

THE
EUROPEAN
UNION
AND
TURKISH
ACCESSION

Human Rights
and the Kurds

KERIM YILDIZ·MARK MULLER

FOREWORD BY NOAM CHOMSKY

The European Union and Turkish Accession

Also available by Kerim Yildiz:

The Kurds in Syria: The Forgotten People

The Kurds in Iraq: The Past, Present and Future

The Kurds in Iran: The Past, Present and Future

(with Tanyel Taysi)

Kurdish Human Rights Project

11 Guilford Street

London

WC1N 1DH

United Kingdom

Tel: +44 20 7405 3835

Fax: +44 20 7404 9088

Email: khrp@khrp.org

The Kurdish Human Rights Project (KHRP) is an independent, non-political, non-governmental human rights organisation founded and based in London, England. KHRP is a registered charity and is committed to the promotion and protection of the human rights of all persons living in the Kurdish regions, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include both Kurdish and non-Kurdish people.

The European Union and Turkish Accession

Human Rights and the Kurds

Kerim Yildiz
and
Mark Muller

Foreword by Noam Chomsky

Pluto  Press

LONDON • ANN ARBOR, MI

in association with

KURDISH HUMAN RIGHTS PROJECT

First published 2008 by Pluto Press
345 Archway Road, London N6 5AA
and 839 Greene Street, Ann Arbor, MI 48106

www.plutobooks.com

Copyright © Kerim Yildiz and Mark Muller 2008
Foreword © Noam Chomsky 2008

The right of Kerim Yildiz and Mark Muller to be identified as the authors of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988.

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

ISBN 978 0 7453 2785 3 Hardback
ISBN 978 0 7453 2784 6 Paperback

Library of Congress Cataloging in Publication Data applied for

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

10 9 8 7 6 5 4 3 2 1

Designed and produced for Pluto Press by
Chase Publishing Services Ltd, Fortescue, Sidmouth, EX10 9QG, England
Typeset from disk by Stanford DTP Services, Northampton, England
Printed and bound in the European Union by
CPI Antony Rowe Ltd, Chippenham and Eastbourne, England

KY

To my wife Bridget and my son Dara

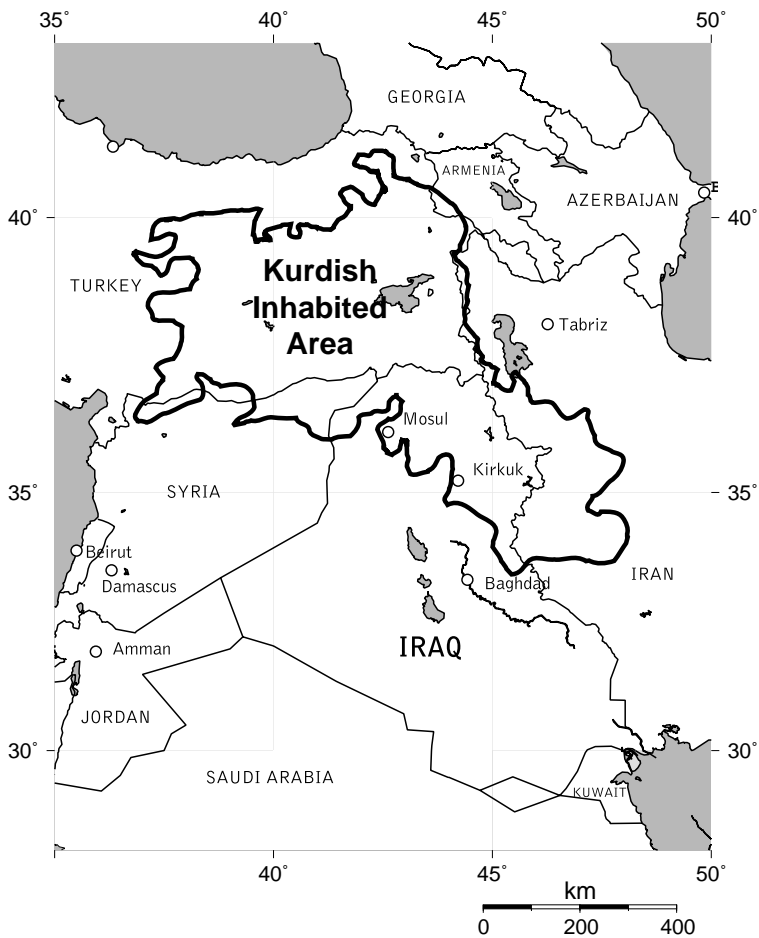
MM

To my wife Catherine and my children
Louis, Charlotte and Isabel

Contents

Map of the area inhabited by Kurds	ix
Acknowledgements	x
Foreword by Noam Chomsky	xi
List of Abbreviations	xviii
Introduction	1
1. Background	4
The Kurds	4
The Turkish Republic	12
2. Turkey and the EU	20
The route to accession	20
The opening of formal EU accession negotiations	24
Turkey's EU bid in a wider political context	25
Fulfilment of the Copenhagen Criteria for EU accession?	29
3. Civil and Political Rights in Turkey	39
The pro-EU reform process	40
Torture and 'zero tolerance'	42
Freedom of expression, publishing and the media	50
Civil society in Turkey	62
Political participation	67
4. Cultural and Minority Rights in Turkey	77
Cultural and linguistic rights	78
EU reforms	90
Minority rights standards in Turkey	93
Definitional issues	98
Substantive rights	102
5. Conflict in the Southeast	106
Origins and development of the conflict	106
Resolving the conflict	110
The EU and the conflict in the southeast	117
The Kurdish question from a Turkish perspective	122

6. The International Dimension to the conflict	126
Turkey and Kurdistan, Iraq	127
Turkish military activity in Kurdistan, Iraq	132
Turkey, Iran and Syria	137
7. The Military and the Islamist Movement	144
Secularists vs Islamists	145
The Islamist movement, human rights and the Kurdish issue	147
The AKP, Turkey and the Military	148
8. Internal Displacement	152
Background to displacement	152
Conditions and difficulties faced by internally displaced persons	156
The government response to displacement	157
State impediments to return	163
The international response to internal displacement in Turkey	165
9. The EU and the Kurds	169
Europe's role in solving the Kurdish question	169
Assessment of the EU's approach	178
The Kurdish perspective on EU accession	184
10. The Future of EU Accession	189
Human Rights and EU Accession	191
Implications of the Accession Process	193
Notes	200
Index	231



Map of the area inhabited by Kurds

Acknowledgements

The authors would like to thank Johanna Nykanen, Ellinor Hamren, Charlotte Alfred, Anna Irvin, Mustafa Gündoğdu and Morten Thorsted for their invaluable research assistance and Mark Ellison for the map artwork.

The main body of research was compiled in June 2007, and updated in September 2007. For up-to-the-minute information please refer to www.khrp.org.

Foreword

Noam Chomsky

Turkey is, one may argue, a country of contrasts. The oft-employed definition of Turkey as ‘a bridge between the East and the West’ is only the beginning of the numerous disparities that exist in modern Turkey. There are enormous opportunities, but at the same time, great threats; huge potential but continuous misuse of it; optimism, let down by dark pessimism; modernism but backwardness; rapid reforms swiftly followed by periods of radical conservatism. Such uneven existence can be traced as far back as the founding of the republic in 1923, when a new identity was forced upon the population by the ruling elite; the Turks, arguably, still feel uneasy about their identity and are in constant search of a comfortably constructed mould in which to place themselves. Perhaps no country has tried to ‘Westernize’ itself as much as Turkey. Though criticism of its ‘Western’ credentials from some European quarters can be harsh, it is nonetheless true that Turkey has yet to fully embrace the values that make a country truly modern: human rights and democracy.

The Kurdish population of Turkey is the most obvious victim of Turkey’s continuing identity crisis and uneven approach towards modernization. Turkey was founded on an idea of a homogeneous nation state, ‘one state, one nation’, in which all citizens were defined as ‘Turks’. The illusion of a homogenous population was short-lived, but the strong state and its repressive attitude towards any non-Turkish elements within the republic, alas, prevails. Needless to say that such an approach and its implementation is constantly blocking Turkey’s way to genuinely break free from the contrasts that have so often contributed to the struggle to truly modernize herself.

The depressing reality of today’s Turkey is that severe repression and violence continue to reign. Anyone who speaks against the official state policies, practising the fundamental right of freedom of speech, faces the threat of being prosecuted for offences such as ‘insulting Turkishness’ or using the Kurdish language in public. I have been greatly privileged to catch a glimpse of Turkey from Istanbul in the west, to Diyarbakır, the capital of the Turkey’s Kurdish southeastern region. However, much to my surprise, I returned from

Turkey feeling far more optimistic than when I went. It was truly inspiring to witness first-hand the courage and dedication of the leading artists, writers, academics, journalists, publishers and others who carry on the daily struggle for freedom of speech and human rights, not just through statements but also through regular civil disobedience, facing penalties that can be severe. Some have spent a good part of their lives in Turkish prisons because of their insistence on recording the true history of the miserably oppressed Kurdish population: sociologist İsmail Beşikci, to mention one notorious case, was re-arrested in 1993 for publishing a book on state terror in Turkey, having already spent 15 years in prison. He also refused a \$10,000 prize from the US Fund for Free Expression in protest against Washington's strong support for Turkish repression, which is virtually unknown in the US, in accord with the standard principle that one's own crimes must be effaced.

It is ironic that while promoting human rights and democracy, the US highly praises Turkey for its counter-terror methods. Traditionally, the US and Turkey have a 'special relationship'. On the outbreak of the Cold War, the US quickly realized Turkey's geo-strategic importance as a Western enclave in an otherwise volatile region, and granted her a NATO membership in 1952. Over 50 years later the Europeans are still debating Turkey's suitability to join their 'Western club' and are even more suspicious of any feasible security arrangements with Turkey. Turkey remained a loyal ally of the US throughout the Cold War, and the collapse of communism in the late 1980s witnessed a renewal of the partnership in keeping with emerging US strategic concerns. Rather than acting as a bulwark against the Soviet threat, Turkey was now a channel through which to influence the heartland of Eurasia; Central Asia. Turkey was the most devoted ally of the US in the first Gulf War of 1990–91 and, as a result, received vast economic assistance, and substantial military aid.

The post-9/11 'War on Terror' era kick-started a new dimension to the relationship. Despite clear evidence of grave breaches of human rights of the Kurds in Turkey, no Security Council resolutions have ever been passed on the matter and the furthest that the US is willing to acknowledge the problem is to qualify it as an internal one. The US administration's 'Back to Realism' approach is very much in line with that of the military hard-liners in Turkey. And in a country where the military has such a prominent role in politics, it is the rigid stance of the military that, to a large degree, shapes mainstream policies. It is, however, paradoxical that the US appears to have great concern

for the human rights and well-being of the Kurds of northern Iraq but turns a blind eye to serious human rights violations across the border in Turkey. Such contradictions inevitably serve as evidence that US foreign policy is more driven by strategic interests than genuine human rights concerns. In recent years, there have been growing arguments that the 'special relationship' between the US and Turkey is falling apart and that Turkey is growing more and more anti-American. However, many observers judge such arguments as mere fallacy. As former Turkish ambassador Özdem Sanberk has stated: 'Any talk of "alternatives" [to Turkey's pro-Western foreign policy] is just talk.'¹

Speaking from personal experience, which I bring up with diffidence, for what it may be worth, there seems to be a good deal of public support in Turkey for the people who are carrying out the struggle for free speech and human rights, and who should inspire not only great respect but also humility among their Western colleagues. The record of abuses continues day after day, and could be brought to an end with public support in the West. The courage of the people is beyond my ability to describe, from children in the streets wearing Kurdish colours – a serious offence, for which punishment of the families could be severe – to a large and enthusiastic public meeting I attended in Diyarbakır. At the end of this meeting several students came forward and in front of TV and police cameras, presented me with a Kurdish–English dictionary. This was an act of considerable bravery, and a precious gift; right at that time students and their parents were being interrogated, reportedly tortured, and facing imprisonment for submitting legal petitions requesting the right to have elective courses in their native language. On the front page of the dictionary they wrote the following words:

Do you know the pain of not seeing our dreams in our mother tongue? We would like to see our dreams in our mother tongue. And we gave 1600 applications to see our dreams in our mother tongue. And we are being judged 'human interference' in order to see our dreams in Kurdish. And we are being arrested to see our dreams in Kurdish. Our main goal is to shout our language that has lost its voice for ages.

Denial of even these minimal rights is cruel beyond words. They have the support of many brave and honourable people in Turkey, facing prison or worse. They ask only that we offer them every form of

assistance within our reach, and do what we can to help them achieve their worthy and justified aims – which means, in particular, putting an end to our critically important contribution to the repression and violence to which they are subjected.

As part of the accession process the European Union has posed human rights conditions for Turkish application for membership. The conditions are justified and have prompted Turkey to engage in democratic reform. Since 2002 the Turkish Parliament has passed new laws that have a good deal of promise. However, despite these developments Turkey's relationship with Europe remains troublesome; much to the frustration of the EU, Turkey's reform process has recently experienced a slowdown, a setback some would argue, and there are suspicions, justified too, that elements within the EU may seek to raise the bar continually because of an unwillingness to tolerate Turkish membership in the European club. These are all matters that should not be ignored within Europe.

Notwithstanding the reforms enacted as a part of the EU accession process, reports from international organizations continue to outline both the promise and the inadequacy of the Turkish reform process, and call on us to support the people of Turkey in overcoming the repressive acts of the Turkish state. The current record is mixed. There is general agreement that day-to-day repression has been mitigated. On the other hand, anti-democratic tendencies stall the reform process, and, as throughout the world, the fight against terrorism continues to be used as a pretext by the Turkish state for committing human rights violations. Turkish anti-terror legislation has recently been amended so as to target the free press and media, just as the rights of people held in detention on terror-related charges have been seriously limited. Trials for 'thought crimes', the continued application of officially defunct 'state of emergency rules', the bars against return to villages, and other serious abuses further cast doubt on the comprehensiveness of the Turkish reform process. The Publishers Union of Turkey has reported a rising trend in the banning of books and music, and accusations against authors and publishers. This practice of state intimidation has led to an environment of self-censorship among Turkish intellectuals. Kurds and Kurdish issues remain the primary targets, but not the only ones; even a dictionary about women's slang was banned, also a grammar and dictionary of a local Greek dialect.

Turkey continues to pursue a policy of perceiving the situation in the southeast of the country as a security matter linked to terrorism.

Turkey has long been convinced that unrest in the southeast region is orchestrated by Kurdish separatist groups operating from the mountainous area between Turkey and Iraq. Relations between Turkey and the autonomous Kurdish region in northern Iraq are at a frosty low due to Turkey's recent accusations that the Kurdistan Regional Government is aiding what Turkey refers to as 'Kurdish terrorists'. Turkey has threatened to invade parts of northern Iraq in order to root out alleged terrorist camps. In February 2007, during a visit to Washington, the Chief of Staff of the Turkish military, General Yaşar Büyükanıt, underlined the determination of the military to protect Turkey's territorial integrity, targeting his tough remarks at separatist Kurds on both sides of the Turkish-Iraqi border as well as Kurdish leaders in Northern Iraq.² Iraq's Prime Minister Nouri al-Maliki and President of the Kurdistan Regional Government Masoud Barzani have urged Turkey not to engage in military activity in northern Iraq as such an operation would only worsen the situation and turn the relatively peaceful area into a battlefield. Relations between the two neighbours were further damaged when in mid-June 2007 the Turkish state prosecutor launched an investigation against Barzani for allegedly lending his support to Turkish Kurdish rebels. Iraqi President Jalal Talabani, himself a Kurd, has warned Turkey that Iraq will not accept 'interference in our affairs'.³

The political changes following the US invasion of Iraq in 2003 have further fuelled Turkey's anxiety over developments in northern Iraq, in particular in relation to the situation in Kirkuk. The issue of Kirkuk threatens to worsen already fragile diplomatic relations between Turkey and Iraq. Turkey's greatest fear is that Kurdish control over Kirkuk and its vast oil resources will provide the Iraqi Kurds with the necessary economic resources to operate with relative autonomy from Baghdad or declare independence. Thus, Turkey is determined not to allow Kirkuk to be incorporated into a Kurdish entity within a federal Iraqi state. Turkish Prime Minister Recep Tayyip Erdoğan has warned that Turkey will not stand by if Kurds try to realize the objective of including Kirkuk in a Kurdish autonomous region.⁴

Turkey's engagement in northern Iraq combined with the Kirkuk issue pose a considerable strain on the relationship between long-term allies US and Turkey. Turkish concerns have been greatly aggravated by what Turkey sees as America's failure to keep Kurdish ambitions in Iraq in check. In response the US has sought to reassure Turkey by stressing that the US will not countenance the splintering of Iraq. Turkey has become increasingly frustrated by the unwillingness of

the US to deal with 'Kurdish terrorists' in northern Iraq. However, Prime Minister Erdoğan is under pressure from the US not to further complicate the already disastrous situation there.

The situation highlights the importance of reaching a solution to the Kurdish issue. So far, there has been an apparent lack of international political will to classify the situation in the southeast of Turkey as anything other than an internal terror-related issue. At present, with the situation threatening to spill over into northern Iraq the need for a democratic solution is as great as ever. However, neither Turkey nor the US has seriously or honestly made efforts to pursue a democratic solution to the situation. Given the dedication of both administrations to the 'War on Terror', it is unlikely that any initiative will be formed from that side. Thus, with the accession process in train, the EU has an unprecedented opportunity to push for a democratic solution to the Kurdish issue and the situation in the southeast.

Domestically, the EU is often viewed as the most effective channel to democratization; as an MP from the ruling Justice and Development Party (AKP) points out:

We felt from the very beginning the desperate need for democratisation in the country and that was one of our main starting points. I view the EU as an anchor in that process ... an anchor that can help all segments of Turkish society live in peace. There will not be any grounds for radicalisation, both ethnic and religious, with the EU anchor firmly in place.⁵

So far, despite its Islamic roots, the AKP has appeared seriously committed to the EU reform process, and in fact has been the most effective vehicle toward democratization that the Turkish Republic has perhaps ever witnessed. The much anticipated elections in July 2007 confirmed the public's trust in the AKP's efforts; Turkey's electorate gave its massive support to the AKP in a landslide victory.

Turkey's current accession process presents the EU with a historical opportunity to finally realize its potential to take the lead as a serious international player and to challenge US hegemony. Unless the EU takes a prominent role in the region, the international community might see a repetition of the events that occurred in the Balkans in the 1990s when the EU failed to take adequate action to prevent gross human rights violations. The inability of the EU to act prompted the US, once again, to intervene in European affairs. Given the US fight

against terrorism, any US-brokered solution to the human rights issue in the southeast would be unlikely to benefit the Kurds of Turkey.

The international community has a responsibility towards the Kurds in reaching a democratic solution to the long-lasting struggle of the Kurds in Turkey. It is perhaps the most elementary of moral truisms that we are primarily responsible for the anticipated consequences of our own action, or inaction. It is easy, and sometimes gratifying, to wring our hands over the crimes of others, about which we can often do little. Looking in the mirror is vastly more important, not merely to preserve elementary integrity, but, far more significant, because of what we can then do, if we wish, to help people who are struggling so courageously for elementary rights.

Abbreviations

AKP	Justice and Development Party
BIA	Independent Communications Network
CAT	United Nations Convention Against Torture
CLRAE	Congress of Local and Regional Authorities of Europe
COE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DEHAP	Democratic People's Party
DEP	Democracy Party
DTP	Democratic Society Party
EC	European Community
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
EEC	European Economic Community
EU	European Union
EURATOM	European Atomic Energy Community
FCNM	Framework Convention on National Minorities
FIDH	International Federation of Human Rights Leagues
GAP	Southeast Anatolia Regional Development Project
Göç-Der	Migrants' Social Solidarity and Culture Association
HADEP	People's Democracy Party
HEP	People's Labour Party; now DEP
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racism and Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	internally displaced persons
İHD	İnsan Hakları Derneği (Turkish human rights foundation)
KDP	Kurdistan Democratic Party
KHRP	Kurdish Human Rights Project
NATO	North Atlantic Treaty Organization

NGO	non-governmental organization
OHAL	Olağanüstü Hal (State of Emergency) Legislation
OSCE	Organization for Security and Cooperation in Europe
PDKI	Democratic Party of Iranian Kurdistan
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan
RTÜK	Supreme Board of Broadcasting
SHP	Social Democratic Populist Party
STP	Socialist Party of Turkey
TL	Turkish liras
TOHAV	Foundation for Social and Legal Research
TSK	Turkish Armed Forces

Introduction

In 2004, the European Union (EU) delivered the historical and long-awaited decision to open the formal accession negotiations with Turkey. The prevailing mood, on both sides, was filled with hope, promise and optimism. For Turkey, the decision meant an eagerly anticipated step closer towards membership of the 'exclusive club' of Western states. For the EU, the decision enabled it to kick-start the reform process within Turkey. Fast-forward three years later to 2007, and the air of optimism has, unfortunately, faded and been replaced by scepticism, unfulfilled promises, pessimism and rising tensions.

This book follows the development of the accession process, analysing the various aspects of the negotiations between the EU and Turkey. It expands the viewpoint to provide wider examination of the current accession process, covering civil, political, cultural and minority rights in Turkey; the military and Islamists in Turkish politics; conflict in the southeast and its international dimension; internal displacements; the Kurdish question, and future considerations of the accession. There is a pressing need for discussion on the issues this book covers because, despite the seemingly rapid reform process since the opening of the accession talks, most of the reforms are yet to be realized. Turkey continues to violate the basic rights of her citizens and up until now, the lack of commitment towards genuine reforms has been unfortunately explicit in Turkey. Furthermore, since 2004 there has been a sharp increase in resistance within Europe to Turkey's accession to the EU, which creates further obstacles on the path towards the membership. Correspondingly, the support for, and trust in, the EU is declining in Turkey, coupled with rising nationalism.

There is an increasing danger that the relationship between the EU and Turkey will further deteriorate, leading to a renewal of the suspension of negotiations that took place in December 2006. Delay, or a total breakdown of the accession talks would have serious implications for human rights in Turkey. The EU holds immense monitoring and political pressuring power, and without such force there is a risk of Turkey permanently returning to her brutal and uncompromising ways. Thus, it is crucial that the negotiations are kept on track, but at the same time, Turkey must fully commit

herself to the reform process. This book emphasizes the need for a constructive, political dialogue between the two sides, which would transform the accession talks from a top-down system to a more dialogue-based one. The opening up of a new common ground for constructive dialogue on all levels of society on both sides would ensure a more democratic and smooth transformation of Turkey into a truly democratic entity, and the creation of a platform of mutual understanding.

This book aims to shed further light on the human rights situation in Turkey. The steps taken by Turkey to overcome her poor human rights record, although promising, are far from adequate. Serious violations, such as torture, are still constantly reported and the treatment of internally displaced persons remains abysmal. In relation to minority rights, the Kurdish population in Turkey continues to be subjected to severe discrimination and ill-treatment. Freedom of speech is seriously limited, which is apparent not only in the everyday life of journalists and authors in Turkey, but also in the number of high-profile court cases against writers and intellectuals, such as the Nobel Prize winner Orhan Pamuk. Intellectuals are continuously harassed and threatened if they dare to criticize or speak out against the official state policies.

The atmosphere in Turkey throughout 2007 was tense: the EU accession talks were partly suspended due to Turkey's insistence on not opening her ports to vessels from the Republic of Cyprus; in January, the prominent Armenian journalist, Hrant Dink, was murdered in broad daylight in Istanbul, allegedly by an ultranationalist; severe clashes took place between the country's secular and Islamist circles; there was obvious military interference in politics; the situation in the southeast deteriorated to such an extent that three of its provinces were declared 'security zones'; and the Kurdish population was facing continuous suppression and restrictions on the freedom of expression. In such a continuously fragile situation there is a pressing need for the genuine implementation of, and firm commitment to, the EU reforms.

The EU accession bid offers the international community a unique opportunity to improve the human rights situation in Turkey through political and diplomatic means. This book remains optimistic about the soft power of the EU in transforming Turkey. However, a constructive dialogue between the EU, its member states and Turkey is crucial if Turkey is truly to democratize herself. Turkey's future is now in the hands of the country's decision-makers and public alike. Can

a new movement at long last be seen in Turkey towards democracy and healthy diversity, or will a return to the authoritarian practices of the past prevent Turkey from realizing sustainable progress? The time is now right for permanent change and for Turkey to emerge into a fully democratic future.

1

Background

The Kurds, a tribal people with a cohesive and distinct identity who originate from the Zagros Mountains in northwest Iran, have endured a history of oppression and abuse. Ultimately denied the opportunity for independence provided for in the 1920 Treaty of Sèvres, the Kurds were later divided between the border areas of Turkey, Iraq, Iran and Syria where they were viewed with profound mistrust and hostility, their existence as a people was denied and they consequently endured decades of repression, violence and forced assimilation.

In Turkey, the birth of the new republic under the tutelage of Kemal Atatürk in 1923 saw the imposition of a mono-ethnic nationalism which sought to extinguish the notion of a distinct Kurdish people. 'Security concerns', inspired by the location of Kurdish communities in Turkey's sensitive border regions, bolstered this aim. This came to a head after 1984, when a government-declared State of Emergency in the southeast provided a framework for torture, killings, forced displacement, and severe restrictions on Kurdish cultural and political expression, against a backdrop of ongoing armed conflict.

THE KURDS

The Kurds are believed to number around 30 million and are widely believed to be the largest group of stateless people in the world. Despite this, they have maintained a strong ethnic identity for over 2,000 years. As an ethnic group, the Kurds are the product of years of evolution stemming from tribes such as the Guti, Kurti, Mede, Mard, Carduchi, Gordyene, Adianbene, Zila and Khaldi,¹ and the migration of Indo-European tribes to the Zagros Mountains some 4,000 years ago.² The Kurds have a clan history, and have traditionally been organized into tribes and inhabited rural districts herding sheep or goats, with some adherence to a nomadic or semi-nomadic lifestyle. It is estimated that there are over 800 tribes in the Kurdish regions.³

The Kurds do not have a single common language, but the most widely spoken Kurdish dialects⁴ are Kurmanji and Sorani which are usually mutually understandable. Kurmanji is spoken predominantly

in Turkey, Syria and the Caucasus, as well as by some Iranian Kurds.⁵ Sorani is spoken by Iraqi Kurds south of the Greater Zab, and by Iranian Kurds in the province of Kordestan. To the far north of Kurdistan, the Zaza dialect is also spoken. The Kurdish language(s) belong to the Indo-European language family. They have been influenced by contact with surrounding modern languages and at times evolved accordingly; for example, Kurdish in Turkey contains some Turkish words.⁶

Likewise the Kurds do not share a common religion. Most are Sunni Muslims who converted between the twelfth and sixteenth centuries and are part of the Shafi'i school of Islam. Many of Iran's Kurds living in the provinces of Kermanshah and Ilam, though, are Shi'ite. Other Kurds follow Alevism, an unorthodox form of Shi'ite Islam, as well as the indigenous Kurdish faith of Yezidism. There are minor communities of Kurdish Jews, Christians and Baha'is.

The use of the name 'Kurd' dates back to the seventh century AD, and 'Kurdistan', meaning 'land of the Kurds', was a term which first appeared in the twelfth century when the Turkish Seljuk Prince Saandjar created a province of that name in modern-day Iran.⁷ In the sixteenth century the term came to refer to a system of fiefs generally.⁸ The borders of Kurdistan have fluctuated over time, and the Kurds are now spread through Turkey and the Middle East with smaller populations to be found in the Caucasus. There are no fixed borders of the area commonly referred to as 'Kurdistan', but the heart of the Kurdish-dominated regions is the Zagros mountain chain which lies in the border area between Iraq, Iran, Syria and Turkey, as well as the eastern extension of the Taurus Mountains. It also extends in the south across the Mesopotamian plain and includes the upper reaches of the Tigris and Euphrates rivers. Many Kurds have fled the brutality of the regimes governing the Kurdish regions to seek refuge in Western Europe where they form a sizeable and influential diaspora, particularly in Germany, France, Sweden, Belgium and the United Kingdom.

The term 'Kurdistan' refers to more than merely a geographical area, though, and also denotes the culture of the people who inhabit the lands. As successive regimes in Turkey, Iran and Iraq have been extremely reticent about acknowledging the presence of the Kurds within their borders, and Syria has denied that Kurdistan stretches across its boundaries, drawing a map of Kurdistan is always contentious. However, there is no doubt that there exists a large, contiguous area of predominantly Kurdish-inhabited lands, and the

idea of Kurdistan has a real meaning to the people who live there, as well as to Kurds forced into exile in Europe and across the world.

Ascertaining the numbers of Kurds is no easy task, largely because the denial of the existence of the Kurds or state desires to understate their numbers for political reasons throughout the regions they inhabit mar official census data. It is generally thought that the Kurdish population in Turkey is the largest in the regions, both numerically and in terms of the percentage of the overall population in the country it comprises. It currently amounts to approximately 15 million, and makes up around 23 per cent of Turkey's population of 69 million. Iraq is believed to contain 4 million Kurds, making up 20 per cent of the population; for Syria the figures are 1 million and 9 per cent, and for Iran 7 million and 15 per cent.

The Kurds in Turkey are concentrated into the south and east, and form a majority of the population in provinces there including Mardin, Siirt, Hakkâri, Diyarbakır, Bitlis, Muş, Van and Ağrı.⁹ The provinces of Urfa, Adıyaman, Malatya, Elazığ, Tunceli, Erzincan, Bingöl, and Kars have also been traditionally dominated by Kurdish populations.

Most Turkish Kurds speak Kurmanji, but in the northwest of the Kurdish-dominated area, mainly in the provinces of Tunceli and Elazığ, Zaza is spoken.¹⁰ With regard to religion, the Kurds in Turkey can largely be divided into two groups: Sunni Muslims and Alevis. Eighty-five per cent of the Kurdish population is Sunni Muslim, while Alevi Kurds form the minority 15 per cent.¹¹

From the sixteenth century, the Kurds occupied the border lands between the Ottoman and Persian Empires. The region was held by a varied string of rulers including the Seljuk Turks in the eleventh century, the Mongols from the thirteenth to the fifteenth century, and then the Safavid and Ottoman Empires. During these periods the Kurds occupied a fairly inhospitable land and, particularly under the Ottomans, were largely afforded autonomy and considerable freedom to manage their own affairs.¹²

This was all to change, however, when the Ottoman Empire was carved up in the aftermath of the First World War, and the Kurds were divided between modern-day Iraq, Iran, Syria and Turkey. At this time, strategic political considerations generated a preoccupation among the Great Powers with self-determination and the protection of minority groups. Woodrow Wilson's Fourteen Point Program for World Peace accordingly included the provision that the non-Turkish

minorities of the Ottoman Empire should be '*assured of an absolute unmolested opportunity of autonomous development*'.¹³

As such, the 1920 Treaty of Sèvres, signed by the Allied powers and the Constantinople government, had envisaged independence for minority peoples of the former Ottoman Empire including the Armenians, the people of Hejaz and the Kurds.¹⁴ Under Article 64 of the treaty, the Kurds would be granted independence within a year. However, there persisted important factors with the potential to upset the realization of Kurdish independence. There were fears in Europe over the threat of the Soviet Union achieving influence over newly formed states, while the British maintained the unsubstantiated belief that a Kurdish leader could not be found who was willing to sacrifice his own tribal interests for the greater purpose of Kurdish nationhood.¹⁵ Britain was made the mandate power authority over Mesopotamia in 1920 and although she seemed at the start committed to the principle of keeping the Kurdish areas separate, pressure mounted to incorporate the area of Mosul into a new Iraqi state.

Ultimately, although the British signed a Joint Declaration with the Iraqi government in 1922 recognizing the rights of the Kurds, the emergence of the new Turkish leader Mustapha Kemal Atatürk and the war of national independence waged by the Turks turned the course of events. With the exception of Greece, the Treaty of Sèvres was not ratified by the signatory countries and the provision for Kurdish autonomy was thus never implemented. Sèvres had been seen as a humiliation by Turkey and was repudiated by the new republic. The aftermath of the Turkish War of Independence saw Sèvres superseded by a new accord in 1923, the Treaty of Lausanne, which largely established the current borders of Turkey. This new instrument ignored Kurdish claims to self-determination and recognized only religious minorities as in need of protection. However, it was recognized by the Allies, and Turkish sovereignty was restored over the Kurdish-dominated area accorded independence under the Treaty of Sèvres. The remaining Kurdish-dominated lands were divided between Iran, Syria and Iraq, with the Allied powers drawing up new national boundaries giving more heed to the allocation of oil resources and rewarding friendly Arab leaders than to the ethnic distribution of the Kurds and their right to self-rule. The Kurds had no real voice in the discussions over the future of their traditional lands.

The relative autonomy which the Kurds had enjoyed was thereafter substantially rescinded and Kurdish communities were everywhere

treated with distrust. Deeply held suspicions over the ambitions of the Kurds, a large, non-Arab population inhabiting an area of significant strategic importance, came to dog the regimes governing the Kurdish regions and became a key factor informing their policies towards the Kurds. At the same time, these newly emerging, vulnerable nation states were keen to preserve their new-found independence by fostering a strong national unity and overcoming factionalism or perceived threats to their territorial integrity.

It is difficult to overstate the importance of these factors in dictating the course of Kurdish history over the following 80 years. From the start, expressions of Kurdish identity were discouraged and the Kurds were compelled to behave in accordance with the norms of the countries in which they now found themselves. In time, military incursions into Kurdish regions became common occurrences, with comprehensive attempts made to forcibly dissipate Kurdish networks in border areas and stamp out the notion of a separate Kurdish identity.

In Iraq, the ending of the British mandate with the 1930 Anglo-Iraq Treaty of Alliance did not result in the securing of Kurdish autonomy or basic rights. This was despite the fact that an International Commission of Inquiry set up by the League of Nations had specifically recommended in 1925 that Mosul remain under a League mandate for 25 years, and that due consideration be given to conferring responsibility onto the Kurds for local administration, the justice system and education, and having Kurdish as the official language. Kurdish petitions reminding the League of this undertaking were ignored,¹⁶ and Iraq became independent in 1932. A succession of weak leaders subsequent to the death of King Faisal of Iraq in 1933 ushered in an era of broken promises and betrayal for the Kurds. Conditions imposed upon Iraqi independence, including the recognition of the civil and political rights of the Kurds, were not fulfilled. The Kurdistan Democratic Party (KDP), which was to come to play a key role in Iraqi Kurdistan, was formed under Mullah Mustafa Barzani in Iran during this time.

The overthrow of the Iraqi monarchy in 1958 led to Kurdish hopes for increased involvement in the new republican government of Abdul Karim Qasim, but these hopes were frustrated and the Ba'athist governing regime sought throughout the 1960s to frustrate Kurdish calls for an autonomous Kurdish area. In 1970, Iraq at last promised self-rule to the Kurds in an Autonomy Accord. The city of Erbil was to be the capital of the new Kurdish Autonomous Region, and it was to

have authority over the Kurdish-populated provinces of Arbil, Dahuk and Suleymaniye. However, negotiations broke down, particularly as Iraq refused to concede that the Kurdish city of Kirkuk should be included in the entity, and in reality the area remained under Saddam Hussein's control.

After 1979, when the Shah of Iran was overthrown by the Ayatollah Khomeini, Iraq launched a war against Iran and, apparently in retaliation against Iraqi Kurdish support for the Iranians during this Iran–Iraq war, soon commenced a devastating campaign against the Kurds. From the early 1980s Ba'athist anti-Kurdish activities began in earnest, continuing throughout the Iran–Iraq war and culminating in attempts to 'Arabize' the Kurdish north. The Ba'athist regime destroyed hundreds of villages and forcibly expelled over 1.5 million inhabitants from Kurdish-dominated areas to replace them with Arab settlers. Hundreds of thousands of Kurds were rounded up and executed, and in 1988 an estimated 4,000–7,000 civilians were killed in the notorious chemical weapons attack on Halabjah.¹⁷

In 1992, following the first Gulf War, the Kurds responded to encouragement from the US and staged an uprising against the Ba'athists which was ruthlessly crushed by Iraqi forces. Around 1.5 million Kurds fled the area, leading to the establishment of the Iraqi safe haven by European and American forces under Operation Provide Comfort'.¹⁸ A no-fly zone was established north of the 36th parallel and policed by US–UK air patrols, which served to secure relative autonomy for the Iraqi Kurds. Over the ensuing decade, self-governing Kurdish political structures and institutions and the foundations of Kurdish civil society began to emerge under the rule of the two main Iraqi Kurdish political parties, the Patriotic Union of Kurdistan (PUK) and the KDP.

In 2003 the main Iraqi Kurdish parties aided the US and British forces to seize Kirkuk and Mosul from Saddam Hussein's regime, though Turkish fears over the emergence of an autonomous Iraqi Kurdistan led Ankara to threaten intervention in northern Iraq. More recently these fears have been revived as Turkey has threatened the use of force if the Kurds are granted control over the historically Kurdish city of Kirkuk, ostensibly on the grounds of upholding the rights of the Turcoman minority there. The Iraqi Kurds now seek to secure their rights to lasting federal autonomy in the north of the country, and under the interim 'fundamental law' federal autonomy was preserved. The UN Security Council Resolution issued subsequent to the end of the occupation of Iraq did not refer to the interim

Constitution and thus failed to enshrine Kurdish federal autonomy, and fears arose that Arab elements in the Iraqi government would seek a more centralized structure when the new Constitution was drafted.¹⁹ However, these fears have been offset by the tremendous boost to Kurdish hopes given by the election results of January 2005, in which the Kurdish Alliance gained 25.7 per cent of the total vote and won 75 of the 275 seats in the Iraqi National Assembly.

Turkey has brutally quashed frequent Kurdish revolts since the founding of the Turkish Republic in 1923, and has waged a 15-year military campaign against her Kurdish population from 1984 to 1999, accompanied by state security operations which sought to disperse Kurdish communities in the southeast by destroying thousands of Kurdish villages. In the process, millions of Kurdish civilians were displaced and tortured and arbitrary killings became commonplace. Recently, there has been a resurgence of violence between Turkish forces and the former PKK in the area. In December 2004, Turkey succeeded in becoming a candidate for formal EU accession negotiations, an event of great significance for the Kurds.

Iranian Kurds formed the political group Komala in 1942 and succeeded in 1946 in establishing a short-lived Kurdish republic in northern Iran with the support of the Soviet Union, known as the Mahabad Republic. However, although the USSR had encouraged the formation of the Mahabad Republic and the neighbouring Azerbaijani Republic, Soviet troops were persuaded to withdraw a year later from the Mahabad Republic after signing an agreement allowing for Soviet participation in the exploitation of oil in northern Iran. In December 1946, Iranian troops entered Mahabad and soon regained control of the area. The Kurdish printing presses and other elements of Kurdish cultural expression which had begun to flourish were abolished by the Iranian regime.

Successive Iranian regimes subsequently sought the assimilation of the Kurds. The Iranian revolution of 1979 and the advent of the Islamic Republic sparked hopes of local autonomy. However, negotiations proved abortive and the new Iranian Constitution enshrined protection for religious minorities only; it contained no reference to the Kurds.²⁰ Soon after the revolution Iran commenced a military campaign against the Kurds which continued until the early 1990s. Iranian hostility towards the Kurds is, as in other states of the Kurdish regions, founded in perceptions of the Kurds as a threat to the unity of the Iranian state, though this is exacerbated by the fact that Iranian Kurds are predominantly Sunni Muslims while the Iranian

theocracy is founded upon an overarching commitment to Shi'ite Islam. The period of military activity in the Kurdish region of Iran saw aerial bombardment of Kurdish targets and mass executions.²¹

Kurdish resistance to the actions of the Iranian state was forced underground by assassinations of major figures within the Kurdish political establishment, including Democratic Party of Iranian Kurdistan (PDKI) Secretary-General Abd al Rahman Qasimlu and his successor, Dr Sadiq Sharafkindi.²² The fact that Iranian Kurdish parliamentarians are prohibited from forming political parties, despite their involvement in governmental structures, has further contributed to the growth of active underground political networks nationally and in exile.

Recently, reformist elements in the Iranian government under President Sayyed Muhammad Khatami have been active. Many Kurds initially voted for Khatami on the basis of his undertaking to support minority rights and build an 'Iran for all Iranians', but the supposedly reformist government proceeded to ignore Kurdish rights and demands, and all six Kurdish Members of Parliament resigned in protest in 2001.²³ Iran extended an open invitation to UN monitoring mechanisms in July 2003 and received the Special Rapporteur on Freedom of Expression from 3 to 10 November 2003, but in reality the conservative Islamic bloc dominates the regime and prospects for genuine reform appear bleak.²⁴

Repression of the Syrian Kurds commenced in 1956, as a succession of Arab nationalist governments sought to Arabize the Kurdish northeast of Syria. Arab settlers were brought in from 1973 to populate what was referred to as an 'Arab belt' which stretched for 375 kilometres from Ras al-'Ayn east to Malikiyyah near the Syria-Iraq border.²⁵ Syrian ambitions in the Kurdish region were founded not only in hostility towards the Kurds as such, but also in her designs on the fertile agricultural land found there, as well as its oil reserves.²⁶ Kurdish land was expropriated and resettled by Syrian Arabs up until 1975, with the aim of encouraging Kurds indigenous to the area to move away to the towns and cities beyond the Kurdish region.

The greatest assault on the Syrian Kurds came, however, with the 1962 Hasakah census which stripped around 200,000 Kurds or around 20 per cent of the Syrian Kurdish population of their Syrian nationality. The effects of this arbitrary move have been devastating. Affected Kurds cannot own property, attend state schools, vote, have their marriages legally recognized or have passports issued.²⁷ Children of stateless citizens inherit these problems from their parents, so that

the issue remains very much current today. The ostensible aim of the census was to ascertain how many people had crossed the border from Turkey, since Syria has long incorrectly asserted that she has no indigenous Kurdish population but instead is hosting exiled Kurds from neighbouring states. In fact, the stripping of citizenship was part of the broader Arabization plan for the resource-rich northeast of Syria.

Syria's hard line against the Kurds was recently revived in March 2004, when the state instituted a widespread crackdown in the Kurdish regions following riots precipitated by the gains made by Iraqi Kurds in the interim Constitution. At least 30 people were killed and more than 160 injured when Syrian security forces quashed Kurdish demonstrations in Qamishli.²⁸ During the ensuing unrest hundreds were arrested and detained as security forces occupied the Kurdish region. Although a high-ranking Syrian delegation travelled to the Kurdish region to meet with leaders in order to discuss the situation in the context of wider Kurdish grievances, no concrete solution has yet been reached. In March 2005, Syria agreed to pull out of northern Lebanon, a decision with potentially beneficial implications for the Kurds.

Beyond the shared Kurdish history of oppression and violence across the Kurdish regions, frequent transnational activities have further adversely affected Kurdish interests. The border area between Iraq, Iran, Syria and Turkey, where by far the largest contiguous Kurdish population is centred, is an area of significant strategic importance. The international and regional struggle for dominance over this long-troubled and much fought over part of the world is informed by defence concerns, and by anxiety to secure control over valuable oil, water and other resources there.²⁹ Moreover, shared regional aims to subjugate the Kurds and subdue calls for autonomy have prompted cross-border activities against Kurds in neighbouring states. As a result, the Kurds have long been at the mercy of the designs of the regional powers and have witnessed political activity, economic embargoes and military conflict that have intensified their marginalization and oppression.

THE TURKISH REPUBLIC

Prior to the establishment of the Turkish state, the area now known as Turkey was incorporated for many centuries into the Ottoman Empire. Modern Turkey emerged in 1923 from the breakup of this

empire in the wake of the First World War, though the new republic was only a shadow of the Ottoman Empire lands comprising the northern half of the Anatolian peninsula and the Zone of the Straits. From 1920 the nationalists had begun to defy the authority of the Ottoman sultan, and when Turkey was declared a new republic in 1923, it was fronted by nationalist leader Mustapha Kemal Atatürk. Atatürk, modern Turkey's first President, formed a government from the Ankara-based revolutionary group which he led, and secured the passage of the new Turkish Constitution in 1924. He was re-elected in 1927, 1931 and 1935.

This 1924 Constitution set out the new ideological premises from which Turkey would be governed; premises which retain considerable resonance today. Spurred by what was regarded by many Turks as humiliation at Sèvres, Kemal Atatürk and his followers developed a new, 'Europeanized' Turkish nationalism based around the overarching idea of the nation state. They sought to create a unified, centralized and ethnically homogeneous state with a single Turkish identity, introducing dramatic reforms aimed at displacing the importance of Islam in society, placing the military at the core of the state and looking to the secular, industrial West for inspiration.³⁰ Accordingly, the caliphate was abolished in 1924, the wearing of the traditional fez was forbidden and the Turkish language was heavily Westernized. Kemal Atatürk governed as a virtual dictator, and his Republican People's Party became the only legal party.

As the largest and most prominent non-Turkish people in Turkey, the Kurds had much to lose from Atatürk's vision. A necessary tenet of the ambition to achieve an all-Turkish national identity was the destruction of alternative identities through assimilation. Indeed, the dissolution of the Kurdish population in the southeast became one of Atatürk's main goals in realizing his ideal Turkish state. This was demonstrated in the failure to recognize the Kurds as a minority in need of protection or to acknowledge their language and culture under the Treaty of Lausanne; a measure still of great relevance today. As time wore on, frustration among the Kurds with Turkey's repressive policies towards them spilled over into a number of revolts, and Turkey became increasingly active militarily in the Kurdish regions as she saw that she was failing in her bid to crush the Kurdish identity. The very existence of the Kurds within Turkey's borders soon came to be seen in the eyes of the state as synonymous with national disunity, and ultimately with separatism. The concentration of Turkey's sizeable Kurdish community along her sensitive frontier

with her Middle Eastern neighbours, and the presence of frustrated Kurdish communities across the border in Syria, Iran and Iraq, further fuelled Turkey's desire to subjugate the Kurds and neutralize their regional dominance.

Throughout the 1920s and 1930s, during which time Atatürk's government ruled Turkey along autocratic lines, a programme of 'Turkification' was introduced aimed at eradicating non-Turkish allegiances and suppressing non-Turkish culture and expression.³¹ The Kurds were to become its primary target, as the organs of the state sought to break up the Kurdish community in the southeast through restrictive legislation and state-sponsored violence.

Following the advent of multi-party democracy in 1945, the presiding government was voted out of office and a Liberal government was elected in 1950. This period saw the re-emergence of Islamic influence in Turkey's governing regime, and Turkey has subsequently been pulled between Islamic elements and those, like Atatürk, who promote greater integration with the West. Atatürk's legacy lived on through a string of fractured and unstable governments during the proceeding three decades, imposing some further repressive measures such as the 1950 Press Law. Kurdish place names began to be revised in earnest and Turkish officials repeatedly denied the existence of the Kurds, arguing that they were of Turkish origin. Earlier legislation suppressing Kurdish culture and language remained in place despite a more liberal Constitution written in 1961, and severe economic underdevelopment in the southeast of Turkey generated high levels of illiteracy and poverty among the Kurds.³² During the 1960s and 1970s, expressions of Kurdish identity witnessed something of a resurgence.

However, the military coup of 1980, prompted by mounting violence between nationalists and communists, ushered in an era of one-party rule under Turgut Özal's Motherland Party with devastating consequences for the Kurds. A new Constitution approved in 1982 gave the military considerable influence over civilian affairs, and a civil State of Emergency declared in the southeast in 1987 paved the way for severe human rights abuses in the area. From 1984, Turkey fought a violent conflict against the PKK.

Turkey's domestic anti-Kurdish agenda was mirrored in her activities abroad. Following the first Gulf War in 1991, fears of increased instability in the southeast led Turkey to close her borders to the masses of Iraqi Kurds fleeing a Ba'athist crackdown, generating a large-scale refugee crisis.³³ Turkey has since made periodic incursions

into northern Iraq, ostensibly to root out the PKK and causing significant loss of life.

The conflict between Turkey and the PKK was eventually ended in 1999 with the arrest in Kenya of Abdullah Öcalan and a PKK declared ceasefire. Later in 1999, Turkey was finally invited to apply for membership of the EU after the Union had rejected a 1997 application on the basis of the country's poor human rights record. Turkey's adherence to human rights standards has been criticized time and again in judgments of the European Court of Human Rights, reports of the European Committee for the Prevention of Torture³⁴ and the European Commission,³⁵ but more recently the 'carrot' of EU accession is seen by many commentators to have generated substantial improvements in human rights, at least on paper. On 17 December 2004 the Council of Ministers declared that a date could be set for the commencement of formal membership negotiations, a crucial step forward in Turkey's bid towards accession.

The Kurds in Turkey during the nineteenth century were mainly tribal agriculturalists with local religious and tribal adherences. However, as the notion of ethnic nationalism grew current in Turkey at the turn of the century, the Kurds were to suffer forced assimilation into the new Turkish national identity. Atatürk's programme of 'Turkification' in the southeast began as senior administrative appointments in the Kurdish region were filled by ethnic Turks, and all reference to Kurdistan was excised from official materials.³⁶ In 1924, use of the Kurdish language in official domains, including in schools, was prohibited in spite of a provision in the Treaty of Lausanne calling for the protection of Kurdish. Traditional Kurdish clothing and music were also banned.

The Kurds responded in 1925 with an uprising led by Sheikh Said, but this was brutally suppressed. Martial law was imposed in the Kurdish region, 52,000 Turkish forces were moved in³⁷ and brutal reprisals were conducted by Turkish security forces with thousands of Kurds being killed or driven into exile. Subsequent Kurdish uprisings included that in Ararat in 1930 and in Dersim in 1938, and both were met with violent repression by Ankara. During this period, the Turkish army was deeply involved in developments in the Kurdish region and Kurds were subject to systematic destruction of their villages, forced displacement and mass killings. In 1934 a new Turkish law divided Turkey into three zones, and the state was vested with the power to compulsorily transfer those from the third 'zone' deemed

to 'require assimilation'.³⁸ The aim of the law, the implementation of which was a contributory factor in the Dersim uprising, was to disperse the Kurdish population to areas where it constituted only a small minority and thus break down the Kurdish identity.

The most devastating period of recent history for the Turkish Kurds was that following the 1980 military coup and the instigation of martial rule in southeast Turkey. The new 1982 Turkish Constitution rescinded what limited liberal developments had been incorporated into the 1961 constitution, and was based fundamentally on the notion of military control. Villages were renamed with non-Kurdish names and the use of the Kurdish language was again prohibited.³⁹ After 1984, violence in the region intensified considerably, and in time large numbers of state troops were deployed.⁴⁰ The ensuing armed conflict fought by the Turkish state against the PKK, which had come to prominence in the early 1980s in response to the widespread and systematic oppression of the Kurds and a concomitant rise in Kurdish ethnic awareness, lasted 15 years and resulted in the deaths of around 37,000 people, mostly Kurds.

On 19 July 1987, in response to the deteriorating security situation, the Turkish Parliament declared a civil State of Emergency in southeast Turkey.⁴¹ State of Emergency Legislation (OHAL) provided for the establishment of an emergency civil administration and the appointment of a Regional Governor in which all powers of the State of Emergency administration were vested.⁴² Considerable licence was granted to this office, and there was no provision for independent judicial review of its actions; a situation which substantially contributed to the breakdown of the rule of law under OHAL.

An atmosphere of intimidation and violence prevailed in this period. State security forces targeted both the PKK and Kurdish rural communities, and security operations in Kurdish villages were accompanied by arbitrary arrests, looting of moveable property, beatings, torture and 'disappearances'.⁴³ Few Kurds escaped the trauma of the actions of state security forces. In detention, Kurds were frequently subject to ill-treatment, torture and extra-judicial execution, including *falaka* (beating the soles of the feet), electric shock treatment and rape. This was facilitated by the relative ease with which public authorities could subject Kurds to prolonged, incommunicado detention and a climate of impunity among the police and gendarmerie in which convictions for such acts were rare and sentences light.⁴⁴

The Kurds were subject to further violence by the Village Guard, a defence force of 65,000 recruited from villagers in the Kurdish southeast and armed and funded by the state to counter PKK incursions. The Village Guard were inadequately supervised, and achieved widespread notoriety following repeated accusations of theft, beatings and rape. The existence of the Village Guard also provoked the additional danger for the Kurds that those unwilling to join risked retribution from the Turkish state, probably through the razing of their village.

Comprehensive controls on freedom of expression substantially limited the ability of the Kurds to expose their treatment to the outside world,⁴⁵ while Turkey conducted a concurrent campaign to stamp out Kurdish culture once and for all. The use of the term 'Kurdish' was banned in 1983, as were Kurdish folk songs and giving children Kurdish names. Exemplary sentences designed to enforce these provisions were periodically meted out. Throughout the period of the conflict, the National Security Council, a military-dominated body with considerable sway over the civilian government, continued to advocate for a solely military solution to the Kurdish issue and opposed any cultural concessions.

In addition to torture and killings, activities of the state security forces had a further, destructive consequence for the Kurds. Decree 285 of July 1987 granted the Governor-General power to evacuate villages on a temporary or permanent basis, and officially sanctioned village evacuations were accompanied by violent state security operations against Kurdish villages considered unsupportive of the government agenda, also generating displacement. Kurds were humiliated, degraded, ill-treated, tortured and sexually assaulted during evacuations. By 1999 it was estimated that 3,500 villages had been evacuated and around 3 million people, mainly Kurds, were displaced. The economic infrastructure of the Kurdish countryside had been decimated, and agricultural livelihoods lay in ruins. The per capita income in the Kurdish regions was, by the 1990s, less than half that of the rest of Turkey. The rationale of the village evacuation programme was not only to root out the PKK, but also to forcibly disband Kurdish dominance in the region. In 1993, President Özal called for 'a planned, balanced migration, including members of all segments of [Kurdish] society, to predetermined settlements in the West'.⁴⁶

Kurdish attempts to further their agenda politically were frustrated by the Turkish government in this period. Political parties dedicated

to securing equal rights for the Kurds were repeatedly declared illegal as they dissolved and reformed, and in 1994 Leyla Zana and her fellow Kurdish parliamentarians were imprisoned for wearing Kurdish colours and speaking in Kurdish before Parliament. Pro-Kurdish political leaders were judicially harassed regardless of whether they advocated secession, and some were violently attacked. Nevertheless, the pro-Kurdish HADEP (People's Democracy Party) still succeeded in gaining 1.2 million votes in 1995.

