

HUMAN RIGHTS ARE WHAT NGOS MAKE OF IT: THE DIVERSITY OF TURKISH HUMAN RIGHTS NGOS AND THE INFLUENCE OF THE EUROPEAN PROCESS

During the past two decades a diverse landscape of Turkish human rights NGOs has developed, representing all sorts of political and religious orientations. The comparison of Kemalist and Islamic NGOs in regard to freedom of religion and homosexuals' rights illustrates the divergence between the underlying human rights concepts. Referring to these differing concepts, the paper aims at explaining the criticism Turkish civil society actors voice regarding the European process, leading to the fundamental question of whether one set of rights can claim universal validity or whether human rights must be adjusted according to national, cultural, or religious prerequisites.

Anne K. Duncker

• Anne K. Duncker is a PhD candidate of political science in Philipps-University Marburg, Germany.

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n recent years, domestic politics of nation states have become increasingly transnationalized. This is especially true for Turkey, since all features of its domestic politics are under constant scrutiny of the European Union (EU) and will in good part be responsible for the decision about the Turkish dream of accession.¹ Under the leadership of the AKP (Adalet ve Kalkınma Partisi; Justice and Development Party) government Turkey's ambition to become a full EU member has become more focused than ever. In the course of its rapprochement with the EU, Turkey has to undergo deep and sustainable change, which does not stay on a structural level but concerns the normative content of Turkish politics.² Turkey's human rights record, as one of the focal points of the European Commission's regular report, has been kept under special surveillance during the recent years. Thereby, as many examples of empirical research show, "the EU is able to induce domestic change by providing a model as well as insisting on specific standards."³

Not only NGOs from abroad, but also a growing number of human rights NGOs within the country call for a higher human rights standard in Turkey. Most of them welcome the European process, which has led to an extension of their acting capacity due to legal reforms. Especially left wing and secular organizations could so far profit from transnational relations with European actors, who share similar political views and human rights understandings. Beyond this positive assessment, however, multiple NGOs rate the European process quite critically. Criticism is mostly voiced by Islamic⁴ NGOs who condemn the "anti-Islamic" European attitude and a withholding of their religious rights. Kemalist, too, criticize the reform process; they fear the re-entering of Islam into politics and find fault with the reduction of the power of the military caused by the reforms. Though different in direction, both types of criticism are based on the contention that the application of European legal and political standards does not take country-related characteristics into consideration. This criticism of a perceived European or western human rights concept exemplifies the debate about the universal claim of human rights, which has been contested ever since human rights were internationally codified. The diversity of Turkish NGOs illustrates how different interpretations of human rights can be constructed according to cultural, national, or religious prerequisites.

By comparing Islamic and Kemalist NGOs in Turkey this article will highlight some positions of Turkish civil society actors towards the EU process and thereby explore the different contents with which the notion of human rights can be filled. For this purpose, the article

¹ Compare Ziya Önis, "Domestic Politics, International Norms and Challenges to the State: Turkey – EU Relations in the post-Helsinki Era," *Turkish Studies*, Vol.4, No.1 (Spring 2003), p. 11.

² Leda-Agapi Glyptis, "The Cost of Rapprochement: Turkey's Erratic EU Dream as a Clash of Systemic Values," *Turkish Studies*, Vol.6, No.3 (September 2005), p. 403.

³ Thomas Diez, Apostolos Agnantopoulos and Alper Kaliber: "Turkey, Europeanization and Civil Society," *South European Society and Politics*, Vol.10 No.1 (April 2005), p. 4.

⁴ The term "Islamic" refers to an NGO which bases its work on Islamic values and for which freedom of religion plays a central role, focusing on religious rights for Sunnis, most prominently the right to wear the headscarf. An Islamic NGO, however, is not necessarily "Islamist", a term which I understand to be attributed to political Islam, aiming at the establishment of a theocratic state under Sharia rule. Islamic and democratic can coincide, while Islamist and democratic cannot.

focuses on two rights –freedom of religion, especially the right to wear a headscarf, and freedom to express one’s sexual identity– in order to explore different interpretations of human rights with special regard to religious and non-religious approaches. Quotations from interviews with human rights activists in Istanbul and Ankara, conducted by the author in 2005 and 2006, illustrate these findings. The implications of these different approaches will be connected with the EU process and its meaning for the Turkish human rights sector. In order to put these findings into context, the article starts with some remarks on underlying concepts of human rights.

