists did... In the libraries, everything relating to the Kurds and to their history was destroyed... Historical buildings constructed under Kurdish principalities were demolished and military barracks were built on their sites. (Birca Belek - Alaca Burç). The names of all localities were changed. (7)

It is no surprise that all historical and sociological research relating to the Kurds is banned in such an environment. While there are departments of philology teaching dead languages, Kurdish, a living language with millions of speakers, is not taught in any one of the faculties of arts! Yet, their power to determine everything is limited... There are institutes teaching Kurdish in many centres in the West... and this irritates our rulers... Aren't the westerners doing injustice by allowing institutes teaching a language deemed nonexistent?

In a period during which the entire population except 3 to 4 per cent spoke no language other than Kurdish, the use of Kurdish was

banned (in non-official situations as well). There were officials assigned with the duty of enforcing this prohibition in the urban centres inhabited by Kurds. Those Kurdish peasants who arrived to sell their inconsiderable surplus product were caught by "controllers". According to what Erzincan Governor Ali Kemal wrote, speaking Kurdish was fined at the rate of five kurushes a word. Given that in the 1930s sheep were sold at 50 kurushes each, someone who expressed himself with two Kurdish sentences of five words each had to pay a fine equal to the price of one sheep... Since it was obligatory to use the services of an interpreter for the sale, proceeds from the sale were lost as penalty... (8)

Article 39 of the Lausanne Peace Treaty reads as follows:

> "The speaking of any language by any of the citizens of Turkey, be it in their private or business relations, or in relation to religion, the press and all sorts of publications, or at general meetings, shall not be made subject to any restrictions.
>
> "Although there is an official language, Turkish Citizens speaking a language other than Turkish shall be provided with appropriate conveniences to enable them to use their own language verbally before courts..."

The existence of a distorted version of the National Struggle did naturally lead to misinterpretations as well. In a work published in 1935, Nehru wrote: "Thus the Turks who had fought for their independence not long ago oppressed the Kurds who demanded independence for themselves. What is strange is the manner in which a defensive nationalism has taken on an aggressive form and the freedom of one has turned out to become subjugation of another. In 1929 the Kurds revolted again. And that was suppressed at least temporarily. But how can one oppress forever a people who insist on freedom and is prepared to pay its price" (9) In writing these lines, Nehru wishes to see the National Struggle as a rebellion against imperialism and colonialism. But that is out of the question. This shows that minds are blurred by attributions such as "anti-imperialism", "guiding the oppressed peoples to liberation" or "the first national liberation movement in the world". The development of Turkey's foreign policy demonstrates the shallowness and meaninglessness of the foregoing claims. That the basic preference underlying Turkey's foreign policy is in favour of the colonialists-imperialists rather than the exploited peoples is also closely related to the above fact. Otherwise, could a nation who really fought for its freedom have subjugated another?

Failing to form a sufficiently clear opinion of the National Struggle, Hikmet Kivilcimli says: "Another point is that Turkey herself has been the scene of one of the important national liberation movements. But, being placed under the power and dictatorship of the Kemalist bourgeoisie, this liberation movement could not be freed from capitalistic contradictions and attributes. And that was impossible. As pointed out above, Turkey did not fail to play the role of an oppressive nation in her domestic relations, although she was an oppressed nation in her foreign relations". (10) Where a nation who is oppressed in foreign relations acts as an oppressor in her domestic relations, it is difficult to justify this by capitalistic contradictions alone. For one thing, contrary to what Kivilcimli wrote, Turkey was not "the scene of one of the important national liberation movements". As we attempted to show above, the National Struggle was neither a national-popular nor an anti-imperialist movement. A state which itself was a party to an imperialistic war could not become anti-imperialist. What was done in fact was to play down the Anatolian movement as a trump against imperialists. Had the group of states with which the Ottomans allied themselves been victorious, the situation would have become clearly visible, leaving no room for illusions. The National Struggle's real aim was to sprout the seeds of capitalism among the ruins of a collapsing empire. Therefore the transition from

the Empire to the Republic did not necessarily imply "being the scene of one of the important national liberation movements".

Arguments that the Turkish state cannot occupy a colonialist position in its east, that Turkey is herself an underdeveloped country and that a country oppressed by imperialism cannot pursue a colonialist policy against another nation are widespread... This approach is certainly the product of an illusion about the oppressor-oppressed and the exploiter-exploited. A person's being oppressed does not prevent him from oppressing another (even the poorest man can find someone to oppress, can perfectly subjugate his wife and children), and the same is all the more valid within the hierarchic capitalist world system. Furthermore, the distinction between imperialism and colonialism should not be overlooked. History offers abundant examples of those countries who were exploited by imperialism, yet possessed many colonies. One example is Portugal who possessed colonies in Africa until recently, including Angola, Mozambique and Guinea-Bissau. Her position as a semi-colony did not prevent Portugal from intervening in the destiny of other nations. The state which was in a position to be placed on bourgeois foundations upon the establishment of the Republic could be colonialist by its nature.

Turkey's occupying a "lower" place within the hierarchic capitalist world system does not imply that she cannot subjugate another nation. The same is true for Iraq which has subjected the Kurds to genocide. Certainly for Iran as well... Indeed, having been divided into four parts Kurdistan has the status of an international colony. The place occupied by the colonialists within the capitalist world system, their being "neo-colonies", or their being exploited by imperialism, do not prevent them from being colonialists themselves.