An opportunity for rapprochement had seemed likely in 1992–93, but the violence in the southeast and the brutal village evacuations did not begin to truly decline until 1999 with the arrest of Abdullah Öcalan and the subsequent PKK ceasefire. Even then, state security forces continued to target PKK units and those they considered sympathetic to the PKK, and battle-related deaths continued to be reported. In 2002, OHAL was finally lifted, and Turkey commenced in earnest her programme of pro-EU reforms, bringing in legislative packages aimed at bringing Turkey up to European standards on democracy and human and minority rights. For the moment, however, deep-seated problems remain, particularly with regard to torture, the cultural and linguistic rights of the Kurds, continued displacement, and freedoms of expression and association, and in 2004 southeast Turkey saw a resurgence of the conflict which wrought such tragic consequences in the 1980s and 1990s.

The Armenian issue is also an important part in the history of Turkey. The massacre of the Christian population in the Ottoman Empire – often referred to as the Armenian genocide – also demonstrates Turkey's difficulties with the minorities within its boundaries, and the inability to discuss these issues in Turkish society up until today.

During the First World War, the conflict between the Russians and the Ottomans had an impact on the Armenians and other Christian communities such as the Assyrians, who were viewed as potential 'friends of the enemy'. Ethnic cleansing became a part of this conflict in 1915, when mass deportation and massacres of the Christians took place.⁴⁷ Historians estimate that the number that perished in the genocide is about 1 million.⁴⁸

Often regarded as the precursor to the Armenian genocide, the Hamidian massacres of the 1890s included the recruitment of Kurds into informal fighting brigades called the Hamidiye Regiments, who it is argued were specifically planned to be part of an assault on the Armenian population.⁴⁹ The 1915 genocide also involved Kurds

living amongst the Armenians, who fought alongside the Turks, as it was framed at the time as a Muslim-Christian conflict.

The Armenian issue is still very controversial in Turkey. The debate of whether there was a policy of genocide or not rages to this day. Most Turkish historians argue that a planned policy of genocide did not take place, whereas other historians disagree.⁵⁰ State-sponsored literature denies that the events of 1915 can be described as a genocide, and instead emphasize the killing of Muslims by Armenians in the 1915 Armenian uprising in Van.⁵¹ It is argued that the Turkish state chooses to emphasize this uprising in order to diminish the impact of the Armenian tragedy.⁵²

As long as Turkey maintains its policy of denial towards the Armenian issue, this will remain an obstruction to its professed goal of becoming a country that fully embraces freedom of expression and other human rights. Turkey needs to address both the Armenian and the Kurdish issue. Failure to do so has resulted in a diplomatic and economic war between Turkey and other states, including the US and France, which has an effect on Turkey's democracy and economy. If Turkey is unable to face the past, and its impact on the present, these issues will loom large as an obstacle to reform and, as a result, to EU accession.

2 Turkey and the EU

Turkey's bid for EU membership is, without doubt, a defining issue for the country. It has been frequently described as an important 'crossroads' for Turkey, marking a seminal point in her history and tying her future firmly to Europe.

Turkey's efforts to achieve closer integration with Europe have a long history, but various factors have previously served to frustrate her ambitions, not least her poor human rights record. However, on 17 December 2004 the European Council decided to open formal accession negotiations with Turkey. Now, for the first time, Turkey's political future seems assured and she looks set to become a full member of the exclusive EU 'club' within the next decade. The EU accession process will bring Turkey within the civilizing influence of European democratic values and strict human rights standards, imposing important checks and balances on state behaviour and pressing forward the reform process. Already, the prospect of accession has triggered rapid and extensive legislative reforms since 2002.

However, questions must be asked as to whether Turkey has truly changed her colours, and whether the EU's decision to open accession talks was based on a genuinely objective appraisal of Turkish progress on democratization and human rights. There are indications that factors extraneous to the consideration of Turkey's fulfilment of the political elements of the Copenhagen Criteria¹ have been allowed to sway decision-making in Brussels. The European Commission's 2004 report on Turkey, a decisive factor in the resolution to open accession negotiations, presented a considerably sanitized picture of the human rights situation in Turkey and made only oblique reference to key issues such as the situation of the Kurds.

THE ROUTE TO ACCESSION

Since modern Turkey was founded in 1923 upon Atatürk's vision of a secular, Westernized state, she has long sought closer ties with Europe. Turkey's foreign policy has not been exclusively Western-oriented; she has also sought influence in the Central Asian republics and has

defended her interests in the Middle East. However, successive Turkish governments have looked to Western organizations and institutions to form alliances and realize foreign policy objectives; Turkey joined the North Atlantic Treaty Organization (NATO) in 1952, the Council of Europe in 1949, and the Organization for Security and Cooperation in Europe (OSCE) in 1975.

Turkey's path towards membership of the EU, however, has been a slow one, and has given rise to considerable debate among existing member states. Despite being in many ways aligned with Western Europe, including as a NATO ally, the tenuous status of multi-party democracy in Turkey, its poor human rights record, its relative economic underdevelopment and its majority Muslim population have long been sources of disquiet in the corridors of Brussels.

Turkey applied for associate membership of the European Economic Community (EEC) in 1957, and accordingly entered into an Association Agreement in 1963 which offered the future possibility of full membership. The Association Agreement, which covered trade-related issues and various other areas of cooperation, was intended as a step towards an eventual customs union.² These early Association Agreements contained no provisions for mandatory political dialogue, substantially limiting their utility in encouraging Turkey to improve its human rights record and treatment of the Kurds, although some such dialogue did later take place on the basis of specific Association Council resolutions.³

For years, though, economic flux and internal strife militated against further progress towards closer Turkish integration with the then European Community (EC),⁴ and the 1970s in particular saw a standstill in relations. A formal application for full accession to the EC was finally lodged by Turkey on 14 April 1987, at a time when interaction between Turkey and the EC was being revived in the wake of the restoration of a civilian government in Turkey following the 1980 military coup. However, on 18 December 1989 the EC concluded that 'it would be inappropriate for the Community ... to become involved in accession negotiations at this stage'.⁵ This decision was based on a number of factors which included internal restructuring issues within the EC, as well as Turkey's lack of adherence to human rights standards, its population size and its underdevelopment. Turkey's application had been submitted at a time when the armed conflict in the Kurdish regions was gaining in momentum, and in the same year that the State of Emergency in the southeast, which was to have such horrific consequences for the Kurds, was declared.

A major step towards EU accession came when, on 6 March 1995, the 'Turkey–EU Customs Union' was finally agreed. This agreement allowed Turkey preferential access to the European single market, and projected that Turkey would receive US\$470 million in adjustment funds between 1996 and 2000. A brief consideration of the events leading up to and immediately following the agreement are instructive in relation to the current direction of Turkey's EU bid.

During the negotiation stages of the customs union the European Parliament, which was required to ratify the agreement, had stipulated that Turkey must fulfil set human rights criteria, while the European Commission had called for further improvements in human rights standards.⁶ Various public undertakings were accordingly made by the Turkish government to implement reform as a priority, and specifically to address the Kurdish issue. Some MEPs reportedly branded legal reforms which Turkey did then enact as 'cosmetic',⁷ but the Commission and Council of Ministers were keen to push forward the treaty. In October 1995, the EU external affairs commissioner Hans van den Broek echoed warnings made by Turkish Prime Minister Tansu Çiller⁸ when he reportedly stated that failure to reach an agreement could lead to 'a severe backlash in Turkey', where only Muslim fundamentalists opposed closer links with Europe.⁹ Ms Çiller also propounded the view that Turkey could only progress through incremental reform with strong European backing.¹⁰

However, although Ankara did amend the Constitution and rewrite its anti-terrorism law, the much vaunted improvements in human rights standards did not follow. It was concluded in 1996 that Turkey had been 'unable to produce any substantive democratization improvements or human rights legislation',¹¹ and for the Kurds the outcome was particularly sour. Village destruction, mass killings and torture and ill-treatment continued in earnest. While EU accession negotiations amount to a far more robust process than negotiations over the 1995 customs union, and incorporate binding human rights criteria, this episode in Turkey–EU relations should serve as a salutary lesson to key actors in Brussels. The EU must not be duped by empty Turkish promises again.

From the late 1990s, progress towards Turkish accession continued apace. The Copenhagen European Council Presidency Conclusions had included the provision in 1993 that: '[T]he associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership

by satisfying the economic and political conditions required.¹² A relaxation in violence in southeast Turkey in the late 1990s, combined with enthusiasm for EU enlargement in the wake of the fall of the communist bloc, laid the groundwork for Turkey's progression to EU candidature in 1999. The Helsinki European Council of 1999 then concluded that Turkey was a candidate for EU membership on the basis of the same criteria as the other candidates. This meant that before Turkey could commence formal accession negotiations with the EU, she would have to fulfil the Copenhagen Criteria. These minimum standards which all EU candidate states must fulfil before opening accession talks include a political element: 'Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.'¹³

This requirement had posed a significant impediment to the granting of EU candidature to Turkey. For years, Turkey lagged behind Europe in meeting even the most basic human rights standards. Cases brought by the London-based Kurdish Human Rights Project to the European Court of Human Rights against Turkey established unequivocally that the most severe abuses of human rights in the Council of Europe took place there. In 2000, the European Commission concluded in its annual report that 'the situation on the ground has hardly improved and Turkey still does not meet the Copenhagen political criteria'.¹⁴

In 2002 the Turkish electorate rejected the traditional political establishment and voted in the Justice and Development Party (AKP), a pragmatic, 'pro-European' party with Islamic roots which united less radical Islamists, nationalists and secular interests around what is broadly comparable to a Western European-style centre-right Christian democratic party. It commenced an unprecedented programme of reforms in the country which brought about a number of important legislative changes and some improvement in the behaviour of public authorities. The legal regulation of torture was vastly improved, restrictions on freedom of expression and association were lessened and prohibitions on Kurdish language broadcasting and teaching were theoretically lifted. Public support for EU accession generally in Turkey helped to smooth the passage of reform in some more sensitive areas. As shall be seen, there remain substantial problems with these reforms, but it was this apparent momentum towards change in Turkey which the EU was to seek to harness through the incentive of accession.

Following the decision to make Turkey a formal candidate for accession, the European Commission devised Turkey's Accession Partnership detailing how she would meet the Copenhagen Criteria. The document was revised during 2002, and in the same year the European Council agreed that accession negotiations would open 'without delay' if, following a Commission report on Turkey's fulfilment of the Copenhagen Criteria and a subsequent recommendation by the Commission on the appropriateness of opening negotiations, EU leaders decided that Turkey met the required standards.

THE OPENING OF FORMAL EU ACCESSION NEGOTIATIONS

On 6 October 2004 the European Commission issued its recommendation as anticipated, concluding that Turkey had sufficiently fulfilled the criteria necessary to open accession negotiations.¹⁵ This was moderated by the provision that Turkey should first be obliged to bring into force six specified pieces of legislation.¹⁶ The decision was described by the EU's President as a 'qualified yes'.

On 17 December 2004 the European Council substantially endorsed the Commission's recommendation, stating that Turkey had fulfilled the political elements of the Copenhagen Criteria and that, subject to the provisos set out by the Commission, accession negotiations could commence.¹⁷ The Council, in its decision,¹⁸ invited the Commission to continue to monitor Turkey's progress in human rights reform, and asserted that the EU will continue to monitor closely the political reforms on the basis of Turkey's Accession Partnership. Under the Partnership accession talks are set to proceed in the usual way through inter-governmental conferences between the EU and Turkey, in which Turkey's current legislation and administrative structures are comprehensively 'screened' against each of the 31 chapters of the *acquis communautaire*: that is, the body of economic, social, administrative and environmental legislation that all member states of the EU must implement. The negotiations focus on the terms under which the applicants will adopt, implement and enforce the *acquis*.

Additional provisions in the Council decision allow for 'long transition periods, derogations, specific arrangements or permanent safeguards' and the negotiation process is defined as open-ended, 'the outcome of which cannot be guaranteed beforehand', implying that accession may be several years away yet. Furthermore, an unprecedented, explicit provision allows that accession talks may be

suspended in the event of 'a serious and persistent breach ... of liberty, democracy, respect for human rights and fundamental freedoms'.

In connection with the 2004 decision to start the accession negotiations, the Council further invited the Commission to present a proposal for a framework for EU negotiations with Turkey. The Negotiation Framework for Turkey was adopted by the Council in connection with the official opening of accession negotiations with Turkey on 3 October 2005. The Framework outlines the procedure for negotiations and lists the principles which will govern the negotiations between the EU and Turkey. In January 2006 the Council further adopted a revised version of the 2003 Accession Partnership for Turkey, setting out the principles, priorities, intermediate objections and conditions governing the accession negotiations.¹⁹

TURKEY'S EU BID IN A WIDER POLITICAL CONTEXT

The decision to open accession talks with Turkey was ostensibly based on her fulfilment of the objective, EU-defined Copenhagen Criteria. Beyond this, however, it should be remembered that Turkey is progressing towards EU membership against a complex backdrop of issues relating to European politics, international security and economic affairs which play a key role in shaping EU decision-making.

Concerns over Turkish membership of the EU are in part attributable to her size and underdevelopment. If present demographic trends continue, Turkey is projected by 2025 to have the largest population among EU member states, endowing her with the greatest number of votes in the European Council. Turkey's per capita income, though, is only approximately one-third of the average of EU member states in Western Europe,²⁰ potentially imposing substantial strain on EU resources.

Moreover, the presence of a large, poor, largely agrarian and overwhelmingly Muslim state within the borders of Europe is generating substantial disquiet. The dictates of electoral politics within the EU compel European governments to take into account public fears that Turkish membership would alter the cultural makeup and geographic reach of the EU. In particular, in the context of rising anti-immigrant feeling in Western Europe, there is apprehension within Germany and France that accession would bring 'floods' of immigrant labour; Turkey's admission would stretch the borders of the EU to Iraq, Iran and Syria. Similar hysterical fears of 'mass

influxes' of labour migrants from the ten new member states joining the EU in 2004 proved unfounded, and the Council's decision on accession provides for 'Long transition periods, derogations, specific arrangements or permanent safeguard clauses' in the area of free movement of persons.²¹

As a consequence, the prospect of Turkish membership of the EU has not been welcomed everywhere; in parts of the EU it has met a lukewarm reception, with France and Germany in particular facing deep internal division on the issue. The former French President Jacques Chirac was thought to have favoured the accession, but polls within the country have indicated high levels of opposition.²² The public reluctance was confirmed in 29 May 2005 when the French people voted '*Non*' in the referendum for the EU Constitutional Treaty; Turkey's accession, although unrelated, was said to have played a substantial role in the negative decision. The newly-elected president, Nicholas Sarkozy, has explicitly spoken against Turkey's EU bid, claiming that Turkey as an Asian country has 'no place In Europe'. Prior to the presidential election Sarkozy claimed that, if elected, he would block the negotiations with Turkey. As a result, the EU Enlargement Commissioner Olli Rehn has recently voiced concerns of Sarkozy's fierce stance, arguing that such opposition and rejection of Turkey might lead to serious clashes between civilizations. 'Turkey is, not only in rhetoric but in reality, a bridge between civilisations. With the accession process, and with a successful accession process, of Turkey to the EU, she can become a sturdier bridge of civilisations.'²³

'Old Europe' is increasingly united by a reluctant view on Turkey's full membership; German Chancellor Angela Merkel is likewise opposing the full membership and instead calling for a 'privileged partnership' between Turkey and the EU. Commitment to the EU in general, however, appears to remain. Chancellor Merkel has vowed to 'save' the failed Constitutional Treaty during her term, but with the rising level of disagreements and inconsistency within the EU camp, such an attempt may prove trickier than expected. In Belgium, the June general elections saw the Christian Democrats emerging as the winning party. The party is openly opposing Turkey's full EU membership, which may create further obstacles on Turkey's path towards membership. 'Turkey should not become a member because it has a border with Iraq', the leader of the Christian Democrats, Yves Leterme, stated during the election campaign.²⁴ The most pessimistic, or perhaps realistic, circles within the EU are beginning to ask the

question 'Who lost Turkey?'²⁵ to reflect the ever-increasing crisis in Turkey's membership bid.

On the other hand, several political camps in Europe would warmly welcome Turkey as a full member. Turkey is seen as a potential 'bridge' between Europe and the wider Muslim World. Turkey has historically played a key role in European defence policy and stands at the nexus of areas of great geo-political significance, including the Balkans, the Caspian and, importantly, the Middle East. There has also been encouragement of Turkey's accession bid from the US, which sees Turkey as an ally in the 'War on Terror'. In today's tense political climate, the strategic reach into the heart of the Middle East which Turkish accession would offer the West is of immense significance. Key political actors within the EU have explicitly referred to strategic incentives for backing Turkish accession.²⁶

In a similar vein, it is broadly perceived that through meeting EU accession standards, Turkey could potentially prove a role model of a progressive, secular state with a majority Muslim population imbued with Western values; Turkey is the only Muslim candidate for entry to what has frequently been described as an exclusive Christian 'club'. This would further the notion that Islam and democracy are not mutually exclusive; Tony Blair, the British Prime Minister at the time, said that the December decision to open accession negotiations 'shows that those who believe there is a fundamental clash of civilizations between Christians and Muslims are actually wrong; that they can work together; that we can cooperate together'.²⁷ There are hopes that Turkey's example may lead the way to the spread of democratic pluralism in other predominantly Muslim states.²⁸ For Britain, the close trading partnership with Turkey, economic potential in Turkey's vast markets, and her close connections to central Asia, the Caucasus and the Middle East, are also of notable significance.

Opening accession negotiations with Turkey is also pushed by Turkey herself on the basis of the threat that a negative decision in December 2004 could have had harmful repercussions on Turkey's entire reform process. The AKP, currently in power in Turkey, has explicitly pledged itself to pursue EU accession and has staked much on this course, including reducing the traditionally powerful influence of the military in government and implementing reforms which rescind some of the power of the unaccountable state. Turkey has claimed, as she did during negotiations over the 1995 customs union, that imposing further delays on Turkey's accession prospects would play into the political hands of Islamist elements of the political

establishment and so undermine Prime Minister Erdoğan's pro-EU, secular government. It is true that Islamic elements have continued to vie for power in Turkey in recent years, and the AKP's predecessor, the Welfare Party, had an openly Islamic agenda. The logic of this argument, which is effectively that the EU should admit Turkey to the negotiating table despite substantial outstanding problems with human rights standards and the Kurdish issue for fear that a more repressive government may otherwise come to power, is not particularly convincing. In fact, it is verging towards blackmail.

Prime Minister Erdoğan has also forcefully insisted that Turkey has fulfilled her part of the accession deal, implementing a dramatic series of pro-EU reforms inspired by the prospect of accession, and that the EU is consequently obliged to open its doors to Turkey. Turkey's instigation of reform means that she 'deserves' to be recognized as an EU negotiating partner. Prior to the Council decision of 17 December 2004 on the opening of formal accession negotiations, Mr Erdoğan had threatened to withdraw from EU relations if unduly harsh conditions were imposed on Turkey to achieve full membership.²⁹ Again, attempts to sway EU decision-making by issuing unreasonable demands and making threats does little to enhance Turkey's reputation as a modern, democratic state.

More generally, though, EU enlargement remains a broadly popular current notion. The search for an 'ever closer union' is seen to have proved successful in Western Europe in consolidating economic prosperity and democracy, and to have helped foster stability and cohesion in Central and Eastern Europe since the gulf left by the demise of the former Soviet Union. Bringing Turkey into Europe, it is argued, would build upon these successes, extending the political and economic benefits of EU membership to the far reaches of the continent and strengthening the Union's global position.³⁰

The net implications of these observations are that the eagerness of key actors within Europe to press forward Turkish accession is determined to a significant extent by political and strategic imperatives. That this is the case is not a new observation, and nor is it necessarily controversial. The role of these factors in EU decision-making is explicitly referred to by the European Commission,³¹ and forging ahead with Turkish accession is certainly desirable from the perspective of those who hope to see the accession process bring about improved respect for human rights and a resolution to the Kurdish issue.

As shall be seen, however, the matter is less straightforward when considering the decision of the European Council to open formal accession negotiations, and particularly the conclusion that Turkey has fulfilled the political elements of the Copenhagen Criteria. This has led to allegations that instead of applying the same standards to Turkey as to the other accession states, as promised, the Council has instead 'lowered the bar' and sought to press through Turkish membership despite continued shortcomings, particularly in the fields of human rights and Turkey's willingness to address the Kurdish issue.

The decision made by the Council on 11 December 2006 to partly suspend accession negotiations with Turkey supports the claim that the 2004 decision to open accession negotiations with Turkey was fast-tracked, and that Turkey was accepted prematurely to the negotiating table. However, the Council's decision was a direct consequence of Turkey's failure to fully implement the Additional Protocol to the Ankara Agreement, and as such not motivated by Turkey's continuing lack of compliance with international human rights standards. As a party to the Ankara Protocol, Turkey is obliged to open its borders for trade with all the new EU members who joined the Union in 2004, but Turkey has continued to apply restriction on trade from the Republic of Cyprus. The accession negotiations were resumed on 29 March 2007 and Turkey's accession process is said to be 'back on track'.³²

FULFILMENT OF THE COPENHAGEN CRITERIA FOR EU ACCESSION?

Ongoing concerns over the situation of the Kurds, combined with serious doubts over human rights standards in Turkey, have inspired substantial concerns that the decision of 17 December 2004 to open formal accession negotiations with Turkey, based on the Council's determination that Turkey has fulfilled the Copenhagen Criteria, was reached prematurely. The desire to bring Turkey into the European fold as expeditiously as possible may have overwhelmed objective analysis of whether or not Turkey in fact meets the required standards, thus accelerating the accession process at the expense of a genuine commitment by the Turkish government to human rights and the achievement of an enduring solution to the Kurdish issue.

Decisions on the commencement of official accession negotiations are formally based upon fulfilment of the criteria for EU membership

as determined at the Copenhagen meeting of the European Council in 1993. The political elements of the Copenhagen Criteria require that candidate countries should have achieved: 'The stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.'³³ Given these criteria, the appropriateness of the Council's decision of 17 December 2004 to begin accession talks is highly questionable and has generated criticism in some quarters. Certainly, Turkey has outwardly moved towards closer compliance with international standards on human rights, democracy and the rule of law through her enactment of pro-EU reforms. Even if, as appears to be the case, the reform process is directed solely towards satisfying minimum EU criteria on democratization with no accompanying commitment by Turkey to bring about genuine change, it is still fair to say that the current AKP government has staked much on achieving EU accession. It has reduced, at least formally, the traditional influence of the military in government and refused to pander to the religious right on issues such as education; measures which have the potential to substantially alienate the government's current supporters.

It is also true to say that whatever the motivation behind Turkey's reform process, including if it is purely a matter of doing the minimum possible to tick EU-dictated 'boxes', Turkey has enacted a noteworthy series of reforms over a very short period of time. There have been some, albeit faltering, improvements in human rights generally; the legal regulation of torture has been tightened and the prohibition on broadcasting and teaching in the Kurdish language has, at least formally, been lifted.

However, it must be considered whether Turkey's progress is in fact sufficient to warrant the beginning of accession negotiations. It is highly likely that political imperatives are overriding other concerns in the drive to achieve EU membership. Ongoing problems in Turkey pertinent to the decision as to whether the Copenhagen Criteria are satisfied, including in relation to the human rights situation in Turkey and the status of the Kurds, are described in more detail later in this publication, but some preliminary points are made here.

Primarily, the Commission's 2004 report³⁴ on Turkey's progress towards accession, which formed the basis of the Commission's recommendation and the Council's subsequent decision that Turkey has fulfilled the Copenhagen Criteria, presents a considerably sanitized version of the situation in Turkey. Although the report is by no means wholly positive, criticizing both substantive gaps in Turkey's reform

programme and failures to adequately implement new legislation, it is argued that the report as a whole fails in its wording and emphasis to reflect the depth and severity of the continued human rights violations in Turkey. A constructive approach is certainly desirable, but not to the extent of 'toning down' the seriousness of the current continued violations. Overall, the evidence presented in the report of continued violations, as well as its omissions, are very difficult to reconcile with the largely positive picture painted and the subsequent recommendation of the Commission that the political aspects of the Copenhagen Criteria are fulfilled.

Particular criticisms include the 'glossing over' of significant shortcomings in the reform process, and the presentation of ongoing violations as mere qualifications to generally encouraging progress. In a number of sections a positive 'spin' is put on Turkey's failings, even where serious and ongoing abuses of key human rights are detailed at length, sometimes by emphasizing Turkey's efforts at compliance rather than the results she has achieved.

A brief consideration of the Commission's treatment of Turkey's record on torture is illustrative of these failings. Detailed consideration is given to the progressive measures which Turkey has enacted in her endeavour to eradicate torture, with occasional qualifications encouraging greater efforts to pursue reform objectives. It is ultimately concluded that the Turkish government is 'seriously pursuing' its policy of zero tolerance, and that torture is no longer systematic.³⁵ However, the Commission recognizes that 'numerous' cases of ill-treatment, including torture, continue to occur in Turkey.³⁶ It is difficult to conceive that the Turkish state's failure to combat the 'numerous' cases of torture and ill-treatment taking place is consistent with the 'stability of institutions guaranteeing ... human rights' as required under the Copenhagen Criteria, particularly given that torture is defined by the international community as one of the most severe violations of human rights and subject to an absolute prohibition under international law³⁷ and under the EU's own Charter of Fundamental Rights.³⁸

Furthermore, the Commission's approach appears a somewhat superficial assessment of change in Turkey, focusing on legislative and administrative reforms enacted by the current administration and putting forward little *facto* analysis of the situation on the ground. No real attempts are made to place political reform in the context of a state grappling with its secular identity, struggling to overturn decades of impunity for human rights abuses and permeated by a seemingly

unremitting hostility to minority ethnic identities. It is interesting that similar criticisms have been made of the Commission's reporting on the accession states that joined the EU in 2004.³⁹

Despite this criticism voiced in response to the 2004 decision to open accession negotiations with Turkey, the position of the European Union continues to be that Turkey 'sufficiently fulfils' the Copenhagen Criteria. Thus in the 2005 Negotiation Framework it is stated that accession negotiations are opened because the Council finds that Turkey has achieved the fulfilment of the Copenhagen Criteria. The framework further stresses that negotiations will only proceed if Turkey continues to fulfil these criteria. Advancement of future accession negotiations will be guided by Turkey's progress in preparing for accession, 'in particular' against the requirements set out in the Copenhagen Criteria.⁴⁰ It is clear from the language of the framework that Turkey's fulfilment of the Copenhagen Criteria remains integral to the accession process.

The Negotiation Framework further assigns to the Commission the task of monitoring the Turkish reform process, stating that 'progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council'.⁴¹ The framework mandates that the Commission must report regularly to the Council on the Turkish reform process, and that a positive decision on accession will not be taken until it is established that Turkey fulfils the series of requirements governing the accession negotiations. The reports submitted by the Commission to the Council will therefore provide the foundation of the Council's final decision as to whether the conditions set out in the negotiation documents are met.

In addition, the revised Accession Partnership provides the basis for a number of policy instruments which are intended to guide Turkey in the preparations for membership of the European Union. The revised partnership will 'serve as a basis for future political reforms and a yardstick against which to measure future progress'.⁴² The implementation of the Accession Partnerships will be examined and monitored by the bodies established under the Council, on the basis of annual reports on Turkey's progress prepared by the Commission.

The Negotiation Framework and the revised Accession Partnership thus grant to the Commission a specific mandate to supervise the Turkish reform process. This mandate includes the obligation to report regularly to the Council, addressing points of concern, including serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule

of law.⁴³ The Commission, acting as the executive branch of the Council, is responsible for bringing to the Council's attention any deficiencies in the Turkish reform process.

In this respect, the Accession Partnership outlines a list of short-term priorities which are expected to be accomplished by Turkey within one or two years, and a list of medium-term priorities, which are expected to be accomplished within three to four years. The priorities concern both legislation and the implementation thereof.⁴⁴ In this regard it is interesting that the areas relating to the political aspects of the Copenhagen Criteria, including the establishment of democracy and the rule of law, the respect for human rights, and the protection of minorities, are all listed as short-term priorities, and therefore must be accomplished within two years. This would suggest that Turkey, at the time of the drafting of the revised Association Partnership (December 2005) had not yet achieved 'the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities', as concluded by the Commission in the 2004 Regular Report. This is of significance as the opening of accession negotiations was dependent on the precondition that Turkey had 'sufficiently fulfilled' the Copenhagen Criteria, and it evidently supports the claim that the decision to open accession negotiations with Turkey was in fact reached prematurely.

Especially significant in this regard is the Commission's approach to the Kurdish issue and the situation in the southeast regions of Turkey. Since the opening of accession negotiations in October 2005 the Commission has not addressed the Kurdish issue in any kind of substantive and coherent manner; instead the Commission appears to have adopted a piecemeal approach to the situation in the Kurdish southeast which consists of dealing with the occasional Kurdish dimensions of a series of discrete human rights violations. Elements of the Kurdish issue which are touched upon in Commission literature, largely tangentially to other topics, are not examined in the framework of Turkey's deep-rooted antipathy towards her Kurdish population.

In the Turkey 2005 Progress Report the statements regarding the situation in the Southeast are vague and ambiguous. It is interesting that the Commission points out that progress in the southeast regions of Turkey 'has been slow and uneven, and the situation in some areas has even deteriorated', but then fails to criticize the Turkish authorities on this point, simply noticing that 'no comprehensive policy has yet been established in order for them to address the socio-economic

and political problems in this region'.⁴⁵ Further, in the 2005 report the Commission fails to link the situation in the southeast regions of Turkey with the problems facing the Kurds. By largely repeating the terminology from the 2004 report, the Commission continues the approach of classifying the Kurdish issue, not as a separate or independent problem which warrants a separate solution, but as a consequence of Turkey's insufficient human rights record.

In view of the Kurds' long and turbulent history of brutal subjugation and violence at the hands of the state, it is argued that the Commission's approach constitutes an inadequate response to the Kurdish issue, and represents an inappropriate departure point for the commencement of accession negotiations. The Turkish state's treatment of the Kurds cannot be separated from embedded Turkish hostility towards the presence of a non-Turkish ethnic identity within the country's borders. The severe human rights violations to which the Kurds have been subject are much more than an occasional slip in the behaviour of public bodies or a result purely of inadequate legislative controls on practices such as torture. They are an external expression of deep-seated ideological precepts in Turkey which value the integrity of the state above the liberties of the group or individual, and which conceive of the Kurds as an aberrant community whose attempts to assert their non-Turkish identity are tantamount to separatism. Put simply, the Kurds are persecuted and harassed in Turkey because they assert their Kurdishness. No amount of obfuscation by the Commission can alter this observation, and the Kurdish issue cannot be resolved unless it is tackled. It is submitted that such a fundamental barrier to the realization of peace, justice, stability and democracy in Turkey must be addressed openly and comprehensively before Turkey be allowed to accede to the EU.

More fundamentally, the Commission's approach towards the Kurds fails to account for the fact that the problems in Turkey's southeast are much more than merely a series of human rights violations. The Kurds have been marginalized by Turkey for decades; an armed conflict has been fought against them, affecting almost every Kurdish family; and they have been excluded from political participation. Turkey has failed even to acknowledge their existence or to grant them any constitutional recognition. A far more comprehensive solution is therefore required, including the holding of political dialogue between Turkey and the Kurds, efforts to reach a negotiated settlement to bring about lasting peace in the southeast,

and opportunities for the Kurds to decide their own futures. There is no mention whatever of this urgent need by the Commission.

The Commission's approach to human rights and to the Kurdish issue set out in its 2004 report appears to have set the tone for future EU action in these areas; the Commission's conclusions are essentially accepted in the Council decision that Turkey complies with the Copenhagen Criteria.

The Luxembourg European Council of December 1997 confirmed Turkey's eligibility for accession would be judged on the 'basis of the same criteria' as the other applicant states.⁴⁶ In its paper 'Agenda 2000: For a Stronger and Wider Union',⁴⁷ the Commission decided in 1997 that of the ten then candidate states, Slovakia did not fulfil the political elements of the Copenhagen Criteria, and a brief comparison with the situation in Turkey is illustrative. In reaching its decision, the Commission refers principally to the insufficient respect paid by the Slovakian government to the powers devolved by the constitution to other bodies, and its tendency to disregard the rights of the opposition, but also sets out the need to improve Slovakian treatment of her Hungarian and Roma minorities.⁴⁸

At this stage, Slovakia had ratified the Council of Europe's Framework Convention on minorities, the Constitution granted minorities the right to develop their own culture, to receive information and education in their own language and to participate in taking decisions which concerned them, and funding was allocated to encourage cultural and educational activities for minorities. Ongoing problems referred to by the Commission included the lack of comprehensive legislation on the use of minority languages (although other texts governed the use of minority languages in many specific fields), a government decision to reduce the subsidies granted to Hungarian cultural associations, inadequate police protection of Roma against skinhead violence, and the poor social position of the Roma. When considered alongside the comprehensive abuse and violence faced by Turkey's Kurdish population, including torture, judicial harassment, protracted internal displacement and a recent resurgence in armed conflict, as well as Turkey's refusal even to recognize the Kurds, the Commission's position on Turkey appears rather anomalous.

In the light of these observations, it certainly appears that considerations beyond that of whether Turkey has fulfilled the objective standards of the political elements of the Copenhagen Criteria have played a role in EU decision-making, and that a lower standard has been applied to Turkey's application for EU accession.

The approach adopted by the Commission in the 2005 Progress Report appears to support such a claim. Overall, the approach expressed seems to be somewhat two-faced. On the one hand the Commission complements Turkey for its progress and reaffirms that she continues to fulfil the Copenhagen Criteria. In this respect, the Commission mentions that important legislative reforms have entered into force in Turkey, and that the Commission anticipates that this will lead to structural changes in the legal system. On the other hand, the Commission points out that the reform process has slowed down since 2004, and that the implementation of reforms remains uneven. According to the Commission, 'significant further efforts are required as regards fundamental freedoms and human rights, particularly freedom of expression, women's rights, religious freedoms, trade union rights, cultural rights and the further strengthening of the fight against torture and ill-treatment'.⁴⁹

What are the implications of this alleged 'lowering of the bar' for Turkey? It may prove the case that the reform process will draw further impetus from the December 2004 decision to open negotiations. Certainly, the Erdoğan government has argued that its successes so far in balancing political backing and public support from different sections of Turkish society in favour of pro-EU reforms may have suffered a setback by a negative Council decision, with key winners from a backlash against Erdoğan's pro-EU policies likely to have been the Eurosceptic True Path Party. However, it has been mentioned above that this type of argument is unconvincing, and in any case is wholly inadequate to justify the opening of accession negotiations in the face of continued serious human rights abuses and a failure to address the Kurdish question. Assessing whether or not Turkey has fulfilled the political elements of the Copenhagen Criteria ought to have been made on the basis of tangible improvements in democratization, and not dictated by extraneous political factors.

It has also been argued that adequate controls have been placed upon Turkey by the EU to ensure that key criteria are met before she is allowed to proceed to full accession. The Commission expressed many reservations over Turkey's human rights record in its 2004 report, referring to a need for reforms to be 'further consolidated and broadened'.⁵⁰ The undertaking in the Council decision that the Commission will continue to monitor the political reform process under the first pillar, including the zero tolerance approach to torture, combined with the human rights 'break clause' for the suspension of accession negotiations following a fundamental breach, imply that

the EU projects continued close supervision of Turkey's progress. The Commission also recommended that existing legal obligations in line with the *acquis* must be fulfilled before the opening of negotiations on related chapters can occur, and that long transition periods may be necessary.

If the approach adopted by the Commission and endorsed by the Council, based on a failure to substantially address human rights concerns and a fudging of the Kurdish issue, is to be indicative of the EU's line on accession negotiations in the future, then the projected advantages of the accession process for advancing justice and democracy in Turkey will be substantially undermined. It wrongly implies that the behaviour of the Turkish state is broadly compliant with international human rights standards, and belittles the severe ongoing human rights violations taking place in the country. It should be remembered in this context that promises to enact human rights reforms and address the Kurdish question made by Turkey prior to the establishment of the 1995 customs union proved empty though this observation is qualified somewhat by the fact that the Copenhagen Criteria are far more authoritative than the relatively insubstantial and non-binding political prerequisites attached to the customs union.

In this respect the Turkey 2006 Progress Report from the Commission is of significance. The report is – in terms of diplomatic language – the most damaging report seen from the Commission in years, and it sends a clear signal to the Turkish government that the Copenhagen Criteria are integral to the accession process. The overall conclusion from the Commission in the 2006 report is that the reform process in Turkey has experienced a slowdown, and that serious difficulties remain in relation to fundamental human rights and the protection of minorities. In this regard the Commission cites that from September 2005 until 31 March 2006, 2,100 new applications regarding Turkey were made to the European Court of Human Rights (ECtHR).⁵¹

It is alarming that referral to the right to life (Article 2 of the ECHR) and to the prohibition of torture (Article 3 of the ECHR) was made in 78 and 142 cases respectively. Concern also remains in relation to torture, and in this regard the Commission points out that reports of torture, especially outside detention centres and in the southeast region, remain frequent. The commission further concludes that there has been no or only very limited progress in relation to key areas such as civil–military relations, freedom of expression, trade

union rights, cultural diversity and the promotion of and protection for minority rights in accordance with international standards.

Compared to the 2004 and 2005 reports, it is encouraging that the 2006 report appears to adopt a more realistic approach towards the Turkish reform process. In the report the Commission cites example after example of how Turkey has failed or continues to fail to secure the stability of the institutions guaranteeing the rights enshrined in the Copenhagen Criteria. However, on this background it is regrettable that the Commission continues to entertain the view that Turkey 'sufficiently fulfils' the Copenhagen Criteria.

Recent information from the ECtHR reaffirms the picture of a Turkey, which, despite years of reforms, remains in persistent breach of international human rights standards. Statistics from the Court show that Turkey in 2006 alone had 312 judgments handed down against her, each finding at least one violation of the ECHR – by far the largest number of judgments against one single Council of Europe member state. Of these judgments, 28 referred to a violation of Article 3 ECHR (prohibition of torture and inhuman or degrading treatment), 69 to Article 5 ECHR (right to liberty and security), 141 to Article 6 ECHR (rights to a fair trial), 35 to Article 10 ECHR (right to freedom of expression), and 82 to Article 1 of Protocol 1 (protection of property).⁵² The statistics from the ECtHR conflict significantly with the European Union's position that Turkey has achieved 'the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities', and it is remarkable that with this background the Commission maintains the position that Turkey continues to 'sufficiently fulfil' the Copenhagen Criteria.

Opening membership talks with a country which continues to frequently violate fundamental rights is damaging to the EU's own human rights commitments. The EU professes itself to be founded upon 'the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law',⁵³ and its apparent relaxation of these principles in relation to Turkey could jeopardize the Union's long-term credibility.

3

Civil and Political Rights in Turkey

It has been observed in preceding chapters that Turkey was founded upon a militarized, secular, mono-ethnic conception of national identity, which has long generated a relatively repressive state, a poor human rights record and considerable hostility towards the Kurds.

Turkey's EU accession has been heralded as a dynamic catalyst for change, inspiring radical political reforms which further democracy, human rights, the rule of law and the protection of minorities. It has also been noted in this publication, though, that Turkey's reform agenda is advancing within a framework of political dynamics which is generally favourable to expediting Turkey's EU membership. The decision of the European Council of December 2004 to open accession talks was arguably premature, with the Commission Report of Turkey's progress presenting a considerably sanitized picture of the human rights situation in Turkey.

A key question to be asked, therefore, is whether Turkey is really changing. What is the real impact of the reform process? How far has Turkey come in improving respect for human rights? The evidence suggests that whilst progress has been made in some areas, the pro-EU reform process is far from ushering in a new era of openness and respect for human rights in Turkey. Instead, those regarded as disloyal to the state continue to suffer ill-treatment and oppression, and are excluded from social and political participation. Crucially, human rights violations are not merely occasional glitches committed by recalcitrant public authorities far from Ankara. Rather, they are systematic practices of the state designed to silence dissent, repress non-Turkish identities, intimidate those expressing views which differ from official state lines and preclude disfavoured groups from having a say in the running of the country.

These conclusions raise important questions about the EU decision to welcome Turkey as an EU negotiating partner, reinforcing concerns described above that Turkey's EU application is being expedited at the expense of objectively assessing whether a genuine transformation has taken place in the country.

THE PRO-EU REFORM PROCESS

The reform process came about as the European Commission set out reform priorities for Turkey in an Accession Partnership in March 2001 aimed at improving human rights standards in line with the Copenhagen Criteria. Turkey's unprecedented series of pro-EU reforms commenced in earnest in 2002 with the election of the AKP government. The reform process to date has consisted principally of a series of legislative and administrative reform packages aimed at harmonizing Turkish Law with EU norms. Eight packages of reform were enacted in the Turkish Parliament during the lead-up to the decision to open accession negotiations 2002.¹ The harmonization packages have been complemented by two set of constitutional amendments. In September 2004 a new Penal Code was agreed in the Turkish Parliament, which entered into force on 1 June 2005.

It should be emphasized from the outset that Turkey's pro-EU reform process is a remarkably positive development, and that a considerable amount has been achieved over the past three years in particular. Turkey deserves credit for the steps that she has taken towards a new, more constructive approach to human rights and the instigation of reforms impinging upon deeply embedded historical taboos. Particular achievements include the abolition of the death penalty, the limited easing of restriction on broadcasting and education in minority languages, shorter police detention periods, and the lifting of the State of Emergency in the southeast.

The AKP government's achievements in uniting diverse sections within Turkey under the banner of EU accession, a key factor in facilitating efforts at domestic reform, must also be acknowledged. This delicate balance of interests will require great care and sensitivity to sustain, and the ability to point to external demands and conditions imposed by the EU has no doubt been instrumental in promoting sensitive reforms which may otherwise have been highly contested.² However, deep-seated fears, suspicion and resistance towards reform remain ingrained in key sectors of the 'deep state', including in the military, the civil service and the judiciary, and the continued presence of these elements lurking behind Turkey's official governing structure is a key impediment to reform. It can be assumed that for many, the demise of their previously assured positions of power within the state induces hostility towards the new order, while the reform process may also be regarded as a 'betrayal' of Atatürk's legacy of ethnic nationalism.

Indeed, it must be stressed that the reform process in Turkey is still largely in its infancy, not least because Turkey is progressing from a starting point of deeply-held historical suspicions towards certain groups within society, a culture of impunity for the commission of human rights abuses, a very tentative adherence to the rule of law and a pronounced tendency to engage in extra-legal punitive sanctions. Turkey's Penal Code and other legislative provisions have traditionally been geared overwhelmingly towards protecting the state against 'attacks' by individuals, rather than, as the rule of law is commonly conceived in liberal democracies, protecting vulnerable individuals from arbitrary incursions by the state. The judicial system has accordingly been used to harass and intimidate those seeking to exercise their legitimate right to express non-violent, alternative viewpoints, and the state is viewed as an often hostile, all-powerful, unaccountable institution.

As such, it is unsurprising that Turkey has made only very limited progress in human rights reform to date; five years is a short period of time to move away from an atmosphere of endemic torture and ill-treatment, comprehensive restrictions on the media and publishing and the absolute exclusion of alternative cultural and linguistic expression. Inadequate opportunity has so far been allowed for reforms to take hold within society and among public authorities, and a great deal of further effort is needed before Turkey can be regarded as even approaching European and international human rights standards.

There is no escaping the fact that, after a positive start to the accession negotiations and the harmonisation process, the Turkish reform process has slowed down. Turkey deserves credit for the several major reforms enacted since the 2004 Council decision to open formal accession negotiations. However, lately it appears as though a sense of complacency has pervaded the Turkish government's attitude towards full implementation of the reforms already enacted. Areas still remain under which Turkey has not brought her legislation in line with European and international human rights standards, as required by the Accession Partnership and Negotiation Framework, and anti-democratic tendencies continue to flaw the reform process, as, for example, the revision of the Turkish Penal Code and the adoption of the amended Anti-Terror Law illustrate. These pieces of legislation represent potentially retrogressive steps which risk undermining the progress already achieved through the EU harmonization process.

To date, the measures enacted have only scraped the surface of the entrenched authoritarian, anti-democratic tendencies within the Turkish establishment, and for the most part human rights violations continue to reflect administrative practices of the Turkish state. Any consideration of Turkey's history and political background makes clear that alongside further regulatory improvements, only a fundamental transformation in outdated mindsets and bureaucratic resistance to change can secure the ultimate success of Turkey's endeavour to align herself with European human rights standards.

TORTURE AND 'ZERO TOLERANCE'

The eradication of torture was identified early on by the European Commission as a vital step in the improvement of human rights in Turkey.³ Consequently, Turkey adopted a string of legislative reforms and constitutional amendments with this aim from 2001, against the backdrop of her much applauded and often repeated pledge to enforce a 'zero tolerance' policy on torture.⁴

The EU's particular focus on torture in Turkey, and the institution's evident discomfort over the scale of the practice there, stems from the near-universal abhorrence with which torture is met throughout the world. Torture is an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to obtain information or a confession, to punish him, to intimidate or coerce him, or for any reason based on discrimination of any kind.⁵ The pain or suffering must be inflicted by, at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁶ In Turkey, torture is particularly used to extract confessions, to punish human rights defenders and journalists and publishers who dissent from official state positions, and to generate fear and intimidation among certain communities.

Torture is defined by the international community as one of the most severe violations of human rights, and the international prohibition against torture and ill-treatment is well known, evident and absolute. The practice is proscribed by the International Covenant on Civil and Political Rights (ICCPR),⁷ the ECHR,⁸ and the UN Convention Against Torture (CAT).⁹ International law imposes specific and onerous obligations on states to take effective legislative, administrative and judicial measures to prevent torture,¹⁰ to enforce appropriate sanctions to punish torture,¹¹ to instigate a prompt and impartial investigation wherever there is reasonable ground to believe

that an act of torture has been committed,¹² and to ensure that victims of torture have an enforceable right to fair and adequate compensation.¹³ The prohibition on torture is non-derogable and there is never any exceptional justification for commissioning torture. This includes the citing of political instability or public emergencies as extenuating circumstances.¹⁴

Although the subsequently rescinded 'Alvarez memo' apparently justifying torture methods in the US and the UK Court of Appeal judgment in August 2004 (subsequently overturned in the House of Lords in December 2005) sanctioning the use of evidence gained by torture suggest disturbing trends in the regulation of torture, no country will explicitly admit to conducting torture. Indeed, the prohibition on torture is regarded as a judicial norm of *jus cogens*.¹⁵

The absolute nature of the prohibition on torture and the duties placed on states to prevent and adequately punish the practice stem from the seriousness of the effects of torture on the victim. Torture seeks to annihilate the victim's personality and denies the inherent dignity and worth of the human being, a key principle upon which the idea of human rights is founded. There can never be any rationalization for torture, not only because of the depth of immorality and contemptibility of the practice, but also because it is fundamentally ineffective. Victims will often say anything under torture to stop the pain, and such information is often incorrect or unreliable.

Turkey's undertaking to pursue zero tolerance towards torture was thus warmly welcomed by the EU, and certainly accords in theory with the absolute international prohibition on torture and the EU priority to eradicate the practice. What Turkey's zero tolerance policy has meant in practice, though, is a rather different matter.

In the first place, as in relation to Turkey's progress on human rights generally, it should be noted that there is a vast gulf between the endemic levels of torture present in Turkey until just a few years ago and the achievement of zero tolerance. Turkey, therefore, is only at the very beginning of a long and difficult path towards meeting European standards on torture levels. Torture was for many years an integral aspect of Turkish interrogation and detention practices; something which particularly came to light in the West in the wake of the 1980 military coup. For Turkey's security forces, meting out torture and ill-treatment was routine and implicitly endorsed from the top levels of government. As such, the habit of torture and the expectation of impunity became deeply embedded throughout the Turkish police forces, gendarmerie and other law enforcement bodies,

while turning a blind eye to torture allegations was habitual among public prosecutors. Under Turkish law, wide discretion was granted to detain individuals 'incommunicado' and sentences for torture were short. Kurds were particularly susceptible to torture, particularly under Martial Law and the subsequent State of Emergency in the 1980s and 1990s in the southeast of Turkey.

It is true that Turkey's leaders have since sought to dismiss the old idea that torture is unofficially tolerated in Turkey through the repeated and public issuing of strong condemnations of torture in all circumstances. It was the effective governmental endorsement of torture which had previously excluded the necessary controls on detention practices and fostered widespread impunity among law enforcement officials. Furthermore, while Turkey's reform process is certainly not approaching completion, she has achieved much very rapidly on paper. The current regulation of the treatment of detainees in comparison to that in force five years ago is transformed, and the judicial framework for penalizing perpetrators of torture is likewise greatly changed. It has been commented that Turkey's 'formal protections [against torture] are now among the strongest in Europe'.¹⁶

However, it is clearly apparent that the vast strides made by Turkey in the official outlawing of torture in recent years have not been matched by equivalent tangible progress in tackling torture on the ground. Although some limited efforts have been made to comply with the new legislative and regulatory framework governing torture, and the message of zero tolerance has had some resonance among local law enforcement officials,¹⁷ the much-cited apparent decline in the scale of torture in Turkey¹⁸ masks a much less welcome reality.

While it is fairly unequivocal that there are less reported cases of customary methods of 'heavy torture',¹⁹ including electric shock treatment, *falaka* (beating the soles of the feet) and hanging by the arms, it must be recognized that reported torture cases continue to reach levels which would be wholly unconceivable in a modern, Western democracy. The Turkish human rights foundation İnsan Hakları Derneği (İHD) alone, for example, received a total of 455 reports of torture or ill-treatment in the first six months of 2004.²⁰ Other human rights organizations and torture rehabilitation centres report similarly high incidences of torture.²¹ Even the European Commission report of October 2004 conceded that: 'numerous cases of ill-treatment including torture still continue to occur'.²² Reference has already been made to the Commission's failure to concede that

the continued commission of 'numerous' cases of ill-treatment and torture meant that Turkey has not fulfilled the Copenhagen Criteria for the opening of formal accession negotiations.

The continued high incidences of torture in Turkey stems to a significant extent from partial and uneven implementation of the reforms aimed at combating the practice. Incommunicado or 'unacknowledged' detention continues to occur as detainees are denied access to legal counsel²³ and their families are not informed of their detention. Impunity for torture also remains rife,²⁴ as medical reports documenting torture are stifled, and law enforcement officials continue to be present during medical examinations.²⁵ Incommunicado detention is a key factor perpetuating torture,²⁶ as it removes external restraints from the behaviour of potential perpetrators, placing the victim totally under their control. Investigations into torture allegations are inadequate and the prosecution of law enforcement officials remains extremely rare.²⁷ Impunity for torture sends entirely the wrong message to law enforcement officials, keeping alive the old idea that torture is an acceptable state practice and preventing the internalization of the idea that such levels of brutality are unacceptable.²⁸

Even more damning for Turkey, however, is the fact that the decline in customary torture methods has been offset by a parallel rise in torture incidences outside of detention facilities. In 2005 the European Commission stated that reports of ill-treatment outside detention centres were still 'common', in particular during transportation of detainees and in the context of demonstrations.²⁹ The Commission reiterated this statement in its 2006 Progress Report, and further concluded that the implementation of the pro-EU reforms undertaken since the opening of accession negotiations 'remained a challenge'.³⁰

Further, a regional human rights organization reports a striking increase in torture and ill-treatment occurring in 'other places' such as open spaces and vehicles,³¹ and of the 455 cases reported by İHD, 208 (46 per cent) were of incidents occurring outside official detention.³² The comparable statistic for 2003 is 25 per cent.³³ Similarly, there has been an increase in less detectable methods of torture or ill-treatment. Torture practices which do not leave visible marks on a prisoner, including deprivation of basic needs, spraying with high pressure water, and death threats, are frequently reported. In 2003, the Turkish Foundation for Social and Legal Research (TOHAV) reported new torture methods such as isolation from outside stimulus in a cell,

sleep deprivation, assault, sexual harassment, and mock execution.³⁴ The figures reveal that the impact of human rights-defending official bodies and policies, established by the Turkish government in order to meet the EU accession criteria, has been limited. According to TOHAV 113 out of 165 claims of torture in the first five months of 2006 were successful. In 2005, 193 of the 675 torture claims were successful. Further, five people died in custody and at least seven people died in prison.³⁵

These reports are extremely important because they indicate that rather than progressively taking on board the notion that torture is not tolerated, law enforcement officials are instead finding ways of circumventing controls on torture. As such, the problem is not being resolved but merely displaced, and the reality is that little is changing in Turkey. Ingrained patterns of thought by law enforcement officials which conceive torture as an acceptable means of countering dissent, extracting confessions and intimidating people deemed 'hostile' to the state are proving slow to dislodge, and it will take a much deeper and more sustained effort to truly stamp out torture.

These observations prompt examination of the now much-discussed question of whether torture in Turkey is correctly described as 'systematic'. Much has ridden on this issue, since the EU considered it imperative to show that torture is no longer systematic before judging that Turkey had fulfilled the political elements of the Copenhagen Criteria. It is hardly conceivable that the EU could commence accession negotiations with a state which routinely advocated the use of torture against its citizens.

One of the main challenges regarding torture in Turkey, as pointed out by the Commission itself, relates to the implementation of the pro EU-reforms. Many of the reforms are not followed up by appropriate measures in order to guarantee correct implementation. For example, as a result of the reform process medical examinations during detention and upon release or court appearance are required by Turkish law. However, there is a limited capacity as far as forensic medicine is concerned, since only 300 out of the 80,000 doctors in Turkey have the forensic skills to diagnose instances of torture.³⁶ As a result of this, the medical examinations required by the law are usually brief and informal, and consequently inadequate. The reform process has not been followed up by more training of medical practitioners, even though it is urgently needed. Further, these doctors are mainly linked to the Forensic Medical Institute in Istanbul. In this regard concerns remain as to the confidentiality and quality of medical

examinations since the independence of the Institute of Forensic Medicine is not fully guaranteed due to the Institute's reporting line directly to the Ministry of Justice.³⁷ As the Turkish authorities are deliberately using less detectable torture methods and adopting more devious practices of torture, including forms of psychological torture such as sexual harassment and humiliation, effective medical examinations of detainees become crucially important, and it is alarming that the Turkish government has done so little to encourage and promote development in this field.