Underlying Concepts of Human Rights

The most fundamental human rights document of the 20th century was named *Universal Declaration of Human Rights* (UDHR). This claim to universality, however, is not uncontested, as the diversity within the Turkish human rights landscape, among many other examples, shows. The debate over the universality of human rights is marked by positions ranging from universalist to relativist approaches. Put simply, universalists claim that one set of rights is applicable to all humans at all times in all places. Attributes such as religion, gender, cultural background or national circumstances are considered no reason to impute more or less rights to an individual. Relativists, on the other hand, hold that the full catalogue of rights as laid down in the international bill (the UDHR (1948) and the two Covenants (1966)) cannot be universal since understandings of human rights are culturally and politically conditioned. To relativists, the contention of universal rights and the global use of a variety of means to enforce those rights suggest an “arrogance or ‘cultural imperialism’ of the West, given the West’s traditional urge (...) to view its own forms and beliefs as universal, and to attempt to universalize them.”⁵ Relativist views were clearly voiced by foremost Asian and African representatives at the Vienna World Conference on Human Rights in 1993, where they called for a rethinking of the concept of human rights underlying the UN documents, and criticized it for being grounded on euro-Atlantic culture and being inappropriate for non-western states in many respects. Since the adoption of the UDHR, several human rights declarations from all over the world such as the African Banjul Charter (1981), the Islamic Cairo Declaration (1990), or the Asian Bangkok Declaration on Human Rights (1993) have exemplified the wish of non-western countries to endorse the meaning of the international bill but at the same time to reformulate and amend its content. The most disputed rights lie within the realm of family law and gender equality, freedom of religion and expression, and cultural rights. The differences in human rights concepts have become more and more apparent within the discourse of the last twenty years, enhanced by decolonialization, the end of the Cold War and the growing impact of globalization –developments which enabled more and more states from the so-called Second and Third World to make their voices heard in the international debate. However, doubts about the universal claim of human rights do not only stem from the non-western world, but also from scholars, politicians or human rights activists from western countries who criticize the hegemony of the European interpretation of human rights as cultural imperialism.

Some human rights scholars have tried to overcome this struggle of competing human rights concepts by proposing a “limited concept of human rights” which defines human rights as political and legal standards of limited normative scope.⁶ Human rights require political and

⁵ Henry Seiner and Philip Alston, *International Human Rights in Context. Law, Politics, Morals* (Oxford: Clarendon Press, 1996), p. 139.

⁶ Heiner Bielefeldt, *Philosophie der Menschenrechte. Grundlagen eines weltweiten Freiheitsethos [Philosophy of Human Rights. Foundations of a Worldwide Ethos of Freedom.]* (Darmstadt: Primus Verlag, 1998), p. 147

legal implementation in order to guarantee the security of the individual, but by no means, following this argumentation, do they aim at substituting for a religion or an ideology.⁷ If human rights are attributed to one or the other culture or religion, it is argued, culture specific demands of exclusiveness are on the rise and the universal claim will be weakened. Regarding their theoretical approach, human rights should thus be universal and egalitarian. Regarding their implementation a way should be sought that leaves room for what the reformist Sudanese scholar Abdullahi An-Na'im calls "relativist sensitivity".⁸ In this respect it is important to stress that universality must not be equated with uniformity. Put simply, this means that the right to adequate housing does not limit the choice between a tent, a skyscraper or an igloo; the right to sufficient nutrition still leaves room to go for rice, bread or potatoes. The UN declarations as well as the European Convention on Human Rights (1950) provide sets of rights which are yet to be filled with content and may differ very much from country to country and culture to culture. The decoupling of human rights from cultural, national or religious prerequisites and the focus on their quality as political and legal standards can help, therefore, to enlarge their universal acceptance.

