

TO ANKARA 32ND HIGH CRIMINAL COURT

File no: 2018/361

Subject: My testimony concerning charges in the indictment.

Esteemed tribunal,

On 30 January 2018, I was detained together with 10 other TMA CC members for our press statement that war is a public health problem made on 24 January 2018. This period of detention lasted for five days in the case of three CC members and seven days in the case of eight members. It was so although our lawyers had visited the prosecutor earlier to inform the office that we were ready to give our testimonies!

Following our detention, the Prosecutor informed us that we were accused on the basis of our statement made on 24 January 2018 and asked what we would say about it. And we told him we did not consider that declaration as “crime”.

It was only when we were able to read the indictment that we learned we are also charged for our statement on peace made on 1 September 2016. Now I am going to express my opinion why these two statements could not be considered as acts of offence.

War, Migration and Health

I want to start by quoting dear Dr Füsün Sayek who led the Turkish Medical Association for years from her speech delivered 20 years ago, in December 1998 (*Tıp Dünyası*, 15 December 1998, No. 31):

“We are physicians and we regard it as our responsibility to make the world a liveable place.

... We are health workers. We are the closest witnesses of poverty, suffering and inequalities... We are physicians... We are committed to keep in good health not only those applying to us but also the society that we are a part of. That is why we are here: We are physicians...

Yes, my personal happiness as a physician depends on the health of society and this in turns requires some conditions that we call determinants of health? What are they? It is first peace, says the World Health Organization. “If there is no peace and violence prevails instead, being healthy and prosperous is a right that is enjoyed only by a fistful of merchants.”

Building on the premise that environment is one of the determinants of health, our statement “War is a Public Health Problem” draws attention to consequences of war in terms of physical, emotional, social and environmental health, and stresses the importance of committing to peace given military activities in our region and the problem of migration as a result. The same point was stressed 20 years ago by our dear president of the time. About 1 year before the present statement now being charged, the Istanbul Chamber of Medicine had organized a panel discussion titled “War is a Public Health Problem” on 21 January 2017.



The symposium that the Turkish Medical Association organized jointly with the World Medical Association in İstanbul on 26-27 February 2016 was on “War, Migration and Health: What Should Physicians Do?”



Further, the Public Health Branch of the Turkish Medical Association prepared a booklet titled “War, Migration and Health” in February 2016. The foreword in the booklet written by the Central Council of Turkish Medical Association starts with the displacement of millions of people in Syria as a result of war breaking out in 2010 and ends with the statement “with the hope of a world where there is no war in the reign of peace and tranquillity...”

Right to Health Life and Values of the Profession of Medicine

Yes, we are saying “peace” in defence of a healthy society and add, as Melih Cevdet Anday once said “Come and see us when our joy is freshened/Come and see the world when there is peace.”

The World Health Organization defines health as full state of well-being in physical, emotional and social terms beyond absence of illness and infirmity. As can be inferred from this definition, health

cannot be defined only at clinical level. As important as treatment of diseases, is the stress that must be placed on the relationship of health with environmental conditions and environments we are living in. The approach of social determinants of health coming to the fore in this context exposes health problems emerging as a result of economic, social and environmental conditions that are often beyond the control of individuals. Social determinants of health are known as basic factors having their effects on health and state of well-being; these are circumstances in which we are born, grow up, live, work and age. Often, these are not direct causes of illness, but defined as the “cause of causes” leading to health problems (Marmot, 2011). It is observed here that determinants of health are addressed on a wide spectrum starting from individual level to social, economic and political levels. The World Health Organization reports that 55% of status of health in any given country is determined by social conditions (Human Impact Partners, 2011). This shows us that a significant part of health is associated not with health services or personal factors but with social life.

The Medical Ethics Manual of the World Medical Association states in its 3rd revised edition (2015) that medicine today is much more of a social activity than ever. The same manual also stresses that social and physical environment is an important factor in patient health and that the profession of medicine in general and individual physicians in particular have their important roles to play in community health, health training and protection of the environment. As mentioned in the World Medical Association statement on health promotion: “Medical practitioners and their professional associations have an ethical duty and professional responsibility to act in the best interests of their patients at all times and to integrate this responsibility with a broader concern for and involvement in promoting and assuring the health of the public.”

Protecting the health of people is among the statutorily defined duties of the Turkish Medical Association. On the basis of its legacy derived from the history of universal and national medicine, the Turkish Medical Association, requests the elimination of all situations that threaten health in Turkey and abroad in its public statements independently of any political decision or attitude. The association is also trying to perform its function of informing and warning both people and official authorities.