Equally little has been done to end the culture of impunity. Although a supplementary Article 7 has been introduced to the Code of Criminal Procedure in order to prioritize the investigation and prosecution of allegations of torture, the adoption of the amended Anti-Terror Law effectively bypasses supplementary Article 7. Article 15 of the Anti-Terror Law states that if investigations are launched against members of security forces in response to allegations of crimes committed in connection with counter-terrorism operations, these members can be tried while released on bail, regardless of the nature of the alleged crime committed. By stating that the person(s) in question will not be suspended from duty while investigations are pending, regardless of the nature of the crime committed, the provision indirectly implies that torture is not a serious offence, thereby *de facto* reinforcing the culture of impunity. Further, Article 10 provides that during the investigation of crimes committed by law enforcement officers, the fees of three legal counsels shall be paid by the state, whilst a defendant only has the right to one counsel. This constitutes a clear violation of the principle of equality of arms.

Following allegations of systematic torture by human rights non-governmental organizations (NGOs), an EU envoy was sent to Turkey in September 2004. The EU Enlargement Commissioner at the time of the visit, Guenter Verheugen, concluded from the visit that there were individual cases of infringement and abuse but found no evidence of systematic torture.³⁸ This conclusion is, though, decidedly difficult to uphold, and perhaps even a little perverse. In defining what amounts to systematic torture, the Committee Against Torture states that:

Torture is practised systematically when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question.³⁹

In Turkey, it is agreed by all sides that torture is 'widespread'; even the European Commission admits that 'numerous' cases continue to occur. The very scale of torture also points to the practice being 'habitual' rather than an occasional anomaly, as do the similarities between many torture allegations in terms of both the methods used and the types of victims targeted. The 'habitual' nature of torture is also underlined by the fact that torture in Turkey springs from long-established ingrained practices among law enforcement bodies accustomed over many years to receiving a green light from above to integrate torture methods into interrogation techniques and use it as a means of harassing disfavoured individuals and groups. Old habits of holding detainees in solitary confinement without informing their families, allowing independent medical examinations or permitting access to legal counsel are not yet fading, and the prevalence of conditions in detention centres elsewhere which facilitate torture clearly indicate that torture incidences are not just odd, chance occurrences.

As to the requirement contained in the committee's definition that torture is deliberate, this is evidenced particularly by the intentional evasion of regulatory measures by law enforcement agents through the use of less detectable torture methods and the increased commission of torture outside detention facilities. Continued high levels of impunity among alleged perpetrators, including unwillingness among prosecutors to file cases, judges permitting cases to expire and police reluctance to detain alleged torture perpetrators, all signify that torture is tolerated from above, as does Turkey's abject failure to adequately supervise detention facilities. Furthermore, the scale and severity of torture in Turkey can only result from the acceptance of its use at the highest level.

The fact that Turkey has announced a zero tolerance policy towards torture and enacted a wide range of regulatory provisions aimed at stamping out torture, while welcome, is not relevant to an assessment of whether torture is systematic. The committee adds to its definition that:

Torture may in fact be of a systematic character without resulting from the direct intention of a Government. It may be the consequence of factors which the Government has difficulty in controlling, and its existence may indicate a discrepancy between policy as determined by the central Government and its implementation by the local administration.⁴⁰

National human rights NGOs in Turkey support the assertion that torture remains systematic, alleging, for example, that since prosecutors, judges, forensic medical experts and the police do not pursue torture cases,⁴¹ torturers are being protected and torture is therefore in fact systematic.

In December 2005 a delegation from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey. The delegation, acting under the mandate of the Council of Europe, reviewed the situation in the country regarding torture and ill-treatment. During its visit the delegation did receive, in each of the three provinces visited, several allegations of recent physical ill-treatment during police or security personnel custody, in a few cases of a serious nature. Further, a number of complaints were heard of physical ill-treatment at the time of apprehension and/or in the context of public demonstrations. The delegation concluded in this regard, that there indeed appeared to be a continuing problem of the disproportionate use of force on such occasions. The Committee further concluded that there had been an increase in instances of ill-treatment being inflicted outside of law enforcement establishments, in isolated areas such as forests.⁴²

Despite numerous accounts that torture remains frequent in Turkey, the European Commission concluded in its 2006 Progress Report that the harmonization process had resulted in 'a comprehensive legislative framework' in Turkey regarding torture.⁴³ This conclusion seems to conflict with the 2006 amendments to the Turkish Anti-Terror Law, which in Article 10 provides that the right of a detained suspect to have access to a defence lawyer within the first 24 hours of detention can be restricted upon the Public Prosecutor's demand. The provision represents a major setback for the reform process in Turkey, as the right of the detainee to immediate legal council upon detention has been one of the most significant achievements of the reform process. As torture most often occurs within the first 24 hours of detention, Article 10 places the individual at a high risk of torture. The provision conflicts with the policy of zero tolerance introduced by previous reforms and there is a serious risk that it will reverse the progress already achieved in relation to the fight against torture. Article 10 therefore challenges the Commission's assessment of 'a comprehensive legislative framework' and it is unfortunate that the Commission fails to address the effects of the Anti-Terror Law in the framework of the fight against torture.

The provisions of the Anti-Terror Law are further illustrative of Turkey's ambivalence towards the reform process; despite the adoption of a zero tolerance policy on torture, a culture of impunity continues to penetrate the Turkish security forces. Insufficient implementation flaws the Turkish reform process, thus jeopardizing the intention of the reforms, and anti-democratic provisions bypass the safeguards of the laws already enacted. Further, Turkey has still not ratified the Optional Protocol to the UN Convention Against Torture (OPCAT), despite the fact that ratification of this protocol is a priority in the Accession Partnership.

This justifies asking whether Turkey is in fact committed to the reform process or whether the reforms enacted amount to nothing more than Turkey paying lip service to the European Union? Incidents of torture remain frequent in Turkey, and thus it is of serious concern that the Turkish legislation in fact fails to guarantee the safeguards required by international law in order to protect detainees from torture and ill-treatment. What is more alarming, however, is the fact that since the adoption of the amended Anti-Terror Law, detainees are in certain situations also denied these safeguards *de jure*. This is a severe violation of international law and the absolute prohibition of torture, and it contradicts the European Union's assessment that Turkey 'sufficiently fulfils' the Copenhagen Criteria.

It can be concluded, therefore, that in spite of ostensible government commitment to a zero tolerance policy, all the evidence suggests that torture in fact remains widespread, officially sanctioned and habitual, and hence part of state policy and a systematic practice of Turkey. In any event, torture levels are unacceptably high and the Turkish government has manifestly failed so far in its responsibility to eradicate the practice.

FREEDOM OF EXPRESSION, PUBLISHING AND THE MEDIA

Restrictions on freedom of expression, publishing and the media have long been a central tenet of Turkish determination to maintain the status quo of the monolithic, unaccountable state. Accordingly, books, journals, newspapers, radio and television broadcasting and other media are subject to comprehensive legislative restrictions on their content, which serve to stifle criticism of government policy as well as repressing the expression of alternative ethnic identities and quashing discussion of taboo subjects such as the role of the military in government, the role of Islam in Turkish politics and

society, the issues surrounding the alleged Armenian genocide and the Kurdish question. Prosecutions have been and continue to be brought regularly against publications or broadcasts deemed to have impinged upon these 'taboo' subjects or otherwise challenged the integrity of the state, with forms of non-violent expression which would be considered perfectly acceptable in a pluralist, democratic society being punished under the heads of 'inciting separatism' or 'terrorism', insulting the organs of the state, inciting racial hatred or aiding an illegal organization.

The routine repression of non-violent expression in Turkey is fundamentally linked to both her strict adherence to the notion of the homogeneous and secular Turkish identity, and her elevation of the idea of the state. The concept of an ethnically based nationalism, which denied even the existence of the Kurds, inspired pervasive restrictions and prosecutions where references were made to the existence of a separate Kurdish identity or where government policy towards the Kurds was criticized. Indeed, any form of expression seen to threaten the total cohesion and unity of all the groups who made up the Turkish people were traditionally repressed. The perceived necessity of protecting territorial integrity was intensified during the conflict in the southeast, and the Regional Governor was accorded sweeping powers to confiscate material judged offensive.

Similarly, the idea of an omnipotent, centralized state that transcends the individual⁴⁴ has long been prevalent in Turkey, and before it was amended in 1995 the Preamble to the 1982 Constitution even spoke of a 'sacred state'.⁴⁵ Thus the state is elevated to something far above the rights and interests of the ordinary citizen, to be revered and protected at all costs against attacks and intrusions by non-state institutions (the 'state' constitutes the executive, the military, the police and the judiciary), hence the legislative provision which sets out punishments for insulting the state. The Turkish Penal Code enacted in 1926 even prohibited organizations and propaganda 'seeking to destroy or weaken nationalist feeling'.⁴⁶ Expression seen by state organs as indicating particularistic interests distinct from the state was also viewed with suspicion.⁴⁷

The Turkish Penal Code and the Press Law accordingly contained a whole host of provisions facilitating the initiation of judicial proceedings for non-violent forms of expression, and typical offences included insulting the President, insulting government officials or the military, spreading separatist propaganda, and inciting racial, ethnic,

or religious hatred. Convictions resulted in imprisonment or crippling fines which forced the closure of local media establishments.

To what extent is Turkey overcoming these factors inhibiting free expression in the publishing industry and the media? The answer is, unfortunately, rather negative. It is certainly true that pro-EU reform packages have brought in some positive changes, with many of the laws used habitually to repress non-violent expression, such as Article 8 of the Anti-Terror Law which prohibited the dissemination of 'separatist propaganda', subject to amendment or repeal. An amendment to Article 30 of the Constitution ensures that printing presses can no longer be subject to confiscation or seizure, and the new Press Law strengthens the rights of journalists not to disclose their sources and replaces prison sentences with heavy fines in some instances. In 2004 official figures showed a decrease in the number of prosecutions and the conviction rate for alleged breaches of the reformed articles of the Penal Code and Anti-Terror Law previously used most frequently to punish legitimate forms of expression.⁴⁸ Furthermore, the European Commission has stated that since January 2004, 103 judgments in the Turkish courts have contained a reference to Article 10 of the ECHR, and that these cases have ended in acquittals.⁴⁹

Lately, however, it appears that there has been an increase in the cases brought against people expressing non-violent dissenting opinions. This is corroborated by the 2006 Annual Report from the BIA (Independent Communications Network) which concluded that the number of journalist, publishers and activists prosecuted for freedom of expression 'offences' rose from 157 in 2005 to 293 in 2006.⁵⁰ Therefore, on balance, Turkey's progress in this sphere is highly limited. It is patently apparent that the habitual instinct to suppress the expression of opinions contrary to traditional Turkish nationalist or statist ideology continues to motivate the police and the judiciary, and interference with freedom of expression remains decidedly widespread. Despite the institution of numerous reforms regarding freedom of expression, and the adoption of an abundance of new legislation vis-à-vis the EU accession process, serious concern remains that the objective of the harmonization laws enacted continues to be the protection of the idea of a secular, unified, centralized and homogeneous state on the expense of the rights of the individual.

Although the Turkish Constitution and the Press and Broadcasting Law, among others, have been reformed in order to secure freedom

of expression, the reforms have failed to sufficiently address the continuing criminalization of legitimate expressions of political dissent. Further, the reforms have effectively been bypassed by anti-democratic amendments to the Penal Code and Anti-Terror Law, which grant the Turkish authorities the means to continue to restrict freedom of expression by threatening individuals, including authors, journalists, publishers and editors with investigations and trials.

The Turkish Penal Code was revised in 2005, and although it contains several welcome provisions, such as a strengthened sanctions regime for torture and improvements to certain provisions related to freedom of expression, it still falls short of meeting European and International human rights standards. The code is full of systematic, contextual and linguistic weaknesses, and it has been designed to root out any criticism, dissent or debate regarding the major sensitive issues of the Turkish society.

The code came into force on 1 July 2005, having been delayed twice owing to concern from the EU that the attempts to make progress on the issue of freedom of expression had not been achieved. It enforces significant restrictions on the concept of freedom of expression, and its provisions carry heavy penalties for criticism of the state. Despite amendments the code still contains Articles which are customarily used by the police and judiciary to punish non-violent expression, and it leaves the door wide open to continued judicial harassment. In this respect some of the most controversial Articles of the former Penal Code reappear almost identically in the revised code. Thus, under Article 301 (former Article 159), it remains an offence to 'publicly denigrate' the Republic of Turkey, its institutions or simply 'Turkishness', and the revised Article 312 (now Article 216) only slightly narrows the scope of 'incitement to enmity and hatred' through the potentially subjective test of whether such incitement constitutes an immediate danger.

The revised Penal Code has been repeatedly criticized by the EU for containing a number of vaguely worded provisions, most notably Article 301. According to the European Commission the Article is 'a cause for serious concern' which might 'contribute to create a climate of self-censorship' in Turkey.⁵¹ The Commission has continuously called for the provision to be 'amended in order to safeguard freedom of expression in Turkey'⁵² and has placed the requirement on Turkey that Article 301, together with other provisions of the Penal Code, is 'brought in line with relevant European Standards'.⁵³

Article 301 has repetitively been used to prosecute non-violent opinions expressed by journalists, writers, publishers, academics and human rights activists. This is despite the fact that the Ministry of Justice in January 2006 issued a circular regarding cases of freedom of expression in written and visual media, instructing prosecutors to take into consideration both Turkish legislation and the ECHR.⁵⁴

In order to bring Article 301 in line with the jurisprudence of the ECtHR, a paragraph (subsection (4)) which states that expression of thought intended to criticize should not constitute a crime has been included in the Article. However, despite being amended so as to allow criticism, the provision remains badly drafted, leaving the parameters of criminal liability under the offence unclear. Further, as illustrated by the myriad of cases brought under the Article, the prosecutors and judiciary have adopted a restrictive interpretation, rarely applying the new paragraph. Article 301 therefore continues to represent a major impediment to freedom of expression in Turkey. Under the amended provision an individual will be found guilty if the judge perceives that he or she has 'denigrated' the state, but not guilty if the thought expressed merely amounts to 'criticism'. The ambiguity of the terms of Article 301 leaves too much scope for further unjustified prosecutions, as the high-profile case against Professor İbrahim Kaboğlu and Professor Baskın Oran illustrates.

In October 2004 a report was released under the auspices of the Human Rights Advisory Board – a state body reporting directly to the Office of the Turkish Prime Minister. The report questioned the Turkish policy on minorities and communities, in particular highlighting the restrictive interpretation of the 1923 Treaty of Lausanne and encouraged Turkey to align its policy with international standards, such as to include other ethnic groups, for example 'Arabs' and 'Kurds', under the definition of minorities. Consequently, an investigation was launched against Professor Kaboğlu, as president of the Human Rights Advisory Board, and Professor Oran, as chair of the Working Group on Minorities and Cultural Rights, established under the Advisory Board. The two professors subsequently resigned, claiming that their positions were untenable. They faced charges under Articles 216 and 301 of the Turkish Penal Code for insulting state institutions and inciting people to enmity and hatred.⁵⁵ The professors initially faced up to five years in prison for the report released in October 2004 and were acquitted in May 2006 after a six-month trial,⁵⁶ but the judgment has recently been appealed.

The Court of Appeal has overturned the decision and the case is still pending.

The case highlights the arbitrariness of Article 301 and the lack of legal certainty that surrounds it. In the past Turkey has showed little enthusiasm in response to the criticism voiced over the Penal Code. However, after the criticism voiced by the European Commission in the 2006 Progress Report it appears as if the AKP government is softening its approach towards Article 301. It has recently been reported that the government is preparing to amend the Article, apparently by dealing with its most ambiguous points. This includes replacing the concept of denigrating 'Turkishness' with denigrating the 'Turkish nation', and through similar changes narrowing down the scope of the law.⁵⁷ Turkey's Foreign Minister has been quoted saying that the problems concerning the Article stem from its interpretation by the judiciary, and that the Turkish government will amend Article 301 in consultation with NGOs and civil society representatives. Thus, in November 2006, Turkish Prime Minister Erdoğan met with representatives from trade unions and NGOs in order to consult them on how to change Article 301.⁵⁸

It is encouraging that the Turkish government seems to show more willingness to debate Article 301. However, the signals coming from the government leave much to be desired, as the government's proposal to exchange 'Turkishness' with 'Turkish nation' appears to be nothing more than artificial. By retaining the concept of a unified, centralized and homogeneous 'Turkish nation' in need of protection from 'denigration', the *raison d'être* of the Article remains unchanged. Consequently, it is highly unlikely that any amendments will result in real progress in the area of freedom of expression, as the draconian nature of Article 301 remains unchanged. Further, it is the judiciary which will have the ultimate say on the interpretation and application of future amendments. So far, the judiciary has shown little will to apply the reforms already enacted, adopting a restrictive interpretation and application of the new laws. It is therefore likely that the judiciary will continue its restrictive interpretation and be reluctant to apply future amendments of Article 301.

Following the example of a number of Western European states, Turkey revised its Anti-Terror legislation in June 2006. With the adoption of the amended Anti-Terror Law in June 2006 the reform process in Turkey suffered yet another severe setback. The amendment of the Anti-Terror Law reintroduced anti-democratic measures, which had been rooted out by previous reforms, targeting fundamental

rights and freedoms such as the right to freedom of expression and the rule of law. The amendments introduced are fundamentally flawed and there is a serious risk that they will undermine the reforms already enacted in Turkey.

The Anti-Terror Law extends the number of offences which constitute 'terrorist crimes', disproportionately punishing behaviour that, to laymen, would not constitute 'terrorism'. For example, around 60 crimes defined in the Turkish Penal Code are replicated in the new Anti-Terror Law, and yet the latter imposes heavier sentences and longer imprisonment. Further, the existing definition of terrorism has not been amended, and the concept of 'terrorism' therefore continues to be defined as 'any kind of act' aimed at

changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by means of pressure, force and violence, terror, intimidation, oppression or threat.⁵⁹

This definition is far too vaguely worded, and therefore it fails to meet the precision and clarity requirements governing criminal law, notably the rule of law and the principles of legality and certainty. In February 2006, the UN Special Rapporteur for terrorism, Martin Scheinin, visited Turkey, and, upon revising the draft law, recommended that the definition of terrorist crimes should be brought in line with international norms and standards, notably the principle of legality as required by Article 15 of the ICCPR.⁶⁰ However, Turkey did not follow this recommendation, and the definition was reiterated in the amended law, which, as a consequence, continues to represent a violation of the rule of law and the principles of legality and certainty.

Due to the broad and ambiguous definition of what constitutes a 'terrorist offence', there is a serious risk that legitimate criticism can be labelled as 'terrorist propaganda'. If the law is used indiscriminately, it poses to be a restriction of peaceful expression and non-violent dissenting opinion, and provide Turkey with more leeway in suppressing dissent.

Both international and regional NGOs have expressed concern over the amendments to the Anti-Terror Law,⁶¹ and in November 2006 the European Commission concluded that the amended law 'introduces legal restrictions on freedom of expression, the press and the media' and that it 'reduces procedural safeguards for suspects of terrorist offences'.⁶² Several legislative provisions, including Articles 6 and 7 of the law, are of particular concern as they provide for hard sanctions on the press and media, including prison sentences for journalists and heavy fines for editors and owners of press and media organs. Article 6 states that publications which 'openly encourage' acts of terrorism, as defined in the law, upon the request of the security forces, can be closed down by the public prosecutor for up to one month. Under Article 7, if a person is found to engage in what the law defines as 'terrorist propaganda', it will be an aggravating circumstance if this 'propaganda' is spread via the press or media, that is, by a journalist. In such cases the sentence prescribed by the article is increased by a half. Further, both articles introduce a type of 'chain liability' under which not only the writer of the disputed texts can be punished, but where also the publisher and/or the person responsible for the publication, that is, the chief editor, will be liable for the spreading of 'terrorist propaganda'.

There are numerous examples of how the Penal Code and Anti-Terror Law, among others, are being used to limit the right to freedom of expression. A high-profile case is that of Orhan Pamuk, Turkey's leading contemporary novelist and winner of the Nobel Prize for literature, who in 2005 faced trial under charges relating to Article 301 of the amended Penal Code for publicly denigrating Turkish national character. Pamuk's 'offence' amounted to an interview with Swiss publication *Das Magazin* in which he stated 'Thirty thousand Kurds and a million Armenians were killed in these lands [Turkey] and nobody dares talk about it. I do.' Another case is that of former editor Hakan Albayrak who served six months of a 15-month sentence for acts constituting an 'insult to the memory of Atatürk'.

Turkey's worst excesses are generally reserved for Kurds or pro-Kurdish activists. Distributors of pro-Kurdish publications have been particularly targeted. Kurdish publisher Songül Özkan is currently facing trial for 'inciting people to enmity and hatred with regard to differences of race and religion'. Her alleged 'crime' is the publication of the book *Kürt İsyanları* (Kurdish Uprisings), which describes the Kurdish uprisings of the twentieth century. The book is written by

Kurdish author Ahmet Kahraman, one of present-day Turkey's most distinguished political journalists and writers.

An upshot of the incomplete reform process is the legislative and administrative amendments which have been implemented. However, these are limited in their effects due to the preponderance of alternative, anti-democratic provisions which remain on the statute books and under which arrests and prosecutions can still occur. Perhaps the clearest example of this, which has been broadly observed by human rights commentators within and outside Turkey, is that circumstances where previously charges would have been brought under the now repealed Article 8 of the Anti-Terror Law (prohibiting separatist propaganda), can now result in charges under the Penal Code. Articles 169 (aiding an illegal organization) or 312 (incitement to racial, ethnic, or religious enmity) are prime candidates. Indeed, it appears from some reported cases that in situations where charges could have been brought under now amended or repealed legislation, prosecutors scour the statute books to seek alternative legislation under which to initiate proceedings. This indicates that the limited legislative changes that have occurred are also being deliberately circumvented by over-zealous public authorities clinging to outdated notions of state power.

Furthermore, cases continue to be launched by prosecutors even where reformed legislation protects freedom of expression. For example, Feray Salman, Secretary-General of the İHD, and Ridvan Kızgın, chairman of İHD Bingöl branch, were prosecuted for speeches they had made including a statement that torture was continuing in Turkey and that charges against perpetrators were rarely brought. The defendants were acquitted because the statements of the defendants remained within the limits of freedom of expression and thought,⁶³ but frequent judicial proceedings brought against those seeking to express themselves in legitimate, non-violent ways, even where such prosecutions do not result in convictions, substantially hamper free expression. The constant threat of prosecution is likely to deter groups viewed with hostility by the state from publishing and disseminating apparently contentious works, imposing considerable stress and effectively pushing them to censor their own publications. Frequent arrests, confiscation of materials, repeated attendance at hearings and intermittent detention impair the capacity of media outlets and other targeted organizations to carry out their daily work.

Many provisions of the Penal Code stipulate that when an offence is committed through the printed press or any mass media, the

penalty shall automatically be increased, making it an aggravating circumstance if the offence is committed via the press or the media. For example, Article 218 of the code provides that 'if the offences defined in the articles above [offences against society] are committed through the media and press, the penalty shall be increased by one half'. The Penal Code has been criticized for containing provisions which could result in arbitrary prosecutions of journalists and others involved with the media. Under Article 125(2), criticism of a political figure, voiced through the press or media, can be interpreted as a 'personal insult', consequently landing the journalists concerned prison sentences of up to two years if convicted.

By containing provisions that automatically increase the punishment for media involvement, the Penal Code and the Anti-Terror Law infringe the principle of freedom of the press and media. The ECtHR has stated that in cases of media involvement European legal standards have enshrined the principle of public interest, and thus Article 10 of the ECHR should be understood in a way such as to actively encourage opinion, reporting, debate and discussion of public issues. As the Court stated in *Thoma v. Luxembourg*, 'in the sphere of general interests, restrictions on freedom of expression are to be strictly construed' and 'the press plays a vital role as "public watchdog"'.⁶⁴ The Court continued:

Freedom of expression constitutes one of the essential foundations of a democratic society and is applicable not only to 'information' or 'ideas' that were favourable received or regarded as inoffensive or as a matter of indifference, but also to those that offended, shocked or disturbed.⁶⁵

Upon reading the statements from the Court it becomes evident that the provisions of the Turkish Penal Code and Anti-Terror Law, and the application of these provisions by the Turkish prosecutors, are clearly at odds with the jurisprudence established in *Thoma v. Luxembourg*. Consequently, the laws constitute a violation of Article 10 of the ECHR, including the principle of public interest enshrined in this Article. As a member of the Council of Europe, Turkey is obliged to comply with the ECHR. It should therefore bring legislation in line with the provisions and principles protected by the Convention, and further ensure that the judiciary interprets the legislation in accordance with international standards.

The amended Turkish Press Law⁶⁶ does little to reverse the damaging effect of the Penal Code and the Anti-Terror Law. Although Article 1 of the law states that ‘the aim of the Press Law is to arrange freedom of the press and the implementation of this freedom’, the law also contains a significant modification to this statement. Article 3 provides that restrictions can be imposed on the freedom of the press in order to

protect the reputation and rights of others as well as public health and public morality, national security, and public order and public safety; to safeguard the indivisible integrity of its territory; to prevent crime; to withhold information duly classified as state secrets; and to ensure the authority and impartial functioning of the judiciary.

Hence, in effect, the modification in Article 3 reduces Article 1 to a statement without any legal significance, granting the authorities the power to bypass the principle of freedom of the press.

The restrictions imposed by the Turkish legislation on the principles of freedom of expression, the press and media further contradict the principles of the OSCE. Under paragraph 9.1 of the OSCE Copenhagen Document the participating states reaffirm that ‘everyone has the right to freedom of expression, including the right of communication’ and that ‘the exercise of the right may be subject only to restrictions as are prescribed by law and are consistent with international standards’.⁶⁷ In relation to the freedom of the media, the OSCE Moscow Document requires of the participating states that they recognize that ‘independent media are essential to free and open society and accountable systems of government, and are of particular importance in safeguarding human rights and fundamental freedoms’.⁶⁸

In this regard the Penal Code has been criticized by the OSCE Representative on Freedom of the Media, Miklos Haraszti, for being ‘illegitimately hostile or threatening to freedom of expression’.⁶⁹ After visiting Turkey in 2005, Mr Haraszti concluded that the kind of automatic punishment for media involvement introduced by the Penal Code – and subsequently the Anti-Terror Law – amounts to a general measure against free speech, and hence violates media freedom principles. Mr Haraszti therefore recommended that 23 provisions of the Penal Code, which at the time of the review were still in draft form, should be changed in order to secure freedom of

the press and media. Subsequently, however, Turkey only amended seven provisions in accordance with media freedom principles. In response to this, Mr Haraszi concluded that the amendments would 'not sufficiently eliminate threats to freedom of expression and to the free press'.⁷⁰

Although the principles of the OSCE are not binding on the participating states, it is expected that the states comply with the principles and policies of the Organization. The OSCE represents modern Europe, and its policies and decisions thus reflect European human rights standards. It is unfortunate that Turkey, despite criticism from the OSCE, has not felt obliged to bring its laws in accordance with the media principles established in the literature of the OSCE, as this challenges Turkey's self-proclaimed image as a nation committed to reform.

State treatment of the publishing industry and the media in Turkey is, then, still predominantly governed by concerns over perceived 'attacks' on the fundamental precepts of Turkish nationalism, including national integrity, and the perceived omnipotence of the state. Tolerance of pluralism and alternative viewpoints are still viewed by the police and judiciary as dangerous, and this is reflected both in Turkish legislation and judicial practice. Spurious arrests and prosecutions continue on a very broad scale and Turkey has failed so far to create an environment in which freedom of expression is a valued democratic principle.

Freedom of expression is a fundamental right, and the ability to put forward alternative viewpoints without government censorship and to openly discuss political topics and other issues is viewed as an integral element of modern liberal democracy. Turkey's obligations in this area are set out in a number of international treaties, particularly the ICCPR⁷¹ and the ECHR.⁷² The Penal Code and the Anti-Terror Law represent deeply retrograde steps which risk undermining the reforms already enacted in the area of freedom of expression, publishing and the media. Freedom of expression is not an absolute right and consequently it can be restricted on grounds such as national security and public interests. However, in a modern, democratic society the restrictions imposed on the principle of freedom of expression on the grounds of national security or public interest must be necessary and proportional. The law which prescribes such restrictions has to be 'accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful'.⁷³ Neither the Penal Code nor the Anti-Terror Law meet

these principles. The difference between 'denigration' and 'criticism' in Article 301 is so slight it fails to safeguard legitimate free expression, and the vague definition in the Anti-Terror law violates the principles of the rule of law, legality and certainty.

Core justifications for the import attached to freedom of expression include the promotion of a tolerant society, at ease with itself and able to absorb the views of all its citizens. This in turn sets a precedent for the peaceful coexistence of heterogeneous members of society and militates against other forms of harassment and persecution of groups and individuals otherwise viewed as hostile to the state. Politically, the open discussion of electoral candidates in a democratic state is essential to allow voters to make informed decisions about candidates and to have a say in the running of the country. It also facilitates the voicing of criticisms of the government, a vital process in enforcing democratic accountability.

A further important rationale for free speech is that it advances personal autonomy. Free speech allows an individual to engage in forms of self-expression and self-definition at will, which contributes to the individual's capacity to fulfil aspects of their personality. Finally, freedom of expression is classically seen as essential to the discovery of the truth. In the metaphor of the 'marketplace of ideas', the most effective test of the truth is deemed to be the power of an idea to get itself accepted in the 'competition of the market'.⁷⁴ The importance of freedom of expression means that although it is not an absolute right, it must be balanced carefully against other interests and can only legitimately be restricted in limited circumstances where such restrictions are prescribed by law, have a legitimate aim and are necessary in a democratic society. The balance established in Turkey between the right to free expression and the interests of the state is entirely inappropriate. The idea that non-violent expression can be restricted where it simply criticizes government policy or upholds the rights of minority groups is unpalatable in a modern democracy and gives far too much sway to the perceived interests of the state. Indeed, Turkish restrictions on free expression founded in statism and ethnic nationalism thoroughly negate key democratic principles, including the protection of the individual against the power of the state and the promotion of pluralism.

CIVIL SOCIETY IN TURKEY

The democratic values of tolerance and the acceptance of alternative identities and viewpoints are also important elements in the evolution

of civil society. Civil society is a relatively elastic concept but broadly refers to the 'third sector', beyond the spheres of government or business. It provides space for the operation of the third sector, and allows for collective action centred on shared interests and values outside the public arena. It thus gives a voice to the various sections of society and enriches public participation in democracies. A developed civil society is an integral element of democratic pluralism, and an indication of democratic maturity and a political system sufficiently comfortable with itself to countenance peaceful dissent.

Turkey has traditionally mistrusted NGOs, particularly those whose aims pertain to the better protection of human rights or the resolution of the Kurdish question: aims which are seen to fundamentally contradict Turkish conceptions of nationalism and the role of the state. Turkey has accordingly kept the third sector under a tight rein. State interference in the establishment of associations and their subsequent activities has been pervasive, and as a result a genuine civil society is proving very slow to emerge, while state-civil society relations have long been strained.

There have been some limited, theoretical advances in Turkey's willingness to tolerate the activities of NGOs, and therefore the evolution of some political space in which civil society can operate. The new Law on Associations, for example, places some restrictions on the capacity of government to restrict and interfere with the legitimate activities of associations, in particular the security forces can no longer access an association's premises or confiscate goods without a prior court decision,⁷⁵ but broadly the new legislation represents very little progress in this area. Turkish hostility towards the NGO sector continues to be reflected in a plethora of requirements, restrictions and criteria which impede the formation and activities of associations in Turkey. For example, associations must produce a statute detailing their aims and the type and field of activities to be carried out, and are not permitted to carry out activities other than those indicated in the statute. In addition, an association cannot be founded to serve a purpose expressly excluded under the constitution; a provision with potentially broad scope to place undue limitations on the establishment of legitimate associations. Broad powers to conduct investigations of associations are retained, and burdensome annual reports must be submitted to local authorities on activities undertaken and income and expenditure. Further, the requirements to notify the authorities in case of receipt of finances from abroad continues to result in difficulties and cumbersome

procedures for NGOs, and difficulties related to the registration of associations also remain.⁷⁶

These bureaucratic hurdles are part of the constant, low-level intrusion conducted by public authorities into the affairs of organizations that criticize state behaviour. Reporting and auditing requirements, subjection to regular and extensive investigations and intricately detailed prerequisites to establishing an association combine to foster an environment which is hostile to the evolution of civil space autonomous of the government. Excessive and often arbitrary state control over organizations greatly impedes their functionality and effectively renders the concept of civil society virtually meaningless.

More blatant, unwarranted interferences with the legitimate activities of NGOs are also rife in Turkey, particularly against those whose activities focus on matters viewed as contentious by the state. Judicial harassment is commonplace and numerous judicial proceedings are brought against NGOs, particularly those defending human rights. Turkish security forces also monitor NGO activity very closely indeed. In this context, Turkey maintains a highly coercive state bureaucracy, tending towards social control and committed to upholding the official ideological dominance of the state as against individuals and groups within society; a situation which contradicts the very notion of civil society as the acceptance of interests and values separate from the state.

Ingrained Turkish tendencies towards repressing manifestations of collective actions distinct from the state are also evident in Turkey's treatment of civil society organizations involved in public demonstrations or meetings. These groups continue to meet with harsh treatment by the police, including the use of excessive force, and are subject to regular prosecutions and convictions. Pro-EU reforms amending the Law on Demonstrations and Public Meetings have been insignificant, and substantial restrictions on free assembly remain in place. Hostility and heavy-handedness is particularly apparent towards those perceived to be dissenting from official state positions. In March 2005, the EU expressed shock over 'disproportionate force' used by Turkish police against women protesters demonstrating peacefully for equal rights.⁷⁷ Demonstrations are required to be authorized by the state, and the notification which those organizing public assembly are obliged to provide is still highly onerous and likely to deter those planning such events. Notices are frequently issued banning proposed demonstrations or meetings, and

many people have been arrested in 2004 for staging unauthorized peaceful demonstrations. Indeed, NGOs have reported that in the first seven months of 2004, the numbers of detentions which relate to demonstrations have substantially increased in comparison to 2003.⁷⁸ Ongoing monitoring of civil society organizations by plainclothes police, and the videoing of their activities, contribute to an atmosphere of pervasive repression and intimidation. The holding of press conferences by human rights groups has proved particularly susceptible to state repression, reportedly resulting in hundreds of trials and many convictions under the Law on Demonstrations and Public Meetings, many of which were merely small gatherings for open-air press conferences.⁷⁹

Thus neither the broader legitimacy of the pursuit of particularistic interests unrelated to the state, nor the concept that public protest at state policies can be legitimate and legally permissible, are yet taking hold among public authorities in Turkey. In 2004 the European Commission acknowledged that 'civil society, in particular human rights defenders, continues to encounter significant restrictions in practice'.⁸⁰ Despite these 'significant restrictions', the European Commission recommended on the basis of its report that 'Although some practical restrictions still exist, the scope of fundamental freedoms enjoyed by Turkish citizens, such as freedom of expression and assembly, has been substantially extended. Civil society has grown stronger.'⁸¹

As such, it is recommended that the Copenhagen Criteria are fulfilled. It is submitted that the restrictive behaviour of the state in fact denotes rather more than the continuation of 'some practical restrictions' in a broader context of encouraging progress, and in fact civil society in Turkey remains substantially underdeveloped and constrained by the persistence of reactionary state ideologies. Nevertheless, in November 2006 the European Commission concluded that 'the recent reform environment has led to positive developments' and 'civil society organisations have become relatively more vocal and better organised, especially since the adoption of the new Law on Associations'.⁸²

However, the amendments of the Anti-Terror Law represent retrograde steps in relation to the development of civil society in Turkey. The law imposes restrictions on the area of freedom of assembly and association, thus undermining the reforms introduced by the Law of Associations. Article 7 of the Anti-Terror Law provides for the punishment of those who are founders or members of terrorist

organizations and of those who engage in propaganda on their behalf. Among the offences that will be punished on the grounds that they indicate membership or support of an armed organization are the 'carrying of emblems and signs' belonging to the organizations outlawed. The carrying of banners and leaflets and the shouting of slogans 'directed at an organisation's aims' are also included in the list of offences. Article 7 further states that if the offences prescribed in the Article are committed on the premises of political parties, trade unions, associations or student dormitories, the sentence carried by the provision shall be doubled. Under Article 8 of the law it is an offence to 'willingly' provide funds for 'directly or indirectly' financing a terrorist organization.⁸³

The amended Anti-Terror Law provides the Turkish authorities with the leeway to repress dissent and strike against political opponents. As a consequence of the Anti-Terror Law's vague definition of what constitutes a 'terrorist offence' there is a serious risk that legal, non-violent organizations will be labelled as 'terrorist organizations', consequently criminalizing members and supporters of those organizations. The law targets the right of individuals to hold political meetings and demonstrations, singling out as 'terrorism' the activity of trade unions, political parties, student groups and civic organizations. The wide-ranging and overly ambiguous nature of the provisions defining 'membership' or 'funding' provides Turkey with the potential to prosecute not only individuals for involvement with organizations, which it considers to be engaged in terrorist activity, but also the indirect money flow that passes through what it considers to be 'terrorist' hands.⁸⁴

The amendments of the Anti-Terror Law violate Article 11 of the ECHR, and the law illustrates the 'security first' system of government which continues to penetrate through civil society in Turkey. The law reaffirms the primacy of the state in Turkey and rejects the idea of modern pluralism.

The primacy of the state in Turkey and consequent bureaucratic hostility to alternative viewpoints has informed the continued prevalence of a 'security-first' system of government, whereby groups or individuals advocating interests deemed a 'threat' to the integrity of the nation state are subject to repression. There appears to be very little understanding among the Turkish government that NGOs and the expression of non-state interests are a valid and integral element of modern pluralism, indicative of a mature government confident in its citizens' capacity to partake in democratic governance. Instead, the

reverse is true. Criticism of the state is still seen, in the model of pre-democratic states, as something which denotes weakness within a state rather than strength, and is repressed accordingly. The gulf between Turkish and Western conceptions of civil society was perhaps most tellingly revealed when Prime Minister Erdoğan himself denounced the reporting activities of domestic NGOs critical of Turkey in the run-up to the 17 December 2004 EU decision, failing to appreciate that a publicly expressed intolerance for NGOs undermines rather than strengthens Turkey's claim to fulfil the EU political elements of the Copenhagen Criteria.⁸⁵

Viewed on this background, the recent decision of the Turkish government to consult NGOs on the possible amendments of Article 301 of the Penal Code can be seen as a positive development in the attitude towards civil society representatives.

POLITICAL PARTICIPATION

Political participation is a contentious issue in Turkey. Although the country is, in the strict sense, run along democratic lines, Turkey has shown a decided reluctance to countenance the participation in government of individuals or groups representing interests which are deemed to potentially jeopardize the national integrity of the Turkish state. Thus whilst periodic multi-party elections in Turkey give a semblance of political democracy, a series of regulatory hurdles in fact exclude large sections of the population from participation in government.

The primary hindrance to full political participation is the provision in the electoral system that parties must gain 10 per cent of the national vote to enter Parliament. This high threshold discriminates against minority groups such as the Kurds, whose representative political parties have strong regional support among their constituencies but whose share of the national vote does not reach the stipulated 10 per cent minimum. The Democratic People's Party (DEHAP), for example, gained more than 45 per cent of the vote in the five largely Kurdish provinces in the November 2003 elections, but received only 6 per cent of the total national vote and so received no parliamentary seats.⁸⁶ The result of the 10 per cent threshold on entering Parliament has prevented Kurds from participating in public affairs.

Two DEHAP candidates who failed to obtain election in the 2003 general elections subsequently challenged the 10 per cent electoral

threshold of the Turkish Election Law before the ECtHR.⁸⁷ Relying on Article 3 of Protocol No. 1 to the ECHR (the right to free elections), they submitted that setting a threshold of 10 per cent of the vote in parliamentary elections interfered with the free expression of the people in their choice of the legislature, and therefore constituted an impediment to the right to free elections.

Ruling on the merits of the case in January 2007, the ECtHR recognized the desirability of lowering the 10 per cent threshold applied in general elections in Turkey. However, the Court also concluded that in the area of electoral systems it is important to leave sufficient latitude to the national decision-makers, concluding that Turkey had not overstepped her wide margin of appreciation with regard to Article 3 of Protocol No. 1. In this regard it is notable that the Court attached importance to 'the fact that the electoral system, including the threshold in question, is the subject of much debate within Turkish society and that numerous proposals of ways to correct the thresholds effect are being made both in parliament and among leading figures of civil society'.⁸⁸ This caveat indicates that the Court would have reached a different decision had there not been 'much debate' within Turkey about the legitimacy of the 10 per cent threshold. The decision therefore sends a clear message to the Turkish authorities that this debate should materialize in future changes securing the fair political representation of all the Turkish population, including those belonging to a national minority such as the Kurds.

Since the Turkish state has, for many years, comprehensively failed to respect Kurdish interests in developing national and regional policy, and indeed has launched devastating attacks on the Kurdish community, more effective national political representation for the Kurds is vital to achieving genuine democracy in Turkey. Under the current system, not only the Kurds but other great swathes of interests and opinions in Turkey are not represented in the Turkish Parliament, effectively nullifying the votes of several million voters in general elections.

A further hindrance to the realization of minority political participation in Turkey is the capacity of the Chief Prosecutor of the Court of Appeal to bring cases seeking the closure of political parties before the Constitutional Court. Relevant in this context is section 81 of Law No. 2820 on Political Parties, which prohibits parties from claiming that there are minorities in Turkey or protecting or developing non-Turkish cultures and languages. This law, which

dates from 1983, was born of the Kemalist notion of nation-building in which ethnic diversity was viewed as a danger to the integrity of the state. Together with further provisions in the Law on Political Parties and Articles of the Turkish Penal Code referred to above, it has been used frequently by the Turkish courts in proceedings against political parties.

Some improvements to this situation have been made under pro-EU reforms of January 2003, in particular the provision that a three-fifths majority is now required in the eleven-member Constitutional Court to order the dissolution of a party. In addition, parties can no longer be closed in accordance with the broad provisions of the Law on Political Parties, but only for reasons specifically stated in the Constitution.

However, despite these improvements the fact remains that political parties, and particularly political parties seeking to express alternative, non-Turkish ethnic identities, continue to be subject to severe judicial harassment. Pro-Kurdish parties have particularly suffered, with every party which has sought to articulate Kurdish concerns in a peaceful, democratic forum since the 1970s having been condemned as 'separatist' and closed down. A string of explicitly pro-Kurdish parties in particular have been subject to relentless persecution, with one after another being closed down since the founding of the People's Labour Party (HEP) in 1991. HEP parliamentary successes in 1991 were marred by presumptions by reactionary elements within the Turkish state that equated the democratic representation of Kurdish viewpoints in Parliament with Kurdish separatism. March 1994 saw the trial of Democracy Party (DEP) (HEP's successor) leaders Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak for supporting the PKK after they spoke in Kurdish and wore Kurdish colours during their inauguration in Parliament. The trial, which was later condemned as unfair by the European Court of Human Rights, sentenced the Kurdish parliamentarians to 15 years' imprisonment. Although it was never suggested that any of the parliamentarians had been involved in violence, their retrial is still currently being pursued by state prosecutors.

Pro-Kurdish parties today are still viewed as synonymous with political violence and harassed accordingly, no matter how peaceful and moderate their aims and activities. In March 2003, the Constitutional Court unanimously ordered the permanent closure of the pro-Kurdish political party HADEP (People's Democracy Party) on charges of supporting the PKK and committing separatist acts

under Article 169 of the Penal Code.⁸⁹ Forty-six HADEP leaders were also prohibited from participating in political life for five years.⁹⁰ Another pro-Kurdish political party, DEHAP,⁹¹ was established when HADEP was confronted with likely closure, and was made subject to ongoing judicial proceedings initiated by the Chief Prosecutor at the Supreme Court of Appeal seeking its dissolution, although neither party is alleged to have advocated or been involved in any kind of violent activity.

Turkey's behaviour was found by the European Court of Human Rights in November 2003 to have violated the right to freedom of association under Article 11 when the Socialist Party of Turkey (STP) was dissolved by the Constitutional Court in 1998 on the grounds that its programme was liable to undermine the territorial integrity of the state and the unity of the nation.⁹² The Court examined the STP's programme and found nothing in it that could be considered a call for the use of violence, an uprising or any other form of rejection of democratic principles. The Court referred to the 'essential role' of political parties in 'ensuring pluralism and the proper functioning of democracy'.⁹³ It also described the 'irreplaceable contribution' of political parties to political debate to be 'at the very core of the concept of a democratic society'.⁹⁴ It was stated that 'an association, including a political party, is not excluded from the protection afforded by the Convention simply because its activities are regarded by the national authorities as undermining the Constitutional structures of the State'.⁹⁵

There could be no justification for hindering a political group merely because it sought to publicly debate the situation of part of the state's population and to take part in the nation's political life in order to seek solutions by democratic means. The Court found no evidence to support Turkey's assertion that the STP had been responsible for terrorism and, as the party had not yet commenced operations at the time of the ban, the dissolution order was disproportionate.⁹⁶

Similarly, the London-based Kurdish Human Rights Project brought a case on behalf of renowned Kurdish parliamentarian Leyla Zana and twelve other former DEP MPs whose party was dissolved by the Turkish Constitutional Court in 1994 after the party members had taken their oaths of parliamentary allegiance in Kurdish.⁹⁷ Here it was found that Turkey had breached the right to free elections under the ECHR⁹⁸ by impeding the right of individuals to stand for Parliament. The Court held that Turkey had violated 'the very essence of the right to stand for election and to hold parliamentary office' and

had infringed the unfettered discretion of the electorate which had elected the applicants'.⁹⁹

Turkey has also resorted to other legal and extra-legal means of silencing disfavoured political parties. Raids, threats, arrests and arbitrary detention of pro-Kurdish politicians and sympathizers have long been a feature in Turkey and remain commonplace; party offices have been subject to frequent raids, while members are harassed, arbitrarily detained by security forces, ill-treated and subjected to trials for 'inciting separatism' or on charges brought under the Law on Demonstrations and Public Meetings. Examples of repression and excessive force used against DEHAP supporters and their predecessors are numerous; for instance, three members of DEHAP's women's wing alleged they had been beaten and insulted by the police when they attempted to hold a press conference about Öcalan's prison conditions in Cizre,¹⁰⁰ and police attempted to forcibly prevent female DEHAP supporters from making a press statement critical of the government in October 2003. In 2003, former DEHAP chairmen Mehmet Abbasoğlu and Veysi Aydın, and former DEHAP secretaries Nurettin Sönmez and Ayhan Demir, were sentenced to one year, eleven months and eleven days' imprisonment for alleged 'irregularities' in the conduct of the February 2002 election. According to an article in *The Economist*, Diyarbakır's DEHAP Mayor, Feridun Çelik, reported that 600 DEHAP members and supporters were arrested between January and August 2003.¹⁰¹

A further important impediment to the capacity of minorities to participate in public life is the prohibition on the use of Kurdish in electioneering under Article 81(c) of the Law on Political Parties. Prosecutions have and continue to be brought frequently under this law. In July 2004, former chairman of HADEP Murat Bozlak and twelve others were sentenced to five months' imprisonment under the Law on Political Parties for using a language other than Turkish in election campaigning after playing Kurdish music during a meeting.¹⁰² The Nusaybin prosecutor's office investigated DEHAP head Tuncer Bakırhan in July 2004 on allegations that he had violated Article 81(c) of Law No. 2820 on Political Parties when saying 'goodbye' and 'thank you' in Kurdish at an election rally speech on 26 March 2004.

In August 2006 the AKP government initiated a process of changing the election system. The changes then discussed included a lowering of the electoral threshold to between 7 and 3 per cent, a decrease in the minimum election age and a 45-deputy minimum for a party

in order to establish a parliamentary group. The laws that are set to change are the Election Law and the Law on Political Parties in addition to a constitutional amendment package.¹⁰³ For the first time, Prime Minister Erdoğan expressed favour of lowering the 10 per cent threshold, a remarkable volte-face from the prime minister, who had previously stated that the threshold of the Election Law should be kept unchanged for two or three more terms.¹⁰⁴

Unfortunately, the positive statements have not been converted into real progress. On the contrary, the Turkish government has, since the August statements, presented the Turkish Parliament with proposals intended to further eliminate the chance of pro-Kurdish representation in the Parliament. In October 2006 the Turkish government thus submitted a proposal to the Turkish Parliament intended to amend the Election Law so as to remove independent candidates' right to print ballot papers separate from those used to choose candidates running for elections under party lists. This was done in response to reports that the Democratic Society Party (DTP), as an attempt to bypass the 10 per cent electoral threshold, was considering making its candidates stand as independents, since the electoral threshold does not apply to independent candidates. The amendment, which was passed by Parliament, prevented independent candidates from printing their own ballot papers, which made the election of independent candidates difficult.¹⁰⁵ However, 22 independent candidates were elected successfully, of whom 20 formed a political group of the DTP in Parliament. In spite of the obstacles, the DTP has now managed to get representation in Parliament, thereby getting round the 10 per cent threshold. This is the first time in the history of Turkey that a pro-Kurdish party has been in Parliament. Turkey must realize that it is in the whole country's interest to treat DTP MPs equally with the other MPs; this will be a true test of Turkish democracy.

The Turkish government has long been concerned that pro-Kurdish parties will utilize inter-party mobility in the Turkish Parliament in order to circumvent the 10 per cent electoral threshold. The formula was first tried in 1991 when the SHP (Social Democratic Populist Party) cooperated with HEP, representing Kurdish ethnic nationalism, in order to help HEP, gain election. Within a month, 16 of the 22 HEP deputies had resigned from the SHP, thus securing HEP a place in Parliament.¹⁰⁶ In January 2007 the Turkish government presented the Parliament with a legislative package, including a bill titled the 'Political Ethics Law', which, if passed, will amend both the Election

Law and the Law on Political Parties. The new law reportedly tackles the subject of political ethics, seeking to structure politics in Turkey along the lines of transparency, accountability, objectiveness and honesty. The law would establish a Parliamentary Commission for Political Ethics in order to monitor the affairs of the deputies. In order for the Commission to be able to perform its role as monitor, the law establishes that deputies will have to declare any financial assets to the Commission, providing relevant documentation. Members of executive boards of professional associations, unions and chambers, federations and confederations will also be obliged to declare assets. Finally, deputies transferring between political parties will be investigated by the Commission to make sure that transfer was not made to benefit the deputy. If the Commission finds evidence of any 'unethical favour jeopardising the deputy's judgment', he or she will face between three to five years in prison.¹⁰⁷

The wide investigatory mandate granted to the Parliamentary Commission under the proposed Political Ethics Law, and the heavy prison sentence carried by the law in the case of deputy transfer between parties, indicate that the real objectives of the law are state control of the deputies and prevention of inter-party mobility in the Turkish Parliament, and not the rooting out of corruption and 'bad behaviour' amongst deputies. Despite the fact that the law is disguised as a measure intended to encourage 'political ethics', it is clear that it has an alternative motive, that is, the prevention of pro-Kurdish representation in the Turkish Parliament. The proposed Law is designed so as to target the independence of the individual deputy, and the possible consequences of the proposed law are far-reaching. The obligation of the deputy to declare any financial assets to the Commission will, if combined with the arbitrary provisions of the Anti-Terror Law, place the deputy at a high risk of landing a charge under the Anti-Terror Law. This is particularly so if the deputy represents or is involved with pro-Kurdish parties which the Turkish authorities associate with terror-related activities. The proposed amendments to the Election Law and the Law on Political Parties illustrate that despite reforms, Turkey continues to express hostility and fear towards parties representing alternative, non-Turkish ethnic identities.

Further, the amended Anti-Terror Law is of concern. The Turkish authorities have repeatedly enforced restrictions on political campaigning, including the prohibition of the use of posters, limitations on where such posters may be displayed and controls

on the contents of the posters which aim to crack down on anything that criticizes the Turkish state. Under the amended Anti-Terror Law, the 'spreading of terrorist propaganda' includes the 'carrying of an emblem or the signs of the terrorist organisation in such a way as to demonstrate that s/he is a member or a supporter of the organisation'. The same is the case in relation to the carrying of posters, banners, pictures, and so on. There is a serious risk that the Anti-Terror Law will be applied in a way such as to allow the Turkish authorities to single out members or supporters of pro-Kurdish parties such as the DTP, labelling them as terrorists. Consequently, the law provides the authorities with the leeway to detain and prosecute members or supporters of political parties they suspect for involvement in 'terror activity', including pro-Kurdish parties. In December 2006 the deputy leader of the DTP faced charges under the amended Anti-Terror Law for comments which, according to the Turkish authorities, constituted the 'praising of terror'.¹⁰⁸

These issues deserve fuller attention. Under Article 25 of the ICCPR, everyone has the right to participate without unreasonable hindrance in the conduct of public affairs, and to vote and to be elected at genuine periodic elections. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges states parties to guarantee the right of everyone to participate in elections and to take part in the government as well as in the conduct of public affairs.¹⁰⁹ Article 3 of Protocol 1 to the ECHR guarantees the right to free elections under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature. These provisions can also be taken to mean something further, giving voice to a political ideal that democratic government ought to be based upon the free expression of the will of the electorate.¹¹⁰

Restrictions on the capacities of pro-Kurdish and other unpopular political interests to operate in Turkey inhibit pluralism and the realization of democratic participation. The capacity of the Kurds to be represented politically is significantly undermined, leaving them unable to protect their rights and interests through the institutions of the state. Furthermore, the effective marginalization of the Kurds from political life in Turkey hinders open discussion of the Kurdish question in the political sphere, and impedes much needed attempts to revitalize the search for peace and justice in the southeast. Bringing the debate on Kurdish issues into the heart of Turkey's established political discourse would allow the positive exchange of ideas on the subject which is part of a normal democratic process, potentially

curbing violence and focusing energies on a politically negotiated and peaceful solution.