Human Rights NGOs in Turkey and the European Process

Despite being relatively well informed about the Turkish human rights standards through the reports of the European Commission or international NGOs like Amnesty International or Human Rights Watch, fairly little is known in Europe about the sector of Turkish human rights NGOs. Contrary to a widespread image that depicts Turkey as a restrictive state in which civil society has not been able to rise to a factor worth mentioning, the Turkish human rights sector consists of organizations from different backgrounds and political or religious orientations, who work actively and have become increasingly influential. The most prominent Turkish NGOs working in this field are IHD (Insan Haklari Dernegi; Human Rights Association), TIHV (Türk Insan Haklari Vakfi; Turkish Human Rights Foundation) and recently also Mazlum-Der, who have successfully made their voices heard in the Turkish as well as in the international human rights discourse. In addition, however, a broad landscape of human rights NGOs has come into existence, mainly during the last two decades, dealing with all sorts of issues, including women's rights, children's rights, freedom of religion and expression, rights of disabled people, or rights of homosexuals. As diverse as their working fields are their political and religious backgrounds. Some NGOs are foremost practically orientated and rather "apolitical" – as far as this is possible as an actor in the human rights field – such as organizations who take care of street kids, support needy families or engage against family violence. Most of the NGOs, however, take quite clear a stand on political and religious issues. In a rough division one can classify Kemalist, religious – i.e. Sunni –, and leftist, mostly pro-Kurdish NGOs. Additionally, there are several minority organizations, representing the Alevi or other religious or ethnic minorities.

All these NGOs lay claim to their engagement for human rights, yet, they seem to have quite different understandings of what "human rights" are. Although some authors state that "the common thread of meeting the EU criteria has helped link together often disparate (liberal,

⁷ Heiner Bielefeldt, "'Schwächlicher Wertrelativismus'? Zur Notwendigkeit des interkulturellen Dialogs über Menschenrechte, ['Weak Relativism?'] About the Necessity of an Intercultural Dialogue on Human Rights]" in Kai Hafez (ed.), *Der Islam und der Westen. Anstiftung zum Dialog* (Frankfurt: Fischer Taschenbuch Verlag, 1997), p. 58.

⁸ Abdullahi An-Na'im and Francis Deng (1990): *Human Rights in Africa: Cross-cultural Perspectives*. Washington D.C.: The Brookings Institution, p. 366.

secular, Kurdish, religious, Kemalist) elements in Turkish civil society”⁹ which, at least to some extent, is true, competition over funding and medial representation exists and increases – rather than decreases – with the enhanced meaning of human rights issues on the political agenda and the new possibilities of funding through EU programs. While at first it looked like it would be easier for traditionally western oriented human rights groups to make use of the European process in advancing their goals, Muslim human rights groups, too, have incorporated an EU dimension into their discourse “because it was seen as adding to the effectiveness of the point made.”¹⁰ This discursive shift of Islamic human rights activists has in turn “reinforced the Kemalists’ growing anxiety about the West and western values.”¹¹ Kemalists apprehend that the European process might strengthen the political influence of Islamic groups and thus assess “western political values of democracy, human rights and the rule of law as ill-fitting the ‘realities’ of Turkey”¹²

As a matter of fact, this criticism of western values “being brought”¹³ to Turkey without considerations of country-specific characteristics is voiced by both Kemalists and Islamic human rights activists alike, albeit the reasons given for this perception differ considerably. Kemalists criticize the reforms for having led to too much scope of action for the religious groups and for not respecting the Turkish military as the guardian of secularism and democracy, since the new laws have severely reduced the army’s legal power.¹⁴ They complain about the EU’s lack of comprehension concerning the special danger of Islamism in Turkey, which in their view justifies the influential position of the military. Islamic-inspired NGOs, on the contrary, blame the EU for having sided against Islam and for systematically ignoring violations of the Sunni majority’s religious rights. Furthermore, they criticize that the secular European value system is imposed on a dominantly Islamic society in a culture imperialist way.

Since NGOs are not able to fall back on financial or military resources, they exert influence “primarily through discursive means.”¹⁵ In the case of Turkey, where the issue of human rights is of decisive importance for its membership plea, the struggle about the definition power of what human rights actually are is being argued out fiercely and controversially. The discourse reflects various shades from relativist to universalist approaches to human rights and shows a discursive shift especially among Islamic NGOs, who increasingly incorporate the speech of universal human rights in order to advance freedom of religion.

Freedom of Religion

In Turkey, a country that has to-ed and fro-ed between its Islamic heritage and its secular orientation ever since the foundation of the republic, the right to freedom of religion takes a

⁹ Paul Kubicek, “The European Union and Grassroots Democratization in Turkey”, *Turkish Studies*, Vol.6, No.3 (Fall 2005), p.370.