It is beyond any dispute that activities in line with universal human rights and documents of the profession of medicine values are among the objectives of the Turkish Medical Association. The TMA commitment to universal values of medicine is a guarantee for public health. Hence, statements by our Professional organization related to the protection of health and prevention of health problems are nothing beyond execution of duties assigned by universal values and documents.

Our most important and pressing duty as physicians is to defend the right to a healthy life. Physicians strive, without any distinction, for protecting people from illnesses and injuries, for healing diseases and mitigating the pain caused by adverse conditions of health. Professional values and obligations impose upon physicians important responsibilities in exposing the causes of situations that threaten health. In this context, efforts to eliminate factors that may cause wars and armed conflict have their valuable contribution to reaching health life. During these efforts running parallel to professional values of medicine, it is particularly critical not to let medical practices become a part of daily politics. Given this, our statement “War is a Public Health Problem” conveys a universal information drawing attention to negative health consequences of all environments of conflict, not limited to a specific time or space, which also proven by academic studies.

Wars and armed conflicts have been a topic of debate and criticism throughout history. Besides doctors, philosophers, lawyers and people from many professions have stated their opinions on this problem and many have been engaged in approaches defending peace and asking for putting an end to use of arms and force. Given human tragedies prevailing in conflict zones of our present day world it is clear that critical thinking is important and much needed to establish peace.

The Turkish Medical Association to have stood against wars and defended peace since its establishment. Unfortunately, the TMA has to make statements for peace too frequently due to existing or potential armed clashes in the region surrounding our country and elsewhere. The statement that we made which led to our presence here in this courtroom is in fact a warning that draws attention to undesired consequences of any clash that is coined as “war”. As other medical associations in the world, the Turkish Medical Association too have made such statements at different times and for different situations for the purpose upholding the values of peace and health.

Physician’s Attitude in Conflicts

Medical associations stand for peaceful ways of settlement in cases of armed conflict and use of military force. It is a well-known fact that wars in our day are not fought as pitched battle. It is fought in cities, places of settlement where civilian people including women, children and old people live. Civilians are killed and wounded, children are caught by nightmares. Water supply and sanitation networks and farming areas are destroyed, diseases spread, hunger and famine prevails and people start migrating. Health systems too are destroyed and access to healthcare becomes impossible. Physical, biological and emotional effects of weapons used create trauma. And physicians upholding human life in all circumstances therefore consider use of arms as a preventable public health problem and ask for peace and devising ways to prevent public health problems.

It is for these destructive outcomes of war that our Constitution raises the motto “peace at home and peace in the world” in its preamble.

It was recognised in unanimously adopted resolutions of the UN General Assemblies on 15 December 1978 and 12 November 1984 that living in peace is a right for all human beings and it is the responsibility of States to ensure this.

The demands of peace by speakers of organizations active within the framework of rules put by the law and their stress on public health problems caused by use of arms are safeguarded by the Constitution starting from its preamble and continuing with Articles 25 and 26 as well as by Article 10 of the European Convention on Human Rights.

The experience of the 2nd World War is one of the factors leading professional organizations of physicians to place more emphasis on values of the profession of medicine. Unfortunately, the dependency of professional organizations to political power in Germany in the 1930s and 1940s made the profession of medicine an instrument of Nazi racism which is followed by appalling events against humanity. Intensive violation of professional ethics under circumstances of war and conflict made it necessary to further develop professional ethics and ensure their adoption as norms.

Following the 2nd World War, national medical associations founded the World Medical Association with a special status, which has its 114 members today representing over 10 million physicians. This special status defines a common ground in defending the values of the profession. It derives from the instrumentalization of the profession in the hands of Nazis in Germany for purposes of racism. In article 2 of its charter, the WMA envisages that national medical associations should independently work for the promotion of the profession to the benefit of humanity and in line with human rights and only those associations abiding by these principles should be admitted to membership. The lesson drawn from the past experience was that professional associations must represent physicians and values of the profession independent of any power or authority.

The Turkish Medical Association is one of the founding members of the WMA. Prof Dr Ahmet Rasim Onat who was the one of the founders of the Turkish Medical Association and its President from 1953 to 1961 also headed the WMA in the period 1957-1958. The 11th General assembly meeting of the WMA was held in İstanbul in October 1957 during the presidency of Prof Onat. This general Assembly meeting also addressed the issue of physicians' attitude in situations of armed conflict which resulted in edited text of "WMA Regulations in Times of Armed Conflict."