In the current political climate, it is doubtful whether a political discourse on the Kurdish issue can be established between pro-Kurdish politicians and the Turkish state, regardless of how peaceful and moderate are any overtures made by pro-Kurdish politicians. Until Turkey acknowledges the legitimacy of pro-Kurdish political representatives as negotiating partners, it will prove extremely difficult to move forward on the Kurdish question and realize true democratization in Turkey. Turkey needs to learn that the greatest danger to democracy in Turkey is not the political ambitions of parties such as HADEP, but rather her determination to pass by the opportunity to engage in dialogue with the elected representatives of the Kurdish people and so achieve peace and justice in the southeast. The fact that the votes of several million Turkish citizens, who are often aggrieved with current government policies and further excluded from democratic participation by other means, are not reflected by their representation in Parliament is also a great impediment to democracy.

Turkey's electoral system, including the approach of the authorities towards the pro-Kurdish political parties has recently been heavily criticised by the institutions of the European Union. Thus, in 2003, the European Parliament stated that it considered the ban on HADEP 'conflicts with the European Convention on Human Rights and the Charter of Fundamental Rights for the EU' and that it 'violates the elementary right to freedom of opinion and assembly'. The European Parliament has further expressed the view that the persecution of political parties such as HADEP and DEHAP 'conflicts with the principles of democracy'.¹¹¹ Further, it appears as if the European Commission has changed its attitude towards the harassment of pro-Kurdish political parties, recently adopting a more critical approach than seen in years, criticizing Turkey for the ongoing court cases against several political parties, including DEHAP, and for not aligning the Law on Political Parties with European standards. In this regard the Commission has recommended that the law should be 'amended to ensure that political parties are permitted to operate in line with the standards established by the ECHR and the case law of the ECtHR'.¹¹²

It is, however, disappointing that the European Commission in the 2006 Progress Report fails to criticize Turkey for the lack of progress in relation to the 10 per cent threshold still in force in

Turkey. The Commission has limited itself to noticing that 'a public debate has developed over the need to change the electoral system, which currently requires political parties to reach a ten per cent threshold at national level to achieve representation'.¹¹³ Turkey's electoral threshold is the highest among the Council of Europe members, hindering minorities from achieving adequate political representation. Hence, it represents a substantial impediment to the realization of genuine democracy in Turkey, and on this background it is problematic that the European Commission is so vague on this point. Turkey's electoral system undermines the ability of the Kurds to enjoy fair political representation, and the persecution of pro-Kurdish political parties and restrictions on electioneering in Kurdish, inhibit genuine participatory democracy for the Kurdish minority. The Commission needs to address the issue of Turkey's electoral system in a comprehensive and consistent manner, addressing both the consequences of the Law on Political parties and the Election Law. Both laws are equally damaging for the electoral system, and thus the Commission's approach of only criticizing Turkey for her behaviour towards pro-Kurdish parties, ignoring the lack of process in relation to the Election Law, is insufficient. The electoral system undermines and contradicts Turkey's obligation as a member of the OSCE to ensure that persons belonging to national minorities enjoy 'effective participation in public affairs including participation in the affairs relating to the protection and promotion of the identities of such minorities',¹¹⁴ and it must be brought in line with European standards before Turkey can accede to the European Union.

4

Cultural and Minority Rights in Turkey

The Kurds have borne the brunt of Turkish attempts to impose ethnic homogeneity in the country, subject particularly over the past 20 years to mass killings, torture, ill-treatment, forced displacement and comprehensive attempts to destroy any sign of a distinct Kurdish culture. Today, hurriedly ushered-in pro-EU reforms purportedly address the situation of the Kurds, and Turkey is on her way towards becoming a fully-fledged member of the EU. How far, though, has Turkey really moved away from her customary perception of the Kurds as a dangerous threat to national unity, to be subjugated at all costs? It is true that the Kurds are broadly supportive of the EU accession process, since it finally offers a way out of decades of repression and violence. However, the projected benefits of accession for the Kurds will be substantially diminished if, as is indicated by recent EU decision-making, the Kurdish issue is sidelined from accession negotiations.

Recent events in Iraq have brought the problems faced by the Kurds in that country to the fore, and the world has watched with approval the process of democratic renewal in Kurdistan, Iraq, as Kurds are at last free from the brutal tyranny of the Ba'athist regime. The then British Prime Minister, Tony Blair, made regular reference to Saddam Hussein's human rights record, particularly as it became increasingly apparent that Iraq's much-talked about weapons of mass destruction were nowhere to be found, as a supplementary justification for the invasion of Iraq, and in this context Mr Blair condemned the 'butchering' of Kurds in Kurdistan.¹ Britain has vowed to build 'an Iraq which respects fundamental human rights, including freedom of thought, conscience and religion and the dignity of family life, and whose people live free from repression and the fear of arbitrary arrest'.²

At the same time, Turkey's Kurds are substantially marginalized, engaged in an armed conflict with the Turkish state and subject to serious human rights abuses, while the West considers allowing Turkey membership of the exclusive EU 'club' of civilized nations.

The Kurdish situation has remained largely beyond the public eye, as the European debate on Turkish accession becomes tied up in migration issues and the occasional reference to Kurdish cultural rights. It remains to be seen whether the Kurdish situation in Turkey will finally be placed on the world's agenda.

A willingness to address the situation of the Kurds in the southeast would be indicative of a sincere change in attitude by the Turkish establishment. It is Turkey's 15–20 million-strong Kurdish population, their separate language and culture and their unwillingness to bow to Turkish attempts at assimilation which have, over the years, posed the greatest challenge to Atatürk's ideal of a single, unified ethnic identity in Turkey. Sustained efforts to respect Kurdish rights would signify that Turkey was finally prepared to cast off her time-honoured practice of repressing outward manifestations of Kurdish identity, to tackle entrenched mentalities among public authorities and to move towards democratic pluralism. The issue of minority rights in Turkey, particularly in relation to the Kurds, is a difficult one, not least because some Kurds oppose being classified as a 'minority' on the basis that they seek recognition as a 'constituent element' of Turkey.³ This publication expresses no opinion on this issue, but considers that the provisions mandating ethnic recognition, enhanced participatory rights and cultural protection contained in international minority rights instruments can contribute towards countering the chronic subjugation endured by the Kurds. The idea of granting minority rights to the Kurds fundamentally contradicts the very *raison d'être* of the Turkish Republic. The reasons for this have already been outlined in this publication: strict adherence to a single Turkish nationalism, the perceived need to extinguish alternative ethnic identities, and pronounced trepidation over the threat to national unity posed by Kurdish separatism. These ideological principles inspired efforts to 'Turkify' minority communities, penalize non-Turkish cultural expression and violently disband Kurdish settlements in the southeast. Turkey's treatment of the Kurds has been the inverse of what is mandated by international standards in this area.

CULTURAL AND LINGUISTIC RIGHTS

The granting of cultural and linguistic rights in Turkey is a highly sensitive issue, and constitutes a key benchmark in assessing Turkey's progress towards democratization. Broadly, the importance of cultural and linguistic rights stems from the very painful consequences for

individuals belonging to a minority. Such individuals are frequently compelled to live a diminished existence, robbed of the life chances enjoyed by the majority through exclusion from public services and educational and employment opportunities which frequently accompany the denial of cultural and linguistic rights.⁴ States which do not confer cultural and linguistic rights tend to also deny civil and political rights, since they are hostile to ideas and opinions which diverge from the official state line. Further, restrictions on linguistic rights can, for those who do not speak the majority language, lead to problems accessing medical services, participating in political processes and fulfilling their potential in the education system.

Cultural and linguistic rights are also crucial to the capacity of the individual to fully and effectively fulfil their identity, since restrictions on linguistic and cultural expression prevent access to many of the most important institutions in fostering identity such as schools and the media.⁵ Minorities denied cultural and linguistic rights are also prevented from accessing their own literatures and histories, and thus the ability to interpret the world through their own eyes.⁶ Cultural background is one of the primary sources of identity, and the basis for key elements of self-definition, expression, and a sense of group belonging. Thus cultural rights are not a 'luxury' to be realized at a later stage of development. Culture is inseparable from the quality of being human, and from the human sense of self-respect; its denial is the inverse, it diminishes the group or individual and undermines their sense of worth. Life without culture starts to lose its meaning and its context. Furthermore, where minorities are not granted cultural and linguistic rights, the state makes a clear statement that such minorities are not valued or accepted; instead they are treated as outsiders, demeaned and alienated from mainstream conceptions of the state.

On the other side, states denying cultural and linguistic rights are impoverishing their own societies; refusing large sections of a population the ability to fulfil their potential reduces standards of living and creates less productive societies.⁷ The denial of linguistic and cultural rights also has a further, holistic effect on the state. Where a state allows or facilitates the flowering of alternative identities and cultures within its borders, this is seen now to cultivate something of value in itself, namely a richer, more open and vibrant society. In an increasingly interconnected world, where minority groups frequently retain cross-border relationships, the protection of cultural

and linguistic rights within a state's borders is also an important factor in promoting international peace and security.

Accordingly, cultural rights are protected in a number of international treaties, including especially the Universal Declaration of Human Rights,⁸ the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁹ as well as the ICCPR,¹⁰ the ICERD,¹¹ the Convention on the Rights of the Child,¹² and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹³

One of the greatest challenges to cultural rights, though, is that for some governments, the haunting spectre of group identities distinct from the official national identity provokes acute fears that the territorial integrity of the state will be undermined. Accordingly, it is perceived that conferring cultural rights will lead to a greater cultural awareness among minorities, inspire the radicalization of minority claims and ultimately fuel demands for autonomy.

Such fears have certainly been evident in Turkey. To date, Turkey has refused to sign up to the key national and regional treaties imposing obligations to protect minority cultural and linguistic rights. Had Turkey ratified the Framework Convention on Minorities, she would be obliged to recognize that minorities have 'the right to use freely and without interference his or her minority language, in private and in public, orally and in writing',¹⁴ and to guarantee minorities the right to maintain educational establishments and to teach their mother tongue. Under Article 27 of the ICCPR, States Parties are obliged not to deny 'the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language'. However, Turkey has issued a reservation to this provision effectively excluding its application to the Kurds;¹⁵ a reservation which in fact substantially undermines the very essence of the right.¹⁶

This does not mean that Turkey has no obligations in this sphere. The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires that states ensure that minorities 'have adequate opportunities to learn their mother tongue', and goes on to assert that minorities have 'the right to enjoy their own culture ... to use their own language, in private and in public, freely without interference or any form of discrimination'.¹⁷ This declaration is non-binding, but serves to clarify contemporary international standards on the linguistic rights of minorities. The OSCE Copenhagen Document guarantees to national minorities

the right to freely express, preserve and develop their cultural and linguistic identity, to freely use their mother-tongue in public and in private, and to disseminate, have access to and exchange information in their first language.

Turkey's reticence in taking on express, binding obligations to grant linguistic and cultural rights to the Kurds is rooted in the dominant Kemalist ideology of the unitary nation state, and her consequent ambition to assimilate non-Turkish ethnic groups under the banner of a unified Turkish national identity. Turkey has categorically refused to accept that there could be more than one ethnic identity with Turkish nationality, and the Turkish Constitution defines the citizens of Turkey specifically as 'Turks'. National integrity is seen to be forged by the integration of all communities irrespective of their ethnic origin, and the law precludes the formation of any nation or minority distinct from the Turkish nation. Attempts to promote the cultural and linguistic rights of the Kurds have been officially dismissed as trying to 'create' minorities and thus undermine the unity of the Turkish nation. Of course, the Kurds, their language and distinct culture have been present within modern-day Turkey for many centuries.

There have, then, been comprehensive denials of Kurdish cultural and linguistic rights virtually since the founding of the Kemalist Republic, despite guarantees to the Kurds of fundamental and non-derogable linguistic rights made in the Treaty of Lausanne.¹⁸ Repression of the Kurdish language, as one of the most palpable and easily identifiable outward expressions of Kurdish identity, has a long history. In 1928, the Law on the Adoption and Application of the Turkish Alphabet was introduced, dictating that state and private organizations' written correspondence, notices, publicity material and publications be in Turkish. From 1 January 1929, it became illegal to write Turkish using Arabic script.¹⁹ Further restrictions prohibited the registration of Kurdish names and the changing of non-Turkish village names, and later excluded the use of Kurdish in election campaigns and broadcasting.²⁰

Anti-Kurdish repression was again revived in the wake of the 1980 military coup, and the 1982 Turkish Constitution underlines Turkey's ambition of imposing a culturally homogeneous state from culturally heterogeneous foundations. Turkish was declared as the official state language, and the study or teaching of any other language was prohibited.²¹ The Constitution further proscribed publishing in any language prohibited by law,²² and entrenched Atatürk's key

reform laws including the Law on the Adoption and Application of the Turkish Alphabet.

During the period of military rule, far reaching legislation was passed further repressing Kurdish culture and language. The Kurdish language was banned even for the expression, dissemination and publication of opinions', criminal responsibility was imposed for the use of Kurdish in print media under an amendment to the Press Law of 1950, and extensive self-censorship of the enjoyment of Kurdish culture through cinema, video and music was achieved by the Law on Works of Cinema, Video and Music.²³ These restrictions were intrinsically linked to Turkey's conception of the escalation of the conflict in the southeast as a purely security-based issue, and her refusal to entertain the idea that a political solution which relaxed restrictions on Kurdish language and culture could dissipate tension and rein in violence. Instead, Turkey saw the absolute quashing of all things Kurdish, along with a military victory against the PKK, as the only means of resolving the conflict.

Liberalizing long-established and deeply entrenched restrictions on Kurdish language and culture thus amounted to one of Turkey's greatest challenges in her pro-EU reform programme. Moreover, the conferring of cultural and linguistic rights became a touchstone issue in the EU accession process because such moves were closely tied to the need for a negotiated political solution to the Kurdish issue generally. Cultural and linguistic freedoms would represent a dramatic change in attitude in Turkey, indicating a willingness to acknowledge the presence of alternative identities within the country and to concede the legitimacy of a distinct Kurdish culture.

Constitutional changes implemented in 2001 did not materially improve minority protection, but reforms brought in via the sixth and seventh reform packages have had some limited impact, particularly in the fields of broadcasting, personal names and language tuition. Thus some tentative, albeit reluctant, steps have been taken towards greater visibility and public sanctioning of the Kurdish language. It is in the context of these reforms that Turkey's progress on linguistic and cultural rights is considered. Overall, an enormous amount of progress remains to be made before Kurdish is used widely and freely in key public institutions, the media and other aspects of day-to-day life.

The new Law on Broadcasting in Traditionally Used Languages and Dialects²⁴ finally provided enforceable provisions allowing the state TRT channel, as well as private, national television channels,

to broadcast in minority languages. TRT accordingly began broadcasting in Bosnian, the Kurmanji and Zaza dialects of Kurdish, Arabic and Circassian on 7 June 2004, and these broadcasts continue to be aired.²⁵

However, the implementation of the Law has proven to be slow and uneven and the Supreme Board of Broadcasting (RTÜK) has shown little will to process the applications received, claiming that the majority of the applications received were not supported by the documentation necessary in order to process the applications.²⁶ Therefore, despite the fact that the law entered into force in January 2004, the first permissions to broadcast in Kurdish by private media channels were not granted until March 2006.²⁷ At the time, twelve applications had been launched, some pending since July 2004, but only three media outlets, Gün TV, Söz TV and the radio station Medya FM, were subsequently granted permission to broadcast by RTÜK.²⁸

In May 2006 RTÜK decided to lift the restrictions as far as music and cinematographic works are concerned. Thus Kurdish television and radio channels will not be bound by time limitations when it comes to movies and concerts, however, news and current events continue to be subject to limitations.²⁹ In its Turkey 2006 Progress Report the European Commission concluded that regarding broadcasting rights, some progress could be reported. In this regard the Commission cited the permissions granted to two local TV channels in Diyarbakır and to a radio station in Şanlıurfa to broadcast in Kurdish. However, the Commission also recognized that time restrictions continue to apply, and that all broadcasts, except songs, must be subtitled or translated into Turkish. Although live broadcasts are not banned *de jure*, the requirement that all broadcasts must be translated into Turkish or be accompanied by Turkish subtitles have rendered live broadcasting almost impossible. Educational programmes teaching the Kurdish language are also not allowed.³⁰

Broadcasting in Kurdish very openly and publicly challenges fixed conceptions of the mono-ethnic Turkish state and traditional hostility towards outward manifestations of Kurdish identity. The very fact of individuals in the Kurdish regions being able to watch television in their native language represents a vast change on the ground. Breaking such a fixed taboo as the prohibition on broadcasting in Kurdish also explicitly demonstrates that Turkey recognizes the presence of the Kurds. However, the measure has the decided appearance of being an outward concession to EU watchdogs, while the host of restrictions

which remain in place on Kurdish broadcasting significantly weaken the real progress it represents.

A tangle of red tape renders the measure far less meaningful than it initially appears, and substantially calls into question Turkey's commitment to language reform. The maximum duration permissible for broadcasting programmes on radio and television are 60 minutes per day and five hours per week, and 45 minutes per day and four hours per week respectively. There are significant restrictions on the content of programmes retained from previous regulations, including that programmes in languages other than Turkish are restricted to news, music or traditional culture; children's programmes and films are prohibited. Reports have indicated that the programmes which have been broadcast contain very limited information about the culture and daily lives of the Kurdish people.³¹ Additional obstacles include the restriction that stations cannot broadcast until the State Institute of Statistics has ascertained regional audience figures, a provision which seems to have been used as a pretext for delaying the opening of private Kurdish television channels. In October 2004, stations which have applied for licences, including Gün TV, Söz TV, ART TV and Çağrı Radio and TV Station, were told that the delay to their applications was due to such research being carried out on the profile of the audience.³²

Furthermore, permission is still required for broadcasts in Kurdish by private television and radio stations, and, on the ground, officials have been slow to adapt to the new legislative position. A great deal of bureaucratic intrigue and delay has followed applications from media outlets for permission to air programmes in Kurdish, and crucially, no private broadcasting company has yet been allowed to broadcast in Kurdish over a year after the new regulation was introduced. A number of television and radio stations based in the Kurdish regions have applied and are awaiting the results of their applications.³³ The European Commission reported in October 2004 that although permission has not yet been granted, 'it has been reported that these applications will be assessed favourably'.³⁴

In the meantime, those making broadcasts in Kurdish without having been able to receive the necessary permission have received fines and suspensions or annulments of their licences. In a much publicized case in March 2004, ART TV based in Diyarbakır was closed after broadcasting Kurdish love songs in August 2003 on the grounds that this violated 'the principle of the indivisible unity of the state'. Gün TV in particular has been subjected to periodic harassment,

including a suspension order for one month after the broadcast of speeches by two politicians as part of a live symposium on local governance. The politicians had called for recognition of the Kurdish language and identity.³⁵ The concept that the airing of legitimate, peaceful sentiments in Kurdish can in itself constitute a threat to territorial integrity is thus still very much alive.

Consequently, despite limited progress in the area of broadcasting, serious problems remain and overall Turkey has retained a hostile approach towards broadcasting in other languages than Turkish. This conclusion is given further weight by the fact that the state controlled RTÜK continues to deny broadcasting rights to Kurds despite the regulation passed on 25 January 2004 on the basis of a 1994 Law on the Establishment and Broadcasting of Radio Stations and Television Channels. This law grants RTÜK powers to issue and revoke licences and ensure that broadcasters comply with the general principles of the constitution, fundamental rights and freedoms. The state thus still has very broad discretion to prevent Kurdish broadcasting where it is seen to impinge upon traditional Turkish nationalist ideology. RTÜK continues to vigorously monitor the area of broadcasting and silencing media establishments which do not comply with the harsh regulations that govern the broadcasting in languages other than Turkish. For example, in October 2006 an Istanbul-based radio station was suspended for 30 days for airing programmes on Kurdish issues and operations in prisons.³⁶

The situation of Roj TV, a TV station based in Denmark, which broadcasts news to four parts of Kurdistan including regions of Turkey, is illustrative of the continuingly hostility expressed by Turkey towards the expression of Kurdish culture and the use of the Kurdish language. Roj TV broadcasts in the Kurmanji, Sorani, Hewremani and Zazaki dialects of the Kurdish language, and the TV station plays an important role in the preservation of the Kurdish language. The Turkish government, however, is under the impression that Roj TV represents the voice of the PKK, and it has repeatedly demanded that Denmark revoke the station's broadcasting licence. Frustrated with the unwillingness of the Danish government to revoke the broadcasting permission of Roj TV, the Turkish authorities seem to have entered into a new stage in their campaign against the TV station. The authorities appear to have cut off access to Roj TV by interfering with the station's satellite signals. Hence, since October 2006 the signal has been completely blocked off in several cities throughout Kurdistan, Iraq and other cities in both Kurdistan and

Western Turkey have experienced very bad signals. The disruption seems to be a direct consequence of the constitutional and legal regulations which do not allow free Kurdish broadcasting in Turkey.³⁷ Recent reports speak of an escalation in the areas affected by the disruption measures, and apparently military appliances of local garrisons are used for this end.³⁸

As a response to the Turkish pressure to closure of Roj TV, 56 Mayors from the pro-Kurdish DTP party in December 2005 sent a letter to the Danish Prime Minister asking that the TV station remains in operation. Subsequently, on 26 September 2006 the Turkish authorities launched a trial against the Mayors, charging them under Articles 220 and 314 of the Turkish Penal Code for 'knowingly and willingly' helping Kurdish rebels, by urging the Danish Prime Minister not to close Roj TV. If the Mayors are convicted they face up to 15 years in prison.³⁹

The situation surrounding Roj TV is disturbing for two reasons; firstly, it is worrying that Turkey is resorting to such measures as the disruption of satellite signals of an independent media establishment that operates outside the jurisdiction of the Turkish state, in order to prevent broadcasting in languages other than Turkish. This type of censorship is alarming and contradicts the fundamental principles on which a modern European state should be founded. Further, the action taken against Roj TV reaffirms the paranoia of the Turkish authorities that increased cultural and linguistic rights of minorities will herald the break down of a unified and homogeneous Turkish nation. Secondly, the case launched against the 56 Mayors is of serious concern as it shows that Turkey, despite reforms has done virtually nothing to bring its legislation in line with the principle of freedom of expression, as required by the Copenhagen Criteria. The indictments against the Mayors illustrate how the reforms enacted in Turkey are effectively bypassed by provisions representing the 'security of the state first' principle of the Turkish authorities, limiting the fragile body of human rights law in Turkey.

Another field in which the liberalization of restrictions on the Kurdish language has proved contentious is that of personal names; an issue of central importance to the Kurds which fails to find reference at all in the European Commission's report of October 2004. Kurdish parents have for many years been unable to even name their children with Kurdish names, being compelled instead to give each child two names, a Turkish name for public use and a Kurdish name for use among family and the local community. Kurdish names were

effectively prohibited in the public domain. An individual's name is a highly personal and integral element of his or her identity, and these restrictions accordingly had a deeply detrimental impact on the ability of Kurds to define and express themselves in accordance with their own traditions.

Apparent concessions were made in the Sixth Harmonization Package, whereby the condition that children may not be given names that are not appropriate to the 'national culture' and Turkish 'customs and traditions' was replaced with one stating that only names which contravene 'moral norms' or that 'offend the public' are prohibited.⁴⁰ However, despite the lifting of these restrictions a Government Circular of 23 May 2002, which remains current, clarifies that names must consist of letters contained in the Turkish alphabet. As such, an effective ban has been seen by local authorities to be in force on the use of names including the letters 'q', 'w', and 'x' (common letters in the Kurdish language), due to the letters not existing in the Turkish alphabet. Courts upheld in 2004 that names including these letters cannot be registered in several applications made during that year. Allegations have also been made following the enactment of the new regulations that authorities have refused to register Kurdish names without the letters 'q', 'w', and 'x', and that children have been assigned alternative names.⁴¹

Finally, in the context of cultural and linguistic rights, an important area of reform has been in Kurdish language teaching. Since the 1920s, the use of the Kurdish language beyond the spheres of the family and local community has been tightly controlled, and accordingly it has not been possible for Kurds to learn or teach their language even in private institutions. The Law on Teaching in Different Languages and Dialects Traditionally Used by Turkish Citizens in their Daily Lives, part of the Seventh Harmonization Package, has marked an apparently dramatic departure from this norm by facilitating the opening of private Kurdish language courses. The past months have consequently seen several private Kurdish language courses open, beginning in May 2004 with schools in Van, Batman and Şanlıurfa.⁴²

However, as with developments in Kurdish broadcasting, the initial fanfare which accompanied the announcement of this step in the run-up to the EU decision of 17 December 2004 has not been followed by encouraging progress. In several instances local authorities have proved unwilling to implement the legislation, and have imposed petty bureaucratic hurdles to organizations seeking to

commence lessons. For example, on 5 November 2003 Aydın Unesi's preparations to begin teaching were stalled by an official notice stating that the lack of an emergency staircase (which did in fact exist) violated safety regulations.⁴³ Moreover, the regulation contains considerable restrictions on the establishment of private languages schools, and on their operation. Courses are only permitted to last for ten weeks and for no more than 18 hours per week. Private language schools receive no state financial support, and restrictions are in place on the appointment of teachers, timetable, attendees and the curriculum, including the provision that lessons must not contravene the 'indivisible unity of the state';⁴⁴ a number of applications to establish language courses have been rejected by the authorities on the grounds that the curricula focus on culture and history and not on language teaching.⁴⁵

As regards linguistic rights the pro-EU reform process has so far heralded no real change. The teaching of Kurdish remains banned from the state education system. Article 42 of the Constitution maintains that 'no language other than Turkish shall be taught as a mother tongue to Turkish citizens'. As such, there is no provision in state schools for teaching in Kurdish, thus precluding children from receiving education in their mother tongue. For children who have learnt only Kurdish at home, this poses real educational problems, notwithstanding an affront to their cultural identity. There are also no facilities for the study of Kurdish at university level in Turkey.⁴⁶

The European Commission against Racism and Intolerance (ECRI), established under the mandate of the Council of Europe, has repeatedly called on the Turkish Authorities to revise the wording of Article 42 so as to allow tuition in Kurdish to be provided alongside that in Turkish.⁴⁷ At present teaching in Kurdish can only be offered by private education institutions. Yet the teaching of Kurdish by private educational institutions has struggled from its beginning due to technical requirements, including a lack of financial resources and restrictions concerning, in particular, the curriculum, the appointment of teachers, the timetable and the attendees. The institution of private teaching suffered the final blow in August 2005 when the owner of the remaining schools in the country teaching in Kurdish decided to close them down.⁴⁸ To date, the schools remain closed and hence there are no possibilities of learning Kurdish in neither the public nor the private schooling system.⁴⁹

The use of the Kurdish language continues to be used as a justification by the Turkish authorities to suspend or prosecute non-violent Kurdish linguistic and cultural establishments. Hence, in April 2006 a Kurdish association was ordered to close by a court in Diyarbakır on the grounds that its statute included the objectives of setting up a Kurdish archive, museum and library and that its activities would be carried out in the Kurdish language.⁵⁰

In January 2007 the Sur Municipality of Diyarbakır decided to offer official services in Turkish, Kurdish, English and Syriac to its citizens. Sur Municipality wanted to provide multilingual services to its citizens in view of the composition of the population, 72 per cent of whom are Kurdish speaking. The municipal council decision to offer services in other languages than Turkish was approved by the Sur district Municipality, and it was made specifically clear that Turkish would continue to be the official language of the municipality. However, subsequently, the Turkish Ministry of the Interior asked the State Council to dissolve the Sur Municipality of Diyarbakır and to dismiss the Mayor, Abdullah Demirbaş.⁵¹ In June the State Council, Turkey's highest administrative court, voted unanimously in favour of dismissing Demirbaş from office. The Diyarbakır Chief Prosecutor has further demanded that Demirbaş, together with the Metropolitan Mayor of Diyarbakır, Osman Baydemir, be sentenced to a prison term of three and a half years for the authorization of multilingual services.⁵² The situation represents one of the latest examples of Turkey's consistent policy of denying the Kurdish minority its cultural and linguistic rights.

Turkey, then, whilst having made concessions in the field of cultural and linguistic rights which at first sight appear groundbreaking, can on closer inspection be seen to be doing little more than paying lip service to the pro-EU reform process. At root, she remains committed to promulgating official Turkish nationalism, and tied up in paranoia over increased cultural and linguistic rights spelling the breakup of the Turkish Republic. She has a great way to go before cultural pluralism is realized. Fundamental to this process must be the realization by Turkey that conferring cultural and linguistic rights upon the Kurds is hardly likely to spark greater Kurdish discontent and discord. Instead, the reverse is true; it is through denying linguistic and cultural rights that Turkey is stoking Kurdish dissatisfaction and impeding the achievement of a peaceful and enduring solution to the Kurdish question.

EU REFORMS

Turkey has enacted dramatic changes, at least on a symbolic level. The decisions to allow Kurdish broadcasting and Kurdish language classes are illustrative, as they represent an unprecedented encroachment into deeply held anti-Kurdish sentiments. Allowing Kurds to openly and publicly express their ethnicity through the use of perhaps the most potent and enduring mark of Kurdish identity, the Kurdish language, defies many years of efforts by Turkey to stamp out 'Kurdishness'. Restrictions upon the use of Kurdish in printing, broadcasting, publishing, political campaigning and schools had been in place for decades. A fact-finding mission report by the London-based Kurdish Human Rights Project, Bar Human Rights Committee and the Human Rights Association in 2002 found that Kurds were greatly encouraged by the early pro-EU reforms, in part because the opportunities provided for using the Kurdish language were regarded as a symbolic gesture.⁵³ The first ever TRT broadcast in Kurmanji reportedly met with jubilant scenes in the southeast.⁵⁴

There is a good deal of value in such a gesture; unequivocal, state recognition of Kurdish language rights challenges official, mono-ethnic conceptions of the state, creates new spaces for the expression of Kurdish identity and sends a clear message to public authorities in the country. It provides acknowledgement of the existence of a separate Kurdish identity, and bestows formal legitimacy on long-voiced Kurdish demands for improved recognition of their rights.

What, though, is the real meaning of these reforms? They are eye-catching changes which appear dramatic when reported, and are readily cognizable across Europe. As such, they have met with considerable recognition among European media commentators as indicative of Turkey's efforts to satisfy EU demands to improve the protection of Kurdish rights.⁵⁵ However, they have also faced criticism by Kurds and human rights organizations as constituting mere tokenism,⁵⁶ and in view of the substantial restrictions which continue to inhibit moves to carry the reform process beyond these initial steps, it is not difficult to perceive an element of justice in this view. As has been outlined, private broadcasters and Kurdish language schools face a plethora of restrictions on their capacity to function, and Kurdish is still prohibited from the state education system. Breaking the initial taboo on the public use of Kurdish is certainly a major breakthrough, but it only marks the beginning of a much longer, more difficult path towards major ideological and

structural change within the Turkish establishment upon which, to date, Turkey has made only very limited progress.

Moreover, what progress has been achieved in the recognition of Kurdish cultural and linguistic rights is marred by being set against a background of continuing oppression of the Kurds more generally across the southeast. It is true that pro-EU reforms have brought a number of welcome improvements, including in the formal regulation of torture, the repeal of some of the most repressive legislation used to inhibit free expression, the abolition of the death penalty, and some limited growth in civil society. Relative normalization has occurred as a result of the lifting of OHAL and violence has decreased since the conflict years, while the era of EU reforms have apparently seen some relaxation in attitudes towards the Kurdish community.⁵⁷

Nonetheless, there remains considerable repression of pro-Kurdish sentiments in the press, in published works, in the activities of human rights defenders and in political campaigning. Censorship and judicial harassment of those advocating for a democratic and peaceful solution to the Kurdish question remains commonplace, and free assembly faces particular restrictions in the southeast.⁵⁸ Publicly asserting Kurdishness is still a high-risk undertaking; it is widely documented that Kurds are more likely to suffer torture than ethnic Turks.⁵⁹ Thousands of Kurds are still effectively prevented by the Turkish authorities from returning to their homes in the Kurdish villages. The gap between government-announced reforms and practices on the street and in the villages is particularly wide in the Kurdish regions,⁶⁰ and many Kurds remain suspicious of whether state-directed reforms will bring genuine and sustainable benefits to them.⁶¹ In 2003, the European Court of Human Rights found 76 cases in which Turkey committed at least one violation of the ECHR. Most of these were cases brought by Kurds with the assistance of the London-based Kurdish Human Rights Project and the Diyarbakır branch of the İHD.

Reports of harassment of pro-Kurdish expression remain frequent. In this regard it is illustrative that in November 2006 five different cases were launched against 27 DTP members, in connection with which both offices and private residences were raided by Turkish security forces. A regional chairman of the DTP was reportedly kidnapped and subjected to psychological and physical torture, including the use of electric shocks. Further, court cases were also launched against 18 former executives of DEHAP.⁶² In December 2006 the deputy leader of the DTP faced charges under the amended Anti-Terror Law for

comments which, according to the Turkish authorities, constituted the 'praising of terror'.⁶³ In February 2007 the Court of Appeal warned the DTP to suspend 72 of its founding members who hold convictions for crimes related to 'terrorism'.⁶⁴ Further, the DTP Diyarbakır branch leader, Hilmi Aydoğdu, was arrested and charged for 'inciting ethnic hatred' after saying that the Kurds in Turkey would rise up against the state if Turkey attacked the Kurdish population living across the border in Kirkuk in Kurdistan, Iraq.⁶⁵

A crucial point in this regard is that addressing the situation of the Kurds in Turkey is not simply a matter of improving respect for Kurdish cultural and linguistic rights. Frequently the issue is framed in these terms in the press and in human rights reports. The Kurds in Turkey suffer disproportionately at the hands of the Turkish state from a range of human rights violations, and abuses which bear no overt relation to Kurdish cultural or other rights will frequently have a Kurdish element. The Turkish state's behaviour towards the Kurds is rooted in their ethnicity; the continued prevalence of state-administered human rights violations in the southeast stems from the fact that Kurds are targeted by police, the gendarmerie and other public authorities because they are Kurds. The Kurdish situation must, then, be addressed as a compound array of interlinked human rights violations and other injustices, and not as an issue which can be resolved solely by granting cultural and linguistic concessions. A Council of Europe report found in 2003 that 'one of the most complex problems' facing Turkey was 'undoubtedly that of the south-eastern regions of Turkey where the population is predominantly Kurd'.⁶⁶ The European Commission, in urging Turkey to address the situation in the southeast in 1998, found that 'many of the violations of civil and political rights observed in the country are connected in one way or another with this issue'.⁶⁷

In view of the only slight tangible progress made in enacting Kurdish language reforms and the need to comprehensively address the human rights situation in the southeast, harnessing the great opportunities for change and regeneration presented by the current reform process underway in Turkey will be no easy task. While there is support for democratic liberalism among some members of Turkey's political leadership in Ankara, there has so far been little sustained effort to confront ingrained mindsets throughout the arms of government or to institutionalise a culture of respect for Kurdish rights within public bodies in the southeast accustomed to operating with impunity. Effecting change is not simply a matter of

commissioning training programmes, dealing with recalcitrant public officials or waiting for the effects of administrative and legislative reform to somehow penetrate the national consciousness. Real reform demands the wholesale dismantling of the ideological premises upon which state behaviour and treatment of the Kurds has been predicated for over 80 years. Countering the psychological impact of a prolonged period of military rule, under which civilian Kurds were treated with brutal violence and a blind eye was turned to instances of torture and killings by state security forces, is necessarily a long-term process demanding sustained investment by the Ankara government. Without such investment, human rights reform in the southeast, and particularly advances in linguistic and cultural rights, will be little more than a series of external, cosmetic changes designed to satisfy the EU bureaucrats monitoring the accession process.

MINORITY RIGHTS STANDARDS IN TURKEY

The question of precisely which standards Turkey is obliged to meet in relation to minority rights is not straightforward, and little more than a preliminary appraisal can be set out here. Conceptions of minority rights have altered substantially since their first incarnation in the inter-war years. Initially they were looked upon largely as a means of satisfying the legitimate demands of non-dominant groups in order to lessen threats to international peace and security. The security element remains, but now the substantive content of minority rights is more developed, less nervous about national integrity more closely integrated with human rights and no longer dominated by equality provisions. Standards aim at addressing structures and systems which perpetuate the marginalization of minorities in economic, social and political life.⁶⁸ In addition, pluralism, tolerance and the promotion of diversity are increasingly seen as prerequisites for democracy.⁶⁹ Minority rights standards now tend towards the protection of the identities of minority groups, the promotion of the cultural and related rights of minorities, including in education⁷⁰ and the media,⁷¹ and the facilitation of minority participation in public life.⁷²

The rationale of minority rights, in the form that they are currently conceived, is twofold. The doctrine that respect for the rights of minorities acts as a bulwark against the escalation of conflict has already been touched upon; socio-economic marginalization and exclusion from political participation contributes significantly to inter-community tensions and the escalation of conflict.⁷³

Furthermore, it is considered that non-discrimination provisions alone are insufficient to realize genuine and effective equality, and that accordingly states should facilitate the preservation of minority identity and characteristics through the introduction of special measures in the fields of education, culture, religion, and political, social and economic affairs.⁷⁴ Certain groups, particularly those who have historically suffered oppression or violence, require explicit recognition in law and practice, increased sensitivity to their needs, and opportunities to promote their traditions and culture.

Turkey's explicit obligations towards minorities are largely political; she is predictably reticent in signing up to binding international standards in this field. The primary international standard on minority rights currently is Article 27 of the ICCPR, which prohibits States Parties from denying national minorities 'in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language'. Although Turkey ratified this treaty in September 2003, she submitted a reservation stating that Article 27 would be implemented in accordance with the Turkish Constitution and Treaty of Lausanne, effectively excluding its application to the Kurds. This reservation prompted a number of objections from other States Parties, including from Sweden which stated that the 'subjugation of the application of article 27' to the Turkish Constitution and Treaty of Lausanne was 'incompatible with the object and purpose of the Covenant'.⁷⁵ Under the Vienna Convention on the Law of Treaties, a state cannot issue a reservation incompatible with the object and purpose of a treaty.⁷⁶

Turkey has attached a similarly restrictive reservation to Article 13 of the ICESCR, limiting the applicability of education rights to accord with constitutional provisions prohibiting the use of languages other than Turkish in state schooling.⁷⁷

Turkey has so far resisted pressure to become a party to the Framework Convention on National Minorities (FCNM). The convention is important, particularly in view of Turkey's reservation to Article 27 of the ICCPR, because it is the first and so far only multilateral, binding treaty on minority rights. It sets out regionally agreed benchmarks on the promotion of full and effective equality through enabling minorities to preserve and develop their culture and to retain their identity. The Parliamentary Assembly of the Council of Europe has called the rights set out in the FCNM 'minimum rights of national minorities'.⁷⁸ Council of Europe bodies have requested that Turkey sign the FCNM on several occasions. The Parliamentary

Assembly has repeatedly called on Turkey to sign the convention, and stated that:

Persistent refusal to sign or ratify this instrument, and to implement its standards, should be the subject of particular attention in the monitoring procedures conducted by the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (CLRAE), as appropriate.⁷⁹

Most recently the European Commission against Racism and Intolerance, an independent monitoring body established by the Council of Europe, has recommended that Turkey become a party to the FCNM.⁸⁰ Of the 45 member states of the Council of Europe, only two have not signed the treaty.⁸¹

The European Commission, though, has appeared far less concerned by Turkey's reticence in assuming legally binding obligations towards her minority communities. In its October 2004 report it finds the reservations attached by Turkey to the ICCPR and the ICESCR to be 'of concern',⁸² and reference is made annually in the Commission's regular reports to Turkey's failure to ratify the FCNM. However, the Commission nonetheless found in 2003 that Turkey had 'aligned itself to a large extent with international conventions and rulings',⁸³ and in 2004 that she had fulfilled the Copenhagen Criteria. This is despite the fact that the EU asserts that the protection of minorities is an 'inherent part of the EU policy on human rights',⁸⁴ and that '[p]articular attention is paid to minorities within the context of the current EU enlargement process to countries of Central and Eastern Europe'.⁸⁵ Crucially, the political elements of the Copenhagen Criteria themselves include the provision that EU membership 'requires that the candidate country has achieved stability of institutions guaranteeing ... the respect for and protection of minorities'.

The London-based Kurdish Human Rights Project and other non-governmental institutions are concerned that in the context of Turkey's current and historical treatment of the Kurds, her reluctance to sign up to international standards on minority rights casts serious doubt upon the sincerity of her undertakings to respect the rights of minorities under her jurisdiction. This reservation is granted further weight by the recent political furore which materialized following the publication within Turkey of a report by the Human Rights Advisory Board. The report highlighted widespread hostility to the cultural freedoms conceded to Kurdish and non-Muslim communities,

asserted that minority rights in Turkey fell below universal norms and proposed far-reaching changes to the Turkish Constitution.⁸⁶ It was reported that the Head of the Board in presenting the report had his papers ripped from his hands by a fellow member who shouted: 'This report is a fabrication and should be torn apart.'⁸⁷ Some members of the Advisory Board were said to have referred to the report as a 'document of betrayal', and Ahmet Necdet Sezer, then President, issued a warning that the unitary structure of the state was an untouchable issue.⁸⁸ The Deputy Chief of Staff at the time, General İlker Başbuğ, was reported as stating 'The Turkish Armed Forces [TSK] cannot accept any debate over the unitary structure of the Turkish state, an untouchable provision of the Constitution.'⁸⁹ Government officials, including ministers Abdullah Gül (Foreign Minister at the time) and Cemil Çiçek, were also reported to have expressed distaste for some of the reforms recommended in the report.⁹⁰

In a separate recent event, Cemil Çiçek said that Turkey and the EU speak 'different languages' on minorities, and warned against engaging in a debate that would 'call into question the unity of Turkey', since such a debate would only benefit Kurdish extremists who seek division of the country.⁹¹

It is far from clear, then, that the Turkish government is moving towards European conceptions of minority rights, or that she has any real intention of implementing international norms in this area; the idea that the expression of alternative identities is a threat to the unitary, secular state remains powerful among Turkey's leaders. Despite EU accession negotiations and international pressure, Turkey's approach to minority rights remains unchanged. Turkey has not yet signed the FCNM nor the European Charter for Regional or Minority Languages, and she maintains her reservations to ICCPR and the ICESCR.⁹² Several EU member states continue to object to these reservations, claiming that they are incompatible with the objectives of the covenants.

In view of this background it is unfortunate that the European Commission continues to appear little concerned by Turkey's reticence towards international minority rights obligations. In the 2005 Progress Report the Commission paid scant attention to Turkey's persistent lack of compliance with international minority rights standards, simply noticing that compared to the 2004 Regular Report, Turkey's approach to minority rights remained 'unchanged'.⁹³ The Commission simply repeated this statement in the 2006 Progress Report.⁹⁴ Taking into consideration the EU's undertaking to uphold

minority rights in the accession process, the Commission's failure to criticize Turkey on the issue of minority rights, and to adopt the ratification of the FCNM as a condition precedent to Turkey's eventual entry into the EU, is highly disappointing.

Beyond the ICCPR and the FCNM, Turkey does have obligations in the realm of minority rights. The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁹⁵ reaffirms the universal import attached to minority rights, and elaborates upon the standard set out in Article 27 of the ICCPR. Under the declaration, states undertake to protect the existence of the 'national or ethnic, cultural, religious and linguistic identity of minorities',⁹⁶ and to 'encourage conditions for the promotion of that identity'.⁹⁷ Substantively, the declaration provides for non-discrimination,⁹⁸ for the creation of conditions favourable to the expression of minority characteristics and the development of culture, language, religion, traditions and customs;⁹⁹ and for participatory rights in cultural, religious, social, economic and public life.¹⁰⁰ Specific references are made to participatory rights in the fields of education,¹⁰¹ national and regional decision-making¹⁰² and economic development.¹⁰³

The OSCE, of which Turkey is a participant, sets out the most developed standards on minority rights. The OSCE's interest in human rights arises from its mandate to promote peace and security in Europe, and it has issued a number of normative documents specifying provisions for the treatment of minorities. The most important of these is the Copenhagen Document, which sets detailed standards in relation to the adoption of special measures to promote full equality, the right to freely express, preserve and develop minority identities, cultural and linguistic rights, freedom of expression and of association, protection against racial discrimination and ethnic violence, and the establishment of autonomy regimes where appropriate. Turkey maintains that she 'believes that security and stability in the OSCE area can be strengthened only if all OSCE commitments are invariably implemented'.¹⁰⁴

The OSCE also has a High Commissioner for National Minorities, who visited Turkey for the first time in 2003 with the aim of starting a dialogue on the situation of national minorities. However, no such dialogue followed from this initial meeting.¹⁰⁵ In 2005 the OSCE High Commissioner visited Turkey in order to follow up on the 2003 visit and to facilitate dialogue on the situation of national minorities in Turkey. However, so far this visit has not been followed up and

no progress has been made in starting a dialogue on the situation of national minorities.¹⁰⁶ The continuing persecution of pro-Kurdish political parties and their exclusion from Parliament and restrictions on electioneering in Kurdish inhibit genuine participatory democracy for Kurds. The situation is illustrative of the great need for dialogue which still exists in Turkey today. The hardship facing national minorities further undermines Turkey's obligation, as a member of the OSCE, to ensure that minority groups have 'effective participation in public affairs'. Discrimination towards national minorities also contradicts Turkey's commitment to support the participation of minority groups in affairs relating to the 'protection and promotion of the identity of such minorities', as prescribed under paragraph 35 of the Copenhagen Document.

The ECHR does not expressly protect minority rights, but the European Court of Human Rights has found that the protection of national minorities is a 'condition sine qua non for democratic society'.¹⁰⁷

How far does Turkey's treatment of the Kurds comply with international minority rights standards? Reference has already been made to hostility within the Turkish establishment towards the concept of minority rights, while severe limitations on the expression of Kurdish culture and language, and even public manifestations of Kurdish identity, have been described above. Related to these factors, and comprising probably the greatest formal impediment to the realization of minority rights, is Turkey's failure to even acknowledge the identity of the Kurds.

DEFINITIONAL ISSUES

The Turkish Constitution of 1982 (as amended in 2001) provides contradictory guidance on the rights of minority groups within the state. Whilst Article 2 states that 'the Republic of Turkey is a democratic, secular, and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice, respecting human rights', the Preamble of the Constitution states:

no protection shall be accorded to an activity contrary to Turkish national interests, the principle of the indivisibility of the existence of Turkey with its state and territory, Turkish historical and moral

values or the nationalism, principles, reforms and modernism of Atatürk.¹⁰⁸

Thus the principles of territorial integrity and a unified nationalism which have proved so damaging to Kurdish rights are embedded within the Turkish Constitution.

Furthermore, section 3 of the Treaty of Lausanne (1923) restricts the definition of minorities to non-Muslim nationals of Turkey. As the majority of Kurds follow Sunni Islam,¹⁰⁹ they are excluded from protection. This was despite the Kurds having inhabited the area that is now modern-day Turkey for more than 2,000 years,¹¹⁰ and the 1920 Treaty of Sèvres signed by the Allies which envisaged independence for the Kurds.

The exclusion of the Kurds from the Lausanne definition is highly problematic. In the first place, recognition of a minority's identity is a fundamental prerequisite for achieving minority rights; further rights can only flow when the existence of a minority is acknowledged as such. Objective definitions of minorities dominate international thinking on this issue, and the 1979 statement by Francesco Capotorti, Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, represented current thinking on the issue when he defined a minority as:

a group that is numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing to those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.¹¹¹

The Parliamentary Assembly of the Council of Europe has set out a similar objective definition,¹¹² and the Human Rights Committee has issued a general comment stating that the existence of a minority in a given State Party 'does not depend upon a decision by that State party but requires to be established by objective criteria'.¹¹³ It is not within Turkey's discretion to herself decide who should or should not benefit from minority rights protection within her jurisdiction. Indeed, the government-commissioned report by the Turkish Human Rights Advisory Board found that Turkey's minority definition was too restrictive and did not accord with current thinking, which accepts that minorities exist where communities are 'ethnically, linguistically

and religiously different' and feel this difference is an inseparable part of their identity.¹¹⁴

The exclusion of the Kurds from the constitutional definition of a minority has had highly detrimental results. In the first place, references to minorities within the Constitution and other legislation refer back to this definition, barring the Kurds from inclusion in any protective provisions. Furthermore, it sends the wrong signal to institutions of the state and others seeking to deny Kurdish rights, granting apparent formal legitimacy to Turkey's denial of a distinct Kurdish identity and consequent attempts to subjugate and forcibly assimilate the Kurds.

Turkey has revealed no intention to change the Lausanne minority definition, or other related failings in the Constitution including the absence of provisions prohibiting discrimination or promoting equal treatment, despite criticism from international bodies. In May 2003, the report of the European Parliamentary Commission on Foreign Affairs, Human Rights, Common Security and Defence Policy condemned the continuing refusal of Turkey to accommodate the cultural and linguistic rights of the Kurds. It stressed that a new Constitution is required which respects 'the rights of all individuals and of minorities balanced against their collective rights in accordance with customary European standards'. The Council of Europe Parliamentary Committee recommended a major reform of the 1982 Constitution and further recognition of national minorities.¹¹⁵ The ECRI recommends revision of the Constitution in order that it enshrines 'the commitment of the state to promote equality'.¹¹⁶ Most recently, Turkey's own Human Rights Advisory Board advised that amendments be made to the constitutional provision which refers to 'the indivisible unity of the nation', on the basis that it rejects the existence of different cultural groups.¹¹⁷

Turkey continues to express no will to reconsider the definition of minorities found in the Treaty of Lausanne. Although the European Commission has raised the issue of the Lausanne minority definition and its lack of application to the Kurds, noting that in this context Turkey's reservations to the ICCPR and the ICESCR could 'be used to prevent further progress in the protection of minority rights',¹¹⁸ overall the Commission has failed to unequivocally criticize Turkey on this point. Very little is made of this definitional issue, although the EU Commission's representative in Ankara, Ambassador Hansjoerg Kretschmer, reportedly said in an interview with the *Turkish Daily News*: 'It looks somehow not necessarily compatible with the existing

international instruments that the only minorities that Turkey recognises as minorities in Turkey should be non-Muslim religious minorities and that any other minority would by definition not exist in Turkey.¹¹⁹

Since the formal opening of accession negotiations in 2005, the Commission has limited itself to vague statements regarding the minority definition found in the Treaty of Lausanne. In the 2006 Progress Report, after having established that under the definition found in the Treaty, minorities in Turkey consist exclusively of non-Muslim religious communities, the Commission concluded that 'there are other communities in Turkey which, in the light of relevant international and European standards, could qualify as minorities'.¹²⁰ This is a direct replication of the statements made in the 2005 Progress Report, and it is striking that the Commission fails to mention Turkey's 15–20 million-strong Kurdish minority in this regard. The statement is further illustrative of how the Commission continues to pursue an approach of pointing to the insufficient definition in the Treaty of Lausanne without criticizing Turkey's lack of will to change this definition.

The Kurds believe that a constitutional resettlement in which the existence and rights of the Kurds are recognized must be achieved before Turkey can legitimately accede to the EU. Until the Turkish state has constitutionally redefined itself, and in so doing rid itself of the ethnic nationalist element of Atatürk's legacy, democracy cannot become a reality. The potent ideology of Turkish nationalism, which has historically dictated the subjugation of heterogeneous ethnic identities to a monolithic Turkish identity, goes to the heart of what Turkey is and what she conceives herself to be. It is this ideology which has required the state to suppress all manifestations of Kurdish culture and existence. Constitutional recognition of the Kurds would go some way towards promoting ethnic reconciliation and cohesion.

According to the Capotorti definition there are also several other minority groups in Turkey apart from Kurds.¹²¹ Predominant ethnic communities in Turkey include Gypsies, Caucasian groups (including Circassians, Georgians and Laz), Arabs and Balkan immigrants. There are also various religious and linguistic communities, of which some of them coincide with different ethnic groups, including Armenians, Alevi, Jews, Greeks, Assyrians¹²² and Laz.¹²³

Independence for the minority groups of the former Ottoman Empire, such as Kurds, Armenians and the people of Hejaz, as

envisioned in the 1920 Treaty of Sèvres, never became a reality. The fact that minorities were defined as 'non-Muslims', whereas non-Turkish Muslims failed to have a distinct status under the 1923 Treaty of Lausanne, means that to this day only Greeks, Armenians and Jews, as non-Muslim groups, are formally recognized as minorities in Turkey. All other cultural groups in Turkey, including Christian Assyrians, a community distinguished by their religion, ethnicity and language, were excluded from the Lausanne treaty altogether.

Although recognition of minority status was intended as a protective measure, Armenians, Jews and Greeks have often been seen as 'foreigners' rather than proper citizens of the Turkish Republic. The Assyrians, lacking official religious minority status, have faced severe religious intolerance and sometimes harassment. The distinction between Muslim and non-Muslim minorities is significant not only in relation to their definition by the Lausanne treaty, but is also relevant to their treatment by the state. While non-Muslim communities have been mainly subject to discrimination, Muslim minorities have faced a policy of assimilation. Circassians, Laz, Arabs, and so on, as well as the Alevi minority, have – like the Kurds – been under enormous pressure to assimilate into the Turkish mainstream society.¹²⁴ While some of these groups have tended to assimilate more or less voluntarily, others (particularly Kurds and Alevis) have resisted assimilation. In addition, Roma and other Gypsy communities in Turkey, most of whom have adopted the majority religion in Turkey, are highly stigmatized and excluded from the mainstream society,¹²⁵ as in other European countries.

The minorities in Turkey vary in number and characteristics. While some of them are territorially concentrated, others are scattered throughout the country. The Kurdish regions of Turkey are also home to Assyrian and some Gypsy communities, as well as a small number of Armenians today.