Another illusion stems from the fact that the exploiter and the exploited are within the same "boundaries" and Turks and Kurds inhabit the same geographical area in certain settlements, even without a significant difference between their standards of living. Not only that this does not constitute any proof of the absence of colonialism but, on the contrary, must be seen as something facilitating it.

As a matter of fact, such a state cannot be expected to discriminate in
terms of economic exploitation. Under the Czarist regime in Russia, areas such as Kazakhstan, the Caucasus, etc. were colonies of the Czardom despite "shared boundaries". Colonies do not necessarily have to be located overseas, or in remote places. This illusion is partly associated with the historical form of the European colonialism.

That Kurds can reach the highest echelons in the state apparatus, in political parties and in business in Turkey is yet another source of confusion. It is true that all doors are opened before those Kurds who deny their "Kurdish Identity". The opening of all doors before these people at the cost of the denial of their identity creates a significant illusion. A Kurd denying his own identity is often turned into a racist and Kurdophobe... This is an interesting psychological state. There must certainly be a psychological or psychoanalytical explanation to that... One who denies his identity is confronted with the dilemma of filling the "vacuum" thus created with the identity of the oppressing nation and exhibits the features of a "distorted personality" psychologically... (Certainly, those mentioned here are often members of the intelligentsia).

Under the Roman Empire, the greatest enemies of slaves were the Liberti. In Turkey, one who has denied his Kurdish identity can become the president of the republic, prime minister, minister, professor, under-secretary, general, businessman, etc. In fact, these people supply considerable ideological ammunition to colonialist practices of the state apparatus and business. The impression given is that there is no "discrimination" or "oppression". Thus these men

facilitate both oppression and its legitimation. Consequently, democratic demands of the Kurds are rendered ineffective easily.

Here it would be wrong not to underline a fact: Despite the Turkish state's racist, chauvinistic and discriminatory policy, the other minorities, including the Turkish people as well, have almost never adopted a "discriminatory", "racist" and "chauvinistic" position. This sort of "extremist" elements are quite rare within the culture of the working people. Therefore, the "discriminatory" practice is not something approved of by the working people.

At this point, one needs to remember the substance of the concepts of colonialism and imperialism and the meanings of these two concepts. First, direct colonialism inevitably embodies the element of force. In other words, direct colonialism is accompanied by military, political, cultural and ideological oppression. This necessitates physical presence of the colonialist in the colony. Imperialism does not necessarily embody the element of force. Therefore imperialism is more of an economic category. As a matter of fact, during the fifteen years or so following the end of the World War II, classical colonialism was "liquidated" but imperialist exploitation deepened.

Indeed, the form of exploitation that fits in the logic of capitalist production is one that does not directly embody the element of force. Capitalist exploitation was initially accompanied by the element of force because this was necessary for establishing firmly capitalist relations in colonies and breaking the resistance of and liquidating traditional structures. The physical presence of colonialist countries could be dispensed with after a certain stage at which exploitation became a domestic category. After this fact was recognized, after it was observed that exploitation became a domestic category, imperialist countries withdrew their administrative, military and other apparatuses from their colonies. As a matter of fact, rivalry between capitalist states was originally one of the sources of imperialist colonialism. Besides there were secondary factors including "national prestige" and the like. The colonialist state makes direct oppression and control possible, but its physical absence helps reduce costs of exploitation (as long as local collaborators undertake this business). Thus the colonialist state avoids a lot of spending, too.

The removal of direct political-military-police control in the colonies was believed to be the end of colonialism. Today, however, resources of the Third World are carried to imperialist countries on a far greater scale than in the colonial period. Therefore, the relationship between the State of Turkey and Kurdistan does not constitute a category of imperialist exploitation. The situation is one which also directly involves political, military, cultural and ideological subjugation. Therefore, there exists the status of a direct colony.

This is exactly where the distinctive nature of the National Struggle lies. It is, in the last analysis, the annexation of a part of Kurdistan. To quote Lenin, annexation "means the forcible containment of a nation within the boundaries of a certain state". (11) What is determinative here is the existence of two different nations, one forcibly confining the other within her boundaries. But the Turkish administration has always denied the existence of the Kurdish element which it has subjugated since the 1920s. This official view was expressed by the daily Son Posta, in its issue dated 11 April 1946, as follows: "There has never existed a Kurdish minority in Turkey, whether nomadic or sedentary, with or without a national consciousness" (12) However, this denial is not something peculiar to the Turkish State alone. The Iranian administration regards the Kurds who fight for their autonomy as Persians. The Iraqi administration considers them Arabs. It alleges that their language is a dialect of Arabic. The situation is not different in Syria, either... Once General Cemal Gürsel said: "In no period of history has there been an alien immigration to our

Eastern provinces, which could have left the present inhabitants there as its sediments. On the surface of the Earth there is no race with a distinctive identity that can be called 'Kurdish'". (13)

1. The non-existent Kurds revolt

Information available on the distant history of the Kurds is contradictory. But we have a better knowledge of the period of the Kurdish history after the Kurds were subjected to the process of Islamization by Caliph Omar. Kurdistan, known as the homeland of the Kurds, was conquered by Iranians in 550 B.C. The Kurds retreated to the mountainous areas to resist the Iranians.