¹⁰ Diba Nigar Göksel and Rana Birden Günes, “The Role of NGOs in the European Integration Process”, *South European Society and Politics*, Vol.10 No.1 (April 2005), p. 59.

¹¹ Ihsan Dagi, Transformation of Islamic Political Identity in Turkey: “Rethinking the West and Westernization”, *Turkish Studies*, Vol.6 No.1, (2005), p. 32.

¹² Dagi (2005), p. 33.

¹³ Two representatives of the Islamic humanitarian relief organization IHH voice their reservations against the EU in this way that one “never knows where the EU is going to bring democracy next” (Interview with IHH June 9, 2005).

¹⁴ William Hale, “Human Rights, The European Union and the Turkish Accession Process”, *Turkish Studies*, (February 2003), p. 108.

¹⁵ Thomas Olesen, “World Politics and Social Movements: The Janus Face of the Global Democratic Structure”, *Global Society*, Vol.19, No.2 (April 2005), p. 121.

lead in the human rights discourse. The comparison of interviews with Kemalist and Islamic NGOs shows great differences in human rights concepts as well as their assessments of the EU process. Since secularists tend to connect human rights with modernization and West-orientation, they are suspicious of the Islamic-inspired human rights movement, who calls for human rights within an Islamic frame. A member of the jurists organization Istanbul Bar Association, which is concerned with human rights issues, expresses his concern about the growing power of religious actors in Turkey as follows:

I do not at all agree with the opinion that freedom of religion is restricted in Turkey. Every state has its *ordre public*. The Turkish republic was founded as a successor of an Islamic state, and therefore the principle of laicism is of vital importance, more important than in other European countries [...] In my view, freedom of religion is already implemented much broader in Turkey than in most European countries.¹⁶

Albeit expressing his view that Turkey has already achieved a very high standard of religious freedom, the interviewee implicitly defends restrictions to freedom of religion by comparing Turkey to “other European countries”, pointing out a special need to control religious activities in Turkey, since secularism is not as deeply rooted and self-evident as in most EU states.

Muslim human rights groups, on the contrary, still see freedom of religion violated in many aspects. In their view, the “European interpretation” of rights, most visibly through the rulings of the European Court of Human Rights, whose jurisdiction Turkey is subordinated to, ignores religious needs and cultural traditions. In the laicist Turkish republic, with the vast majority of its population being Muslim, the struggle for religious rights crystallizes in the debate about the *tüurban*, the religious headscarf. The chair of a Muslim women’s rights organization explains her view on the EU process and freedom of religion as follows:

Up to now we do not see any positive development concerning freedom of religion. The decisions of the European Court of Human Rights on the headscarf cases illustrate this. After 9/11 Islam has been connected with terrorism and we see a worldwide policy against Muslims. Such a policy can also be found within the EU process. We do not expect more religious freedom for Muslims in Turkey within this process.¹⁷

Islamic NGOs, who have only played a minor role in Turkey some fifteen years ago, have conquered a meaningful position within the human rights landscape. Among them, women’s rights organizations are particularly active, most of them concentrating on the headscarf issue. Many of the Islamic organizations hold the view that the EU applies double standards by focusing on the rights of ethnic and religious minorities in the country; but on the other hand ignoring or even rejecting the rights of the Sunni majority:

The European structures reveal a double standard. Looking at the large Muslim majority in Turkey, we note an indifference of the European institutions towards the problems of this group. We are not very optimistic that the EU process will help to solve these problems,¹⁸

¹⁶ Interview with Istanbul Barosu, 26 April 2006.

¹⁷ Interview with Ak-Der, 2 May 2005.

¹⁸ Interview with Hukukçular Derneği, 5 May 2005.

as a representative of an Islamic lawyer's organization puts it. For many Muslims the treatment of the *türban*-issue in Europe is a telling example of the EU's biased attitude towards Islam. The Islamic headscarf is forbidden at high schools and in public service in many EU countries. Moreover, the European Court of Human Rights seems to have sided against the Muslims by rejecting the application of Leyla Sahin, who was banned from university for wearing the *türban* or rejecting the case of the Islamic Refah Party, who had claimed a violation of the right to freedom of association, after the party was banned through a verdict by the Constitutional Court. Most Muslims consider the wearing of the *türban* as covered by freedom of religion. Many Kemalists, on the other hand, understand the head covering as a political symbol and therefore see the necessity to forbid it in public institutions in order to keep up the laicist state order. A member of the Kemalist "Association of University Women" explains the danger she sees with the *türban* and why she does not assess the prohibition of the headscarf in public institutions as a human rights violation:

Our association, and also myself, we don't believe that it is against human rights, no. Because it has become a political issue. For instance in Germany or in Austria it [the headscarf] is accepted. But nobody wants to change their regime and government and make it a religious state. (...) But here their purpose is to install a government ruled by Sharia law. This is why we consider the covering as a first step towards this goal. This is why we are against it.¹⁹

Again, Turkey's "special situation" in comparison to other countries is used as an argument justifying restrictions on the freedom of religion, as the interviewee refers to the Kemalist's omnipotent fear of Islamism. The Islamic organizations, by nature, address this issue quite differently. A member of an Islamic women's rights organization states that "freedom of religion and conscience should be guaranteed in every state. It is similar to the right of life."²⁰ The Islamic-inspired organizations favor the amendments in the organizational law, but above this, they do not see themselves profiting from the EU process:

For the process of founding a new NGO, it has become easier, the new laws have made things easier for Turkish civil society. But for us there is no real change. The closer Turkey comes to the EU, the more the EU gives us a hard time regarding the headscarf issue.²¹

Both Islamic and Kemalist NGOs view their claims threatened by inner-state actors as well as by foreign powers, such as the EU. Thus, they both place themselves in a "discourse of victimization"²²; either being the victim of a metastasizing Islamism or of the ubiquitous authority of Kemalism. At the same time, both groups try to underline their claims by referring to universal human rights, albeit rejecting the interpretation of "the universal" of the respective other, what makes the question of "who best represents the universal in Turkey (...) increasingly contested."²³

¹⁹ Interview with TÜKD, 27 April 2006.

²⁰ Interview with Özgür-Der, 6 May 6 2005.

²¹ Interview with Ak-Der, 2 May 2005.

²² Necmi Erdogan, "Kemalist Non-Governmental Organizations: Troubled Elites in Defence of a Sacred Heritage," in Stefanos Yerasimos, Günter Seufert and Karin Vorhoff (eds.): *Civil Society in the Grip of Nationalism* (Istanbul: Deutsches Orient-Institut der deutschen morgenländischen Gesellschaft und des Institut Francais d'Études Anatoliennes, 2000), p. 264.

²³ Chris Rumford, "Resisting Globalization? Turkey-EU Relations and Human and Political Rights in the Context of Cosmopolitan Democratization," *International Sociology*, Vo l.18, No.2 (June 2003), p.387.

Homosexuality

Similar to freedom of religion, LGBT (lesbian, gay, bisexual and transgender) rights show how underlying cultural and religious values shape the understanding of human rights. LGBT rights are not explicitly stated in any of the UN documents and have been put on the international human rights agenda fairly recently. In Turkey, NGOs with a focus on gay and lesbian issues have come into existence during the 1990s. They engage for a broader acceptance of homosexuality, give support and information to homosexuals and their families and provide legal help, for example if somebody has been dismissed from work because of his or her sexual orientation.

Homosexuals' NGOs encounter difficulties in placing their claims on the highly politicized Turkish human rights agenda, since the struggle against torture or for freedom of speech and religion might at first glance be more important or at least more pressing than the engagement for homosexuals' rights. Additionally, lesbians and gays face culturally and religiously based discrimination. The right to be openly gay or lesbian is rejected not only by a large part of the public but also by many human rights activists from the religious sector. One member from an Islamic human rights organization expresses her concerns as follows:

We do not understand homosexuality as a right, but as a deviation, a deviation that runs counter to human nature. In this regard we are not on the side of the freedom for those people.²⁴

Some religious human rights activists even question the right for homosexuals to get organized in interest groups.²⁵ Most Islamic NGO representatives do not try to disguise their disapproval of homosexuality and by openly defining homosexuality as a “deviation counter to human nature” or “a wrong orientation” which homosexuals should try to overcome,²⁶ they leave the discursive frame most European human rights organizations have agreed upon. To be clear: By far not all European human rights organizations support LGBT rights. But most of them, even though they do not approve homosexuality, desist from voicing their opinions too distinctly, for this could lead to an exclusion from the dialogue with many partner organizations. Of course, gay and lesbian activists in Turkey are aware of the rejection by other, especially Islamic NGOs. Nonetheless, they take a universalist approach supporting freedom of religion like every other right:

They [Islamic activists] are struggling on a religion which denies me and they think people must live a lifestyle according to Islamic rules and these Islamic rules deny me. So, I do have a problem with them. But I believe that they have the right to wear the headscarf or live in Islamic style, and I have right to live a lesbian life. It's something democratic for me.²⁷

Concerning the issue of homosexuality Islamic NGOs in Turkey choose two different ways of argumentation: one which draws a demarcation line between European and Islamic NGOs, arguing that both groups base their understanding of human rights on incompatible value systems, and one that rather looks for coalitions that transcend geographical or religious boundaries, thereby blurring the distinction between “western” and “Islamic” human rights understandings. For the former, homosexuality is just another point, which proves that the European human rights concept does not match with norms deeply rooted in the Turkish

²⁴ Interview with Özgür-Der, 6 May 2005.

²⁵ Interview with IHH, 9 June 2005.

²⁶ Interview with IHH 9 June 2005.

²⁷ Interview with Kaos GL, 28 May 2005.

society. European support of Turkish LGBT organizations, therefore, is being perceived as a culture imperialist move:

They go as far as to demand to accept homosexuality as something normal. That goes against our manners, against our traditions. The Europeans have the problem that they cannot understand this. They take everything as a human rights case and don't care about our mentality. But if you look at the Turkish side, it's not so easy. Europe wants that we accept those people and let them live openly in our society. But if you take our social dynamics into consideration, this is not possible.²⁸

This argumentation constructs an antagonism of "Europe" and "Turkey", which depicts Europe as a foreign power that imposes a regime on Turkey from the outside without taking cultural or religious circumstances into consideration. The underlying understanding is a relativist one: European and non-European states are not based on the same norm and value system and therefore the European human rights catalogue does not fit Turkey. As mentioned above, the demand to accept homosexuals' rights is perceived as falling in line with "the West's traditional urge (...) to view its own forms and beliefs as universal, and to attempt to universalize them." Other Islamic-inspired NGOs, however, take a different stand on this issue:

Taking the example of the right to homosexual marriage, we do not see this as a right, it does not fit into our rights catalogue, which is a religious one. In Europe and in the United States this topic is discussed as well, and the churches criticize it, they don't accept it as a right either.²⁹

In this case, the interviewee does not base his rejection of homosexual's rights on the basis of Islamic values but on religious and cultural norms which can be found in Turkey, EU countries or the U.S. alike. Whereas the above quoted religious activists open up a parallel human rights discourse in which Islamic human rights are by definition incongruent with the European version, this speaker looks for common ground across religious and state borders, thereby staying within the European discourse. The latter argumentation makes it easier for Islamic NGOs to engage into transnational cooperation in comparison to those who rely on their Islamic identity in order to shape their organizational profile, which may lead to an impediment of transnational cooperation, at least with decidedly secular NGOs.

The upcoming years will show whether the demarcation lines between the different human rights groups will stay in force or whether the careful rapprochement that can be observed especially among women's rights groups, will spill over.³⁰ So much is clear, the Turkish human rights field has left its domination by left wing and Kurdish groups as in the 1980s and early 1990s behind and has developed into a broad and diverse sector. Such a variety of NGOs that represent all kinds of political or religious orientations is needed in order to prevent that the reform process becomes "a European project, (...) little more than a patronizing lecture on morality by outsiders."³¹ The criticism voiced by multiple human rights

²⁸ Interview with IHH, 9 June 2005.

²⁹ Interview with Mazlum-Der, 1 June 2005.

³⁰ One outstanding example for the cooperation of women's rights groups is the initiative "Women's Platform on the Turkish Penal Code", consisting of more than thirty NGOs nationwide. The platform lobbied for the removal of all gender-based discrimination from the new penal code which was adopted in September 2004. Despite their very different political and religious backgrounds, the women's NGOs cooperated constructively and successfully, proposing thirty amendments, 24 of which were finally accepted.

³¹ Kubicek (2005), p. 370.

activists can be responded constructively by closely integrating the Turkish NGOs into the reform process, leaving enough space to develop particular interpretations of human rights and to set up specific priorities, without undermining the universal standard.