SUBSTANTIVE RIGHTS

With regard to substantive minority rights, Turkey fares little better. Despite important symbolic steps in the right direction, Kurds are still broadly prevented from freely using and developing their language. They are unable to learn Kurdish except in very limited circumstances, and cannot yet use Kurdish in broadcasting or in the press in any meaningful way. As recently as 6 October 2004, the Malatya Police HQ threatened to take legal measures against 17 private local radio

and five television stations allegedly broadcasting in Kurdish, noting that broadcasts were monitored 24 hours per day.¹²⁶ The pro-Kurdish newspaper *Özgür Gündem*¹²⁷ had 64 out of a total of 164 editions seized on the day of publication, and the editor and owner faced 82 criminal proceedings against him.¹²⁸ Turkish authorities evidently remain extremely apprehensive about relaxing restrictions on Kurdish media, restrained by deep-seated ideological views of the Kurdish language as a threat to national unity. Pro-Kurdish associations continue to be treated with deep suspicion. The Bingöl (East) İHD section, for example, is currently faced with nearly 50 prosecutions on various charges.¹²⁹ Far from creating conditions favourable to the preservation and development of Kurdish characteristics and traditions, or taking 'special measures' to facilitate the expression of Kurdish culture, Turkish authorities continue to react defensively to outward shows of 'Kurdishness'. A number of applications to establish language courses, for example, have been rejected by the authorities on the grounds that the curricula focus on culture and history and not on language teaching.¹³⁰ In February 2004, three individuals were detained in response to Kurdish songs being sung during a wedding in Unsaldi village in the Kozluk district.¹³¹

The 2004 Minority Report of Turkey's own Human Rights Advisory Board strongly criticized the lack of respect for minority cultures in Turkey, and described concerns that innocent calls for greater cultural rights for minorities could threaten the indivisibility of the nation as 'paranoia'.¹³² The report went on to argue that 'more humane treatment by the state of its own people' would promote national unity, and that '[the] citizens the state should fear the least are the ones whom it has granted their rights'.¹³³ The report also noted that if the provisions of the Lausanne treaty had been fully implemented, armed conflict between Turkey and the Kurds could have been prevented. The report gives the example of Article 39 of the treaty, which allows Turkish citizens to use 'any language they wish in commerce, in public and private meetings and all types of press and publication'.¹³⁴ The storm of protest with which the report met has been described above in some detail. The Head of the Advisory Board, İbrahim Kaboğlu, and Baskin Oran, the author of the report, were investigated for treason by state prosecutors.¹³⁵ The government subsequently denied that it commissioned the report; however, it was the government that established the Advisory Board as well as chose its membership and mandated the Board to produce reports such as the minority report. The state thereby punished the

authors for carrying out the very duty it required them to undertake. The defendants were acquitted by the General Criminal Court in Ankara in February 2006.¹³⁶ However, this judgment has recently been appealed and the Court of Appeal has overturned the decision. The case is still pending which is very troubling.

Kurds are broadly unable to partake in the economic development of the country. Substantial economic underdevelopment in the Kurdish areas, combined with the devastation to the rural economy caused by the actions of Turkish state security forces under OHAL, have generated disproportionately high levels of economic and social deprivation, illiteracy and poverty in the southeast. The rural infrastructure has been destroyed, cultivatable land has fallen into disuse and the traditional agricultural economy has disintegrated; Kurds are crowded into the peripheries of towns and cities with high unemployment.¹³⁷

The European Commission reports that in Turkey the Secondary Committee for Minorities, established by decree in 1962 to conduct secret surveillance on minorities, was replaced by the new Minority Issues Assessment Board.¹³⁸ The Board's aim is to alleviate the problems of non-Muslim minorities, but the Commission states that the Security Directorate of the Ministry of the Interior is still responsible for relations with minorities.¹³⁹

The future of minority rights in Turkey is uncertain. The Turkish authorities are evidently still deeply uncomfortable with the idea of acknowledging the legitimacy of minorities' calls for recognition of their existence and rights; of relaxing tight controls on public use of languages other than Turkish, be it in the media, in the political domain or in schools. Despite the raft of positive, pro-EU reforms, minority rights lag behind other areas and genuine acceptance of the legitimate presence of minorities and the facilitation of their full participation in democratic society is proving elusive. In short, the still sacrosanct principles of ethnic nationalism in Turkey serve at almost every turn to frustrate the reform process and foil efforts to extend recognition and rights to the Kurds and other minorities.

Turkey will not become a fully plural and democratic country until her administration is able to throw off these historical shackles and instigate institutional change so that minorities can participate fully and freely in Turkish political, cultural, social and economic life. There is nothing inherently frightening about such a proposition. As the Council of Europe notes: 'more than eighty years after the

republic's foundation, the authorities ought to have greater confidence in Turkish citizens, who are just as attached to democratic values as their counterparts elsewhere in Europe'.¹⁴⁰

It is imperative that a more mature, progressive stance comes to light in Turkey, and that dialogue and other confidence-building measures are implemented to promote tolerance, understanding and pluralism. With a sustained effort, perceptions of the Kurds as adversaries could be dissipated, and replaced by peaceful accommodation, cultural diversity and democratic inclusion. This will not happen until the issue of ideological reform is fully and forcefully addressed by the Turkish authorities.

5

Conflict in the Southeast

Conflict is not new to the Kurdish regions; two major Kurdish rebellions broke out in Sheikh Said in 1925 and in Dersim (Tunceli) in 1937.¹ Still, the bloody conflict which reigned in southeast Turkey for 15 long years between 1984 and 1999 was of an entirely different scale. According to official figures, 23,638 Kurds, 5,555 security forces and 5,302 civilians were killed in the fighting in the period up to the end of 1998,² while 3 million were displaced from their homes in the Kurdish villages. The relaxation of judicial supervision of government behaviour under OHAL opened the door to chronic abuses commissioned by state security forces in their actions against 'terrorist' targets, while the pro-Kurdish press, publishers, associations and cultural initiatives were comprehensively silenced. In the government's view, the situation in the southeast was characterized solely by terrorism inspired by Kurdish separatism, justifying all-pervasive state repression of manifestations of Kurdish identity and pro-Kurdish expression.

ORIGINS AND DEVELOPMENT OF THE CONFLICT

It is true that the activities of the Kurdistan Workers' Party (PKK), an outlawed Kurdish organization which came to prominence in the early 1970s, generated significant destabilization in the southeast. In the general disorder which characterized Turkey in this period, as government control broke down and leftist groups fought right-wing organizations, many Kurds were drawn to organizations with a specifically Kurdish agenda. The PKK was the most successful of these, not least because it drew significant support from the Syrian government. PKK insurgency was one of the causal factors inspiring the reassertion of state authority in the 1980 military coup, but it wasn't until 1984 that the PKK armed struggle commenced in earnest. Gendarmerie posts were the initial objects of raids, and later Turkish military and police outposts were attacked.³ The PKK's methods were violent, and those perceived as collaborating with the state, including

the government-sponsored Village Guard militia and civilian state employees such as teachers, were especially targeted.⁴

The government responded to the violent tactics of the PKK by employing large numbers of Turkish troops and gendarmerie against their forces, and by arming the Village Guard. State security operations became notorious for extremely high casualty rates, extra-judicial killings of non-combatants, torture of civilians and the destruction of Kurdish villages. Indeed, PKK violence served the government's purposes to some extent by providing apparent justification for a large-scale assault on the Kurdish southeast, publicly touted as counter-terrorism measures but also with the aim of forcibly removing Kurds from the southeast and resettling them in the west.

The Kurds at this time were placed in an untenable position, unable to stay out of the armed conflict which was devastating their communities. Turkey's military response to the PKK was not limited to attacks on the PKK itself, but amounted to a full-scale assault on the Kurdish countryside. Rural Kurdish communities were obliged by the Turkish state to prove their loyalty by joining the Village Guard: the state-sponsored militia employed to fight the PKK and responsible for violence, corruption and human rights abuses. If villages failed to put forward volunteers for the Guard, they would be placed in the dangerous position of being viewed as PKK sympathizers, and thus liable to attack by Turkish security forces. However, those who did sign up were deemed traitors by the PKK, who conducted violent raids on guards and their families. Kurdish villagers were thus placed in a catch-22 situation. They could become village guards and chance being attacked by the PKK, or refuse and risk becoming victims of a state security operation.

At this time there remained a dynamic, influential movement in the southeast committed to a democratic solution to the Kurdish issue, despite Turkey's refusal to address the legitimate concerns of the Kurds over their status in Turkey, or even to engage in dialogue with Kurdish representatives to look to a political solution to the Kurdish question. Pro-Kurdish political advocates have sought throughout the conflict period to openly address the Kurdish struggle for recognition through the domestic political system, and prior to 1991 they operated within national political parties. They tended towards support for left-wing parties which were sympathetic to their aims of achieving equality with other Turkish citizens, in particular the SHP (Social Democratic Populist Party).⁵ After 1991, Kurdish politicians began forming their own political parties, beginning with the foundation of

HEP by Leyla Zana and her fellow Kurdish deputies. OHAL legislation, though, was consistently used to gag their messages through judicial harassment of their members and the initiation of dissolution proceedings. Successive pro-Kurdish parties have accordingly been forced to form and re-form, and have been substantially impeded from participating in Turkish democratic processes. Most recently, in a move criticized by the Council of Europe,⁶ HADEP was prosecuted for alleged links to the PKK and for supposedly committing separatist acts under Article 169 of the Penal Code.⁷ The exclusion of Kurdish parties from democratic processes in Turkey removes the possibility of a democratic outlet for Kurdish demands.

Peace looked viable for a short period after 1991, as the True Path government signalled a willingness to examine the situation in the southeast and broke significant taboos by openly naming the Kurdish issue. Kurdish voices calling for a peaceful, democratic solution began winning through and the PKK announced a unilateral ceasefire. However, President Tansu Çiller came to power in 1993 and seemed unwilling to exert any real control over the army in their dealings with the PKK, and fighting resumed with renewed intensity. PKK members and supporters were executed with no reference to the judicial system, and human rights defenders, pro-Kurdish politicians and sections of the media were also killed by the security forces.

By the late 1990s, however, the situation was changing. Transborder backing of the PKK began to wane, and in October 1998 the PKK leader Abdullah Öcalan was expelled from Syria where he had long been granted refuge.⁸ Öcalan was then apprehended in Kenya and flown to Turkey to stand trial in February 1999, where he was convicted of treason and sentenced to death.⁹ This marked a turning point in the conflict. Öcalan called upon PKK fighters to withdraw from the southeast to bases outside Turkey,¹⁰ and made a statement to reporters via his lawyer to the effect that 'a ceasefire would ease the deadlock over the Kurdish question and open the way to dialogue on a democratic solution'.¹¹ Öcalan was also reported to have referred to the PKK's war for Kurdish independence as a 'historic mistake'.¹²

A unilateral ceasefire by the PKK subsequently led to a great reduction in hostilities, and virtually ended the targeting of civilians.¹³ Throughout the period September 1999 to June 2004 the conflict remained at a very low level, though reports by a regional human rights organization referred to around 100 deaths per year resulting from armed conflict.¹⁴ The Council of Europe also referred to isolated incidences of hostilities in March 2004, but noted that the situation

had improved considerably since 1999.¹⁵ Village evacuations slowed in pace, and what is often referred to by international bodies as a process of 'normalization' began. In 2000, the word 'Kurdistan' had been dropped from the PKK's name in recognition of its abandoning of its former demands for Kurdish independence, and its strategy became one of pursuing Kurdish interests through non-violent, conventional political channels.¹⁶ Other radical Kurdish organizations continued to operate, including the Workers' and Peasants' Army of Turkey, the Revolutionary People's Liberation Front and the Islamic Raiders of the Big East Front.¹⁷

However, the PKK¹⁸ announced via the Mesopotamian News Agency that the unilateral ceasefire would be called off with effect from 1 June 2004.¹⁹ The reason given for the resumption of violence was ongoing state military operations against the organization's fighters.²⁰ Divisions in the party were reported at the time, and it was mooted that a large faction within the PKK were pressing for a permanent renunciation of armed violence.²¹ An earlier announcement of an end to the ceasefire made in September 2003 on the basis of the government's failure to grant greater political and cultural rights to the Kurds²² had resulted in some increase in armed activity. The denouncement of the ceasefire led to an intensification in violence, although not to the level of the pre-1999 period. Selahattin Demirtaş, the Diyarbakır head of the Turkish Human Rights Association, referred to the situation as 'controlled fighting',²³ though its scale should not be underplayed. AFP reported over 50 clashes between the PKK's fighters and Turkish security forces between 1 June 2004 and 13 August 2004.²⁴ In September 2004 a major outbreak of violence in Pervari, Siirt Province, was reported, with government forces announcing that they were expanding their operations in order to target guerrillas in the region.²⁵ Some 166 battle-related deaths were reported in 2004, with fighting mainly being focused in the Tunceli, Bingöl, Batman, Diyarbakır, Van and Mardin provinces.

Although intensified violence has been explicit in the region following the denouncement of the ceasefire in 2004, operations by the PKK have mainly been of a reactionary, 'defensive' character, as opposed to the offensive attacks which characterized the pre-1999 period. To a large extent, the PKK had shied away from resorting to terrorist means, and on 30 September 2006, the PKK declared a new unilateral ceasefire in operations against the military. However, the beginning of 2007 saw increased unrest and conflicts, not only in the southeast but in Turkey as a whole. This unrest was partly motivated

by the assassination of journalist and Armenian community leader Hrant Dink on 19 January 2007. The unrest intensified in the consequent months as the dispute between the country's secular and Islamist forces deepened. On 22 May 2007 a bomb exploded in Ankara, leaving seven people dead and over 100 injured. The PKK was, once again, the main suspect; however, the organization has strongly denied any involvement.

The resumption in violence in the Kurdish regions have had obvious and tragic human costs. Throughout the twentieth century thousands of people, mainly Kurds, have died as a result of armed hostilities in the Kurdish regions, and communities have been terrorized, intimidated and made victims of extreme violence by both sides to the conflict. The psychological effects of mass killings; of villagers fleeing as their homes, crops, agricultural equipment and livestock were burnt; of abuse, humiliation, ill-treatment and torture at the hands of state security forces mandated to protect civilians, can so far only be guessed at. The state security operations in July 2004 in which hundreds of residents of the village of Ilıcak in Şırnak Province were forcibly removed from their homes for six weeks during a state security operation²⁶ was chillingly reminiscent of mass forced displacement in the 1980s and 1990s.

The September 2006 ceasefire, although fragile, is raising hopes of a permanent solution to the dispute. Turkey's tentative steps towards granting the Kurds hard-won cultural and civil rights would be significantly threatened by a return to fully-fledged state counter-terror operations. The fragile process of normalization, as the region begins to shake off almost two decades of armed violence and life under OHAL, is still in its early stages, and would be turned on its head by renewed village evacuations, domestic terror, civilian casualties, further economic devastation, and security-inspired crackdowns on Kurdish expression. What limited psychological progress Turkey's old elites have made towards relinquishing outdated mindsets, which view the acknowledgement of the presence of a distinct Kurdish ethnic identity within the Turkish Republic as a repudiation of the integrity of the state, would be severely jeopardized if the conflict was once again to intensify.

RESOLVING THE CONFLICT

It is inconceivable that democratization in Turkey can be achieved while the conflict in the southeast is at its current level. Stability

and security, predicated on an absence of violence or armed conflict, is a touchstone of democracy. Democracy necessarily entails a commitment to the civil, non-violent resolution of disputes. The former UN Secretary-General has stated that 'the non-violent management of conflict is the very essence of democracy. In an era when more than 90 per cent of wars take place within, not between, states, the import of this finding for conflict prevention should be obvious.'²⁷ As long as Turkey maintains her dogged resistance to engaging with non-violent Kurdish representatives through democratic processes to seek a peaceful resolution to the situation in the southeast, and instead focuses on security operations in the region, she cannot claim to be truly democratizing.

Moreover, key elements of democracy which pertain towards the preservation of peace and the management of conflict, including the facilitation of the expression of a plurality of opinions, the promotion of political participation, and the fostering of peaceful coexistence of different communities within state borders, are markedly absent from Turkey. These democratic elements allow for tensions to be worked through in the political and legislative arenas, replacing battlefield confrontations with peaceful bargaining and detailed negotiation processes. Turkey's persistence in stifling forms of expression which allude to the existence of a Kurdish identity, harassing pro-Kurdish political parties, and conducting ruthless security operations against Kurdish civilians thought to harbour 'separatist' sympathies, therefore substantially impedes the peaceful resolution of the conflict in the southeast. Until Turkey sets aside her disinclination to comply with these basic democratic criteria and thus to take concrete steps towards effecting long-term peace and security in the Kurdish region, she cannot be deemed a member of the ever-growing international community of democratic states. Her unwillingness to leave behind policies of forcible assimilation based on a mono-ethnic conception of the nation state, and her reticence in accommodating alternative identities and ethnicities, further contributes to this conclusion; such steps towards democratic pluralism provide bulwarks against the outbreak or escalation of conflict.

In this context, the appropriateness of Turkey acceding to the EU is highly questionable. Turkish EU membership would bring an unresolved conflict situation with no immediate prospect of a democratic process of resolution into the Union. The EU has long prided itself on its commitment to the creation of 'an area of freedom, security and justice',²⁸ seen as a fundamental element of European

integration and the promotion of peace and prosperity, and the EU has also expressed that this concept will inform its policies on enlargement.²⁹

The incorporation of Turkey threatens to undermine these principles, which have so far proved extremely successful in avoiding warfare; no outbreak of armed conflict has occurred within EU borders since its founding. It is true that some EU members, particularly Spain and the UK, have experienced relatively low-level violent hostilities generated by dissatisfaction among minority groups, but, and this is very important, this occurred within the context of democratic societies. Notwithstanding the many obstacles encountered on the path to peace in Northern Ireland, the peace process itself has involved protracted, multi-party negotiations giving voices to both sides to the dispute through democratic channels.³⁰ Spain has similarly been engaged in peace talks with the Batasuna, the political wing of the outlawed separatist organization ETA, and is currently conducting political dialogue over the possibility of granting regional autonomy to the northern Basque region.³¹ Turkey, conversely, continues to refuse political space to Kurdish representatives, and to exclude pro-Kurdish activists from political processes. As the situation currently stands, democratic moves to end the conflict in the southeast or prevent its escalation look unlikely, and thus the presence of Turkey within the EU would substantially endanger the great achievement of peaceful and democratic consensus which has dominated the EU for so long.

How, then, can these undesirable eventualities be avoided? Resolving conflict and building peace are not easy tasks, and as the Council of Europe points out: 'Fifteen years of armed conflict have clearly left deep wounds on both sides that will not be easily healed.'³² However, firstly, and most obviously, all parties to the conflict should lay down their arms and cease military hostilities. The continued unrest and increased military presence are doing nothing to further reconciliation in the region. The renunciation of violence by both sides is necessary to the evolution of democratic society in the southeast.

Furthermore, dialogue and debate between the parties to the conflict should be initiated in order to set in motion a process of change and peaceful resolution of the dispute. This would constitute a first step in the use of diplomatic means to persuade parties to the conflict to cease hostilities and to negotiate a peaceful settlement. There are various means by which parties in conflict can

be encouraged to abandon armed violence and bring their disputes to the negotiating table, and the establishment of a democratic platform which brings in a range of actors close to the conflict is one suggestion which has been mooted.³³ The Council of Europe has similarly recommended that a 'discussion forum' be established where facts could be objectively established and the reasons for the conflict ascertained, and that this could evolve into a 'reconciliation commission'.³⁴ This would provide a neutral medium to exchange ideas, sound out reconciliation strategies and identify ways of overcoming the accumulated hatred and antagonism in the region, potentially providing space for the discussion of possible peaceful solutions and thus encouraging the different sides to move towards conciliation and shared objectives. Mediation, or the involvement of an external 'impartial facilitator', can also prove an essential element of preventive diplomacy or peace-making, contributing to the resolution of conflicts or preventing tensions from escalating too far.³⁵ Overtures from Turkey indicating willingness to engage with the Kurds have not, though, been forthcoming. Turkey did not recognize the unilaterally declared PKK ceasefire of June 1999, just as she has not recognized subsequent PKK declared ceasefires. Further, she has flatly refused to take part in any kind of negotiations even when the conflict was at its height. There have been no reports of conflict-resolution initiatives being implemented in the region, and Turkey has not responded to any calls by the Kurds for the opening of democratic dialogue on the issue. External attempts to facilitate peace have fared no better, with Turkey continually insisting that the situation in the southeast is a matter internal to Turkey. For example, in 1998 Turkey's Prime Minister Mesut Yilmaz rejected German and Italian plans to launch a European effort to end the conflict.³⁶ Prime Minister Yilmaz reportedly stated: 'If the problem at issue here is the one between Turkey and its citizens of Kurdish origin, then the only place for a solution is Turkey.'³⁷

Instead, Turkey resolved in September 2001 to take advantage of the renewed international focus on terrorism to intensify her anti-Kurdish policies in the southeast. The then Turkish Foreign Minister, İsmail Cem, said that 'Turkey intends to make the best of the post-September atmosphere to demonstrate its own stances towards the issue of terrorism',³⁸ and Turkey has continued to press the US to take action against the PKK in Iraq.³⁹ She also pushed EU leaders to include the PKK on a list of proscribed terrorist organizations after

the unilateral ceasefire and the promulgation of the organization's new democratic agenda.⁴⁰

One of the main obstacles in reaching a solution to the conflict is the lack of a legitimate and representative leader empowered to speak on behalf of the Kurdish people. At present the PKK does not seem to constitute, in the eyes of the international community, nor indeed Turkey, a legitimate partner with whom genuine negotiations can be conducted. However, some do acknowledge that the PKK has distanced itself from its more radical factions and is now seeking peaceful means for reaching an agreement with Turkey. A genuine and peaceful dialogue needs to be instituted between Turkey and the PKK in order to reach a peaceful solution to the conflict in the southeast. Such dialogue cannot be properly instituted without the unequivocal recognition on the part of the Turkish government that, on the one hand, the Kurdish question goes far beyond the repression of terrorist activities and that, on the other, it needs to be addressed at a political rather than military level.

However, Turkey's behaviour indicates a profound reluctance to accept Kurdish representatives as negotiating partners, including through external mediation, and so to move towards resolving the situation in the southeast. The UN Secretary-General has identified 'the reluctance of one or more of the parties to a conflict to accept external intervention of any kind'⁴¹ as a key impediment to peace-making.

Turkey's aversion to engaging in democratic dialogue has been mirrored by reticence on the part of the international community either to name or to become involved in the conflict in the southeast. There has been a noticeable absence of references to the conflict in intergovernmental and international forum; instead, reference is made to 'the situation in the southeast' to refer to the conflict in dialogue and reports, obscuring somewhat the fact that an armed conflict is taking place and doing little to encourage Turkey to face up to the need for democratic resolution. Among organizations which may be expected to take the lead in addressing conflict, the Kurdish issue has been treated virtually across the board as at root a human rights problem, presumably based on the notion that progressive democratization and human rights reform will mitigate Kurdish discontent and push those advocating militancy to the extreme margins of political opinion. Of course, there is some validity in this view, but on its own it is inadequate, particularly since Turkey is making only very tentative progress towards these goals.

A broader undertaking by the international community is needed to address the situation. The right to self-determination is one of the fundamental principles of international law, and the international community has a responsibility as a collective body to globally uphold the principle, and to at least adequately acknowledge and address the situation in the southeast. The Kurds in the southeast should not be denied the right to 'freely determine their political status and to pursue their economic, social and cultural development'.⁴² The dismissal and possible imprisonment of the mayor of the Sur district of Diyarbakır, Abdullah Demirbaş, for providing multilingual services in the municipality, is merely an example of Turkey's persistent refusal to allow even the most fundamental political or cultural rights to the Kurds.

However, the reluctance of the international community to apply the principle in practice illustrates that the relationship between state sovereignty and the right to self-determination is often complicated by *realpolitik*. Although some United Nations High Commissioner for Refugees (UNHCR) reports have been published to address the issue,⁴³ no Security Council resolution has ever been passed on the matter, and some states prefer to qualify the problem as an internal issue, falling outside the remit of International law. This approach is alarming as it leaves unchallenged the Turkish policy of consistently denying the very existence of a 'Kurdish issue'.⁴⁴

In light of this the most important argument for international involvement in the southeast is that Turkey would be unlikely to recognize the rights of the Kurds without international pressure. This argument is underlined by the fact that Turkey has only recently agreed to engage in substantive reforms when pressured by the European Union during EU accession negotiations.

What form then should international involvement in the southeast take? The first and most radical option would be military action against Turkey, on the grounds of humanitarian intervention; however, for a number of reasons this option is not plausible. The issue of humanitarian intervention remains highly controversial in international law, and if a military operation is carried out for humanitarian purposes it must be kept within strict boundaries and can only be exercised when gross human rights violations pose a threat to international peace and security. The intervention in Kurdistan, Iraq, in 1991 by coalition forces on behalf of the Kurds, following Security Council Resolution 668, is an example of humanitarian intervention in order to stop 'the repression of the Iraqi civilian

population ... including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region'.⁴⁵

It is true that human rights abuses occur on a frequent basis in the southeast, and that they are the cause of great instability in the region. However, it is questionable that they amount to threats to international peace and security in the region. Further, humanitarian intervention in the southeast would be highly undesirable on many grounds. Firstly, it could result in even greater instability with the consequent loss of many civilian lives. Secondly, far from achieving the desired result, it could even worsen an already tense situation, as it is uncertain whether Turkey will indeed recognize the rights of the Kurds under these circumstances. Thirdly, it appears doubtful whether any international coalitions would be willing to launch a military action against the Turkish state, especially when Turkey recently has showed more willingness to engage in reforms. The EU accession process further eliminates any involvement of the EU member states in a military operation. Fourthly, although the situation of the Kurds in the southeast of Turkey is of concern, the situation does not amount to those seen in Iraq in 1991 or in Kosovo in 1998, both of which warranted international humanitarian intervention. Even though the continuous human rights violations occurring in Turkey are unacceptable of a democratic society, political negotiations remain nonetheless possible, and a political and diplomatic solution is therefore preferable.

There exist various European and international mechanisms which could be instrumental in bringing about a substantial shift in the current treatment of Kurds within Turkey. The OSCE, for example, which has played a very constructive role in other European conflict zones such as Nagorno-Karabakh and the Balkans and lists preventative diplomacy and democratization as among its aims, has had no real involvement in southeast Turkey. The Council of Europe has been more open than other institutions in asserting that it is time for Turkey to 'think about reconciliation' with regard to the 'Kurdish question' following the end of the armed struggle. It is undeniable that case law from the ECtHR constitutes a great step towards recognition of the Kurdish issue and the institution of a genuine dialogue. Indeed the fact that an independent, unbiased and impartial judicial body made numerous judgments, which have made plain that practices such as extra-judicial killings⁴⁶ and torture⁴⁷ were clearly violating fundamental provisions of the ECHR may indeed

constitute great incentives for Turkey to modify its attitude towards the Kurds. Most importantly, the court has recognized the Kurdish people as a separate group within Turkish society and that the right of self-determination must be 'exercised jointly' and that it can only be achieved through a 'democratic restructuring' without attempting to damage the territorial integrity of Turkey.⁴⁸

Further, political pressure from states enjoying a particular relationship with Turkey would provide a partial solution. The only outside power capable of pressuring the Turkish government to accept a compromise on the Kurdish problem is the US, which supplies 85 per cent of the arms and equipment of the Turkish army. The US without a doubt possesses influence with the Turkish government regarding the Kurds. Whether it will use this in the future remains to be seen. The European instruments that have been used already proved efficient in both focusing the international community's attention to the Kurds' situation and also directly pressuring the Turkish government into engaging in extensive reforms.

Readiness on the part of the international community to press parties in a conflict to move towards reconciliation is crucial for securing conflict resolution. This is particularly the case with seemingly intractable conflicts, or where one actor will not otherwise name the problem or countenance reconciliation initiatives, as is the case with Turkey. The UN Secretary-General identified 'the lack of political will at the highest levels of the international community' as the most important factor impeding peace-making.⁴⁹ It is clear that if the international community is willing to meet its obligations under the charter – that is, the maintenance of international peace and security – it possesses enough international mechanisms to provide a viable solution which would meet the legitimate concerns of both parties. Most importantly, it would enable both sides to reach a peaceful agreement – as exemplified by the success of the South African Truth and Reconciliation Commission and Community Reconciliation – which would in turn enhance the stability within the region. In this context it seems that EU leverage could prove crucial in encouraging Turkey to achieve a lasting solution to the conflict, yet so far the EU has been limited in its utilization of its unique position.

THE EU AND THE CONFLICT IN THE SOUTHEAST

The disengagement of the European Commission from the Kurdish issue is problematic with regard to the evident continuation of the

conflict in the southeast. The 1998 Commission Report, submitted prior to the unilateral PKK ceasefire, referred to the direct consequences of the conflict in the southeast as 'large-scale forced evacuation and destruction of villages accompanied by abuses of human rights perpetrated by the Turkish security forces'.⁵⁰

In its report, the Commission went on to state that 'Turkey will have to find a political and non-military solution to the problem of the southeast. The largely military response seen so far is costly in human and financial terms and is hampering the region's social and economic development.'⁵¹ The Parliamentary Assembly of the Council of Europe noted in 2004 that 'the conflict and how it has been waged by Turkey has undoubtedly delayed its entry into the European Union',⁵² while the EU Parliamentary Committee on Foreign Affairs in 2004 urged 'all parties involved to put an immediate end to the hostilities in the southeast of the country' and invited 'the Turkish Government to take more active steps to bring about reconciliation with those Kurdish forces who have chosen to abandon the use of arms'.⁵³

However, in its 2004 report the Commission barely refers to the need to end the conflict, mentioning only that 'terrorist activities and clashes between PKK militants and the Turkish military have been reported' and that the 'security threat' has increased since the ending of the PKK ceasefire in June 2004,⁵⁴ although the report generally depicts gradual improvements in security in the southeast since 1999.⁵⁵ The only other references which touch upon the conflict are the Law on Compensation of Losses Resulting from Terrorist Acts, and the moves towards granting partial amnesties made by Turkey in 2003/04.⁵⁶

There is no reference in the report to the pressing need for constructive dialogue between the different sides to the conflict, and to reach a sustainable, peaceful resolution. Unless Kurdish and Turkish representatives sit around a negotiating table to exchange ideas and possible solutions to the situation in the Kurdish regions today, it is difficult to see that long-term peace and security in the southeast can be achieved. Resolving conflict in the Kurdish regions is of critical importance. From 1984 the region saw over 15 years of armed hostilities which resulted in widespread human rights abuses, the displacement of millions, economic and infrastructural devastation and the deaths of over 30,000 people, mainly Kurds. The Commission's downplaying of the current scale of violence in the region in this context is, then, potentially very serious; if

the hostilities are allowed to escalate rather than being openly confronted, there is a risk of a reversion to the disorder and violence which characterized Turkey under OHAL, and a consequent challenge to what limited progress has so far been made on human rights in the Kurdish regions.

Furthermore, the EU's decision that it is appropriate to open EU accession talks with Turkey despite her failure to properly address the security situation in the southeast is highly contentious, and sets an uncomfortable precedent for future negotiations. Primarily, it is simply not feasible that effective, participatory democracy and a culture of respect for human rights can exist in southeast Turkey while armed conflict continues.

In addition, the EU approach expressed in the 2004 and 2005 Commission Reports appears to give credence to Turkey's rejection to date of attempts to promote meaningful dialogue over the conflict, as well as her dogged refusal to concede the role of broader issues of Kurdish identity and cultural rights in shaping the situation in the southeast, and her bunkered insistence that there is only a 'terrorism' problem there. It has been observed that a lack of international political will to address a conflict situation is one of the key factors leading to its perpetuation, and, in view of the EU's power to direct the course of government within Turkey, the organization is currently in a particularly strong position to advance the resolution of the conflict. History tells us that when the international community seeks to turn a blind eye and ignore the plight of a people or a minority which has been subjected to unremitting injustice, those same elements come back to haunt it. One need only look to the Middle East to see examples of that fact.

Besides, Europe's responsibility towards ameliorating the situation of the Kurds and facilitating resolution of the conflict has already been described. The critical situation facing the Kurds and the Turkish people is not a distant problem unrelated to European affairs; its roots are in the dissolution of the Ottoman Empire in the aftermath of the First World War, and issues such as the use of weapons exported to Turkey from Europe in unlawful acts against Kurds places the human rights situation in Turkey firmly at Europe's door.

In view of this background it is of significant importance that compared to the 2004 Regular Report, both in the 2005 and 2006 Progress Reports the Commission has adopted a more realistic and comprehensive approach towards the conflict in the southeast, concluding in 2005 that 'no comprehensive strategy has so far been

established to address the socio-economic and political problems in the region'⁵⁷ and in 2006 that 'the overall socio-economic situation in the south-east remains difficult and there is no comprehensive plan to address this issue'.⁵⁸ Compared to the 2004 report it is encouraging that the Commission appears to recognize the pressing need for a comprehensive plan in order to solve the conflict in the southeast and bring peace and stability to the region. In this regard it is of particular importance that the Commission in the 2006 report concludes that 'a return to normality in the south-east can only be achieved by opening a dialogue with the local counterparts'.⁵⁹ It appears as if the Commission has recognized the need for Turkey to engage in political dialogue and negotiation with the Kurds in order to bring to an end the conflict and thus achieve the security, stability and development of the region.

The Commission's acknowledgement of the importance of finding a democratic solution to the conflict in the southeast represents the most progressive statement from the Commission on the situation of the Kurds seen in recent years. It follows the spirit of Resolution 1519 on the Cultural situation of the Kurds (2006), adopted by the Parliamentary Assembly of the Council of Europe, in which the Assembly encouraged Turkey, as a member of the Council of Europe, to 'address the "Kurdish Issue"'.⁶⁰ In this regard the Parliamentary Assembly recognized that 'the improvement of the cultural situation of the Kurds is directly linked with the political stability of the region', that is, the southeast.⁶¹ Further, in September 2006 the European Parliament, in a resolution adopted on Turkey's progress towards accession, called on the Turkish government 'to pursue a democratic solution to the Kurdish issue' and effectively promote 'the political dialogue and the economic and social development of the south-east region through a comprehensive strategy supported by adequate means'.⁶² In particular the statement from the European Parliament is of importance. By specifically making a reference to 'a democratic solution to the Kurdish issue', the Parliament recognized that the plight of the Kurds is an issue separate from other human rights issues in Turkey. Further, the Parliament's statement indicated that, in the view of the European Parliament, so far the matter has not been dealt with in a democratic way, that is, by pursuing a solution through dialogue with the Kurds themselves.

It is encouraging that the Commission, following the lead of other European Institutions, appears to have recognized the importance of finding a comprehensive solution to the socio-economic and political

problems facing the southeast, and, more importantly, that such a solution can only be reached through political dialogue between the Turkish authorities and the regional counterparts, that is, the Kurds. In this regard it is vital that a solution to the conflict in the southeast is reached before Turkey is admitted as a member of the EU.

If the EU deals with the armed conflict in the region, it is likely that the Union can facilitate the arrival of real democracy in Turkey, thus allowing the Kurds to exercise their right to self-determination. Accession preceding a resolution to the situation in the southeast will, on the other hand, bring an unresolved armed conflict into the territory of the EU; a conflict which could have the potential to jeopardize the security and public order of the EU.

Further, it is of paramount importance that the situation in the region is dealt with in a way so as to herald the arrival of socio-economic development, without resulting in forced mass displacement. The project for the Ilisu Dam is illustrative of the problem; the project could have the potential to bring socio-economic development to the region by providing hydro-electric energy and jobs. However, this will be at the cost of the displacement of up to 78,000 people, the majority of whom are Kurds, and if completed the project will result in substantial environmental and cultural destruction.

It is important that the Union, and in particular the Commission, remains faithful to and follows up the approach adopted in the 2006 Progress Report regarding the achievement of the socio-economic development of the region through the adoption of a 'comprehensive strategy'. This includes actively encouraging Turkey to engage in dialogue with the Kurds in order to reach a democratic solution to the conflict and to achieve the socio-economic development of the region.

In connection with the decision to start negotiations with Turkey, the EU adopted a three-pillar accession strategy. The third pillar entails a substantially strengthened political and cultural dialogue, and in this regard the strategy provides that 'civil society should play the most important role in this dialogue, which should be facilitated by the EU'.⁶³ In order for the EU to ease a democratic solution to the conflict it should use the mandate given to it under the three-pillar structure, and facilitate the establishment and presence of a strong civil society sector in the region. A strong civil society sector could act as a catalyst for the arrival of peace and democracy by facilitating the mediation between the state authorities and their regional counterparts.

It is therefore of significant importance that the EU abandons its previous approach, which seems to have been based on the assumption that the process of democratization in Turkey would acquire its own momentum and thus remove the cause of the conflict in the southeast. By concluding in the 2006 Progress Report that the continuing violence in the region has had a 'negative impact on the human rights situation' and that the 'the situation in the South-East has deteriorated', the Commission itself appears to recognize that the democratization process has not heralded such a solution, and that the 'opening of a dialogue' with the Kurds themselves therefore is the only mechanism with which to reach a democratic solution to the conflict in the southeast. In this regard the EU needs to acknowledge and confront the root cause of the conflict, that is, the continued subjugation of the Kurds in Turkey grounded in nationalist hostility.

If the EU continues to overlook and neglect the plight of the Kurds and the consequent human rights abuses, the EU risks losing its credibility as an institution committed to human rights. The Union cannot set as a criterion for membership that Turkey will have to comply with international human rights standards, and then continuously ignore the violations which occur within the country. In this regard it is important that the EU understands that the plight of the Kurds in Turkey is not different from the plights of the Kurds in other parts of the Kurdish regions, that is, in Syria, Iraq and Iran. The EU, as one of the major players on the international scene, should therefore recognize the international dimension of the problem and openly adopt a policy which addresses the plight of the Kurds in all parts of the Kurdish regions, not only in Turkey. The EU would thereby send a clear signal to the international community that the situation of the Kurds, including the continuing discrimination and persecution, is of concern to the EU and a priority in its international relations.

THE KURDISH QUESTION FROM A TURKISH PERSPECTIVE

Although Turkey has not addressed the heart of the problem in the southeast, she has made some noteworthy steps towards settling the conflict. Firstly, the Reintegration Law passed in July 2003 offered partial amnesties for some of those involved in the conflict. The provisions of the legislation were rather limited. PKK combatants who agreed to lay down their weapons and provide information to

the authorities were granted reduced sentences, though leaders were excluded. Full amnesties were granted only to those who had not themselves carried out attacks. The law had a shelf life of only six months, although it was reportedly relatively successful in terms of numbers. As of 19 December 2004, the Turkish government reported that 2,486 prisoners had applied for benefits under the provisions and 586 militias had turned themselves in.⁶⁴ Ultimately though, it has had little apparent effect on the conduct of hostilities, and most of those to take advantage of the legislation were not active militants but those already imprisoned.⁶⁵ Allegations were made in some quarters that the law was largely a response to American pressure to bring PKK units out of Iraq and hence stem Turkish security operations there, and as such ignored 'national sensitivities'.⁶⁶ It is also alleged that the government's claim that hundreds of militants had applied for pardons was exaggerated.⁶⁷ Kurdish groups were reported to denounce the legislation as merely a means of creating more state informants,⁶⁸ and DEHAP called for the granting of a full amnesty.⁶⁹

A full amnesty would certainly be desirable in many ways. It could go a considerable way towards ending the violence, and would allow for Kurdish political parties and other organizations to develop an inclusive, democratic platform for change. Turkey defines one of the aims of the law as 'reinvigorating and maintaining social peace and solidarity'.⁷⁰ The Council of Europe has stated that the Reintegration Law, in falling short of a full amnesty, 'will not be enough to create the climate of confidence that Turkey and its inhabitants so greatly need'.⁷¹ Turkey's conservative and uncompromisingly anti-Kurdish military, however, would oppose such a move, and high levels of violence committed by both sides to the conflict render it less feasible from the perspective of the Turkish public.⁷²

Why has Turkey not made greater progress towards breaking down the barriers to reconciliation in the southeast? Essentially, calls to end the ethos of ethnic nationalist-inspired repression of the Kurds by granting them constitutional recognition and fully realizing Kurdish cultural rights are regarded by the Turkish establishment as tantamount to subversion or separatism. Turkey's military and sections of the judiciary and civil service tend to associate the public expression of ethnic differences, even where they are made within the cultural sphere, as tending towards more militant demands for secession. The granting of cultural and other rights to the Kurds is seen as a precursor to further extremism in ethnic politics.

Conversely, in more mature democracies the accommodation of alternative ethnicities and cultures is seen to lead to the neutralization of demands by minority groups, rather than fuelling their radicalization. These ideological barriers to recognizing the legitimacy of Kurdish grievances have prompted the official position that there is no Kurdish problem in Turkey, only a terrorist problem.⁷³ 'Counter-terrorism' has consequently been held up over many years as an all-embracing moral, political and legal justification for government behaviour in the southeast. All expressions of Kurdish dissatisfaction with state oppression have been subsumed under the headings of terrorism or inciting separatism. Charges have regularly been brought against Kurds peacefully calling for recognition of their language rights, or even referring to the existence of the Kurds, on these bases. In December 2004, pro-Kurdish groups took out advertisements in the *International Herald Tribune* and *Le Monde* newspapers outlining what Kurds living in Turkey want from Ankara in its European Union membership bid and comparing Turkey's political system to autonomous and federative structure in other European countries.⁷⁴ Ankara's reaction was predictable: the advertisement met with a storm of protest expressing paranoia over perceived threats to national integrity through the peaceful expression of legitimate Kurdish demands, and equating such demands with separatism. Prime Minister Erdoğan in particular stated: 'Daring to abuse the democratization efforts in order to subvert national unity, social peace and the will to live together is a political assassination directed against the nation's will.'⁷⁵ Prime Minister Erdoğan also accused those responsible for placing the advertisement of 'damaging a millennium-old brotherhood', of 'clouding' a time of peace and of using language which would embarrass Turkey.⁷⁶ Turkey's leader, then, seems still wrapped up in his fixation upon the 'threat' of Kurdish separatism, and a long way from accepting democratic negotiations and a participatory peace process to resolve the conflict in the southeast.

Furthermore, and absolutely fundamental to Turkey's failure to date to address the Kurdish issue, virtually all issues pertaining to the situation in the southeast, many of which would be regarded in modern, liberal democracies as political in nature, are instead classified as security issues. Indeed, the parameters of the conflict in the southeast have been determined almost exclusively by reference to security considerations, with the government bent upon imposing a narrow, military solution to the problem rather than addressing the broader issues of cultural and linguistic rights upon which the conflict

has arisen. Pro-Kurdish politicians with wholly peaceful agendas are not recognized by the state as legitimate negotiating partners, and are instead dismissed as terrorists or separatists. The most high-profile example of this is the ongoing trial of Leyla Zana and her fellow Kurdish parliamentarians initiated after they spoke their oath of allegiance to the Turkish Parliament in Kurdish. As recently as July 2004, the police pushed for charges to be brought against the four for making 'separatist' speeches at rallies after a top general criticized the speeches.⁷⁷ The parliamentarians, who have long advocated a peaceful struggle for Kurdish rights, were reportedly calling upon the PKK to resume its ceasefire with the Turkish state.⁷⁸

The revision of Turkey's security-centred perspective on the Kurdish issue is vital to achieving normalization and long-term stability in the southeast. Recognition by Turkey that the southeastern security threat must be dealt with as part of a broader issue, which includes legitimate calls for Kurdish cultural and linguistic rights and a political solution to the situation there, is necessary to move forwards. Acceptance of ethnic diversity within Turkey, rather than defining Turkey as the collective nation of only ethnically Turkish citizens and dismissing alternative identities as separatist, is a prerequisite for the emergence of Turkey as a modern, stable democracy and a member of the democratic community of states.

6

The International Dimension to the Conflict

A complete picture of the relationship between Turkey and the Kurds, and the process of democratization in Turkey more broadly, cannot be achieved without reference to international and transnational factors. Indeed, it is Turkey's behaviour beyond her borders which gives one of the clearest refutations of Turkey's aspiration to be recognized as a liberal, democratic state along Western European lines.

The Kurds inhabit a large and contiguous area which extends across the border regions of modern-day Turkey, Iran, Iraq and Syria, and for many centuries the region acted as a buffer between the Ottomans and the Persians. The Kurds were accordingly divided and subject to the control of one or other of these empires. Following the First World War, state borders in the region were artificially imposed by the Great Powers with little or no respect for Kurdish linguistic, cultural or familial continuity. Thus, although there is no one, overriding concept of 'Kurdishness', Kurdish identities transcend state borders, regional ties can be strong and the Kurdish issue is conceived very much as a transborder one.

However, all the governing regimes of the Kurdish regions have been keen to assimilate the Kurds within the confines of the nation state and through state-based nationalist ideology. Strategies have mirrored those practised by Turkey, including enforced 'Arabization', forcible dissipation of Kurdish regional dominance through village destruction, torture, cultural restrictions, political exclusion and military assaults. These brutal and oppressive activities stem to a significant extent from the shared aim of preventing the evolution of Kurdish autonomy, and there are deep-rooted fears that the realization of such autonomy in any one state could trigger parallel demands elsewhere.

A commitment to ethnic nationalism is not the only decisive factor informing such policies; the considerable geo-strategic importance of the Kurdish regions and anxiety to secure control over valuable oil, water and other resources there also play an important role.¹ Furthermore, as states in the region have sought military rather

than political solutions to the Kurdish issue, and this is particularly true of Turkey, cross-border armed incursions have occurred causing significant loss of life. Finally in this context, factors extraneous to the situation of the Kurds have motivated state behaviour with regard to the Kurdish regions, and the Kurds have been repeatedly exploited as pawns in regional relations. A complex interplay of political machinations, inter-state military threats and skirmishes, and transborder state backing of guerrilla organizations has resulted, of which Kurdish civilians have been the primary victims.

Turkish military and diplomatic activities in the Kurdish regions beyond her own borders have thus long been motivated by Ankara's obsession with dissipating the perceived 'threat' of Kurdish autonomy, resolving her own Kurdish issue through military means, that is, by flushing the PKK out of northern Iraq, and by her apparently incongruous tendency to support foreign Kurdish organizations where this is seen to further her own aims.

TURKEY AND KURDISTAN, IRAQ

These observations are in no way confined to the history books, and Turkish anxiety over developments in northern Iraq has been dramatically boosted by political changes following the US-led invasion. The establishment of democratic, federal government in Iraq, particularly since Kurdish parties won second place in the January 2005 elections and are expected to hold the balance of power in the national assembly,² is of enormous significance for the Kurds. After decades of abuse and oppression at the hands of regimes determined to crush Kurdish identity or to utilize the Kurds as vassals in quests for regional dominance, the Kurds of Iraq have a historic opportunity to realize their future security and the protection of their rights and freedoms. The Kurds have genuine prospects of gaining influence in central government, of establishing an autonomous Kurdish entity in the north and of achieving justice for past wrongs. The new Iraq is set to be governed on the basis of political inclusion and respect for human rights and freedoms. It is a symbol of the collapse of the status quo of subjugation of the Kurds, and could act as a beacon for Kurds suffering oppression throughout the Kurdish regions and seeking state-based solutions.

The fiction of homogeneity upon which ethnic nationalism in Turkey is founded renders such a scenario anathema to Ankara, as is the unlikely but much feared potentiality of a Kurdish declaration of

independence in northern Iraq.³ Far from relishing the establishment of democratic pluralism in a neighbouring state previously run by a brutal, authoritarian regime, Turkey is extremely concerned that the precedent in Iraq will underline still more heavily the lack of legitimacy in her treatment of the Kurds within her borders. Nowhere are her fears more apparent than in her recent political and military response to the dispute over the status of the Iraqi city of Kirkuk in the province of Mosul.

The city of Kirkuk was historically within Kurdish territories but its status has been disputed, particularly since the finding of large oil reserves in the surrounding area. The evidence of the Iraqi censuses of 1922 and 1924⁴ show the city to be overwhelmingly populated by Kurds. Kirkuk, which contains 40 per cent of Iraqi petroleum and 6 per cent of the world's known oil reserves⁵ became subject to a power struggle between the Iraqis and the British in the 1920s. In addition, the Treaty of Sèvres had envisaged an independent Kurdistan, and Kirkuk and Mosul would have formed the south of this new state. In 1930, however, an Anglo-Iraqi agreement was signed ending the British mandate in Iraq, and the newly independent Iraq was granted sovereign power over Kirkuk and Mosul. This decision was based not on an assessment of the legitimacy of Kurdish claims to self-determination, but on unwillingness among the Great Powers to push for the secession of northern Kurdistan from Turkey, which substantially weakened the feasibility of an independent Kurdistan, and a conception that Kirkuk's oil wealth made its incorporation into Iraq important to the economic stability of this new state.

Soon, Baghdad began to 'Arabize' Kirkuk, preventing Kurds and other non-Arabic peoples from buying land or houses, and from the 1980s the Ba'athist regime forcibly displaced the Kurds from Kirkuk as part of a deliberate ploy to alter the ethnic balance there. Today, many Kurds who were illegally and often brutally forced out from their homes are seeking to return and reclaim their property. Tensions have been escalating in the city since the overthrow of the Ba'athist regime in April 2003, as historical claims, economic interests and political ambitions overlap to produce a potentially destabilizing power struggle.⁶ The legitimacy of Kurdish dominance in Kirkuk was recently affirmed in the January 2005 elections, after the final results showed the two main Kurdish parties won nearly 60 per cent of the vote in the northern region that includes Kirkuk.⁷

Turkey, however, remains adamant that Kirkuk must not be incorporated into a Kurdish entity within a federal Iraq. This is

principally because Turkey fears that control over Kirkuk would provide the Iraqi Kurds with the necessary economic resources and contiguous territory to feasibly operate with relative autonomy from Baghdad, or, at worst, declare independence. This, of course could act as a model for Turkey's Kurdish population – Ankara's worst nightmare.⁸ Turkey has repeatedly voiced her refusal to accept any future attempt by the Kurds to assert control over Kirkuk or the surrounding oilfields,⁹ albeit through democratic, peaceful means. For example, on 21 February 2003 Turkish Foreign Minister Yaar Yaki said: 'At present the Kurdish area enjoys a certain autonomy. We do not want this to be consolidated further and to be transformed into a federal state or an independent state.'¹⁰

Ankara's concerns over the future of Kirkuk have been considerably exacerbated by what she has seen as American failure to rein in Kurdish ambitions there¹¹ and the US has sought to reassure its old strategic ally Turkey somewhat by stressing that she will not countenance the splintering of Iraq. Condoleezza Rice told leaders in Turkey that the US is 'fully committed' to achieving a 'unified Iraq'.¹²

Ankara has thus employed a range of strategies aimed at avoiding such a scenario. In particular, she has sought to exploit the situation of the Turcomans, who also have a presence in Kirkuk, by propounding the view that they should have the city as their capital. Turkey has accordingly asserted that Kirkuk is a multi-ethnic city and the home of the Turcomans, and as such should have a 'special status'.¹³

The history of the arrival of Turcomans in Kirkuk is unclear. While some believe that Turcomans originally came to the region as mercenaries in the seventeenth century, Turcomans themselves claim that they were originally sought out by Amirs during the Amawi and Abbasid eras in the twelfth to thirteenth centuries because of their 'prowess in battle'.¹⁴ They further claim to have settled in the thirteenth centuries under the Seljuk reign, and expanded under the Ottoman Empire. The composition of Kirkuk in the late twentieth century corroborates the claim that Turcomans settled in Kirkuk only by forced migration. That is, less than half of them belong to the Shi'ite sect of the Safavids known as Kizilbashi, the rest subscribe to the Hanafi school of Sunni Islam, which was the official sect of the Ottoman rulers. Regardless, during the periods of coexistence, Kurds and Turcomans interacted and engaged in commerce, which led to an exchange of values and traditions.

Statistics from the time show that Turcomans living in Iraq in the 1920s and 1930s made up around 2.1–2.4 per cent of the Iraqi

population. In 1957, Iraqi officials confirmed that the Turcomans made up 21.4 per cent of the population of Kirkuk. The Arabization policies of the Ba'athist regimes in the 1960s and onwards led to a decrease in the Turcoman population to 16.75 per cent in the 1977 census.

Turcomans continue to form a relatively small minority in the city; in spite of the displacement of many thousands of Kurds from Kirkuk under the Ba'athist regime, the Turcoman Front took only 18 per cent of the vote in the January 2005 election.¹⁵ Prime Minister Erdoğan officially alleged manipulations and irregularities in the January elections, suggesting that Kurds from other areas were brought to Kirkuk to boost their votes against Turcomans and Arabs.¹⁶ General İlker Başbuğ, deputy head of the Turkish military, reportedly said at a news conference: 'Hundreds of thousands of Kurds migrated to Kirkuk and registered to vote' and added: 'This could make the results of the elections questionable.'¹⁷ In fact, Kurds entering the city to vote were those illegally driven out of their homes as part of Saddam Hussein's Arabization policy. General Başbuğ went on to state: 'these developments could threaten the territorial and political unity of Iraq. We're worried that such a development would pose an important security problem for Turkey.'¹⁸

Turkey has not been reluctant in the past to express its interest in controlling Kirkuk. The 'Kirkuk issue' was one of the main topics discussed when the then Prime Minister of Iraq, Ibrahim al-Jaafari, visited Ankara in February 2006. The Turkish government stressed to al-Jaafari their interest in a swift and equitable solution to the Kirkuk issue, due to the large numbers of Turcoman residents. It also urged the Prime Minister to strengthen the central government, a move that would take considerable power away from the Kurds. Turkey's main concern is that any positive developments for the Kurds in South Kurdistan will establish a precedent that will lead its own restive Kurdish population to demand similar reforms. Any steps towards autonomy that Kurds in Iraq may take threaten to stir up the nationalistic desires of Turkey's own sizeable Kurdish populations. However, allowing its phobia of legitimate Kurdish demands to contribute to exacerbating tension in Kirkuk indicates that Turkey has not embraced Western liberal ideals; she should be working towards regional peace and democracy by furthering Turcoman-Kurdish reconciliation rather than inciting conflict.

It has already been mentioned that state borders did not mark divisions in Kurdish links and loyalties, and thus there was a good

deal of interaction among the Kurds of neighbouring countries. Kurdish opposition to the government's attempts to impose cultural homogeneity was spurred in part during the 1960s and 1970s by agitation in Iran and Iraq on behalf of an autonomous Kurdistan, to include Kurds from Turkey, Iran, Iraq and Syria.¹⁹

The intensification of violence in the southeast in the 1990s prompted the Turkish government to commence increasingly intense and large scale cross-border activities. The 1990s witnessed repeated incursions into Kurdistan, Iraq on behalf of the Turkish military, ostensibly with the aim of ousting PKK bases there. The PKK has for many years maintained a presence in the region, which was used as a staging post to conduct raids into Turkey. The first major incursion occurred in August 1992 as a joint operation with the PUK, and succeeded in flushing 5,000 guerrillas out of the mountains in Kurdistan, Iraq.²⁰ PUK support for the operation stemmed from the organization's frustration with the continued presence in northern Iraq of the PKK, with whom its relations were stormy, from pressure from the US to oust the PKK, and from PUK dependence upon Turkey to effectively conduct its operations. It should be noted that Turkey cynically engaged in periodic, transitory alliances with guerrilla organizations as and when this suited her wider purposes, and relations between Turkey, the PUK, the KDP and the PKK were remarkably complex and fluid.