Opinions stated in this 61 years old document adopted by the General Assembly meeting hosted by Turkish Medical Association were reconsidered by the 68th General assembly Meeting of the Association held in Chicago in October 2017 and the document "WMA Statement on Armed Conflicts" was adopted. In the preamble of the document it is stated that the duties of physicians in times of armed conflict are set out in the present statement. Referring to present and future health and environmental problems that armed conflicts lead to, the document defines the role of physicians as follows: "Physicians should encourage politicians, governments, and others in positions of power to be more aware of the consequences, including the impact on health, of their decisions on the commencement or continuation of armed conflict." It is stated that this role derives from medical ethics of observing the best interest of human beings and protecting human life without any discrimination. The document also states that the performance of this role should be independent of who warring parties and their motives are.

The terms "war" and "armed conflict" are used interchangeably in the document with reference to their devastating consequences "Armed conflict damages the health of individuals and of populations as well as critical infrastructure including health care facilities, housing, potable-water supplies and sewerage. It also leads to environmental degradation. Such destruction of critical infrastructure may lead to adverse health consequences including malnutrition, and infectious or waterborne diseases, such as cholera and typhoid. Warfare also destroys work-related infrastructure, including factories and manufacturing centres as well as agriculture. Repair to damaged infrastructure cannot proceed until cessation of the conflict."

The same document also states: "Wars start for many different reasons. Efforts to avoid conflicts are often insufficient and inadequate and country leaders may not seek all alternatives. Avoiding war and seeking constructive alternatives is always desirable."

The document draws attention to the contribution of wars and armed conflicts to the aggravation of poverty and increase in the number of internally displaced persons and refugees. It is stated that physicians must exert influence on hostile parties to mitigate the suffering of civilian population and

stresses that “physicians and national medical associations must warn governments and non-state actors about the consequences of war for population.”

On Documents in my Archive Files

The text titled “We are in mourning, fury and opposition!” dated 10 October 2015 and found in my archives is the joint press statement made by DİSK, KESK, TMMOB and TMA immediately after the rally for “Labour, Peace and Democracy” on the same date where 102 people were killed as a result of sabotage bombing. It is only natural since as a CC member I keep the archive of all statements that the association made or undersigned.

The indictment also covers the statement titled “It is quite possible to live in peace and equality on this land!” made by the TMA Central Council on 1 September 2016 on the occasion of the International Day of Peace.

Many of our citizens were killed, injured and mutilated in bombed attacks taking place in our country particularly in 2015 and 2016. As physicians we know well that these attacks aim to terrorize the society with feelings of fear and insecurity and harm ties connecting the elements of society together which leads to physical and emotional disorder in individuals.

Outcomes of these bombed attacks have left their deep imprints on us, on physicians whose duty is to keep people alive. The special meaning of the massacre of 10 October 2015 for us is that the Turkish Medical Association was one of the organizers of the rally together with DİSK, KESK and TMMOB. Given the effects of such events on society and individual who are exposed to, the Turkish Medical Association has its significant tasks in this respect including medical and psychosocial support.

In a period when bombed attacks and their casualties affect the society as a whole and threaten peace and social bonds, the act of making a statement after a horrible attack leading so many deaths during a rally or on the Day for Peace on the part of a professional organization must be evaluated with reference to these circumstances. Our statements reflect a reaction against such attacks and the desire to live together in peace. It must therefore be evaluated in the context of the freedom of expression which is safeguarded by various national and international instruments.

According to technical information prepared by the informatics branch of the General Directorate of Security Department of Cybercrime, a conference outcome document titled "The Meaning of Rojava Revolution" was found in 256 GB capacity SANDISK SSD with serial number 140305413183 in my Apple laptop with serial number C02M7PT4FH00. I found out about the existence of this document that is claimed to be in my archives only with the indictment and I am still totally unaware of its content. I have never had a file with this title. I must inform you at this point that I keep all my files in my desktop computer, use my Apple laptop with serial number C02M7PT4FH00 only for typing during meetings, and I do not keep any archive file in that laptop.

I started by quoting Dr Füsün Sayek, one of the former presidents of the TMA, and now I want to finish by quoting Nusret Fişek, another unforgettable leaders of our association from its article

“Peace, Democracy and Health” published 32 years ago, in 1986 in the journal Community and Physician:

“Healthy and decent life for all and state of complete well-being in social terms cannot be attained unless democracy is operating fully with its rules.” (Community and Physician, 1986, No: 40)



Regards.

Dr. Mehmet Raşit Tükel

Sources

World Medical Association (2015) Medical Ethics Manual, Revised 3rd printing, Ferney-Voltaire.

Human Impact Partners (2011) A Health Impact Assessment Toolkit: A Handbook to Conducting HIA, 3rd Edition. Oakland, CA: Human Impact Partners.

Marmot, M (2011) Social Determinants of Health - What Doctors Can Do? British Medical Association.