Another, larger-scale operation in 1995 saw Turkey send 35,000 troops into Kurdistan, Iraq in order to overcome around 2,500 PKK guerrillas believed to be based there.²¹ This was ostensibly on the basis that a power struggle between the Kurdish organizations in Iraq had led to a breakdown in the previously effective system whereby the PUK and KDP had 'policed' the PKK in Iraq, preventing it from launching attacks across the border into Turkey. Turkey thus argued that she needed to protect her citizens from such attacks.²² In May of that year, the then Turkish President, Süleyman Demirel, briefly went so far as to propose a change in Turkey's border with Iraq, potentially granting Turkey swathes of territory in northern Iraq. A further major invasion took place in 1997, as an estimated 50,000 troops were sent over the border with the backing of the KDP, supposedly with the aim of annihilating the PKK.²³ From 1997, Turkey announced the establishment of a 15-kilometre 'security zone' within Kurdistan, Iraq that would be patrolled and extensively monitored by 5,000 troops. The security zone was officially aimed at protecting Turks against the PKK.²⁴ In 2000 Turkey launched yet another major incursion to

back the PUK against the PKK.²⁵ In March 2003, more than 60,000 Turkish troops and heavy artillery were deployed near the border of South Kurdistan.²⁶ It should be pointed out at this juncture that Turkey is a very important player militarily within the region; she has the second largest army in NATO after the US.²⁷

Ankara's assertion that military activity in Kurdistan, Iraq, aims at preserving Turkish national security and integrity represents a partial truth. Ankara continues to pursue this course today; she has recently expressed extreme frustration with US unwillingness to deal with the 5,000 or so PKK guerrillas still based in the mountains in the far north of Iraq.²⁸ Turkey's security operations against the PKK in Iraq are intrinsically linked to her very narrow conception of the Kurdish issue as a security matter, to which she has sought to respond with purely military solutions. President Turgut Özal toyed with a different approach before his death in 1993, cooperating with Iraqi Kurds and hoping to defuse the domestic Kurdish issue by introducing limited reforms at home and by channelling Kurdish aspirations away from the broader solution of autonomy then current in Iraq.²⁹ However, this proved a brief interlude and Turkey has before and since sought to pursue the PKK vigorously both at home and abroad, and to take military measures aimed at countering the 'threat' of Kurdish separatism, rather than acknowledge the broader domestic origins of her troubled relations with the Kurds, namely her persistent denial of a separate Kurdish identity.

In addition, and aside from rooting out the PKK, it is unequivocal that Turkish incursions into Kurdistan, Iraq are a show of military might designed to intimidate those supporting moves towards Kurdish autonomy there. The creation of the safe haven in the wake of the first Gulf War following Turkey's refusal to accept hundreds of thousands of Iraqi Kurds fleeing a brutal Ba'athist crackdown intensified Turkey's deep-seated paranoia that moves towards Kurdish autonomy in Iraq could spill over into southeastern Turkey. She accordingly sought to militarily 'protect' herself from the improving fortunes of the long-oppressed Kurds of Iraq from further inspiring legitimate calls for greater rights and a democratic solution to the Kurdish issue from the Kurds within her own borders.

TURKISH MILITARY ACTIVITY IN KURDISTAN, IRAQ

There are further substantial and credible concerns that Turkey will engage in military action if her 'national interests' are seen to be at

risk, that is if the Kurds successfully win control of Kirkuk. Military deployment along the Iraqi-Turkish border has been considerably stepped up, including on Iraqi soil. When combined with public pressure resulting from Ankara's 'manipulation of the Turkmen issue'³⁰ and general instability in Iraq, it could take on a dynamic of its own and produce overwhelming pressure for an armed incursion among Turkey's less moderate leaders.³¹ Prime Minister Erdoğan has warned that Turkey will not stand by if Kurds try to realize the objective of including Kirkuk in a Kurdish autonomous region.³² A Turkish diplomat recently stated: 'Kirkuk is a potential powder keg. For us it has special status. It is like Jerusalem. It belongs to all the people. We do not want to intervene in Iraq. But we have red lines – Kirkuk and attacks on ethnic minorities.'³³ As Foreign Minister, Abdullah Gül issued an even more direct threat: 'in case of fighting in Kirkuk, Turkey cannot remain a spectator'.³⁴

The resurgence of violence in the beginning of 2007 motivated the Turkish military to launch a series of military strikes into Kurdistan, Iraq, directed at PKK insurgents believed to be hiding in the mountains. In February 2007, during a visit to Washington, the Chief of Staff of the Turkish military, General Yaşar Büyükanıt, underlined the resolve of the military to protect Turkey's territorial integrity, targeting in tough remarks separatist Kurds on both sides of the Turkish-Iraqi border as well as Kurdish leaders in Kurdistan, Iraq.³⁵ The military, spearheaded by Büyükanıt, have long been advocating an invasion into Iraq in order to root out what the military refers to as 'Kurdish terrorist camps'.³⁶ In May 2007 the Turkish military announced that it was ready to launch a major military operation into parts of Kurdistan, Iraq, and in June declared the three provinces of Hakkâri, Siirt and Şırnak along the Iraqi border 'security zones', a measure that is tantamount to declaring a state of emergency. The three provinces comprise the regions where recent Turkish military buildup has been taking place, and from where an invasion into Kurdistan, Iraq would most likely be launched.³⁷ In May 2007 it was estimated that approximately 150,000 Turkish troops had been deployed along the Turkish-Iraqi border.³⁸ By October 2007 this figure had risen to around 250,000.

Iraqi's Prime Minister Nouri al-Maliki and the leader of the autonomous Kurdish region in Iraq, Masoud Barzani, have urged Turkey not to stage a military invasion into the northern Kurdish territories, as such an operation would only worsen the situation and turn the relatively peaceful area into a battlefield. In the same

vein, Iraqi President Jalal Talabani, himself a Kurd, warned Turkey that Iraq will 'not accept interference in our affairs'.³⁹

The diplomatic relations between Turkey and the autonomous Kurdistan, Iraq, further deteriorated when in mid-June 2007 the Turkish state prosecutor launched an investigation against Barzani for allegedly lending his support to Turkish Kurdish rebels. Ankara also called for the seizure of any assets, such as property or bank accounts, that Barzani may hold in Turkey. This investigation is thought to be a reaction to opinions aired by Barzani regarding Turkey's fierce approach to the Kurdish population in Iraq. Barzani, who was once on friendly relations with Ankara, stated in early 2007 that he would not commission the Kurdish security forces, the *peshmerga*, to engage in fighting with the PKK in the Kurdish regions of northern Iraq.⁴⁰ Ankara's decision to open investigations against Barzani not only strains the diplomatic relations between Turkey and Iraq, including the autonomous Kurdish regions, but also increases the speculations on a forthcoming major incursion into Kurdistan, Iraq by the Turkish military.

Turkish Prime Minister Erdoğan has been sending mixed signals regarding a possible invasion of Kurdistan, Iraq. In May 2007 Erdoğan issued a statement saying that his government would, if requested by the Turkish military, authorize an invasion. However, in June Erdoğan demonstrated a volte-face when saying that Turkey should fight the militants on Turkish soil before engaging them in fighting in Iraq, thus slowing the movement toward an invasion.⁴¹ Erdoğan is under international pressure from both the European Union and the United States not to further complicate the already disastrous situation in Iraq with a Turkish invasion of the Kurdish regions in the north, and his recent stand against an invasion can be seen as a reassurance to international partners and allies that Turkey will not engage in fighting in Kurdistan, Iraq.

This was supported by developments following a Turkish summit meeting on terror, held in Ankara in June 2007, between top political leaders and security officials, including Prime Minister Erdoğan and the military Chief of Staff General Büyükanıt. A joint statement issued by the summit stressed the Turkish determination in the fight against terror and emphasized that action taken against terrorism must fall within the principle of the rule of law and democracy. Further, the statement ruled out a Turkish cross-border operation into Kurdistan, Iraq as a means in Turkey's fight against terrorism.⁴²

However, in October 2007 the situation was altered once again when, following a series of clashes between security forces and the PKK on the Turkish-Iraqi border, and resulting military pressure on the government for an armed response, the Turkish Parliament voted to authorize military intervention into Kurdistan, Iraq. News of this parliamentary authorization of intervention was greeted with much alarm by the media internationally, and the EU and US were explicit in their opposition to incursions, advocating a peaceful solution to the standoff. As of the time of writing it remains unclear whether or not a full-scale incursion will take place, though bombardments of, and so-called 'hot pursuit' sorties into Iraqi territory have been ongoing.

However, as this chapter has related and notwithstanding the alarm with which the media greeted it, the October 2007 standoff does not hugely differ from similar situations in 1992, 1995, 1997 and 2003, not to mention dozens of other smaller-scale incursions into Iraqi territory in the past decades. Clashes between Turkish security forces and the PKK in September/October 2007 were not an escalation in conflict there, merely an escalation in the rhetoric surrounding such conflict. Turkey's discourse surrounding the October 2007 crisis revolved, as previously, around the need to weed out PKK fighters in the mountains of Kurdistan. This is in spite of Erdoğan having publicly questioned such a plan of action in June. As with previous crises and incursions on the Turkish-Iraqi border region, the issue of Kirkuk and Turkey's opposition to the further development of Kurdish autonomy, both related above, play a far greater role in this latest drive for an invasion of Kurdistan, Iraq.

A Turkish incursion into Iraq would be likely to destabilize the whole region, as well as carry deeply worrying implications for the civilian inhabitants. Such incursions during the 1990s resulted in breaches of international humanitarian law and numerous human rights violations, including torture, killings, mutilations and the destruction of up to 70 villages.⁴³ Important in this context is the precedent-setting case of *Issa and Others v. Turkey*,⁴⁴ a case assisted by the London-based Kurdish Human Rights Project and decided by the European Court of Human Rights, which concerned the killing and mutilation of seven Kurdish shepherds by Turkish troops during cross-border incursions in 1995. In *Issa* it was found that State Parties to the ECHR could be liable for violations of the Convention committed in the course of military action where that state in practice exercised effective control of an area situated outside its national territory.⁴⁵ State Parties could also be held accountable for any breaches of

convention standards against individuals in another state's territory commissioned by the State Party's agents, if such agents were found to be acting under the State Party's authority and control. This followed from Article 1 of the convention which mandates that Contracting States' obligations are engaged in relation to any violation of the convention committed against individuals in their 'jurisdiction'. The legal meaning of jurisdiction was found, in accordance with public international law definitions, to be primarily territorial, but it was also ruled in exceptional circumstances to include state acts performed outside a State Party's borders. This ruling stems from the Court's finding that 'Article 1 of the Convention cannot be interpreted so as to allow a State Party to perpetrate violations of the Convention on the territory of another State, which it could not perpetrate on its own territory.'⁴⁶

The Court in *Issa* set a high standard of proof on the jurisdiction point and found on the facts that although large numbers of Turkish troops were involved in military operations in Iraq,⁴⁷ the applicants did not establish that Turkey had conducted operations in the specific area in question, namely the hills above the village of Azadi.⁴⁸ Thus, albeit Turkey was not found liable and the Court delivered a negative decision on the merits, it is of great relevance that Turkey can be found liable under the ECHR for human rights violations committed in Iraq. She can no longer behave as though she has *carte blanche* in her treatment of the Iraqi Kurds, as occurred during the 1990s, and instead can be brought to account for extra-judicial killings, torture and ill-treatment which may occur in any future incursions.

This avenue of accountability is also important given that it is unclear as yet whether the new Iraqi regime would be sufficiently established and authoritative to subject Turkish forces operating there to administrative or judicial scrutiny, and so constrain their conduct. Of particular concern for the Kurds in Turkey is the fact that Ankara has indicated that it wishes to reinstate OHAL within the southeast Kurdish regions in the event of war. OHAL was a fundamental factor facilitating the horrific human rights violations which occurred in the Kurdish regions of Turkey between 1987 and 2002.⁴⁹

Further, a unilateral military intervention by Turkey in Iraq would cause considerable strain in Turkey's relationship with the US, and would presumably lead to a suspension of any negotiations with the EU. To date, however, the West has been reticent about getting involved in Turkey's extra-territorial military adventures. Indeed, the response of the West to Turkey's aberrant behaviour has been, like its

reaction to Turkey's record on torture, mass killings and other serious human rights abuses, at best ambivalent.

Turkey's refusal to admit Iraqi Kurdish refugees fleeing Saddam Hussein's regime in 1992 was deplored, but received little outward condemnation. Turkey is an important strategic link for the West; for example, without her willingness to host coalition airbases from 1992, overseeing the no-fly zone established to contain the refugee crisis in Iraq would have been difficult. The 1995 incursion by Turkey into the Kurdish region in Iraq did appear to generate disquiet in the West. France and Germany condemned the invasion as disproportionate and temporarily froze a US\$106 million subsidy to Turkey,⁵⁰ though the same year Turkey was granted entry into an EU customs union. The recent years have witnessed strains in US-Turkey relations, most notably evidenced in Ankara's refusal in 2003 to grant US troops access to Iraq through Turkish territory. Any tension between Turkey and the US, coupled with the American presence in Iraq, may play a part in Ankara's considerations on possible military intervention into Kurdistan, Iraq. In this context the October 2007 standoff may therefore amount to another bout of sabre-rattling.

TURKEY, IRAN AND SYRIA

The consequences of the US-led invasion of Iraq and the subsequent establishment of democracy there have had a dramatic effect on the relationship between Turkey, Iran and Syria. Increasingly drawn together by their common refusal to concede the legitimacy of Kurdish calls for recognition of their identity and rights, these countries have overcome substantial differences on other issues in order to cooperate on policies towards the Kurds. As they appear more and more isolated to the outside world in their refusal to accept democratic pluralism, these regimes are forming alliances in a last-ditch attempt to cling to their outdated and illegitimate conceptions of the Kurdish issue.

The history of Turkey, the Kurds and Syria is a complex one. Syria has herself enacted highly discriminatory policies against her Kurdish population. She is governed by a military regime, and the influence of the Ba'ath Party, whose primacy in state institutions and the Parliament is mandated by the Constitution,⁵¹ permeates all branches of government. A key issue for the Kurds in Syria is their exclusion from the general Syrian policy of granting ethnic minorities freedom to conduct their traditional activities. The use and teaching of the Kurdish language is severely limited and other expressions

of Kurdish cultural identity, including publications in Kurdish and the celebration of Kurdish festivals, are similarly curtailed. A 1962 census saw the government strip around 140,000–200,000 Kurds of their Syrian nationality,⁵² and those affected remain unable to obtain crucial documents including passports, identification cards and birth certificates. These stateless Kurds are denied fundamental civil, political, economic and social rights. They are unable to own land, to use the health service, to vote and to travel freely. They also encounter difficulties in enrolling their children in school and in registering their marriages.

However, in an emblematic example of a state manipulating the Kurds to further its own interests, Damascus has nonetheless been the PKK's main patron, giving shelter to PKK leader Abdullah Öcalan from 1979 and providing training facilities for PKK guerrillas in the Beka'a Valley of Syrian-controlled northern Lebanon.

Syrian support for the PKK, which has unquestionably been one of the most important factors in the organization's survival, is not inspired by sympathy for the oppression suffered by the Kurds. It was reported that Syrian President Hafez al-Assad levelled villages and murdered Syrian Kurds when he felt they too were supporting the PKK.⁵³ Instead, Syria's behaviour was motivated by frustration with Ankara over apparently unconnected issues. Syria has an ongoing border dispute with Turkey over the Hatay Province, which is claimed by Syria but was ceded to Turkey in 1939, and has expressed a great deal of frustration at Turkey's close military ties with Israel, one of Syria's staunchest enemies. Probably of greatest importance among these factors, however, is Syrian aggravation at Turkey's dam-building projects on the Tigris and Euphrates rivers.

Turkey's programme for developing southeastern Anatolia, known by its Turkish acronym 'GAP', not only threatens to destroy thousands of Kurdish homes but is also jeopardizing water supplies to her downstream neighbours, Syria and Iraq.⁵⁴ Export credits were granted for the construction of the project on the basis that Turkey must make provision for upstream water treatment plants capable of ensuring water quality is preserved, and must give an assurance that adequate downstream waterflows would be maintained.⁵⁵ However, a fact-finding mission by the London-based Kurdish Human Rights Project, the Corner House and the Ilisu Dam Campaign in 2002,⁵⁶ found that the GAP dams had caused a significant reduction in the downstream flow of the Euphrates and to a lesser extent the Tigris, and increased salinity levels. It was concluded that the full

implementation of GAP would have major adverse consequences for agriculture in the lower reaches of the Euphrates. Turkey has used her ability to control the water flow of the Tigris and the Euphrates to her downstream neighbours as a weapon against Damascus over Syrian support for the PKK; hardly the behaviour of a responsible, modern democracy. Turkey has also consistently refused to comply with her international responsibilities with regard to GAP: for example, to consult with her neighbours over the implementation of the project, and has preferred instead to treat the water flowing through her lands as her own resource regardless of the adverse downstream consequences.⁵⁷

As a mark of the level of hostility between Syria and Turkey, the two countries very nearly came to blows in 1998 as Syrian exasperation with Turkey's aggressive manipulation of valuable water resources intensified and Ankara repeatedly warned that 'time was running out' for Syria to end her support of the PKK.⁵⁸ Partly out of fear over a joint Turkish-Israeli military incursion, Syria complied with this demand and expelled Öcalan in October 1998.

As the probability of a Washington-led assault on Iraq became increasingly likely, however, Turkish and Syrian interests began converging as they weighed up the war's potential political ramifications, namely the evolution of an autonomous government in Kurdistan, Iraq, and the two regimes sought to put aside decades of mistrust and hostility to conclude a military cooperation agreement in 2002.⁵⁹ General Huseyin Kivrikoğlu, Turkey's then Chief of Staff, stated that 'A new era will be opened in the relations between Turkey and Syria with military cooperation.'⁶⁰ The agreement sent a clear message that any change in the current situation in Iraq deemed unsatisfactory to the governing regimes of Iraq's neighbours, that is, the emergence of an independent Kurdish entity in Iraq's north, would be resisted by Turkey and Syria together.

Syrian fears were intensified as the evolution of democratic, federal government in northern Iraq after the US-led invasion, and particularly the gains made by Iraqi Kurds in the interim constitution, precipitated riots among the Syrian Kurds. These were met by a widespread crackdown in the Kurdish regions within Syria in March 2004. Many Kurds were killed in the clashes, and during the ensuing unrest hundreds were arbitrarily arrested and detained as security forces occupied the Kurdish region. Developments in Iraq have also furthered Syrian-Turkish cooperation on the Kurdish issue. The September 2004 decision by Syria to turn over a senior Kurdish leader

and six other rebels to Turkey is indicative of increased cooperation between the two regimes on security matters.⁶¹ Furthermore, Syrian President Bashar al-Assad made a landmark visit to Turkey in January 2004, and in December 2004 Ankara and Damascus moved yet closer together when Turkish Prime Minister Erdoğan flew to Damascus on a two-day visit aimed at cementing improved ties between the two countries.⁶² A bilateral trade agreement was concluded, and discussions held on how to prevent Kurdish secession from Iraq and thus quell calls for improved treatment among their own disgruntled Kurdish populations. In October 2007, one of the first official responses to the Turkish Parliament's authorization of intervention into Kurdistan Iraq was a statement from Syria fully supporting Turkey's decision. This statement further speaks to the level of cooperation between Turkey and Syria when it comes to their Kurdish 'problems'.

Iranian-Turkish relations have followed a course broadly comparable with Syrian-Turkish relations. The Iranian Kurds have suffered at the hands of the Iranian state, having historically had a volatile relationship with the Shi'a-dominated government; their status as Sunni Muslims has led them to be characterized as an ongoing threat to territorial integrity.

Although Iran is a multi-ethnic society, the 1979 Constitution recognizes religious minorities only and the constitutional prohibition of discrimination has had the effect of entrenching the denial of any recognition of ethnic difference. Like other non-Persian ethnic groups and national minorities, the Kurds are denied concessions in the fields of language, culture or self-governance. Despite their involvement in governmental structures, Kurdish parliamentarians are not allowed to form political parties, and the Kurds face economic, cultural and political marginalization. The Iranian Constitution guarantees some key human rights such as the right to life and freedom of association, though most are subject to caveats concerning Islamic principles or supplementary legislation.

Notwithstanding their common repression of their Kurdish populations, Turkey and Iran have for many years been at loggerheads over a range of issues, including differing interests in the Nagorno-Karabakh conflict on the Armenian-Azerbaijani border, Turkey's relationship with Israel, and competition over oil resources in Central Asia. The relationship between the two countries suffered a further blow in 1997 when the Turkish military accused the Iranians of supporting Islamists in Turkey and, importantly, the PKK in Iraq.⁶³ The Border Security Research Committee of Turkey's Parliament reportedly

made public a report on the location of PKK training and logistical support to camps in Iranian territory, along with border violations, attacks, and mine-laying activities by PKK guerrillas infiltrating from Iran.⁶⁴ The substantial Turkish incursion into Kurdistan, Iraq, of May 1997 aimed in part to counter Iranian influence in the region, and was effected largely through Tehran's patronage of the Iraqi Kurdish political organization, the PUK.⁶⁵ The PUK was in turn believed by Turkey to be assisting the PKK.⁶⁶

Iran, on her side, blamed Ankara for sheltering the other main Iraqi political group the KDP, and indeed, the provision of logistical and other support to the Kurdish militants in northern Iraq have provided the means for Tehran and Turkey to vent their frustrations against each other by proxy.⁶⁷ Although many of the Kurdish political parties are interlinked and have played a formative role in each others' development⁶⁸ – transnational relations between Kurdish political parties have achieved a breathtaking complexity – the behaviour of Turkey and Iran (and Syria) aimed at furthering their own feuds against one another has fuelled intra-Kurdish rivalries in Iraq and caused considerable loss of life.

More recently, Ankara and Tehran have managed to put aside their differences as they seek a joint response to their fears over the ten-year democratic experiment in Kurdish self-rule which has proved so successful in Iraq, especially since it was formalized in a federal arrangement in the new Iraqi Constitution.⁶⁹ Iranian military presence in Kurdish-dominated areas has been stepped up and repression intensified, and in July 2004 Tehran and Ankara held talks, resulting in an agreement to implement joint anti-Kurdish policies. Turkish Prime Minister Erdoğan then travelled to Tehran in July 2004, from where Iran officially declared the PKK a terrorist organization,⁷⁰ and stated: 'we will do what is necessary regarding PKK/Kongra-Gel in the possible shortest time';⁷¹ a significant concession to Turkey after many years of Iranian utilization of the PKK as a tool to exert pressure on Turkey, while simultaneously cracking on the PKK's Iranian counterpart Free Life Party of Kurdistan (PJAK) in Iran. Iran kept to her word and launched a crackdown on the PKK militants located along her border with Turkey,⁷² although it is less clear that Iran truly shares Turkey's commitment to annihilating the PKK, an organization which has proven so useful to her in the past.

It can be seen that in Turkey's relationship with Iran, as in her relationship with Syria, the haunting spectre of Kurdish self-rule has so panicked Ankara as to push her into making extraordinary moves

towards cooperation with age-old enemies. Indeed, at the height of speculation as to the possibility of a Turkish invasion of Kurdistan, Iraq, Iran too was engaged in sporadic bombardments of the Iran-Iraq border region targeting alleged PJAK encampments. These bombardments were particularly intense in August–September 2007, attracting international protests from both the Kurdistan Regional Government and the Iraqi government.

A new understanding between Turkey, Syria and Iran has emerged in the wake of the mounting probability of a peaceful, democratic, autonomous Kurdish entity in south Kurdistan, based on mutual aversion to the notion of granting even the most basic cultural rights to their own Kurdish populations, let alone countenancing autonomy. This new understanding has overcome previously hostile relations between the three regimes, evidencing the strength of anti-Kurdish sentiment. Indeed, tripartite cooperation by Turkey, Syria and Iran on combating the ‘threat’ of Kurdish autonomy in Iraq is not unprecedented. The three held an ad hoc series of conferences from 1992, not long after the establishment of the Iraqi safe haven, aimed at improving border security and preventing the formation of a Kurdish state in Iraq.⁷³ These conferences continued until 1995 despite high levels of hostility between Ankara, Damascus and Tehran, and only ended as tensions mounted over Turkish and Iranian support for opposing Iraqi Kurdish groups in Iraq.⁷⁴

This situation is, however, unacceptable in the modern world, and particularly in view of Turkey’s EU application which is predicated upon respect for democracy and human and minority rights. Turkey may be able to produce taboo-breaking domestic reforms at home which suggest to the outside world that she is opening up and democratizing, but her activities in the international sphere tell a different story. She is building alliances with undemocratic states and pursuing highly undemocratic objectives, undermining precepts upon which she has achieved the opening of formal EU accession negotiations, namely her undertaking to grant further rights to the Kurds and improve their status.

It is not possible for Turkey and her neighbours, which have for so long unjustly subjugated the Kurds, to simply ignore what is happening in Iraq. Democratic, pluralist governance is prevailing throughout the world and it is becoming less and less feasible for repressive, chauvinistic regimes to avoid this trend. The successful institution of a democratic, state-based solution to the Kurdish issue in Iraq could potentially act as a model for the other states of the

Kurdish regions, contributing to the resolution of their troubled relationships with their respective Kurdish populations. This is not something to fear, to shy away from and to form alliances against. Indeed, it is arguably a prerequisite for the achievement of peace and stability in the Middle East; history has shown us that this cannot be achieved without resolving the Kurdish situation.

7

The Military and the Islamist Movement

There is a general consensus that the process of Turkish accession to the EU has been accompanied by improvements in standards of human rights and democratic reform in the country. Pro-EU reform gathered momentum in 2002 with the newly elected AKP government; however, the accomplishments have been stalled by 'deep state'¹ actors, particularly the military, who have been a fundamental barrier to reform.

On 28 August 2007, Abdullah Gül became 11th President of the Turkish Republic in the third round of the presidential elections. Earlier in April when AKP nominated Gül, the former Foreign Minister, as a candidate for presidency, it provoked intense debate in Turkey. With his previous association with the Islamist movement and veiled wife, Gül was from the onset considered a controversial figure. Following his candidacy bid, the military blamed the government for stimulating religious sentiment in society in a so-called 'e-memorandum'.² The first round of the presidential elections was cancelled after a decision by the Constitutional Court, which determined that the Parliament was not able to gather the required number of MPs.³ The AKP government therefore decided to hold early parliamentary elections on 22 July 2007, resulting in a landslide victory for the AKP, which received 46.4 per cent of the votes. With this large majority in Parliament, and a clear mandate from electorate, Gül was again nominated, and on 28 August was elected by the Parliament as President.

The fact that a non-secular-oriented party came to power and at the same time a devout Muslim was made President was hard to digest for the traditional Kemalist establishment. Turkey's military has until this day played a major role in the politics of the country, seeing its mandate as to guard the principles of the Atatürkist ideals, primarily nationalism and secularism. Issues of secularism remain intertwined with questions of nationalism in the Turkish context⁴ and the secularist politics has meant that no political party can claim to represent any form of religious belief. The tensions between the

military and the AKP increased with the controversy surrounding Gül's nomination and led to mass demonstrations aimed at upholding the secular Turkish Republic, arranged by opposition parties, particularly the Republican People's Party, and supported by the military.⁵

In the context of these historic tensions and changing power balances, the impact of recent events on the human rights situation in Turkey remains uncertain. Will political actors act decisively to implement changes to poor human rights standards, and the difficulties faced by the Kurdish population? Or will disturbed power structures create a backlash that might further weaken the human rights record of Turkey? These are difficult questions deserve detailed examination.

SECULARISTS VS ISLAMISTS

The evolution of secularism in Turkey goes back to the eighteenth century,⁶ but the more revolutionary change occurred with the breakup of the Ottoman Empire. It was after the emergence of Atatürk's leadership in 1919 that the nationalist movements were united and they dictated the aim of the struggle for a national liberation. The conflict that later arose in the national movement was between the upholders of a 'Western ideal' and an 'Eastern ideal', where 'West' represented imperialism, while 'East' was the part of the world revolting against imperialism. However, the matter of dispute was not so much a matter of East versus West, but rather on the sultanate-caliphate versus the people's sovereignty.⁷ Atatürk championed the latter; his vision of Turkey was as a people's state governed by a republican form of government. After a long battle between the Kemalists and those supporting the caliphate, the caliphate was finally abolished on 3 March 1924.⁸

The victory of the idea of a secular state over an Islamic one resulted in secularizing reforms within cultural, educational and legal institutions. The ideology behind Kemalist Westernism was the idea that an underdeveloped nation such as Turkey must attempt to become equal to the developed Western nations in order to prevent further exploitation by them. Therefore Atatürk's aim was to develop Turkey to the level of Western society.⁹ The Kemalist version of secularism that was implemented during this time implied not freedom *of* religion, but freedom *from* religion.¹⁰ For instance, women were persuaded not to wear headscarves, religious clothing for men was banned and religious schools were also prohibited.¹¹

Turkish secularism also involves 'active neutrality' which means that religion-related actions by the state must be carefully analysed and evaluated by the Ministry of Religious Affairs.¹²

The Kemalist secularization project excluded Islamists from the legitimate political arena and marginalized them in political as well as social and intellectual representation. A resurgent Islamist movement appeared in the 1950s in the Republic of Turkey. Its first outright political appearance was the National View Movement (Milli Görüş Hareketi, MGH) founded by Necmettin Erbakan in 1970. From this movement, a number of political parties have been formed. One of the first was the National Salvation Party (Milli Selamet Partisi, MSP), formed by Erbakan in the 1970s, which was characterized by Islamist values and a critical stance on the Westernization of Turkey.¹³

The 1950s and 1960s was a period of plurality and democratic participation in Turkey. The Democratic Party (Demokrat Parti, DP) was founded in 1946, the same year that Turkey started holding free and competitive elections. In the 1950 elections the DP defeated the Republican People's Party (Cumhuriyet Halk Partisi, CHP) which was founded by Atatürk and had been the ruling party since the time of the establishment of the Turkish Republic. Although the DP was not a pro-Islamist party, it decreased restrictions on Islam and placed less emphasis on their secularist heritage less than the CHP. Prime Minister Adnan Menderes and the DP government were overthrown in 1960 by a military coup. Menderes was later executed.¹⁴

After the 1980 military coup, Erbakan and his party, together with all other parties, were banned from politics but later reappeared as the Welfare Party (Refah Partisi, RP). In the 1995 elections the party received 21 per cent of the votes, making it the biggest party of a coalition government of centre-right parties. This was the first time in the republican history of Turkey that an explicit pro-Islamic political party came to power,¹⁵ which was unsurprisingly hard to accept for traditional state actors such as the military. As a result, they launched a campaign against the Welfare Party and thus against the government. On 28 February 1997, the National Security Council (NSC) held a meeting where they vowed to maintain the secular nature of Turkey, which they perceived as being threatened by the Islamists. This is generally known as the 1997 post-modern coup. Recep Tayyip Erdoğan, who was at this time Mayor of Istanbul, was imprisoned following the coup.

Following the post-modern coup the Welfare Party was closed down. However, the Islamist movement did not disappear with the

closure, but lived on through the Virtue Party (Fazilet Partisi, FP), which was formed by former Welfare Party members. The new Virtue Party differed from the Welfare Party in the sense that it had distanced itself from the anti-Western position and endorsed Western values such as democracy, human rights and the rule of law. In spite of this, the Virtue Party was closed down in 2001 after a decision by the Constitutional Court on the grounds of being a centre of anti-secular activities.

Born out of internal dissent within the Virtue Party, the AKP was founded under the leadership of Tayyip Erdoğan and distanced itself from both the old leadership and ideology. It no longer characterized itself as pro-Islamist but instead as conservative. The AKP has been described as post-Islamist, because of the pro-Islamic background of its leaders and the recently modified notion of conservatism. While keeping its ties with Islam in the social sphere, it has abandoned Islam as a political programme.¹⁶ Many have compared AKP to the European Christian democratic parties. After the 2002 elections Erdoğan claimed that the government's priority would be to speed up the process towards an EU membership rather than to solve the controversial 'headscarf issue'.

The Islamist movement has shifted from basing its identity on an anti-Western position to becoming the main advocate for Turkish EU membership. For some this move represents a realization that Western values of democracy, human rights and the rule of law can be used where necessary to support the Islamist movement against the Kemalist establishment.¹⁷

THE ISLAMIST MOVEMENT, HUMAN RIGHTS AND THE KURDISH ISSUE

When the Turkish Republic was founded, there was a conflict between a Western and an Eastern ideal. Atatürk decided to adopt the Western one, but failed to adopt Western values such as democracy. Throughout the republican history of Turkey, the Islamist movement – which can be characterized as upholding an Eastern ideal – has challenged the Kemalist version of Westernism. It is interesting therefore to analyse how the Islamist movement has approached human rights and the Kurdish issue.

Prior to the post-modern coup 1997, the pro-Islamist parties rarely invoked human rights but still used Islam as guiding principle and followed an anti-West discourse. However, after the coup, the National

View Movement and its allies realized the efficacy of using existing human rights mechanisms to support them against the 'deep state'¹⁸ and further developed their relationship with Western institutions. Paradoxically, the former anti-West Islamists have become pro-West, whereas the Kemalists have grown to be suspicious of the West¹⁹ and particularly towards the EU, as a potential EU membership would mean that they would lose their current privileges.

Whereas the Welfare Party mainly spoke about rights relevant to Islam, the newly named Virtue Party, formed after the post-modern military coup, spoke more about democracy, human rights and rule of law. However, the Virtue Party still lacked a holistic view on human rights and seemed more inclined to support human rights when they could be of particular benefit to an Islamist cause, paying less attention to human rights violations where this was not the case. In their approach to the Kurdish issue, the Virtue Party were more open in their focus on cultural and linguistic rights. Yet while the both the Welfare Party and the Virtue Party theoretically recognized the existence of a Kurdish identity, none of them really addressed the Kurdish issue or introduced any specific measures to solve it.²⁰ The Islamist discourse has been described as a statist Islamism which bases the principle of identity on a 'Muslim brotherhood' without addressing the Kurdish issue. According to this view, the 'Kurdish problem' lies within the Kurdish identity of the Kurds. If this identity can be changed, there will not be a Kurdish problem.²¹

The Islamist movement has challenged the Kemalist establishment by allying itself to the West, but without introducing sincere measures to fully respect human rights and fundamental freedoms. The Kurdish issue has never been a priority to the Islamist movement and none of its parties has ever dealt tangibly with the issue. The general tendency has been to adopt the state policy on the Kurdish issue, a policy of denial.

THE AKP, TURKEY AND THE MILITARY

None of the former pro-Islamist parties in Turkey have an explicit policy on the Kurdish issue. Even though they have adopted a more positive approach towards cultural diversity, the AKP has no clear-cut policy on the Kurdish issue either. Notwithstanding that there are still problems remaining regarding the respect for human rights in Turkey, the AKP government has at least taken a much more constructive position than the opposition parties.²²

The AKP seems to have a greater commitment to human rights and democracy than its precursors. Its party programme includes a long section on human rights. Under the paragraph named 'Fundamental Rights and Freedoms' Turkey's obligations under international agreements such as the Universal Declaration on Human Rights and the European Convention on Human Rights are referred to. Under the paragraph 'The South-eastern problem', the AKP asserts that the cultural diversity in the region is considered by their party to be part of Turkey's cultural richness. On the condition that Turkish remains the official and instruction language, the AKP regards cultural activities in languages other than Turkish, including broadcasting, as an advantage which reinforces and supports the unity and integrity of the Turkish state, rather than weakening it.²³

After the elections in 2007, the AKP initiated the drafting of a new civilian Constitution.²⁴ The initiative to draft the country's first civilian Constitution aims to ensure that all individuals fully enjoy their rights arising under universal human rights law. Some major changes are proposed in the areas of language, the notion of Turkishness, freedom of religion and the headscarf issue.²⁵ However, the AKP's drafting of the Constitution has been heavily criticized for being prepared by the AKP alone instead of being carried out via a meaningful consultation with civil society. It has been argued that a social contract must be discussed by all layers of society, otherwise it is not a truly 'civilian Constitution'.²⁶ Moreover, the draft Constitution failed to address the Kurdish issue at all.

The inherent conflict between secularists and Islamists is linked to the important matter of civil–military relations in Turkey. Turkey is recognized as a 'non-liberal electoral democratic country' by academic circles, the main defect being the military domination²⁷ as this means that the democratically elected government does not have the ultimate responsibility for the country's rule. However, the clear mandate of the AKP, as well as the Gül presidency, could possibly alter Turkey's problematic relation with the military. Although the presidency is generally regarded as a symbolic position, the President nevertheless holds considerable veto powers. The fact that both the government and the President come from the same party provides a much stronger position from which to carry out changes than has previously been the case. These factors, combined with the fact that the AKP government has support from the EU and the West, may allow them room for manoeuvre in further reform and in addressing the Kurdish issue.

On the other hand, the position of the AKP is dubious for a number of reasons. First of all, since the AKP failed to make the new Constitution a civilian one in the true sense of the word, the amendments made will be problematic. Secondly, the party's genuine intentions about the Kurdish issue are not clear. Addressing the Kurdish issue with only rhetoric, and addressing only some particular cultural and linguistic rights, is not enough; action and implementation is what counts.

By electing the AKP, the electorate sent a clear message to the military that they will not tolerate intimidation. It is an undisputable fact that the military wields enormous power in Turkish politics, which restricts the government's room for manoeuvre. Whenever a party in power has tried to introduce liberalizing policies, the military has reacted – often in the form of military coups. However, such a threat has also been used as an excuse to hide behind, so as not to have to carry out inconvenient changes, such as addressing the Kurdish issue. The AKP now has the opportunity to show that they are serious about democratic reform and that they are genuinely willing to address the Kurdish issue.

Due to the changing nature of the AKP and government–military relations, it is hard to predict whether the AKP is now in a position where the military could be weakened. It is also relevant to ask whether this could lead to the opposite development. Both the so-called 'e-memorandum' and threats of military intervention in Kurdistan, Iraq, have been indicated as likely catalysts for a military coup in Turkey.²⁸

The implications of the strong position of the AKP and the potential to challenge the military's power may favour developments towards respect for human rights. Traditionally, pro-Islamist parties have encouraged a 'Muslim brotherhood' without sincerely addressing the Kurdish issue and it is unlikely that the AKP is different in this sense. Developments in Turkey are now somewhat unpredictable. The military has been clearly wounded by the AKP's success, and may perhaps now attempt to re-establish its power over the government. By appealing to nationalist sentiment, the military has attempted to put forward controversial policies that clash with government policies. Recent threats of intervention in Iraq are an example of such tactics, which aim to undermine Kurdish autonomy in Kurdistan, Iraq. The Turkish military has shown hostility towards the Kurdistan Regional Government on several occasions and particularly on the Kirkuk issue. The military uses the clashes between PKK and the

Turkish security forces as an excuse to intervene in Kurdistan, Iraq. However, this will precipitate an end to PKK violence, but rather provoke extremist nationalist reactions within Turkey which will alienate its own Kurdish population.

A military coup in Turkey at this time could have devastating consequences for the EU accession process. However, the AKP may still manage to carry out constitutional changes that reduce the power of the military, address the Kurdish issue and bolster the process towards EU accession.

8

Internal Displacement

The protracted displacement to which hundreds of thousands of people, mainly Kurds, have been subject in Turkey's southeast is a vital yardstick in any consideration of Turkey's progress towards democratization, and is an acid test for measuring her willingness to genuinely address the situation of the Kurds. Internal displacement is a very visible reminder of the abuses committed by Turkish security forces under OHAL and the accompanying atmosphere of violence and disorder, as well as holding severe consequences for the large numbers still living in dire socio-economic conditions on the peripheries of overcrowded towns and cities.

BACKGROUND TO DISPLACEMENT

It has already been mentioned that Turkey sought to dissolve Kurdish communities in the southeast of the country as part of her aim of imposing a new, unified Turkish nationalism following the founding of the Turkish Republic in 1923. This logic of displacement whereby Kurdish networks were broken up, the population makeup in what were large and contiguous Kurdish areas was altered and Kurds were forcibly assimilated into mainstream Turkish culture is central to the continued relevance of the issue today. Displacement was seen as a means to destroy Kurdish identity and mitigate the perceived threat of national disunity and separatism. Still today, the conclusion cannot be avoided that these aims remain to a significant extent unaltered. These ideas were first translated into concrete strategies in the 1920s, as Atatürk's 'Turkification' programme mandated the first instances of forced displacement of the Kurds, accompanied by violence, abuses and the destruction of homes and property. After 1938 there was a relatively peaceful period that lasted for 20 years. However, the Kurds, who had no national rights and who were subjected to massive oppression, were forced into poverty and ignorance. They saw all peaceful and legal avenues of political struggle closed off to them, and once again began to arm themselves against the oppression of the Turkish state.¹

The most devastating period of displacement, however, occurred in the wake of the 1980 military coup, against the background of the subsequent armed conflict fought between the PKK and the Turkish government. Ostensibly as part of its bid to overcome the PKK by annihilating its networks of support in the Kurdish countryside, the Turkish government began in the 1980s to forcibly expel Kurds from their villages in the southeast. Some 3,500 towns and villages were destroyed during this time.² Illegal detention, torture and extra-judicial execution by both state forces and village guards also took place. Between 3 and 4 million villagers were forced from their homes.³ Although much time has passed, the social, economic, political and legal problems caused by this internal displacement have not yet been resolved.

The professed aim of countering the PKK's support network is no doubt partially true, but the patterns of displacement which occurred tell a more sinister story. Villages and other settlements were routinely 'cleansed' of their civilian Kurdish inhabitants, often as a form of collective punishment for refusal to join the state-sponsored civilian militia, the Village Guard (*koruculuk*). Evacuations were accompanied by extreme brutality, including beatings, enforced disappearances, humiliating treatment, threats, sexual assault and rape. In some instances, food embargoes were imposed which starved villagers out of their homes.⁴ Security forces then ensured that the entire economic and social fabric of community life was wiped out by burning houses, farmland and forests, slaughtering livestock and refusing villagers the opportunity to recover their personal possessions.⁵ Victims of this treatment, rendered homeless and left with no resources to rebuild their shattered communities, were compelled to resettle elsewhere even where they were not formally evacuated. According to official figures, during the conflict 3,848 settlement units were partially or wholly evacuated,⁶ of some 5,000 villages and hamlets that existed before 1985.

Village evacuations were, then, far more than merely a method of combating PKK activities. They provided a means of consolidating government control in the southeast, centralizing Kurdish communities in order that the state could more closely monitor their activities.⁷ Furthermore, dispersing the Kurdish population would frustrate calls for autonomy, advance assimilation of the Kurds into majority Turkish culture and further the aim of diluting the notion of 'Kurdishness'.

Turkey, however, still refuses even to acknowledge the predominant role played by the Turkish security forces in effecting displacement. As recently as 2003 it was officially declared that:

The root cause of internal displacement in Turkey has been the scourge of terrorism that Turkey has suffered for two decades. Large numbers of our citizens were compelled to leave their homes due to the terrorist organisation PKK's intimidation, harassment and attacks ... it is indeed incorrect to portray the cause of displacement as the equal responsibility of the terrorist organisation and the authorities.⁸

The European Court of Human Rights has refuted this view by observing that whilst village evacuations occurred in the context of violent confrontations between the security forces and members of the PKK, Turkish security forces had 'deliberately destroyed the homes and property of applicants, depriving them of their livelihoods and forcing them to leave their villages'.⁹

It is estimated by the London-based Kurdish Human Rights Project that around 3 million people were displaced during this period.¹⁰ It should be added that the actions of state security forces were the main, but not the only, factor responsible for displacement. There are instances where the PKK burnt villages and carried out other abuses against those seen as 'collaborating' with the state,¹¹ and there is a small grain of truth in the Turkish government's repeated assertion that displacement has occurred in part as a result of general rural-urban migratory processes, though these processes were considerably exacerbated by military activity in the region, the deliberate destruction of livestock and prohibitions on grazing animals in mountain pastures.¹²

Beyond the realm of conflict-induced displacement, further weight is given to the argument that Turkey pursues a wider strategy of ousting the Kurds from their regional homelands by her policy of constructing large-scale infrastructure projects in the Kurdish regions. The Southeast Anatolia Regional Development Project (GAP),¹³ for example, is a vast network of dams and hydro-electric plants to be constructed in the Kurdish regions which will, if realized, flood 74,000 square kilometres of Kurdish land¹⁴ and displace hundreds of thousands of people with little or no compensation. Displacement has already proved a serious consequence of the implementation of the GAP project in the Kurdish region. A fact-finding mission by

the Kurdish Human Rights Project and the University of Galway in February 2005¹⁵ found that the project would displace thousands of local people, and the Ilisu Dam alone is likely to displace up to 78,000 people, mostly Kurds. The fact-finding mission also found that there was no evidence of free and fair consultation with populations local to the areas of the planned dams in the Munzur Valley, Ilisu or Hakkâri regarding their impact, and nor was there consultation with communities already displaced from the region.

These schemes – ostensibly designed to meet Turkey's power needs – unequivocally form part of Turkey's longstanding efforts to break up Kurdish communities in the Kurdish heartlands and consolidate Kurdish settlements in order to keep them under tighter governmental control. A leaked 1993 memo from President Özal to Prime Minister Demirel, which deals systematically with methods of solving the 'Kurdish question', stated that:

Starting with the most troubled zones, village and hamlets in the mountains of the region be gradually evacuated ... [and] resettled in the Western parts of the country according to a careful plan ... Security forces should immediately move in and establish complete control in such areas ... To prevent the locals' return to the region, the building of a large number of dams in appropriate places is an alternative.¹⁶

Until recently, Turkey has ruled the southeast through an authoritarian and oppressive system using military law, invoking a State of Emergency (OHAL).¹⁷ Although Turkey has been bound by the ECHR since 1989, reservations were filed shortly thereafter with regards to the rights to liberty and security of persons, to a fair hearing, to respect for private and family life, to an effective remedy and to freedoms of expression and of association,¹⁸ citing that the measure was a response to 'threats to its national security in south-east Anatolia'.¹⁹ Consequently, Turkey implemented the State of Emergency in the provinces of Elazığ, Bingöl, Tunceli, Van, Diyarbakır, Mardin, Siirt, Hakkâri, Batman and Şırnak.²⁰ An OHAL Governor was authorized to remove persons whose presence he deems to be 'detrimental to public order'.²¹ Considerable licence was granted to this office and there was no provision for independent judicial review of its action, a situation which contributed substantially to the breakdown of the rule of law under OHAL.

CONDITIONS AND DIFFICULTIES
FACED BY INTERNALLY DISPLACED PERSONS

Since internally displaced persons (IDPs) were forced to migrate – using their own resources – to towns and suburbs of major cities unprepared for a wave of migration, they began to experience serious problems in accessing healthcare, education, transport, employment and housing.²² This lack of access to education, particularly the language barrier faced by those unable to speak Turkish, have inevitably led to high levels of unemployment and social exclusion. As a result of increased unemployment, there has been a parallel increase in robberies and prostitution. Concerns have also been raised that the number of suicides amongst young women has increased due to early marriages and feelings of depression associated with unemployment.²³ There are also recognizable psychological effects arising from the sense of alienation suffered by the displaced during the long process of integration that can sometimes solidify into an endemic condition.²⁴

The Turkish government lifted the State of Emergency in 2002 and at the same time removed its one remaining reservation to Article 5 of the ECHR.²⁵ Despite this, the majority of displaced villages remain demolished and there are no plans for their reconstruction. Poverty remains a significant problem among IDPs as well as in the Kurdish regions in the southeast.²⁶ The Mayor of Diyarbakır, and former Deputy President of the Human Rights Association of Turkey (İHD), Osman Baydemir, has noted that the ‘process of rejection coupled with the Government’s recourse to military warfare to resolve the Kurdish question has resulted in economic loss across the whole populace’.²⁷ Baydemir reported that ‘compulsory village migration has led to an economic halt bringing it face to face with poverty and mass unemployment ... of course, the most affected by the crisis has been the women and the children who have been cast out of city life, economically speaking’.²⁸ A recent UN survey has revealed that the vast majority of families that have migrated to Diyarbakır are living in extremely poor conditions: the survey concluded that 69 per cent of the families studied are in need of urgent help.²⁹

These concerns are further echoed by Mesut Değer, an MP for the CHP (Republican People’s Party) and member of the Human Rights Commission, who stated that forced evacuations have caused Diyarbakır’s population to rise from 350,000 to more than 1.5 million.³⁰ Unemployment figures have risen as a result. For

example, in Diyarbakır the official unemployment figure is 20 per cent; however, the actual figure is thought to be around 60 per cent.³¹ The lower official figure reflects the fact that IDPs do not register with the relevant municipal authorities. According to UN statistics, 60 per cent of the families that migrated to Diyarbakır in the 1990s from rural areas due to increased armed activity have been unable to find regular jobs since then.³²

Although there are social assistance programmes intended for those with poverty-related problems, such as the 'green card' system entitling the bearer to free medical care operated by the Social Solidarity and Assistance Foundation, often many individuals are excluded. For example, many IDPs are technically still property owners post-displacement and are therefore not eligible for a green card.³³ Also, grants designed for the underprivileged do not have any form of ongoing disbursement but are only given once, and thus cannot provide the initial foundation most IDPs need to establish a livelihood.³⁴

Migration brings infrastructure problems, since the water and sewage systems are inadequate to cope with the increased population. In addition, there are problems with health and education. The numbers of pupils in a class is very high (up to 90 in some schools) which has a detrimental effect on the standard of education received in the affected areas.³⁵ Such societal strains further aggravate the tensions already present amongst the population.

Further, as a result of mass displacements, the economic infrastructure of the Kurdish countryside has been demolished and agricultural livelihoods lay in ruins.³⁶ It was recognized by the European Commission in its 2005 Progress Report that the situation of IDPs 'remains critical, with many living in precarious conditions'.³⁷ The same concerns are again echoed in the 2006 Progress Report, citing that little advancement has been made and the policy developments aimed at providing solutions for the IDPs are said to have made 'no further progress'.³⁸

THE GOVERNMENT RESPONSE TO DISPLACEMENT

The EU has taken an interest in the circumstances of the displaced,³⁹ and Turkey is now officially committed to tackling displacement. However, the steps taken by the government to address the plight of Turkey's IDPs are limited and fail to meet the requisite standards. It is manifestly apparent that Turkey has no real interest in addressing

the problems faced by the displaced, or in reversing her achievements in altering the population distribution and ethnic makeup of the southeast.

There are a range of current circumstances within Turkey which support this conclusion. In the first place, although large-scale displacement as a result of conflict abated in the late 1990s, village evacuations continue to be reported in some areas. As recently as August 2004, a regional NGO reported that residents of the Ilicak village of the southeastern district of Beytüşşebap were forced to leave their homes in August 2004 under the orders of the local gendarme commander as military operations were carried out in the region.⁴⁰ State-mandated displacement resulting from large-scale infrastructure projects is also ongoing.

Furthermore, in spite of the fact that Turkey is patently liable for causing much of the displacement which continues to blight the lives of many hundreds of thousands of people today, as evidenced in multiple decisions by the European Court of Human Rights,⁴¹ she has done very little or nothing to ease the dire struggles of their daily lives. Instead, IDPs are left to suffer severe deprivation, scraping a living in slums located on the peripheries of severely overcrowded provincial towns⁴² and subject to extreme poverty and appalling levels of multiple deprivation. Having been dispossessed of their homes and personal possessions during displacement, many now lack the skills necessary to join the urban workforce,⁴³ and are forced to crowd into sub-standard housing⁴⁴ away from healthcare and education services. IDPs suffer disproportionately high levels of psychological problems⁴⁵ resulting from the trauma of beatings, torture, the loss of family members and severe social dislocation. An astonishingly high proportion of IDP children receive no schooling,⁴⁶ and there are large numbers of vulnerable, unaccompanied children living in the peripheries of the provincial cities in the southeast, many of whom are forced to live on the streets.⁴⁷ Even the European Commission reported in 2004 that the situation of IDPs was 'critical', with 'many living in precarious conditions',⁴⁸ and observed that 'no integrated strategy with a view to reducing regional disparities and addressing the economic, social and cultural needs of the local population has yet been adopted'.⁴⁹ No programmes of resource support for the displaced have been implemented, and with the exception of the GAP dam-building project, which has increased displacement in the region, Turkey has shown no inclination to comprehensively address economic underdevelopment in the southeast.

A critical first step towards providing a solution for the situation of the IDPs was taken in 2002 with the official recognition of the issue. Increased dialogue with international organizations has compelled the Turkish government to commission the Institute of Demographic Studies at Hacettepe University's Institute of Population Studies to conduct a field study on IDPs. Conducting such a survey was also part of a set of recommendations issued at the time by the then UN Representative on Internally Displaced Persons, Dr Francis Deng, after a country visit in 2002.⁵⁰ Some reasons for delays and the overall lack of empirical research included a lack of access to the civilian population in some of the Anatolian regions,⁵¹ attempts by the State Planning Organization to discredit survey efforts,⁵² and the intimidation of those providing information to NGOs.⁵³

Upon the 2007 release, the highly anticipated results confirmed suspicions that the Turkish government severely underestimates the number of IDPs in Turkey. The findings almost tripled the original figures provided to the international community by the Ministry of Interior Affairs.⁵⁴ The original data suggested by the end of 2005 there were just 357,000 people displaced,⁵⁵ and the data further implied that almost a third of these IDPs had already returned.⁵⁶ Yet the Hacettepe findings estimate the Turkish IDP population to be between 953,680 and 1,201,200.⁵⁷ Observers say the study's new population data provides a solid baseline to assist in the reformulation of aid and development programs for IDPs. It also presents a clearer indication of the severity of the IDP problem.

The survey also found that 55 per cent of those still internally displaced want to return to their homes, and that over 50 per cent are not aware of government efforts towards IDP reparation such as the Turkish government's return programme and the National Compensation Law, which is now closed to new applicants.⁵⁸ However, the Compensation Law 5233 leaves the majority of IDPs without remedy. The Turkish government's neglect of the situation for many years was partly due to its reluctance to accept the gravity of the issue; hopefully the recently publicized report from Hacettepe University will promote joint efforts and assist in an unhesitating move towards dissemination of the results and the implementation of relevant policy.

Turkey has also shown pronounced reticence in assisting those wishing to return to their villages. It has been widely documented by the Kurdish Human Rights Project and other organizations that large numbers of Kurds wish to return to their home towns.⁵⁹ Government

assistance in return is essential; poverty-stricken displaced peoples clearly lack the means themselves to rebuild their shattered communities, and this is compounded by the devastation wreaked upon many evacuated villages, either through the actions of security forces or because houses have fallen into disrepair over time and the agricultural economy has been left to ruin. However, the principal return projects launched by Turkey have achieved remarkably little, and implementation has been extremely slow and inconsistent.⁶⁰ Meaningful statistics on government-assisted return are very hard to come by, but official sources apparently report that since January 2003, 124,218 IDPs (approximately one-third of the official total of 350,000) have returned to their villages.⁶¹ This is, of course, one-third of the total made public by the Turkish authorities; it is worth reinforcing at this point that around 3 million people are believed to have been internally displaced. Further, NGOs continue to report that, to their knowledge, returns continue to be excruciatingly slow and there is little governmental support for it.⁶² Fact-finding missions by the Kurdish Human Rights Project to Diyarbakır and Van in 2005 and 2006 affirm that returns are practically non-existent. Further, with little or no government support for returns, those who do attempt to return are often attacked by village guards.

Why, then, is there such a discrepancy between the numbers wishing to go back and the numbers actually returning? A cursory examination of Turkey's much-vaunted return plans so far and her record on implementation makes it apparent that, quite simply, Turkey has no real interest in facilitating return. The Village Return and Rehabilitation Project (RVRP), launched in March 1999, for example, until 2003 had yielded nothing more than an unpublished feasibility study for return to twelve model villages.⁶³ Further, a 2006 Kurdish Human Rights Project/Bar Human Rights Committee fact-finding mission identified a number of problems with the project, finding that it fails to meet the necessary international standards of redress. Indeed, Turkey herself has expressed a wish to limit its potential achievements when she implied to the United Nations in March 2004 that she has a preference for a minimum of 30 households at the place of return in order to render 'the economic and financial investments to that area economically sustainable and viable'.⁶⁴

Return plans generally have received massive under-investment. With reference to the Centralized Villages Project, the government had dispensed only 10 per cent of the planned budget of 700 million Turkish lira (TL) by spring 2000.⁶⁵ At a more localized level,

a fact-finding mission by the Kurdish Human Rights Project, Bar Human Rights Committee and Human Rights Association found that respondents on the ground in the town of Tunceli had seen none of the sums apparently allocated to resettlement in the region.⁶⁶

There is, then, a clear lack of political will to bring about appropriate and sustainable return in the southeast, and it is certainly arguable that government projects were formulated largely to give an outward impression of action as Turkey sought closer ties with Europe. Government-assisted return in Turkey has been underfunded, subject to a plethora of bureaucratic hurdles and massively under-implemented. Even more worryingly, however, is the fact that beyond merely failing to facilitate return, the government projects which have been devised appear to be designed not so much to redress past wrongs by assisting displaced villagers to return to their homes, but rather to complement Turkey's original aim in enforcing displacement from Kurdish villages. In short, government-assisted return plans look to aim at furthering Turkish ambitions to counter the perceived threat to national integrity of the presence of numerous Kurdish settlements spread across the southeast region.

A number of factors point to this conclusion. Firstly, there has been a lack of transparency in devising and executing projects, and insufficient or non-existent consultation with displaced populations and relevant organizations.⁶⁷ The Centralized Villages Project was reportedly developed without consultation of those affected or any public debate, and was prepared in only nine weeks including field research.⁶⁸ NGOs and humanitarian organizations' attempts to engage in government resettlement plans have not been welcomed; the Migrants' Social Solidarity and Culture Association, Göç-Der, for example, was investigated in June 2002 for publishing a Migration Report, and the President, Sefika Gürbüz, was fined TL 2.180 billion in January 2004 for publishing a report on forced displacement.⁶⁹ In 2001, the Diyarbakır Municipality was denied permission to organize a survey entitled 'The Impact of Migration on Municipal Services' in which the possible options for respondents to cite for leaving included pressure to become village guards or practices of the security forces during OHAL. The State Statistics Institute said that the report was 'inconvenient' in its substance.⁷⁰ The results of this failure to consult has been inappropriate and ill-thought-out return plans, and NGOs and international organizations are broadly in agreement that these provide a wholly inadequate framework for resolving internal displacement.⁷¹

Furthermore, rather than returning displaced families to their original villages, government programmes instead direct energies towards resettling them in new, centralized villages close to municipal centres and subject to close state direction. It is extremely difficult to conceive that such a policy is in any way of benefit to IDPs wishing to return to their home villages, and Dr Francis Deng, the UN Representative on Internally Displaced Persons, pointed out that the centralization of new settlements clashes with the traditional pattern of hamlet settlements.⁷² As such, centralized villages cannot be seen as much other than an attempt to facilitate closer state control over the predominantly Kurdish IDPs who are resettled in them.⁷³ The removal of Kurdish villagers from the countryside and their relocation to more centralized, easily monitored settlements was one of the key aims of displacement during the 1984–99 conflict in the southeast. The Council of Europe refused to grant funds for the initial Centralized Villages Project over fears that the programme would be used to coerce IDPs into resettling in the new villages.⁷⁴ Some centralized villages were nevertheless created; by November 2000, US\$100,000 had been spent on a pilot project to rebuild Çetinkol, a village located outside of the provincial capital of Siirt. Other centralized villages have been established at Başağaç, Konalga and Bayraklı.⁷⁵

Turkey's preference for resettlement in centralized villages is further evidenced by the fact that villagers wishing to return to the villages or hamlets from which they fled do not receive adequate state support. In March 2004, the Turkish authorities stated that, 'the government continues to attach great importance to the return on a voluntary basis of those who were displaced from their homes'.⁷⁶ However, support for such return is by no means forthcoming. For example, the Assistant to the Governor of Diyarbakır, Vahdettin Özkan, was asked during a 2004 fact-finding mission by the Kurdish Human Rights Project about the installation of basic services including electricity and water in evacuated Kurdish villages. He responded that 'it is not economical to install these services in the many outlying villages; we have built centralised settlements instead'.⁷⁷ In the case of *Doğan and Others v. Turkey*, which concerned state obstructionism preventing displaced villagers from returning home, the European Court of Human Rights found that 'the refusal of access to the applicants' homes and livelihood constituted a serious and unjustified interference with the right to respect for family life and home', and as such violated Article 8 of the ECHR.⁷⁸

STATE IMPEDIMENTS TO RETURN

In fact, far from facilitating the return of the displaced through specific government projects, Turkey has failed to deal with the substantial impediments which prevent villagers from going back, as well as herself creating hurdles to return. Important among these is the continued presence of the Village Guard, the government-sponsored militia responsible for causing many villagers to flee during the 1980s and 1990s and widely accused of violence, human rights abuses, corruption and drug trafficking. Official figures reportedly state that 58,416 Village Guards are still on duty,⁷⁹ retaining strong authority within the villages in which they are based and deliberately preventing return. Reports⁸⁰ have indicated that Village Guards hinder return by setting up checkpoints, denying displaced villagers access to their fields and pastures, occupying abandoned homes, and attacking or intimidating those attempting to return to their homes. Despite the preponderance of such reports, and the obvious anomaly in the government both apparently encouraging return and continuing to arm the Village Guard which was partially responsible for generating displacement, Turkey shows no apparent inclination to dissolve the Guard. Minister of Interior Abdulkadir Aksu reportedly replied to a written question on the subject submitted by the MP for Istanbul, Emin Şirin, by stating that the abolition of the system of Village Guard was not on their agenda.⁸¹

Turkey has also failed to take desperately-needed measures to address the significant social and economic obstacles to return. Villages have often lain deserted for prolonged periods, and the economic infrastructure of the region has been destroyed. However, the substantial state investment necessary to restore housing stock, arable lands, roads and sustainable livelihoods so as to render villages inhabitable has not been forthcoming. Indeed, deliberate underinvestment by the state has contributed over many years to widespread illiteracy and low household incomes, leaving large swathes of the southeast destitute.⁸² There is a chronic lack of public services including health centres and schools, and basic needs such as electricity and water are not met by the state.⁸³ The Council of Europe reports that with the exception of Gaziantep and to a lesser extent the Bitlis region, the east and southeast still suffer from a chronic lack of social facilities and infrastructure,⁸⁴ and goes on to recommend that 'improving economic and social conditions is a sine qua non for the return of the population'.⁸⁵

Other means by which the state has frustrated return include compelling potential returnees to sign forms containing a disclaimer that they would not seek damages from the state for displacement, thus relinquishing their legal right to gain compensation and absolving the government of responsibility for their displacement. In some cases villagers reported being obliged to state that they were displaced due to terrorism⁸⁶ or that they left voluntarily.⁸⁷ A strong military presence is also maintained in the countryside. Military vehicles are increasingly sighted, military checkpoints are cropping up again,⁸⁸ and individuals are prevented from accessing grazing land on the basis of 'security concerns'. While the scale of the fighting is by no means on a par with that which occurred in the 1990s, it threatens to destabilize the region again and overturn the very tentative steps towards return which are being taken. Furthermore, the increase in state military presence in the southeast is basically a political decision aimed at continuing the harassment of the Kurds and perpetuating displacement.

Turkey has been very reticent about providing remedies for state-induced displacement. Homes, crops and livestock, infrastructure and personal property were unlawfully destroyed or confiscated by the state during the conflict years and little or no compensation was usually paid, leaving large numbers of displaced villagers impoverished. A local NGO found that 96.6 per cent of IDPs had suffered loss due to forced eviction or house demolition, 72.4 per cent noted personal property loss, and 88.4 per cent had their houses destroyed or were forced to evacuate.⁸⁹ Provision for compensation was set out in Law No. 2510 under OHAL, but because many of the village evacuations were carried out extra-legally without the authorization of the Governor, victims were left without redress. Under both the Turkish Constitution and Turkish administrative law, the state is strictly liable for 'any damage caused by its own acts and measures',⁹⁰ and IDPs and organizations acting in their interests have argued that the government is obligated to pay compensation for their losses.

On 27 July 2004, in a rare positive move on this issue, Turkey passed the Law on Compensation of Losses Resulting from Terrorist Acts, which should allow individuals subject to losses during the armed conflict in the southeast to apply to commissions established in relevant provinces to determine the payment of damages. Certain reservations have been expressed, including that the law excludes those found to have left their homes of their own 'free will', and

those convicted of aiding and abetting members of armed gangs.⁹¹ Subsequent to the passing of the law, the European Commission noted that the assessment criteria 'may allow for the possibility of restricting considerably the scope of the law'.⁹² There is also the drawback that commissions will be authorized by provincial Governors and led by Deputy Governors. These are 'the very authorities who presided over the original displacement and have performed so poorly in achieving returns'.⁹³

Turkey advertised the law poorly and many IDPs have not yet filed claims, and many more were unaware of the law due to the fact they were displaced to areas where the law was not advertised. As of December 2006 the Interior Ministry reported that 255,339 applications had been received, of which 48,723 (19 per cent) had been processed. There have been 25,628 (53 per cent) approvals, 16,837 applications rejected, and rulings that compensation had already been provided were given in 6,258 cases. According to government statistics, 61,436 applications from twelve provinces have been concluded so far, involving payment of 267,488 New Turkish Lira (YTL) and a further 116,000 YTL waiting to be paid.⁹⁴

There are also grave concerns that security forces who carried out illegal acts including killings, torture and the destruction of property have largely met with impunity. Turkey has showed no willingness to bring prosecutions against these individuals, and the European Court has ruled that Turkey has been reluctant to admit that its security forces were involved in these acts or to carry out impartial or meaningful investigations.⁹⁵ Convictions of security forces or Village Guards remain rare and sentences light.⁹⁶

THE INTERNATIONAL RESPONSE TO INTERNAL DISPLACEMENT IN TURKEY

That Turkey favours the perpetuation of displacement in the southeast is further evinced by her resistance to implement return even where international assistance is offered. International organizations have sought over a number of years to engage Turkey in multilateral initiatives aimed at achieving return, and between 26 May and 2 June 2002, the UN Representative of the Secretary-General on Internally Displaced Persons, Dr Francis Deng, conducted an important review of the situation in Turkey. Dr Deng observed that there was a lack of coordination between the government and the international humanitarian and development organizations based in the country

due to the latter's mistrust regarding the government's commitment to the returns process.⁹⁷ He then urged the Turkish government to collaborate with international governmental and non-governmental organizations in order to facilitate the return of displaced persons.⁹⁸ The European Commission in October 2004 recommended that future measures aimed at tackling internal displacement should 'address specifically the recommendations of the UN Secretary General's Special Representative for Displaced Persons'.⁹⁹

It is to be hoped that the small number of meetings so far held by Turkey with international partners will prove more than mere lip service designed to counter criticism at this crucial stage in the EU accession process, and be followed by implementation of realistic and appropriate return plans with adequate financial support and logistical backing, with intergovernmental collaboration as an integral element. Turkey has, however, been historically unwilling to internationalize the issue of displacement. The Commission reported in October 2004 that Turkey has begun a dialogue with international organizations to address the weaknesses of the Village Return and Rehabilitation Project and is 'preparing a survey as a first step in following up on these recommendations'.¹⁰⁰ Given the scale of displacement, the dire needs of IDPs in Turkey and Turkey's abject failure to date to implement suitable return plans or remove impediments to return, the preparation of a survey seems a remarkably paltry step towards addressing the situation. Nevertheless, and despite expressing serious concerns over the current circumstances of the displaced, the European Commission recommended that Turkey had fulfilled the Copenhagen Criteria for the opening of accession negotiations, perhaps missing an important opportunity to seek the imposition of more robust conditions on return.

Turkey's response to internal displacement is not only politically and morally reprehensible, but also breaches international standards. The problem of internal displacement has been increasingly recognized in recent years, and in response to mounting concern a series of Guiding Principles on Internal Displacement were drawn up by the UN Special Representative on Internally Displaced Persons.¹⁰¹ These principles consolidate existing international standards, and have been widely endorsed within the UN, by the OSCE and among governments, NGOs and displaced communities. They now represent the benchmark for treatment of IDPs. It is evident that displacement which occurred in Turkey during the 1980s and 1990s did not comply with these Principles. The Principles grant the right to protection

against arbitrary displacement,¹⁰² and set out that displacement should last 'no longer than required by all the circumstances'.¹⁰³ During displacement the right to life must be respected,¹⁰⁴ persons must not be subjected to acts of violence,¹⁰⁵ and no one should be arbitrarily deprived of property or possessions, including from 'direct or indiscriminate attacks or other acts of violence', or from 'being destroyed or appropriated as a form of collective punishment'.¹⁰⁶

Of particular significance for the current situation of the displaced in the southeast, Principle 28 provides:

Competent authorities have the primary duty and responsibility to establish the conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.

Turkey's programmes to assist the displaced, which focus on resettlement in new villages, and her reluctance to allow or facilitate villagers to return to their original homes, raise problems under this provision. The European Court of Human Rights has ruled in the considerable number of cases brought against Turkey by Kurds with the assistance of the Kurdish Human Rights Project that she bore responsibility for destroying the applicants' homes,¹⁰⁷ and that the suffering of some of the applicants during the destruction of their homes was so serious as to amount to a violation of the prohibition on inhuman treatment under Article 3.¹⁰⁸

Further international standards of relevance include those relating to forced eviction in accordance with the right to adequate housing and other economic and social rights, for example, the UN Commission on Human Rights confirmed that forced eviction constitutes a gross violation of human rights, in particular the right to housing.¹⁰⁹

A public commitment to return and resettlement by the Turkish government masks massive underinvestment and bureaucratic stalling in relation to resettlement plans, an almost total absence of efforts to remove the substantial impediments to return, the perpetuation of state-designed obstacles to return, a preference for resettlement in state-controlled, centralized villages, and the continued employment of enforced displacement through military means and via large-scale infrastructure projects.

These factors all serve to underline that Turkey is content to 'wear the villagers down to a state of resignation'¹¹⁰ and make permanent the de facto change in the ethnic makeup of the countryside. Frustrating the return of the displaced is not just a series of bureaucratic oversights by Turkey, nor an indication of a lack of resources or failure to supervise the implementation of return plans at a local level. Turkey's reasons for generating displacement from the Kurdish villages in the first place have not substantially receded, and with the security threat now growing again, Turkey remains content to uphold the current status quo whereby Kurds have been removed from their villages and resettled in provincial towns, cities in the east or new, centralized villages close to municipal centres. This suggests that little has truly changed in Turkey, as she continues to aim at dissipating Kurdish regional dominance in the southeast and thus lessening the 'threat' of Kurdish separatism. She is not prepared to tackle the problem at root, as discussed above, and it seems that the international community, and particularly the EU, is unwilling to fulfil its responsibilities to compel her to do so. Meanwhile, thousands of poverty-stricken IDPs live in abject conditions in the city slums and are denied socio-economic relief.

9

The EU and the Kurds

EU accession offers the Kurds a crucial and unprecedented opportunity to finally shake off Turkish oppression, end the cycle of violence and vilification to which they have been subject for so many years and live freely as Kurds within the borders of their home state. This prospect, though, can only be achieved if it becomes the mutual aim of Turkey, the Kurds and the EU. The pro-EU reform process has a great capacity for stimulating change, and a number of taboo-breaking, albeit largely symbolic, transformations have already occurred. The 'carrot' of EU accession is proving in Turkey to be a more potent incentive for improving democratic standards than any other form of outside pressure, bringing together different voices from across Turkish society in support of democratic reform.

For the EU to ensure that Turkey genuinely tackles the substantial outstanding impediments to democratization, it is imperative that the Union deals openly and robustly with the situation of the Kurds. The severe human rights violations which continue to occur in the Kurdish regions, Turkey's extreme reticence in countenancing greater minority rights protection or constitutional reform, and the ongoing conflict situation in the southeast together constitute major obstacles to Turkey's fulfilment of EU standards. The apparent intractability of Turkish hostility towards the Kurds suggests that this is not a situation which will simply dissipate in time, and nor will the fundamental change necessary to transform deep-rooted ideological beliefs be achieved unless sustained efforts are directed towards this end.

EUROPE'S ROLE IN SOLVING THE KURDISH QUESTION

Europe has a historical responsibility towards the Kurds, and is politically and morally obliged to facilitate a just and peaceful resolution of the Kurdish issue. European states did, after all, build the foundations of the current situation in the Kurdish regions by failing to uphold an independent Kurdistan in the wake of the dissolution of the Ottoman Empire. At a time when self-determination, effected through the creation of independent, ethnically-based new states

was in vogue, American President Woodrow Wilson had specifically undertaken in his well-known 'Fourteen Point Program for World Peace' to assure to the non-Turkish minorities of the Ottoman Empire 'an absolute unmolested opportunity of autonomous development'.¹ This was part of a broader Allied strategy to redraw the map of Europe along ethnic lines, and hence stave off outbreaks of ethnic conflict. The post-First World War Peace Conference at Versailles endorsed the notion that self-determination was an 'imperative principle of action', and went on to carve up old empires and allow groups in Poland, Czechoslovakia and Yugoslavia self-rule. The principles expounded at Versailles proved extremely influential in international thinking on the nation state, and the right to self-determination was later incorporated into the UN Charter and the major human rights treaties.

Accordingly, the Treaty of Sèvres, signed by the Allied Powers and the Ottoman government in 1920, envisaged an independent Kurdish state. Under Article 62 a Commission appointed by the French, Italians and British would draft a scheme of local autonomy for the Kurdish areas lying east of the Euphrates, south of Armenia and north of Syria and Mesopotamia, with safeguards for Kurds in other areas.² Under Article 64 Turkey would renounce all rights to the area if, after one year, the majority of Kurds called for independence, subject to a recommendation by the League of Nations.³

However, the dictates of realpolitik took over. The British, who were appointed as the mandate authority over the former Ottoman provinces of Mesopotamia, failed to make substantive progress towards Kurdish independence and, in the face of considerable opposition from Baghdad and Ankara, ultimately deemed instead that the predominantly Kurdish vilayet of Mosul must be ceded to the new Iraq. This effectively meant an end to plans for an autonomous Kurdish homeland, and was decided despite a provision in the Treaty of Sèvres that a plebiscite would be held in the area. It is hard to avoid the conclusion that British interests in keeping Mosul's rich oil supplies within British-controlled Iraq played a significant role in her failure to insist upon the implementation of Sèvres, although issues such as British concerns over the feasibility of border defences also played a role.⁴ In any case, the Treaty was rejected by the new Turkish Republic, and the Kurds were abandoned to their fate under Atatürk's nationalist government when Turkish sovereignty over what is now southeast Turkey was officially recognized in the Treaty of Lausanne.

Developments since Europe washed its hands of the Kurds in the 1920s further compel the view that responsibility for ameliorating the situation of the Kurds must be placed firmly at Europe's door. Europe has failed substantially to issue any real condemnation of Turkey's policies towards the Kurds, despite the fact that for many years a brutal armed conflict accompanied by a high incidence of torture was occurring on her doorstep. This stems to a significant extent from European conceptions of the Turkish regime as a benign Western ally, a NATO member and a prospective EU partner. The Kurds in Turkey are seen in Europe through Ankara's eyes, frequently portrayed in the press and elsewhere as violent terrorists engaged in an illegal separatist campaign. It has often been pointed out that mention of the PKK in European media is usually followed by a stock reference to the deaths of over 30,000 people in the Turkish-Kurdish conflict, but the fact that most of the deaths were of Kurds is not mentioned.⁵ The Iraqi Kurds, on the other hand, have been portrayed far more sympathetically as their interests have been aligned with those of the West in their opposition to the Ba'athist regime. This is despite the severe violations of human rights which have occurred in both countries.

Indeed, far from calling Turkey to account for her treatment of the Kurds, Europe has provided the raw materials for her anti-Kurdish military operations in the form of assisting Turkey to develop a formidable arms industry and supplying weapons often for free or at greatly reduced cost.⁶ Two reports in the 1990s highlighted that specific weapons systems supplied by EU member states and used in Turkey were linked to individual incidents of Turkish violations.⁷ Such equipment was found to have been used to carry out village evacuations, indiscriminate fire, torture, and summary executions.⁸ It has been suggested that the lack of public criticism of Turkey's treatment of her Kurdish citizens was a reward for her support for Operation Provide Comfort (the enforcement of the Kurdistan, Iraqi, safe haven).⁹ The EU continues to supply arms to Turkey¹⁰ in spite of the fact that the Union has undertaken not to supply weapons where there is a 'clear risk that the proposed export might be used for internal repression'.¹¹

Further examples of European relations with Turkey are illustrative of a marked failure to defend Kurdish rights against the Turkish state. The current construction of the BTC pipeline is a case in point; the project, which will transport Caspian oil to the West via the Kurdish regions, involves numerous ongoing and potential social,

human rights and environmental violations. It is also predicated on the provision of at least US\$1.5 billion in public money from international financial institutions, including the European Bank for Reconstruction and Development, as well as from the export credit agencies of the major Western nations. Within Europe, the EU bowed to pressure from Turkey to include the PKK on its list of terrorist organizations in spite of a five-year unilateral ceasefire enforced by the organization at that time. Demands from Ankara are also responsible for repeated closures of Kurdish satellite media networks in Europe.

Europe's response to the hardships endured by the Kurds over the past 80 years has, then, been at best muted, and at worst suggestive of complicity. This provides a stark contrast with European reactions to Saddam Hussein's treatment of the Iraqi Kurds, which has been condemned by the European Parliament as 'an active policy of persecution' which included 'the complete destruction of their identity',¹² and served as a partial justification for the US-led invasion of Iraq in March 2003.¹³ Now, more than ever, as Turkey prepares to move yet closer towards her European allies and seek membership of the exclusive EU 'club' of civilized nations, Europe should not back away from its responsibilities, and should make use of the historic opportunity to assist Turkey towards a peaceful future based on full respect for the equal and fundamental rights of her Turkish and Kurdish populations.

The EU, as the political body of Europe, has a legal responsibility to address the Kurdish situation. Most obviously this is because Turkey's treatment of the Kurds continues to defy the political elements of the Copenhagen Criteria, that is the protection of human and minority rights, the fulfilment of which is a prerequisite to the opening of formal EU accession negotiations. It has already been highlighted that the EU accession process will fail to bring about a modern, democratic Turkey if the relevant criteria for accession are not applied with sufficient vigour, as has the potential damage to the EU should such an eventuality arise. If the Kurdish issue is not addressed, the EU will pass over an unparalleled opportunity to bring lasting peace to the southeast and implicitly legitimize Turkey's treatment of the Kurds, as well as sidelining what must, in the broader context of the need to overcome chauvinistic sentiments of ethnic nationalism within Turkey, be regarded as a touchstone issue in the accession process.

The EU itself has recognized the centrality of the Kurdish issue to Turkey's reform process. In its 1998 report on Turkey's progress

towards the accession, it was observed that 'A civil, non-military solution must be found to the situation in south-eastern Turkey, particularly since many of the violations of civil and political rights observed in the country are connected in one way or another with this issue.'¹⁴ The European Parliament, in its consideration of the situation in Turkey, has similarly underlined the importance of taking steps directly to deal with the Kurdish issue. It has urged 'a comprehensive solution for the aspirations and problems of the Kurdish population and to Constitutional provisions on cultural rights'.¹⁵ Interestingly, the Parliament has also expressed concern in calling 'for the issue of the rights of the Kurdish people and other ethnic groups not to be overlooked in negotiations for Turkey's accession'.¹⁶

Signs from the EU over the past four to five years do not portend a constructive approach to the situation of the Kurds in the accession process. Although the EU made a remarkably positive start in 1998 by openly naming the Kurdish issue and citing its resolution as a precondition to accession, references to the Kurds in EU documentation have become more and more subdued and oblique as time has worn on.

Prior to the Helsinki Council decision of December 1999, which concluded that Turkey would become a candidate for EU accession on the same basis as the other accession countries, open references were made to the need to resolve the Kurdish situation fully and comprehensively before accession could occur. It has already been noted that the Commission referred in 1998 to the imperative of finding 'A civil, non-military solution'¹⁷ to the situation in southeast Turkey. This was reiterated in 1999 when the Commission criticized Turkey's failure to make progress on the 'Kurdish question'.¹⁸

In more recent EU literature, however, there is a striking tendency to skirt around the Kurdish issue using euphemisms such as 'the situation in the southeast' or 'regional disparities'. By the time Turkey's first Accession Partnership was drawn up in 2001, although reference is made to the need to address the Kurdish situation as a short-term priority, the language used is decidedly more obscure. Turkey is obliged to: 'Develop a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the southeast, with a view to enhancing economic, social and cultural opportunities for all citizens.'¹⁹ The words 'Kurd' or 'Kurdish' do not appear in this context.

It was anticipated that the decision made in 2004 to open negotiation talks would herald new possibilities to mainstream Kurdish concerns,

and that negotiation talks could offer unprecedented political space to press for human rights and to draw attention to the need for political dialogue between Turkey and the Kurds. However, in recent years the European Union, in particular the Commission, has pursued an approach of toning down references to the Kurdish question in Union literature.

This tendency is particularly noticeable in the Commission Report of 2004, in which the only real reference made to the Kurdish issue as a discrete question is heavily cloaked in bland, sterile terms and fails to convey either the reality or the seriousness of the issue: 'The normalisation of the situation in the south-east should be pursued through the return of displaced persons, a strategy for socio-economic development and the establishment of conditions for the full enjoyment of rights and freedoms by the Kurds.'²⁰ Upon reading the 187-page Commission report, it is glaringly apparent that the language used to refer to the Kurds is concertedly and very deliberately chosen to avoid describing the treatment of the Kurds as an 'issue' in itself. The report pointedly steers clear of alluding to the 'Kurdish question' or of making any statements which could imply that the situation of the Kurds in Turkey is a substantive and complex issue in its own right. It follows, then, from the Commission's failure even to name the Kurdish issue, that there is no mention anywhere in the report of the need to seek a comprehensive solution to it. Many recommendations are made with regard to the Kurds throughout the report, but none encourage consideration of the issue as such, or promote the achievement of a negotiated, political solution. The Commission's assertion in 1998 to the effect that such a solution was required has been effectively abandoned, despite the fact that no tangible progress has been made on achieving this goal since that time.

There is, then, no attempt by the Commission to bring any kind of reasoned analysis to bear on the Kurdish issue. Instead, the Commission's approach to the Kurds is to treat their plight as merely incidental components of a wide and seemingly disparate array of other outstanding issues in Turkey's record on human and minority rights. Many of the various aspects of the Kurdish issue, or at least their outward manifestations, do find reference in the report, but only as subsidiary elements of whichever topic is then under consideration by the Commission.

This can be illustrated by way of a number of examples. Fairly detailed reference is made to Turkey's progress on permitting

Kurdish language television and radio programmes to be aired in the context of changes in broadcasting and freedom of expression, and legislative reforms which allow the limited teaching of Kurdish in private language schools is discussed in relation to cultural rights. Harassment of Kurdish organizations is mentioned as an element of freedom of association, and the restrictions on Kurdish political participation are referred to in the report's section on political rights. Thus the Kurdish issue is treated in the 2004 report as if its resolution were possible through responding to the Kurdish dimension of an assortment of unrelated human rights abuses which should not be specifically differentiated from Turkey's overall record on compliance with the Copenhagen Criteria.

The approach towards the Kurdish question expressed by the Commission in the 2004 Regular Report is problematic as the report provided a departure point for the commencement of accession negotiations. By concluding in 2004 that Turkey had 'sufficiently fulfilled' the Copenhagen Criteria, the Commission has effectively sidelined from the accession sphere any substantial discussion or analysis of the Kurdish question.

There would be nothing inherently wrong with this approach – except that the reality of the serious and continued violations of human rights in Turkey is substantially underplayed – had the Commission also acknowledged that a broader and more complex problem existed at a deeper level, and accordingly provided an analysis of the Kurdish issue *per se*.

In the 2004 report, the Commission at no stage acknowledges that the problems faced by the Kurds in Turkey have a single cause, namely the tenacity of ethnic nationalism in Turkey and its concomitant hostility to any expression of Kurdish identity. Despite frequent references to the Kurds as victims of human rights violations, there is no attempt to place these issues in the context of the deep-rooted antipathy towards the Kurds as a people from which they spring. The report lists several examples of impediments to the return of hundreds of thousands of Kurds to their homes which cannot be deemed anything other than intentional policies of the state, yet it is never intimated that these practices amount to a broader, state campaign to prolong displacement. Similarly, limitations on pro-Kurdish expression, restrictions on Kurdish cultural rights, judicial harassment of Kurdish human rights defenders and the exclusion of Kurds from effective political participation are not presented by the Commission as having any kind of ethnic dimension. By way

of contrast, the 1998 Commission report refers explicitly to the fact that 'objective and independent reporting by Turkish media of the Kurdish issue is not possible',²¹ and that 'Kurds who publicly or politically assert their Kurdish ethnic identity risk harassment or prosecution'.²²

It might be thought that the consideration afforded to minority rights by the Commission must provide a context for an examination of the situation of the Kurds. In fact, the report's section on minority rights barely refers to the Kurds. Very little is made of the absence of the Kurds from the state definition of a minority contained in the Turkish Constitution, despite the fact that the Kurds make up nearly a quarter of Turkey's population. The only comment on the Kurds contained in the section on minority rights is a qualification to the observation that the Treaty of Lausanne recognizes only non-Muslim minorities, with the Commission noting: 'However, there are other communities in Turkey, including the Kurds.'²³ The 1998 Commission Report by contrast gives a fuller and more explicit analysis, noting: 'In Turkey there is a *de jure* and *de facto* difference in the treatment accorded to minorities officially recognised under the Lausanne Treaty and those outside its scope.'²⁴ It added that 'The Turkish authorities do not recognise the existence of a Kurdish minority, considering them to be simply Turks of Kurdish origin.'²⁵

After official accession negotiations were opened in October 2005 this tendency to skirt around the Kurdish issue has dominated the approach of the EU, and in particular that of the Commission. Although some progress in the Union's approach towards the plight of the Kurds in Turkey can be detected, overall it remains inadequate. This is illustrated by the fact that the Negotiation Framework for Turkey, adopted in November 2005 fails to highlight the importance of reaching a solution to the Kurdish issue. The Negotiation Framework states 'that the Union expects Turkey to sustain the process of reform and to work towards further improvement in the respect of the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms'.²⁶ However, the document does not list, as a precondition for advancement of accession negotiations, a solution to the Kurdish issue. The framework follows the approach adopted by the Commission in its 2004 Regular Report; by stating that the Commission must address 'all points of concern' identified in that report, the framework reconfirms that the issues against which to measure Turkey's reform process in future negotiations, are the issues identified in the 2004 Regular Report. Consequently,

the framework grants the Commission *carte blanche* to continue to pursue its tendency to classify the plight of the Kurds as merely one of the many consequences of Turkey's poor human rights record.

The 2005 Progress Report, released shortly after the adoption of the Negotiation Framework, consequently follows the same path as the 2004 Regular Report regarding the Kurdish issue. The situation of the Kurds is not treated as a separate subject matter, nor is it subjected to any form of separate analysis. On the contrary, the plight of the Kurds is analysed as a part of the section concerning 'minority rights, cultural rights and the protection of minorities'.²⁷ The Commission limits itself to some preliminary remarks on the teaching in Kurdish and the respect for the use of the Kurdish language, before finding it notable that the Turkish Prime Minister Erdoğan in August 2005, for the first time, used the term 'Kurdish issue'. However, despite using the same term itself, the Commission fails to specify why this statement is of significant importance. It further concludes that in relation to the situation in the southeast, where 'most people are of Kurdish origin, progress has been slow and uneven'.²⁸ In this regard, the Commission fails to explore the connection between the slow and uneven reform process in this region, and the fact that the region is mainly populated by Kurds.

In the 2005 report the problems facing the Kurdish minority in Turkey are addressed in the framework of human rights violations in general, but the Commission passes by the opportunity of examining the plight of the Kurds in the framework of the situation in the southeast. For example, regarding the issue of torture the Commission mentions that reports of torture and ill-treatment remain frequent, but fails to highlight the fact, that the majority of these torture cases occur within the mainly Kurdish area of the southeast.

The 2004 and 2005 Commission reports effectively appear to accept Turkey's constitutional denial of the existence of the Kurds as a minority by providing no examination of Turkey's fulfilment of the substantive elements of minority rights provisions in relation to the Kurds, and no analysis of their situation as a group or people within Turkey. Furthermore, Turkey's failure to sign the Framework Convention for the Protection of National Minorities or to adhere to any other minority protection treaty is not placed in the context of her deep-rooted antipathy towards her Kurdish population, and nor is it insisted upon as a precondition to accession.

It is interesting to note in this context that the EU took a very different approach to the status of another marginalized minority,

the Roma, during the EU enlargement process. Far from sidelining examination of their situation, the EU has developed a specific and comprehensive policy towards the Roma. The EU's Agenda 2000 set out how each candidate country was fulfilling the Copenhagen Criteria, including the protection of minorities, and referred specifically to 'the situation of the Roma minority in a number of applicants [countries], which gives cause for concern',²⁹ while EU Annual Enlargement Strategy Papers referred repeatedly to the need to address widespread discrimination against the Roma.³⁰ National Action Plans designed to tackle these problems were implemented in each relevant state in close cooperation with Roma representatives and with extensive EU 'Phare' funding.³¹ The European Initiative for Democracy and Human Rights, under the leadership of the Directorate General for External Relations, has also allocated considerable resources to projects directed at the Roma communities of Central and Eastern Europe.³²

However, as of 2006, there appears to have been a slight change in the way the Union addresses the plight of the Kurds. The revised Association Partnership, adopted by the Council in January 2006, lists as a short-term principle, that Turkey, in relation to the situation in the southeast, must secure the development of a comprehensive approach in order to reduce regional disparities so as to enhance 'economic, social and cultural opportunities for all Turkish citizens, including those of Kurdish origin'.³³ This approach is followed up by the Commission in the 2006 Progress Report. Here the Commission, for the first time in years, addresses the situation of the Kurds in the framework of the situation in the southeast, concluding that a return to normality in this region 'can only be achieved by opening a dialogue with the local counterparts'.³⁴ The Commission further suggests that '[a] comprehensive strategy should be pursued, to achieve the socio-economic development of the region and the establishment of conditions for the Kurdish population to enjoy full rights and freedoms'.³⁵ With this statement, the Commission thus encourages Turkey to recognize and engage in dialogue with the Kurdish population of the regions, in order to achieve security and development of the region, thus indicating that the Kurdish issue cannot be resolved without the involvement of the Kurds.

ASSESSMENT OF THE EU'S APPROACH

It must be asked whether the approach to the Kurds exemplified in EU literature constitutes an adequate response to the Kurdish issue.

The EU's approach to the Kurdish issue is of crucial importance to the future security of the Kurds in southeast Turkey. The EU currently has considerable leverage over internal developments within Turkey, and wields the best opportunity for inducing Turkey to improve her treatment of her Kurdish population.

Not all European institutions have followed the Commission's current fudging of the Kurdish issue, and have instead openly named it and called for its resolution. The European Parliament's Foreign Affairs Committee responded to the release of the 2004 Commission Response by urging 'the Turkish government to take more active steps to build reconciliation with those Kurdish forces who chose to abandon the use of arms' and called on Turkey 'to put an immediate end to all activities discriminating against ... religious communities and to protect the fundamental rights of all minorities and Christian communities'.³⁶ The European Parliament expressed hope for

a comprehensive solution for the aspirations and problems of the Kurdish population' including 'Constitutional provisions on cultural rights that will entitle the different cultural communities on Turkish soil to affirm their identity freely without jeopardising the unity of the country.'³⁷

It also called for the taking of 'all necessary measures to establish a lasting social peace' in the southeast.³⁸ The European Commission's own 2004 Working Document asserted that 'The situation of the Kurdish and other minorities in particular will have to be addressed comprehensively.'³⁹

The Council of Europe, which is, of course, much freer from political constraints than the European Commission, continues to refer openly to the 'Kurdish question' and included an entire section on this issue in a 2004 report.⁴⁰ Indeed, it even goes so far as to call for the instigation of local autonomy in the southeast, particularly through the decentralization of educational and cultural powers to the regional level, adding:

Without wishing to create a direct link between the reform of local and regional government and the terrorism that blighted the region until 1999, the co-rapporteurs believe that such changes could help to remove the frustrations that developed during the era of PKK activities.⁴¹

Considering this background it is encouraging that the Commission appears to follow the lead of other European institutions and is now showing more willingness to address the Kurdish issue. Although this is not explicitly mentioned in the Accession Partnership nor the 2006 Regular Report, the fact that the Union recognizes the relationship between the situation in the southeast and the plight of Kurds is encouraging and does represent a change in attitude.

However, by concluding that in order for the Kurdish population to enjoy full rights and freedoms, a comprehensive strategy for the southeast should be pursued, the Commission sends a message that these two issues are interchangeable. This approach is unfortunate since it shifts focus from the real cause of the problem: the plight of the Kurds is a direct consequence of Turkey's deep-rooted antipathy towards the Kurdish peoples, and the situation in the southeast generates from the fact that the region is predominantly inhabited by Kurds. Instead the Union has a tendency of using the term 'situation in the southeast' as a euphemism for the Kurdish issue.

In the 2006 Progress Report, the Commission failed to adequately address the plight of the Kurds in the framework of this situation and it did not account for the fact that it is because of the Kurdish issue that the situation in the southeast remains problematic, and not vice versa. Further, the Commission argues that it is the lack of socio-economic development in the region, which prevents the Kurds from enjoying full rights and freedoms, bypassing the real cause of the problem. This approach is unfortunate as it provides the Commission with an excuse not to criticize Turkey on her behaviour towards her Kurdish minority and it escapes having to address the situation of the Kurdish minority as 'an issue' in itself. Hence, the Commission's approach, although more progressive than seen in years, remains insufficient as it fails to fully grasp the complex nature of the issue.

The primary point to make in this regard is that the Kurds, by far the largest non-Turkish ethnic group in Turkey, have for decades been subject to particularly brutal and longstanding policy of subjugation and marginalization aimed at crushing their identity. The concept that the Turkish state is founded upon an overarching, unified national identity remains extremely powerful, and the imposition of cultural homogeneity continues to be seen as vital to securing Turkey's future as a national republic. Hence the expression of the Kurdish identity is still currently met with outright hostility both politically and legally.

Turkey's behaviour towards the Kurds, then, cannot be separated from their status as Kurds. Kurds are harassed and ill-treated not simply as a result of legislative gaps in the pro-EU reform process or inadequate controls on public authority behaviour, as implied by the Commission report. Nor are human rights violations against the Kurds a series of unconnected instances of state behaviour, or the mark of an occasional tendency to discriminate against a non-dominant minority. Rather, they are the outward manifestation of a longstanding and deeply embedded hostility towards the Kurds as a people. The Kurds are targeted because they are Kurds.

Granting Turkey access to the EU negotiating table without significant progress towards resolving the Kurdish issue has serious implications for the future security of Turkey's Kurdish population. Forging ahead with accession before the situation of the Kurds is adequately addressed attaches unwarranted legitimacy to Turkey's treatment of them, and suggests that the issue is of secondary importance and requires no particular sustained or comprehensive attempts at resolution. It thus detracts from attempts to demonstrate the significance of the pressing outstanding need to achieve a negotiated solution to the Kurdish issue. In deciding that Turkey has fulfilled the Copenhagen Criteria, then, the EU has manifestly failed to fulfil its responsibilities towards the Kurds. It has given Turkey a green light to go on ignoring the Kurdish question altogether and dashed the hopes of millions of Kurds that EU accession would herald a process of true democratization in Turkey in which their status would at last be addressed.

It has previously been stressed that human rights violations which bear no overt relation to Kurdish cultural or other rights will frequently have a Kurdish element. Torture, for example, remains most prevalent in the Kurdish-dominated southeast, but there is no acknowledgement in the report that Kurds may be particularly vulnerable to torture. Nor is there any mention in the section on freedom of expression that those advocating pro-Kurdish viewpoints or openly discussing the traditionally taboo subject of the Kurdish question are particularly subject to harassment. Moreover, the abuses suffered by the Kurds are compound and interlinked. There is a close and obvious relationship between, for example, state unwillingness to implement return programmes for the displaced, state repression of publications referring to protracted displacement and judicial harassment of groups aiming at ameliorating the situation of the displaced.

In this context, the implications of the Commission's failure to prescribe an acceptable solution to the Kurdish issue as a precondition for the commencement of accession negotiations are potentially serious. It is difficult to conceive that the complex and enduring difficulties faced by the Kurds in Turkey can be resolved purely by occasional reference to individual human rights violations. Furthermore, the Commission's approach in denying the integral nature of this situation edges out the prospect of encouraging Turkey to acknowledge that there exists a Kurdish 'issue' to be addressed at all. Instead, it implicitly upholds the widely held Turkish view that there is no problem in the Kurdish regions requiring resolution except a 'terrorism' problem which occupies only the military domain. Those advocating sustained and comprehensive efforts to achieve peace and justice in the southeast, including the Council of Europe, are effectively sidelined, with the highly unfortunate result that the grave need for constructive political dialogue between the parties, and for a politically negotiated solution in the southeast, is undermined.

In recent years, EU leaders have singularly failed to issue any statement on the Kurdish issue or promote any democratic platform or meaningful discourse about the issue. Crucially, this also means that the Kurds themselves are precluded from contributing to the search for a negotiated solution in the southeast, and certainly there has been a marked failure by the Commission to consult adequately with Kurdish groups and representatives and to take into account Kurdish views. The acceptance of Turkey as the only real party to EU negotiations exacerbates the risk that the accession process will fail to address the Kurdish issue in a locally coherent way or respond to Kurdish concerns on the ground.

There is also the fact that the glossy picture of an overall dynamic towards democratization, respect for human rights and pluralism painted by the Commission, aside from failing to account for the grave human rights problems which remain in Turkey, belies the reality that Turkey's attitude towards the granting of minority rights and the Kurds shows little sign of genuine change. It is true that important steps recognizing Kurdish language rights have been taken, but the idea that the expression of alternative identities is a threat to the unitary, secular state remains powerful in Turkey. Democracy is extremely fragile, and behind its façade Turkey's old elites within the military and what is commonly referred to as the 'deep state' still secretly call the shots in the government of the country. These shadowy powers retain a tenacious adherence to a nationalist conception of

the state based on the exclusion of alternative identities. It follows that true democratic reform in Turkey is fundamentally predicated on ideological reform. Until the reactionary forces within Turkey which cling to their exclusionary Kemalist nationalism are overcome, there will be no acceptance of minority rights within the country. A pluralist democracy in which the rights of the Kurds are recognized and enshrined cannot be constituted in Turkey without reform of the official ethnic nationalist ideology of the state.

The EU's decision to open accession negotiations despite the absence of progress on the Kurdish issue has also served to weaken voices calling for much-needed political dialogue between Turkey and the Kurds. It cannot be stressed enough that the hardships of the Kurds in the southeast are not just a result of a series of unhappy coincidences which have left them marginalized and impoverished; Turkey has pursued a deliberately anti-Kurdish agenda for decades, comprehensively subjugating them, persecuting any expression of Kurdish identity and engaging in armed conflict with them. The Kurds and Turkey can only move on from here against a background of a political settlement mutually and openly agreed between Turkish and Kurdish representatives.

Therefore, it cannot simply be presumed that the subjugation of the Kurds will simply dissipate in time with the implementation of incremental legislative reforms, and it is worth recalling that Turkey has refused to implement a constitutional resettlement recognizing the existence of the Kurds and has so far been able to refuse to sign up to any international standards requiring the protection of minority rights. This is despite the Copenhagen Criteria mandate that she achieve the 'stability of institutions guaranteeing ... respect for and protection of minorities'.⁴² Turkey's own Justice Minister has referred to the profound differences between European and Turkish conceptions of minority rights.⁴³ The Kurdish issue will not go away unless it is addressed fully, openly, and at its ideological roots; and unless this is achieved, the EU will find that it is bringing a volatile, unresolved conflict within its borders.

The EU has a clear opportunity to strongly encourage Turkey to achieve justice and stability in the southeast, using its substantial influence to bring about transparent discussion between the two parties which could result in an enduring resolution of years of conflict and oppression. So far, the EU has seemed unwilling to make use of this opportunity.

THE KURDISH PERSPECTIVE ON EU ACCESSION

There has been some debate among the Kurdish community as to the desirability of Turkey entering the EU. Most Kurds, though, have tended towards being supportive; EU accession was seen to offer the Kurds their best hope of an end to decades of oppression and violence, of seeing their rights protected and their status secured, and most importantly, the opportunity to reach an enduring political settlement with Turkey and to consequently have a say in their own futures. Kurdish support for EU accession, though, is by no means a given. If the Kurds are ignored and the situation in the southeast is left unaddressed, as currently appears to be the case, many of the projected advantages of EU membership will be lost.

How far, then, is the accession process fulfilling Kurdish demands, and what is its potential to realize Kurdish security and a lasting solution to conflict and oppression in the southeast? Accession has proved it can act as a catalyst for change, demonstrated in the process of constitutional and legislative reform enacted by Turkey aimed at readying the country for the opening of formal accession negotiations. Although Turkey is still dogged by reactionary elites and human rights reforms have been largely cosmetic, some credit is deserved for the tentative steps towards an internal consensus in favour of liberal democracy, even if this consensus proves to be merely an outward show aimed at demonstrating to the EU that Turkey is changing.

The accession process itself presents the Kurds with potential 'hooks' upon which they may be in a position to press for their rights to be better respected. In particular, if the three-pillar approach⁴⁴ to accession negotiations set out by the Commission in its resolution of October 2004 is followed, the Commission will continue to play a central role in monitoring the reform process under the first pillar, including reviewing Turkey's continued compliance with the Copenhagen Criteria. As noted above, a 'serious and persistent breach' of human rights can lead the Commission, on its own initiative or on the request of one-third of the member states, to recommend the suspension of negotiations and propose the conditions for eventual resumption.⁴⁵ The Council will decide by qualified majority on such a recommendation. Whether or not this mechanism would, in fact, be used, is another issue. Prime Minister Erdoğan has, perhaps predictably, argued that suspension of negotiations would show a

lack of respect for Turkey's democratization process and conflict with the EU's own principles.⁴⁶ It does, though, offer a significant point of departure for Kurds to argue forcefully that accession negotiations should be suspended if there are no substantial improvements in Turkey's respect for Kurdish cultural and linguistic rights, if a further intensification in fighting in the southeast occurs, or if Turkey maintains her unwillingness to move towards democratically resolving the Kurdish issue.

Under the third pillar, the EU is expressly committed to strengthening political and cultural dialogue between Turkey and the EU, and civil society is set to play a key role in any such dialogue, facilitated by the EU itself. Thus fora will be created to discuss viewpoints and concerns on issues including minority rights.⁴⁷ Dialogue and debate engaged in by NGOs and civil society actors can supply an arena for raising information levels and generating interest in the ongoing plight of the Kurds in Turkey, as well as providing a platform for the exchange of ideas on how best to move forward.

More broadly, accession heralds new possibilities to mainstream Kurdish concerns, and opens unprecedented political space to press for human rights and to draw attention to the need for political dialogue between Turkey and the Kurds. It is evident that accession negotiations will invite a great deal of attention over the coming years, particularly in the event of significant milestones such as the drawing up of the new framework for negotiations expected in spring 2005. Attention drawn to EU-Turkey relations can be utilized to bring the Kurdish issue to the fore of political debate in Brussels and Turkey. This observation is, though, substantially qualified by the fact that the situation of the Kurds received rather scant consideration in the run-up to the Council decision of 17 December 2004, with political debate and media outlets focusing instead on immigration concerns, Turkey's economic underdevelopment and, to a lesser extent, the broader human rights picture. Where the Kurds were mentioned, this was virtually exclusively in relation to Turkey's non-recognition of cultural and linguistic rights in the southeast; virtually nothing has been made of the resurgence of armed conflict and Turkey's refusal to countenance a political solution to the Kurdish issue.

Full EU membership will impose checks on the behaviour of the Turkish state, and could ultimately provide the Kurds with some of the tools necessary to protect their political and legal status within

Turkey. From inside the EU, Turkey can be brought under the sway of liberal democratic ideals, and transgressions of acceptable behaviour can be controlled through political influence and legal action. EU directives impose direct and legally enforceable obligations on member states to prohibit racial and other forms of discrimination, and to provide practical support to victims of discrimination.⁴⁸ Moreover, the Treaty of the European Union sets out that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, and under Article 49 only a state which respects these principles can become a member of the Union. It should be added, though, that the term 'human rights and fundamental freedoms' here is generally seen to refer to the rights and freedoms guaranteed in the European Convention on Human Rights (ECHR), to which all EU member states are party. Unlike the political elements of the Copenhagen Criteria, there is no explicit inclusion of the protection of minorities.⁴⁹

The Union's recently agreed Charter of Fundamental Rights⁵⁰ is the most detailed and comprehensive EU document on human rights. The charter is professed to combine in a single text for the first time the whole range of civil, political, economic and social rights of European citizens and all persons resident in the EU. Importantly, again, there is no reference to the rights of minorities as such, and the charter only prohibits discrimination on the basis of membership of a national minority and advocates respect for cultural, religious and linguistic diversity.⁵¹ In any event, the charter is not a treaty, constitutional, or legal document, but has only the rather indefinite status of a 'solemn proclamation' by the Commission, Council and Parliament. While the institutions subject to the proclamation, as well as the European Court of Justice, are unlikely to act in contravention of it,⁵² and it may be taken into account by individual national law courts, it is not yet legally binding⁵³ and cases cannot be brought on the sole grounds of a violation of the charter. The new EU Constitution, signed in October 2004 but yet to enter into force, incorporates the rights set out in the charter and specifically expounds the rights of minorities.

The current lack of explicit minority protection provisions in EU legislation is of considerable concern to the Kurds in Turkey, given growing uncertainty over their future status as Turkey progresses closer towards EU membership despite the absence of a Turkish-Kurdish settlement. It also, then, serves to underline the importance of the EU

recognizing and addressing the Kurdish issue openly, and fulfilling its duty to press for the establishment of genuine democracy and respect for minorities in Turkey by setting up a democratic platform for the discussion of possible solutions to the Kurdish question.

More broadly, it is this crucial element of facilitating political dialogue – crucial both to the future security of the Kurds and to the process of democratization in Turkey – which must be incorporated into the accession process for EU membership to have any resonance for the Kurds, and which has so far been ignored in Europe and by the institutions of the EU. Certainly the aspects of the EU accession process and eventual membership which point to a greater voice for Kurds, improved access to European networks and a greater capacity to press for their rights are all positive developments, as are any improvements in the human rights situation in the southeast which occur as a result of EU pressure. However, at root the Kurdish question is a political one and it demands a political answer. The marginalization of the Kurds from public discourse, including on EU accession, and the severe human rights abuses which have taken place in the Kurdish region are symptomatic of the deeper problem of the status of the Kurds in Turkey. As long as the Kurds are not acknowledged in Turkey, as long as they are excluded from constitutional recognition and viewed by the state essentially as unassimilated Turks, EU accession will prove little more than an unfulfilled promise.

So far, Turkey has got away with ignoring the Kurdish question in implementing her series of pro-EU reforms, conceding only to make very limited concessions to the Kurds in the field of cultural and linguistic rights. The EU, in its turn, has not pushed the issue, and indeed seems to have made no overtures to Turkey suggesting that opening a political dialogue with the Kurds in the context of EU accession negotiations would be appropriate. Given the tragic consequences wrought by Turkey's hostility towards her 15 million-strong Kurdish population over the years, the deep-seated historical roots of the Kurdish question and its ongoing centrality to the process of democratic change in Turkey, it is a great shame that the EU has not yet taken advantage of the substantial leverage available to it to carry out its obligation to push for a lasting, peaceful solution in the southeast.

The great optimism with which many Kurds greeted Turkey's recent push towards accession is, then, fast evaporating as it is becoming

increasingly apparent that the much hoped for opportunity for both the Kurds and Turkey to openly recognize and address the Kurdish issue is being squandered. The prospects for the Kurds to finally shake off their historical oppression and enforced subservience to a hostile governing regime through the EU accession process, which at first appeared a real possibility, is gradually diminishing as the EU appears shy of bringing about the resolution of the Kurdish issue.

10

The Future of EU Accession

On 11 December 2006 the Council of Ministers, on the recommendation of the Commission, decided that accession negotiations with Turkey should not be opened on chapters covering those policy areas that were affected by Turkey's restrictions against the Republic of Cyprus. The Council's decision was a direct consequence of Turkey's failure to fully implement the Additional Protocol to the Ankara Agreement. As a party to this Protocol Turkey is obliged to open its borders for trade with all the new EU members who joined the Union in 2004, including the Republic of Cyprus. However, Turkey has continued to apply restrictions on trade from the Republic of Cyprus. The Chapters affected by the decision were: Chapter 1 on free movement of goods, Chapter 3 on the right of establishment and freedom to provide services, Chapter 9 on financial services, Chapter 11 on agriculture and rural development, Chapter 13 on fisheries, Chapter 14 on transport policy, Chapter 29 on the customs union, and Chapter 30 on external relations.¹

In the period leading up to the Council's decision to suspend negotiations with Turkey under the aforementioned chapters of the *acquis communautaire*, a sense of negativity regarding Turkey's potential membership of the EU dominated the diplomatic relations between Turkey and the EU. In Europe, there has been widespread reluctance to offer Turkey the full prospects of a membership, something which has been further provoked by the slow pace of Turkey's reform process. Turkey's uncompromising approach towards the Republic of Cyprus proved too much for some member states, which prompted the Commission to recommend a partial suspension of the accession talks with Turkey. Unfortunately the Council failed to recommend the further suspensions related to Turkey's failure to implement reforms directly connected to the Copenhagen political criteria, in particular regarding human rights and Kurdish issues.

In connection with the debate of whether or not to partly suspend the accession negotiations with Turkey, German Chancellor Angela Merkel was quoted as saying 'it is and was right to offer Turkey a privileged partnership with the EU rather than full membership'.²

Subsequently, former French President Jacques Chirac joined forces with the German Chancellor in advocating a halt in accession negotiations. This rather unexpected Franco-German alliance set off the unification process of other EU countries critical of Turkey's EU membership, including Austria, Portugal, Greece, the Netherlands and the Republic of Cyprus.³ The outcome of this unification has materialized in an increased trend of explicit scepticism and unwillingness towards Turkish EU membership, sweeping through Europe and thus allowing EU member states to more openly demonstrate any reluctance towards Turkey's full membership.

The Council's decision to suspend eight chapters of the *acquis communautaire* may have seemed explicitly justified; Turkey had been in continuing breach of its obligations under the Additional Protocol to the Ankara Agreement. It is clear that, despite the fact that negotiations were reopened on 29 March 2007, the consequences of that unprecedented decision could be far-reaching. Olli Rehn, the European Union Commissioner for Enlargement, described the suspension as 'the train will slow down but not stop', implying that negotiations will continue, but at a slower pace than first anticipated.⁴ Although accession talks are now officially resumed, the Union's frustration with Turkey's lack of reforms, combined with the general wave of member state hostility towards Turkish membership could be difficult obstacles to overcome in the future.

In addition, the Turkish public appears to be increasingly sceptical towards the EU and accession in general. In November 2006 a survey revealed that after the criticism voiced by the EU in relation to Turkey's continuing lack of reforms, only one-third of the Turkish population supported Turkey joining the EU.⁵ Gradually more Turks are viewing the EU in a more critical light, accusing the EU of hypocrisy, double standards and discrimination, as illustrated by the statement made by an AKP party official: '[The EU is] saying that it is our duty to win the hearts and minds of European citizens. Why was this argument never made for any other candidate country? I really believe that the EU is not being fair to Turkey. [We are] being discriminated against by the EU because we come from a different cultural and religious background.'⁶

The decision to partly suspend accession negotiations shows that the Council has adopted a firmer approach towards Turkey than seen in previous years. Bearing in mind the present fragile state of diplomatic relations, and the prevalence among member states of a hostile and cautious attitude towards Turkish EU membership,

the smooth culmination of the accession process cannot be glibly assumed. The consequences of negotiations being brought to a complete standstill would be far-reaching, not only for the Turkish reform process and the Kurds, but also for the EU itself. On the other hand, a lack of consistency over by the EU in its application of accession criteria will also endanger the development of human rights in Turkey.

HUMAN RIGHTS AND EU ACCESSION

It has been suggested that initial politically motivated eagerness within Western Europe to advance Turkey's integration into the EU unduly hastened the decision by the European Council in 2004 that Turkey has fulfilled the political elements of the Copenhagen Criteria for the commencement of formal accession negotiations. After detailed assessment of the outstanding human rights issues which Turkey must address, this assertion appears to be well-founded. The European Commission's perspective on changes in Turkey, which is substantially followed by the Council, lacks depth and penetration as to the reality of the situation on the ground in Turkey and casts an unjustifiably positive light on Turkey's progress. Opening accession talks rewards the superficially dramatic changes that Turkey has effected, and wrongly intimates that the bulk of the human rights reform process is complete.

While Turkey should certainly receive some credit for what she has achieved so far, the reform process is in many ways still in its formative stages, both in terms of Turkey's implementation of existing reforms and the considerable way to go before the regulatory framework for human rights is on a par with modern, democratic standards within the EU. In fact, while the rest of Europe is advocating pluralism and the capacity of mature, democratic societies to embrace diverse opinions and ideas, Turkey remains trapped in outdated nineteenth-century ideologies of nationalism and the primacy of the unitary nation state, seen to justify the repression of all outward manifestations of alternative ethnic identities and particularistic interests. Turkey shows only very limited signs of being prepared to truly move on from this juncture and modernize her outlook, and it is essential that the European Council decision to open accession negotiations, and the approach to change in Turkey upon which it is based, does not set a precedent for EU decision-making on Turkey's accession bid in the future. Accession must not be pressed forward at the expense of

realizing genuine respect for human rights, and it is manifestly clear that Turkey has a long road before her to meet this objective.

It is therefore of paramount importance that the EU continues to encourage Turkey to sustain momentum for human rights reform, and that the accession process will be gradual and evolutionary, allowing adequate time for changes to take root in Turkish society. The opening of accession negotiations has offered the EU a clear opportunity to strongly encourage Turkey to prioritize human rights and fundamental freedoms, and it is unfortunate that the EU has so far failed to wholly explore these measures. As previously noted, recent statistics from the ECtHR show that despite years of reforms Turkey continues to violate human rights and fundamental freedoms.⁷ Under the human rights 'break clause' the Commission is given the authority to initiate the suspension of negotiations if it finds evidence that Turkey is in persistent breach 'of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law'.⁸ However, despite pointing to numerous accounts of continuing violations of human rights and fundamental freedoms in Turkey, the Commission has not yet exercised this authority.

It is striking in this regard that Turkey's unwillingness to lift the restrictions on free movement of goods, introduced against the Republic of Cyprus in December 2006, resulted in part-suspension of accession negotiations under eight chapters of the *acquis communautaire*, when the country's persistent breach of key elements of the Copenhagen Criteria has not been met with equal consequence. Indeed, fulfilment of both the political and economic elements of the Copenhagen Criteria is paramount to the accession process, and any failure to fulfil these criteria, whether political or economic, should be met with equal consequence. It therefore seems long overdue that the EU abandons the cautious 'velvet glove' approach which has so far prevailed in the Commission's accession literature. The Union should make it clear to Turkey that violations of human rights are not tolerated and that membership of the EU will not be accomplished simply by disguising a draconian system of government under a veneer of legality. It is essential that accession talks are indeed suspended if there is a 'serious and persistent breach' of respect for human rights and freedoms, and that full accession does not take place unless and until a fundamental change in Turkish attitudes to human rights has occurred. The Union risks losing its long-term credibility if the relaxed and sometimes unrealistic attitude which the Commission has demonstrated in some parts of its accession

literature, most notably the Progress Reports, is not revised in future negotiations with Turkey.

IMPLICATIONS OF THE ACCESSION PROCESS

Opportunities for Turkey to become a democratic, pluralist state now exist through EU accession. Indeed there is cause for optimism that EU accession process has already started to precipitate a wider cultural change, a picture outlined by international lawyer David Petrsek:

Today the picture is different. Prime Minister Erdoğan's AKP Party has, with an eye to eventual EU membership, implemented reforms ... Perhaps most importantly, the Prime Minister has acknowledged, to howls of indignation from the nationalist right, that a notion of Turkish citizenship could emerge that accommodated within it distinct ethnic groups. He has acknowledged too that 'mistakes' were made.⁹

However, past experiences of the Kurds provide an indication of the formidable obstacles still facing Turkey in her movement towards EU accession: attitudes among public authorities which countenance the deliberate subjugation of the Kurds are long established; habits of imposing obstacles to assertions of Kurdish identity are deeply embedded; the will to subjugate the Kurds and break up regional Kurdish networks remains entrenched; and the problems in the southeast continue to be viewed by Turkey as requiring only a military, rather than a political response. Fundamentally, the past treatment of the Kurds, and the way in many instances that the Kurds continue to be treated today, underlines the importance of changing ingrained mentalities through which the Kurds are viewed with a great deal of hostility as 'yet-to-be-assimilated Turks' set upon fostering national disunity.

The Turkish reform process, still very much at its infantile state, would suffer immensely if accession negotiations were to come to an end. Elements of the 'deep state' would use suspension of the accession process as an opportunity to boost nationalism in Turkey, thus turning the opinion of the Turkish population further against Turkish membership of the EU. There is already evidence of rising anti-EU tendencies among the Turkish public. More seriously, nationalist tendencies are increasing in Turkey, and the tense political climate

surrounding the July 2007 general elections and their aftermath have promoted clashes between Turkey's nationalist and Islamist elites. The nationalist elite, spearheaded by the military, is growing increasingly sceptical towards the EU. The AKP government's introduction of even just cosmetic political reforms, support for a solution to the Cyprus issue and the encouragement of foreign capital and privatisation have been regarded by the nationalist elite as 'selling out' of the founding principles of the Turkish Republic.¹⁰

Powerful hard-liners within the army remain opposed to the EU reforms, a fact which was reaffirmed in February 2007 when Chief of Staff General Yaşar Büyükanıt, during a visit to Washington, underlined the continuing determination of the military to protect the unity, sovereignty and secular structure of the Turkish state, addressing those who 'seek to change the regime'.¹¹ The statement is illustrative of how the reform process is under constant attack from the reactionary forces operating from within the Turkish state apparatus, and it underlines the important role which the accession process plays in facilitating the arrival of real democracy in Turkey. The situation surrounding the election of President Gül is illustrative of the significant political power, which the military, despite reforms, continues to exercise in Turkey. The crisis motivated the EU to remind Turkey that membership of the EU is based on 'core' values of 'civilian supremacy' over the armed forces in a democracy.¹² Situations such as the presidential election crisis display to Europe the lack of democratic values in Turkey and it provides ammunition to those advocating that Turkey is not yet ready for EU membership. These situations may prove to be of considerable damage to Turkey's EU bid, as they risk facilitating a setback of accession negotiations between the EU and Turkey.

However, despite shortcomings, accession has so far proven to be the vehicle with which to drive forward human rights reform in Turkey, as illustrated by the process of constitutional and legislative reforms. Accession has provided the tools necessary in order to facilitate the arrival of real democracy in Turkey, and it imposes checks on the behaviour of the Turkish state, ultimately bringing Turkey under the sway of liberal, democratic ideals. The consequences of a setback of accession negotiations would therefore be grave and far-reaching, especially for the groups protected by the reforms, for example national minorities.

EU accession has heralded improvements in relation to human rights, democracy, the rule of law and protection of minorities.

However the implementation of these reforms remains problematic. Giving the fate of the previous reforms, still subjected to misinterpretation and slow and uneven implementation, the rise of nationalism in Turkey could paralyse the fragile democratic rights and legal safeguards introduced by the accession reforms. There is a serious risk that a suspension of negotiations would result in pro-EU reforms being undermined and bypassed by anti-democratic initiatives, a tendency which is already materializing in Turkey. This was illustrated by the amendments of the provisions of the Penal Code and the Anti-Terror Law introduced in order to target and root out dissenting opinion, particularly that relating to the Kurdish issue. Halting the accession negotiations may result in a return to the tendencies which prevailed in Turkey before the arrival of the accession process.

This is particularly the case because suspension would result in the neutralizing of the monitoring procedures introduced by the EU accession talks, thus leaving the fragile Turkish reform process virtually unprotected from the anti-democratic tendencies advocated by the nationalist elite and the military. The implementation of the pro-EU reforms enacted in Turkey has proven to be slow and uneven, and progress has been driven, so it seems, by the promises of future membership and the benefits derived from such membership, rather than by a genuine will to reform the an anti-democratic system of government. Hence, it is likely that a suspension of negotiations would equal a suspension of reforms in Turkey, since such a decision would be likely to remove the incitement for reform, greatly damaging the path towards democratization and human rights in Turkey.

Further, it is likely that the **international reputation of Turkey** would suffer from a further breakdown of negotiations. Complete suspension of negotiations would be likely to carry as a consequence the stigmatism of Turkey, affecting both diplomatic and economic relations between the EU and Turkey. This is particularly so when taking into consideration the anti-Turkish feelings which, at the moment, prevail among many of the EU member states. Since the creation of the Turkish Republic in 1923, Turkey's identity has been tied to Europe. The questioning of Turkey's European credentials could lead to an identity crisis within Turkey, turning the country towards hegemony in the Middle East or Central Asia with even greater determination and ambition. Also, Turkey appears to be developing closer relations with Russia, her long-term rival, which could be reinforced by European reluctance towards Turkey.

European resentment towards Turkey's EU membership, and Turkey's possible redirection towards the Middle East, Central Asia or Russia, could result in the influx of radical Islamism and fundamentalism in Turkey. As a member state of the Council of Europe and the OSCE, Turkey has obligations which the countries of the Middle Eastern region are not bound by. Further, the human rights standards of many of the Middle Eastern countries fall short of meeting European standards, and thus it is likely that closer relations with Middle Eastern countries will damage not only the ongoing reform process in Turkey, but also Turkey's relations with Europe.

As the possibility of a **Turkish military incursion** into Kurdistan, Iraq, on the pretext of targeting PKK forces, continues to persist, surprisingly little attention is being given to the possibility of a negotiated solution to the long-running war in Turkey's southeast. Turkey's allies, primarily the US, Council of Europe, and NATO partners, at least in public, advise caution. However, they also emphasize Turkey's right to defend herself against terrorist attacks and the US has admitted to providing 'actionable intelligence' to support targeted Turkish strikes on the PKK. The cumulative effect of the actions of the international community, including Europe, is to bolster the Turkish government's pursuit of a military solution. Yet evidence drawn from over 20 years of conflict with the PKK, and the experience of dozens of other civil conflicts, demonstrates that this is not a viable course. Military conflict will only serve to raise nationalistic tensions in Turkey and appears to be directed more towards putting pressure on Turkey's allies in order to prevent developments in Kurdistan, Iraq, particularly regarding the referendum on Kirkuk, rather than the benefit of the country.

International bodies, including the EU, have not given enough attention to resolving the conflict in Turkey through negotiated dialogue, despite the alternative threatening to destabilize the Middle East, and cause further misery in the region. The prospect of a political solution has been entirely absent from the debate, and yet democracy and dialogue must be given a chance, as violence will radicalize Turkey and harm the accession process. The only serious option is to end the armed conflict and further the programme of democratization in Turkey. The conflict serves elements of the deep state alone, and the outcome for the inhabitants of Turkey includes the forcible displacement of thousands of people, destruction of thousands of villages, and widespread killing, torture and disappearances.

The credibility of the EU itself is called into question by the uncertainty surrounding EU accession negotiations with Turkey. The disagreement among the member states regarding Turkey's membership has the potential to damage the integrity and sincerity of the EU. Official EU accession negotiations should not be subject to the views of changing member state governments. If the Union requires of potential member states that they are committed to constitutional reforms in order to meet the requirements of accession, including the Copenhagen Criteria, the Union itself must show equal commitment on its part. In this regard, it is important that the Union adopts a uniform and consistent policy towards accession of new member states, regardless of the views prevalent among different member state governments. If the Union allows its policy to be subject to, and dictated by, the view of individual national governments or political parties in Europe, the EU risks losing its credibility as a serious negotiation partner. The historic strength and stability of the EU should endorse it with adequate competence to deliver a coherent and equal accession process for each of the candidate countries. If the signals coming from Brussels can be interpreted as questioning the Union's own commitment to accession, it is highly likely that future accession countries, including Turkey, in return will show less commitment to reform. The European Union needs to act as a unified entity committed to accession, otherwise it risks not only damaging its own credibility, but losing that of the accession process entirely.

The EU must consistently implement and commit itself to accession if the process is to be of any value. Further, Turkey's commitment to the accession process has been, and remains now, of integral importance to ensuring that oppression and discrimination of Kurds is addressed, and universal human rights standards are applied, in Turkey.

In conclusion, Turkey has always stood at a political, cultural, social and economic crossroads between Europe and Asia, Christianity and Islam, secularism and theocracy, national democracy and tribal authoritarianism. However, the current political situation unfolding in Turkey has reached a new point of intensity not witnessed before, and constitutes a near-battle for the soul of Turkey in the twenty-first century.

As outlined earlier, during the numerous military coups in Turkey in the 1960s and 1970s, the political conflict was primarily an ideological clash between the left and the right, which merely

imitated the wider division of the Cold War. However, the current armed conflict, beginning in the 1980s and 1990s, was characterized by ethnic conflict and a lack of fundamental rights afforded to Kurds and other minorities in Turkey, most prominently expressed in the armed struggle of the PKK. Yet while the nationalist secular elite, led by the NSC, sought to deal with the separatism during this period, it failed to notice the gradual emergence of a new form of political Islam which continued to strengthen throughout the 1990s. In fact, many elements of Turkey and the deep state had nurtured such Islamist tendencies in an attempt to divide and deal with leftist and Kurdish Movements such as the PKK without recognizing its own potential virulent force.

It is within this current struggle between modest political Islam and the old secular republican elite that the fate rests of other modernizing principles and forces which have a direct bearing on Turkey's political and cultural future. This of course includes the statutes of the EU accession process, the primacy or otherwise of parliamentary democracy and government, and the constitutional recognition of the Kurdish people. And it is within this ideological, political and social context that the Kurdish problem must also be seen. The policy of the Turkish Republic since the 1920s towards Kurds has backfired, as instead of making Turkey more prosperous, democratic and safe, it has clearly spawned even more anti-democratic forces, economic instability, and has isolated Turkey from important nations and international bodies.

This conflict has dominated political discussion in Turkey for the better part of two decades. However, today it forms part of a set of cross-cutting political conflicts in which opposing forces who were previously hostile to each other are now capable of forging new coalitions with political forces they have hitherto detested, in order to defeat a larger, more dangerous ideological enemy. This makes for an extremely fluid, unstable, opportunistic environment which is difficult to predict, but which may, after years of Turkey being politically straitjacketed into the principles of Kemalism, give rise to a much more dynamic political climate where real forces of change may emerge.

The issue of Kurds in Turkey has direct relevance to the stability in Iraq as well as implications for how the Iraqi or coalition forces deal with border incursions from Iran. The resolution of the Kurdish problem should not simply been seen in the context of securing a

wider democratic peace in the country, but also of securing wider peace and security objectives in Iraq, Iran, Syria and the wider region.

As has already been detailed, the issue of Kurdish political, human and cultural rights will continue to dominate Turkish politics until these issues are confronted. The Kurdish conflict remains an endemic source of political instability in Turkey. It is extremely doubtful that any meaningful democratic reform can occur without this issue being addressed. It is therefore highly unlikely that any stable political EU-based system can emerge without at the very least the political neutralization of the parties engaged in the armed conflict. Until Turkey satisfactorily addresses these issues, the potential for peace, democracy and human rights associated with the Turkish accession process will fail to be realized.

Notes

FOREWORD

1. Owen Matthews, 'Who lost Turkey?', *Newsweek*, 11 December 2006, p38.
2. Reuters, 'Turkish forces shell northern Iraq', 3 June 2007.
3. Turkish Daily News, 'Büyükaniit warns separatists, Iraqi Kurds and "regime change seekers"', 15 February 2007.
4. Dawn Guardian News Service, 'Elections fuel fears over Kurdish independence', 16 February 2005.
5. Senem Aydın and Ruşen Çakir, 'Political Islam in Turkey', Centre for European Policy Studies Working Document, 12 April 2007 (Brussels, CEPS, 2007).

1 BACKGROUND

1. KHRP, *The Safe Haven in Northern Iraq* (London, KHRP, 1995), p6.
2. Dr Vera Saeedpour, *Meet the Kurds* (London, Cobblestone Publishing, 1999) <www.cobblestonepub.com/pages/Kurds.htm>.
3. David McDowall, 'The Land of the Kurds', in *The Encyclopedia of Kurdistan*, <www.kurdistanica.com/english/geography/geography-frame.html>.
4. Some commentators regard the different forms of Kurdish as separate languages rather than dialects; they are not mutually intelligible. See John Bullock and Harvey Morris, *No Friends But the Mountains: The Tragic History of the Kurds* (Oxford, Oxford University Press, 1992).
5. Kerim Yildiz, *The Kurds in Iraq: Past, Present and Future* (London, Pluto Press, 2004), p8.
6. Culturalorientation.net, 'Language Issues, Iraqi Kurds: Their History and Culture, Refugee Fact Sheet No. 13'.
7. Yildiz, *The Kurds in Iraq*, p7.
8. Minority Rights Group International (MRG), Summary of the MRG Report 'The Kurds' by David McDowall, September 1997.
9. Michael M. Gunter, *The Kurds in Turkey: A Political Dilemma* (Boulder, CO, Westview Press, 1990).
10. Foreign and Commonwealth Office, 'Turkey Fact Sheet', May 1994.
11. Ibid.
12. Summary of the MRG Report, 'The Kurds'.
13. President Woodrow Wilson's Fourteen Point Program for World Peace (1918), available at <www.ourdocuments.gov/doc.php?flash=falseanddoc=62>.
14. The Treaty of Peace Between the Allied and Associated Powers and Turkey, Signed at Sèvres on August 10, 1920, Section III, 'Kurdistan'.

15. Yildiz, *The Kurds in Iraq*, p10.
16. *Ibid.*, p13.
17. Middle East Watch Report, 'Genocide in Iraq: The Anfal Campaign against the Kurds' (Human Rights Watch, 1993).
18. Yildiz, *The Kurds in Iraq*, pp36–40.
19. BBC, 'Kurds anxious over Iraq's future', 6 July 2004.
20. KHRP, *Fact-Finding Mission to Iran* (London, KHRP, August 2003), p10.
21. David McDowall, *A Modern History of the Kurds* (London, I.B. Tauris and Co. Ltd, 2004), pp274–80.
22. *Ibid.*
23. BBC, 'Iran Kurds quit parliament', 30 September 2001.
24. BBC, 'New power struggle erupts Iran', 11 January 2004.
25. A Human Rights Watch Report, 'Syria: The Silenced Kurds', 1996, <http://hrw.org/reports/1996/syria.htm>.
26. *Ibid.*
27. US Committee for Refugees, 'Country Report: Syria 2002', US Department of State (US DOS), 'Syria: Country Reports on Human Rights Practises – 2000', 23 February 2001, <www.state.gov/g/drl/rls/hrrpt/2000/nea/820.htm>.
28. Human Rights Watch, 'Syria: Address Grievances Underlying Kurdish Unrest', 19 March 2004, <<http://hrw.org/english/docs/2004/03/19/syria8132.htm>>.
29. Oil is found in Kirkuk and Khaniqin in Iraq, Batman and Silvan in Turkey and at Rumeylan in Syria. Other minerals in significant quantities include chrome, coal, copper, iron, and lignite. Summary of the MRG Report, 'The Kurds'.
30. Historical sources on this period include N. and H. Pope, *Turkey Unveiled: A History of Modern Turkey* (Woodstock, NY, Overlook Press, 2000); Bernard Lewis, *The Emergence of Modern Turkey* (New York, Oxford University Press, 2001); Stephen Kinzer, *Crescent and Star: Turkey Between Two Worlds* (New York, Farrar, Straus and Giroux, 2001).
31. KHRP, *Internally Displaced Persons: The Kurds in Turkey* (London, KHRP, September 2003), p4.
32. Federal Research Division of the US Library of Congress, 'Country Studies: Turkey', sponsored by the US Department of the Army between 1986 and 1998.
33. Yildiz, *The Kurds in Iraq*, pp39–42.
34. European Committee for the Prevention of Torture, 'Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 15 September 2003'.
35. See annual reports on Turkey's progress towards accession, <<http://europa.eu.int/comm/enlargement/turkey/index.htm>>.
36. McDowall, *A Modern History of the Kurds*, p191.
37. *Ibid.*, p195.
38. *Ibid.*, p207.
39. Law 2932.
40. David McDowall puts the number of troops in the southeast at 200,000 by the early 1990s. McDowall, *A Modern History of the Kurds*, p427.

41. Under the State of Emergency Act 1983, Law No. 2935 of 25 October 1983, RG No. 18204 of 27 October 1983.
42. 'Olağanüstü Hal' stands for 'State of Emergency.' Decree having the Force of Law on the Establishment of the State of Emergency Regional Governance, Decree No. 285 of 10 July 1987, amended by Decrees 424, 425 and 430.
43. That the commission of human rights abuses occurred during these state security operations has recently been attested to by the European Court of Human Rights. *Yöler v. Turkey*, Application No. 26973/95 and *Ipek v. Turkey*, Application No. 25760/94.
44. KHRP and Bar Human Rights Committee (Kerim Yildiz and Juliet McDermott), *Torture in Turkey* (London, KHRP, January 2004), p28.
45. Law 413 gave the Governor-General the authority to recommend the closure of any publishing house which 'falsely reflects events in the region or engages in untruthful commentary or reporting', while the 1983 Press Law restricted journalists from reporting information deemed to fall within the sphere of national security and prohibited the publication of papers promoting 'separatism'.
46. Published in the *Turkish Probe* and *Turkish Daily News* in mid-November 2003, quoted in McDowall, *A Modern History of the Kurds*, p440.
47. McDowall, *A Modern History of the Kurds*, pp103–4.
48. See, for example, McDowall, *A Modern History of the Kurds*, p109.
49. Taner Akçam, *A Shameful Act* (Constable, London, 2006), p28.
50. See for example Hugh Poulton, *Top Hat, Grey Wolf and Crescent. Turkish Nationalism and the Turkish Republic* (London, Hurst & Company, 1997), p81.
51. Türkkaya Ataöv (ed.), *The Armenians in the Late Ottoman Period* (Ankara, Turkish Historical Society, 2001) pp345–6.
52. Kevork Bardakjian and Fatma Müge Göcek, Foreword to Taner Akçam, *Dialogue Across an International Divide: Essays Towards a Turkish-Armenian Dialogue* (Toronto, The Zoryan Institute, 2001).

2 TURKEY AND THE EU

1. That is, the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.
2. The European Commission, 'Enlargement, Pre-accession strategy – PreAccession Instruments: The Association Agreements', <http://europa.eu.int/comm/enlargement/pas/assoc_agreements.htm>.
3. *Ibid.*
4. The European Community came into being in 1967 as a collective term for the European Coal and Steel Community (ECSC), the European Atomic Energy Community (EURATOM) and the EEC. In 1993 the European Community changed its name to the European Union.
5. Commission of the European Communities, 'Commission Opinion on Turkey's Request for Accession to the Community', SEC (89) 2290

- final/2, 20 December 1989, <http://europa.eu.int/comm/enlargement/turkey/pdf/sec89_2290f_en.pdf>.
6. European Commission, 'Interim Report Concerning the Reform Process, the Human Rights Situation and the Consolidation of Democracy in Turkey', Brussels, 5 July 1995.
 7. Human Rights Watch, 'Turkey: Human Rights Developments 1995'.
 8. Interview with Tansu Çiller by Karsten Prager and James Wilde, 'Dancing with the wolves: Çiller tells Europe that now, it's either yes or no', *Time Magazine*, 20 November 1995, Vol. 146, No. 21.
 9. Human Rights Watch, 'Turkey: Human Rights Developments 1995'.
 10. International Republican Institute, 'Political Situation Update: Turkey', 21 December 1995, <www.iri.org/pub.asp?id=1326410175>.
 11. Human Rights Watch, 'Turkey: Human Rights Developments 1996', <www.hrw.org/reports/1997/WR97/HELSINKI-17.htm>.
 12. European Council in Copenhagen, 'Conclusions of the Presidency', 21–22 June 1993, 7A(iii) at <www.europarl.eu.int/enlargement/ec/cop_en.htm>. Emphasis added.
 13. *Ibid.*
 14. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2000.
 15. European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's Progress towards Accession', COM(2004) 656 final, Brussels, 6 October 2004.
 16. These are: the Law on Associations, the new Penal Code, the Law on Intermediate Courts of Appeal, the Code of Criminal Procedure, the legislation establishing the judicial police, and the legislation on the execution of punishments and measures. European Commission, 'Recommendation of the European Commission on Turkey's Progress Towards Accession'.
 17. Council of the European Union, 'Brussels European Council, 16/17 December 2004, Presidency Conclusions', 17 December 2004.
 18. *Ibid.*
 19. See Council of the European Union, decision on the principles, priorities and conditions contained in the Accession Partnership with Turkey, Brussels, 23 January 2006.
 20. *Guardian*, 'Ecstatic reception for Erdoğan', 18 December 2004.
 21. Council of the European Union, 'Brussels European Council, 16/17 December 2004, Presidency Conclusions'.
 22. The latest public poll shows that 67 per cent of the French will vote against Turkish membership under any circumstances. *New York Post*, 'Turkey's EU Hurdles', 1 January 2005.
 23. *Daily Telegraph*, 'Turkey snub warning', 11 June 2007.
 24. *Turkish Daily News*, 'Turkey skeptic Yves Leterme wins elections in Belgium', 12 June 2007.
 25. *Newsweek*, 'Who lost Turkey?', 11 December 2006.
 26. BBC, 'Turkey EU entry as big as "D-Day"', 20 October 2004.
 27. Quoted in the *Washington Times*, 'EU, Turkey set up talks on admission', 18 December 2004.

28. BBC, 'Bush backs Turkey's Eli efforts', 11 December 2002.
29. *Guardian*, 'Blair holds key as EU opens door to Turkey', 17 December 2004.
30. European Commission, 'Enlargement: Basic Arguments', <<http://europa.eu.int/comm/enlargement/arguments/index.htm>>.
31. European Commission, 'Recommendation of the European Commission on Turkey's Progress Towards Accession'.
32. <www.euractiv.com/en/enlargement/eu-resumes-turkey-accession-talks/article-162881>.
33. European Council in Copenhagen, 'Conclusions of the Presidency'.
34. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004.
35. *Ibid.*, p35.
36. *Ibid.*
37. Article 4 of the International Covenant on Civil and Political Rights; Article 2(2) of the United Nations Convention against Torture; Decision of the International Criminal Tribunal for the Former Yugoslavia in the case of Furundzija, 10 December 1998, para. 153.
38. European Union, Charter of Fundamental Rights, Article 4.
39. M. Nowak, 'Human Rights Conditionality in Relation to Entry to, and Full Participatin in, the EU', in P. Alston (ed.), *The EU and Human Rights* (Oxford, Oxford University Press, 1999), p691.
40. European Commission, 'Negotiating Framework for Turkey', Brussels, 3 October 2005, para. 4.
41. *Ibid.*
42. Council of the European Union, decision on the principles, priorities and conditions contained in the Accession Partnership with Turkey, Brussels, 23 January 2006, p2.
43. See Negotiation Framework, para. 5, Accession Partnership, p1, Article 2.
44. Revised Accession Partnership.
45. European Commission, 'Turkey 2005 Progress Report', Brussels, 8 November 2005, p38.
46. Luxembourg European Council, 'Presidency Conclusions', 12–13 December 1997.
47. European Commission/European Union, 'Agenda 2000: For a Stronger and Wider Union', Communication of the Commission, DOC/97/6, Strasbourg, 15 July 1997.
48. European Commission, 'Agenda 2000 – Commission Opinion on Slovakia's Application for Membership of the European Union', DOC/97/20, Brussels, 15 July 1997.
49. 'Progress Report', p41.
50. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p55.
51. European Commission, 'Turkey 2006 Progress Report', Brussels 8 November 2006, p11.
52. European Court of Human Rights, 'Survey of Activities, Table of Violations 2006'.
53. Article 6(1) of the Treaty on European Union.

3 CIVIL AND POLITICAL RIGHTS IN TURKEY

1. Three in February, March and August 2002, four in January, February, July and August 2003, and one in June 2004.
2. K. Hughes, *The Political Dynamics of Turkish Accession to the EU: A European Success Story or the EU's most Contested Enlargement?* (Swedish Institute for European Policy Studies, 2004), p4.
3. It was stipulated in the 2000 Accession Plan that Turkey was a short-term priority: 'Strengthen legal provisions and undertake all necessary measures to reinforce the fight against torture practices, and ensure compliance with the European Convention for the Prevention of Torture.' European Council, 'Council Decision of 8 March 2001 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey' (2001/235/EC).
4. Deputy Prime Minister Abdullah Gül's statement to the Grand National Assembly, 10 December 2003.
5. CAT Article 1(1).
6. Ibid.
7. Article 4.
8. Article 3.
9. Article 2(2).
10. CAT Article 2(1).
11. CAT Article 4(2).
12. CAT Article 12.
13. CAT Article 14(1).
14. CAT Article 2(2).
15. Decision of the International Criminal Tribunal for the Former Yugoslavia in the case of Furundzija, 10 December 1998, para. 153.
16. Human Rights Watch, 'Eradicating Torture in Turkey's Police Stations: Analysis and Recommendations', September 2004.
17. CPT, 'Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 15 September 2003', CPT/Inf (2004) 16, Strasbourg, 18 June 2004.
18. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p13.
19. CPT, 'Report to the Turkish Government on the visit to Turkey'.
20. Including torture and ill-treatment in police custody, outside official detention premises, by village guards and in prisons. İHD, 'Human Rights Violations in Turkey – Summary Tables', January–June 2004.
21. Human Rights Foundation of Turkey, 'Current Evaluation of the Work of the Treatment and Rehabilitation Centers of the HRFT', 2004 Monthly Reports; Foundation for Social and Legal Research (TOHAV), 'People Exposed to Violence by State Officers in 2003'; International Rehabilitation Council for Torture Victims, 'Stop the denial of torture', Media Release, 17 December 2004.

22. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p17.
23. Human Rights Foundation of Turkey, 'Current Evaluation of the Work of the Treatment and Rehabilitation Centers of the HRFT'.
24. Ibid.
25. CPT, 'Report to the Turkish Government on the visit to Turkey'.
26. UN Committee Against Torture, 'Fact Sheet No. 4 (Rev. 1) – Methods of Combating Torture', <www.unhchr.ch/html/menu2/6/cat/index.html>.
27. As recently as 2003, the UN Committee Against Torture noted that the prosecution and sanction of members of the security forces for torture or ill-treatment was rare; Amnesty International, 'Turkey: Memorandum to the Turkish Prime Minister on the occasion of the visit to Turkey of a delegation led by Irene Khan', 12 February 2004.
28. Amnesty International, 'Turkey: Memorandum to the Turkish Prime Minister'.
29. European Commission, 'Turkey 2005 Progress Report', Brussels 8 November 2005, p23.
30. European Commission, 'Turkey 2006 Progress Report', Brussels 8 November 2006, p13.
31. Human Rights Foundation of Turkey, 'Current Evaluation of the Work of the Treatment and Rehabilitation Centers of the HRFT'.
32. İHD, 'Human Rights Violations in Turkey – Summary Table' 2004.
33. İHD, 'Human Rights Violations in Turkey – Summary Table', 2003.
34. Meryem Yılmaz, 'Torture Report: There is Increase in Number of Women Victims of Torture', DIHA, Istanbul, 27 July 2004. See also CPT, 'Report to the Turkish Government on the Visit to Turkey'.
35. BIA (Independent Communications Network) News Centre, 'Onen Speaks Out: Why Torture is Systematic', 28 June 2006.
36. EU Turkey Civic Commission, Briefing Paper for the Third international Conference on EU, Turkey and the Kurds, European Parliament, Brussels, 16–17 October 2006, p18.
37. European Commission, 'Turkey 2006 Progress Report', p13.
38. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p35.
39. CAT, 'Article 20 Examinations Re: Systematic Torture, Part V: Activities of the Committee under Article 20 of the Convention', CAT A/55/44, 2000.
40. Ibid.
41. These include TOHAV, İHD and the Human Rights Foundation of Turkey.
42. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 'Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 14 December 2005' (CTP/Inf (2006) 30), Strasbourg, 6 September 2006.
43. European Commission, 'Turkey 2006 Progress Report', p13.

44. Human Rights Watch, 'Turkey: Violations of Free Expression in Turkey', February 1999.
45. Ibid.
46. Articles 141 and 142.
47. Human Rights Watch, 'Turkey: Violations of Free Expression in Turkey'.
48. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p37.
49. Ibid.
50. BIA, 'Freedom of Expression Under Nationalist Siege', 16 February 2007.
51. European Commission, 'Turkey 2006 Progress Report', p14.
52. European Commission, 'Turkey 2005 Progress Report', p26.
53. European Commission, 'Turkey 2006 Progress Report', p14.
54. Ibid.
55. KHRP and Bar Human Rights Committee, 'Suppressing Academic Debate: The Turkish penal code', Trial Observation Report, June 2006.
56. *New Anatolian*, 'Authors of govt report on minorities acquitted of "inciting hatred"', 11 May 2006.
57. BIA, 'EU Warnings Sparks 301 Initiatives', 13 November 2006.
58. *Turkish Daily News*, 'Gül says Article 301 to be changed soon', 27 November 2006.
59. Article 1.
60. Preliminary Note by the United Nation's Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, after visit to Turkey, 16–26 February 2006.
61. See, for example, Amnesty International, 'Turkey – Briefing on the wide-ranging, arbitrary and restrictive draft revisions to the Law to Fight Terrorism', 12 June 2006; Turkish Economic and Social Studies Foundation (TESEV), 'A Bleaker Future Now? Report on the New Amendments to the Anti-Terror Law', July 2006.
62. European Commission, 'Turkey 2006 Progress Report', p6.
63. Turkish Human Rights Foundation, 'Monthly Report', September 2004.
64. *Thoma v. Luxembourg*, Application No. 38432/97.
65. Ibid.
66. Act No. 5187.
67. Organization for Security and Co-operation in Europe (OSCE), 'Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE', Copenhagen, 5–29 June 1990, para. 9.1.
68. OSCE, 'Document of the Moscow meeting of the Conference on the Human Dimension of the CSCE', Moscow, 14 September – 10 October 1991, para. 26.
69. OSCE Representative on Freedom of the Media Miklos Haraszti, 'Review of the Draft Turkish Penal Code: Freedom of media Concerns', Vienna, May 2005.

70. OSCE Representative on Freedom of the Media Miklos Haraszti, 'OSCE Media Representative praises Turkey for changing penal Code, but remains concerned', Vienna, 7 July 2005.
71. Article 19.
72. Article 10.
73. United Nations, 'Johannesburg Principles on National Security, Freedom of Expression and Access to Information', UN Doc. E/CN.4/1996/39 (1996), principle 1.1.
74. Justice Oliver Wendell Holmes, *Abrams v. United States*, 250 U.S. 616 (1919).
75. Associations Law, Law No. 5253, Passed on 4 November 2004.
76. European Commission, 'Turkey 2006 Progress Report', p15.
77. BBC, 'Turkish police beatings shock EU', 7 March 2005.
78. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p42.
79. Human Rights Watch, 'Turkey: Continuing Restrictions on Freedom of Assembly, Letter to Deputy Prime Minister Abdullah Gül', 28 April 2004.
80. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p40.
81. European Commission, 'Recommendation of the European Commission on Turkey's Progress towards Accession', p3.
82. European Commission, 'Turkey 2006 Progress Report', p16.
83. Amnesty International, 'Briefing Paper on the Turkish Anti-Terror Law', p4.
84. KHRP, 'Human Rights Violations against Kurds in Turkey', Report presented to the OSCE, October 2006, p34.
85. Hughes, *The Political Dynamics of Turkish Accession to the EU*, p20.
86. Minority Rights Group International, 'Minorities in Turkey – Submission to the European Union and the Government of Turkey', July 2004.
87. *Yumak and Sadak v. Turkey*, Application No. 10226/03.
88. *Ibid.*, para. 77.
89. BBC, 'Turkey's Kurd party ban criticised', 14 March 2003; *Turkish Daily News*, 'Wrong timing', 15 March 2003.
90. *International Herald Tribune*, 'Turkey moves to ban leading Kurdish party', 14 March 2003.
91. HADEP was founded in 1994, and after they were banned In 2003, DEHAP arose as a continuation of the pro-Kurdish political party.
92. *Socialist Party of Turkey (STP) and Others v. Turkey*, Application No. 26482/95.
93. *Ibid.*
94. *Ibid.*
95. *Ibid.*
96. *Ibid.*
97. *DEP (Democratic Party) v. Turkey*, Application No. 25 141/94.
98. Article 3 of Protocol 1.
99. *Ibid.*
100. Human Rights Watch, 'Turkey: Continuing Restrictions on Freedom of Assembly, Letter to Deputy Prime Minister Abdullah Gül'.

101. *The Economist*, 'Hope versus fear: Turkey's Kurds', 2 August 2003.
102. Human Rights Foundation of Turkey, 'Monthly Report', July 2004.
103. *Turkish Daily News*, 'Erdoğan considering changes in electoral system', 9 August 2006.
104. *New Anatolian*, 'Parliament set to hold extraordinary session for EU', 10 August 2006.
105. *International Herald Tribune*, 'Turkey's ruling party moves to clamp down on Kurdish Party', 5 October 2006.
106. İltır Turan, Seraf İba and Ayse Zarakol, 'Inter-Party mobility in the Turkish Grand national Assembly: curse or blessing?', *European Journal of Turkish Studies*, Thematic Issue no. 3, 'Being an MP in Contemporary Turkey', para. 12.
107. *Turkish Daily News*, 'Political ethics law on the way', 9 January 2007.
108. Info-Türk Non-governmental information centre on Turkey, December 2006, <www.info-turk.be>.
109. ICERD Article 5(c).
110. H. Steiner, 'Political participation as a human right', in 1 *Harvard Yearbook of International Law* 77 (1988) at 78.
111. European Parliament, 'Report on Turkey's Application for Membership of the European Union', 20 May 2003.
112. European Commission, 'Turkey 2006 Progress Report', p15.
113. *Ibid.*, p5.
114. OSCE, Copenhagen Document 1990, para. 35.

4 CULTURAL AND MINORITY RIGHTS IN TURKEY

1. Speech by the British Prime Minister, Tony Blair, at Labour's local government and youth conferences, 'I Want to Solve the Iraq Issue via the United Nations', SECC, Glasgow, 15 February 2003, <www.labour.org.uk/news/tbglasgow>.
2. Tony Blair, 'A Vision for Iraq and the Iraqi People', 17 March 2003, <www.number-10.gov.uk/output/page32Bo.asp>.
3. *Turkish Daily News*, 'Minority phobia haunts Turkey', 7 November 2004.
4. Robert Dunbar, 'Foreword', in G. Fryer and K. Yildiz, *The Kurds: Culture and Language Rights* (London, KHRP, August 2004), p9.
5. *Ibid.*, p10.
6. *Ibid.*
7. *Ibid.*
8. Articles 22 and 27(1).
9. Articles 1(1) and 15.
10. Articles 1(1) and 27.
11. Articles 1(1), 2(2) and 5(e) (iv).
12. Articles 4, 17, 29(1)(c), 30 and 31.
13. Articles 1(1), 2, 4(2) and 4(4).
14. Article 10(1).

15. 'The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.'
16. Under Article 19(2) of the Vienna Convention on the Law on Treaties, a state cannot enter a reservation which is incompatible with the object and purpose of a treaty.
17. Articles 4(3) and 2(1) respectively.
18. Article 39(4).
19. Fryer and Yildiz, *The Kurds*, p19.
20. *Ibid.*, p26.
21. Article 3 and Article 4(29) respectively, Constitution of Turkey. These provisions have subsequently been amended.
22. Article 28.
23. Law 3257, Fryer and Yildiz, *The Kurds*, p25 n30.
24. The law came into effect on 25 January 2004.
25. BIA, 'Annual Media Report 2004'.
26. European Commission, 'Turkey 2005 Progress Report', Brussels, 8 November 2005, p27.
27. *New Anatolian*, 'Local stations start Kurdish broadcasts', 24 March 2006.
28. European Commission, 'Turkey 2006 Progress Report', Brussels, 8 November 2006, p41.
29. Kurdish Media, 'Limits on Kurdish movies and music lifted in Turkey', 14 June 2006, <www.kurdmedia.com/news.asp?id=12627>.
30. European Commission, 'Turkey 2006 Progress Report', p.20.
31. See, for example, Minority Rights Group International, 'Minorities in Turkey – Submission to the European Union and the Government of Turkey, July 2004', p20.
32. Human Rights Foundation of Turkey, 'Monthly Report', October 2004.
33. BIA, 'Annual Media Report 2004'.
34. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p40.
35. BIA, 'Annual Media Report 2004'.
36. BIA News Centre, 'Radio banned for 30 Days', 18 October 2006.
37. Kurdish Media, 'Turkish Government blocks viewers from watching Roj TV', 14 October 2006, <www.kurdmedia.com/articles.asp?id=13432>.
38. Kurdish Media, 'The Broadcasting of ROJ TV is disrupted in Kurdistan', 15 January 2007, <www.kurdmedia.com/news.asp?id=13892>.
39. Kurdish Media, 'Trial starts of 56 Turkish mayors over Kurdish TV', 26 September 2006, <www.kurdmedia.com/articles.asp?id=13318>.
40. This was achieved via a change to Article 16 of the Registration Law.
41. Radikal, 'Interview with Diyarbakir Bar Chair Sezgin Tanrikulu', 25 August 2003.
42. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p49.
43. Case referred to in Fryer and Yildiz, *The Kurds*, p208.

44. Human Rights Foundation of Turkey, 'Monthly Report', January 2004.
45. Global IDP Project, 'Profile of Internal Displacement – Turkey: Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council' (as of 5 April 2004), p97.
46. Amnesty International, 'Turkey: teachers' union under pressure', 21 January 2005.
47. See, for example, European Commission against Racism and Intolerance (ECRI), 'Third Report on Turkey', Strasbourg, 15 February 2005, p19.
48. European Commission, 'Turkey 2005 Progress Report', p38.
49. European Commission, 'Turkey 2006 Progress Report', p20.
50. *Ibid.*, p15.
51. EU Turkey Civic Commission (EUTCC), 'A New Case of Restrictions on Freedom of Expression in Turkey', Press Release, 27 March 2007.
52. *Kurdish Info*, 'Turkish Mayor sacked for providing municipal services in four languages', 14 June 2007.
53. KHRP, Bar Human Rights Committee and Human Rights Association, *The Lifting of Emergency Rule: A Democratic Future for the Kurds?* (London, KHRP, November 2002), p46.
54. AFP, 'Turkey's Kurds welcome broadcasts in Kurdish, but with broken hearts', 9 June 2004.
55. See, for example, *The Economist*, 'Two big steps forward for Turkish Kurds', 10 June 2004; BBC, 'Kurd activists leave Turkish jail', 9 June 2004; *Guardian*, 'Kurd MPs freed as Turkey lifts broadcast ban Thursday', 10 June 2004.
56. Al-jazeera, 'Turkish media bows to EU pressure', 9 June 2004.
57. See, for example, Office of the Commissioner for Human Rights, 'Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his Visit to Turkey 11–12 June 2003 for the Attention of the Committee of Ministers and the Parliamentary Assembly', Strasbourg, 19 December 2003.
58. *Ibid.*
59. *Ibid.*
60. KHRP et al., *The Lifting of Emergency Rule*, p47.
61. Info-Türk, November 2006, <www.info-turk.be>.
62. Info-Türk, December 2006, <www.info-turk.be>.
63. *New Anatolian*, 'Sadak and Dicle's membership suspended', 7 February 2007.
64. *Turkish Daily News*, 'Kurdish leader charged for controversial remarks', 24 February 2007.
65. K. Hughes, *The Political Dynamics of Turkish Accession to the EU: A European Success Story or the EU's most Contested Enlargement?* (Swedish Institute for European Policy Studies, 2004), p17.
66. Office of the Commissioner for Human Rights, 'Report by Mr Alvaro Gil-Robles', para. 216.
67. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1998, p21. The Commission has not since made such bold assertions about the centrality of resolving the Kurdish issue to realizing human rights standards in Turkey.

68. Office of the High Commissioner for Human Rights, 'Minorities: Working Group' <www.unhcr.ch/minorities/group.htm>.
69. United Nations High Commissioner for Human Rights, 'Tolerance and Pluralism as Indivisible Elements in the Promotion and Protection of Human Rights', Commission on Human Rights Resolution 2002/55.
70. 'Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities', adopted by General Assembly Resolution 47/135 of 18 December 1992, Article 4(4); ECHR Article 3 of Protocol 1; OSCE Hague Recommendation Regarding the Education Rights of National Minorities 1966.
71. Article 10 together with Article 14 of the ECHR; OSCE Oslo Recommendations Regarding the Linguistic Rights of National Minorities 1998; OSCE Guidelines on the Use of Minority Languages in the Broadcast Media.
72. OSCE, 'Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE', para. 35.
73. Minority Rights Group International, 'Minorities and Conflict Prevention: The Case for a Special Representative, Advocacy Briefing No. 4', March 2002.
74. Minority Rights Group International, *The Framework Convention for the Protection of National Minorities: A Guide for Non-Governmental Organizations* (London, MRG, 1999).
75. International Covenant on Civil and Political Rights, 'Declarations and Reservations: Sweden', 30 June 2004, <www.ohchr.org/english/countries/ratification/4_2.htm>.
76. Article 19(c).
77. 'The Republic of Turkey reserves the right to interpret and apply the provisions of the paragraph (3) and (4) of the Article 13 of the Covenant on Economic, Social and Cultural Rights in accordance to the provisions under the Article 3, 14 and 42 of the Constitution of the Republic of Turkey.' Turkey has made a similar reservation to Article 29 of the Convention on the Rights of the Child, which also mandates that a child should be educated in a manner which promotes respect of his or her own cultural identity, language and values.
78. Parliamentary Assembly of the Council of Europe, 'Rights of National Minorities', Recommendation 1492 (2000)1.
79. Parliamentary Assembly of the Council of Europe, 'Rights of National Minorities', Recommendation 1623 (2003)1.
80. European Commission against Racism and Intolerance, 'Third Report on Turkey', adopted on 25 June 2004.
81. These are Andorra and France.
82. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p48.
83. European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's Progress towards Accession', COM(2004) 656 final, Brussels, 6 October 2004.
84. European Commission, External Relations, 'The EU's Human Rights and Democratisation Policy, Protecting and Promoting the Rights of

- Minorities', <http://europa.eu.int/comm/external_relations/human_rights/rm/>.
85. Ibid.
 86. Al-jazeera, 'Rights report sparks row in Turkey', 2 November 2004.
 87. Ibid.
 88. *Turkish Daily News*, 'Minority phobia haunts Turkey', 7 November 2004.
 89. Ibid.
 90. Al jazeera, 'Rights report sparks row in Turkey'.
 91. AFP, 'Turkey and EU Speak "Different Languages" On Minorities, Says Minister', 4 November 2004.
 92. European Commission, 'Turkey 2006 Progress Report', p. 19.
 93. European Commission, 'Turkey 2005 Progress Report', p. 35.
 94. European Commission, 'Turkey 2006 Progress Report', p. 19.
 95. Adopted by General Assembly Resolution 47/135 of 18 December 1992.
 96. Article 1(1).
 97. Article 1(1).
 98. Article 2(1), Article 3(1), Article 4(1).
 99. Article 4(2).
 100. Article 2(2).
 101. Article 4(3) and 4(4).
 102. Article 2(3).
 103. Article 4(5).
 104. Republic of Turkey – Turkish Embassy in Washington DC, 'OSCE – Organization of Security and Cooperation in Europe', <www.turkishembassy.org/governmentpolitics/foreignr/OSCE.htm>.
 105. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p48.
 106. European Commission, 'Turkey 2006 Progress Report', p19.
 107. *Gozdelik v. Poland*, Application No. 44158/98, para. 68.
 108. Constitution of the Republic of Turkey.
 109. David McDowall, *A Modern History of the Kurds* (London, I.B. Tauris and Co. Ltd, 2004), pp1–2.
 110. Ibid.
 111. Special Rapporteur Francesco Capotorti, 'Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities', E/Cn.4/Sub.2/3 84/Add. 1–7.
 112. This classifies minority groups as those which: reside within the territory of the State and are citizens thereof, maintain long-standing ties with the State, display distinctive ethnic, cultural, religious or linguistic characteristics, are sufficiently representative, and are motivated by a concern to preserve together that which constitutes their common identity. Parliamentary Council of Europe, 'Recommendation 1202 on Religious Tolerance in a Democratic Society', 1993.
 113. UN Human Rights Committee, 'General Comment 23', CCPR/C/211 Rev.1/Add.5, para. 5.2.
 114. *Turkish Daily News*, 'Minority phobia haunts Turkey'.

115. Council of Europe (COE), 'Council of Europe Parliamentary Committee recommends ending monitoring of Turkey Strasbourg', 3 March 2004, <[http://press.coe.int/cp/2004/106a\(2004\).htm](http://press.coe.int/cp/2004/106a(2004).htm)>.
116. European Commission against Racism and Intolerance, 'Third Report on Turkey', adopted on 25 June 2004.
117. Al-jazeera, 'Rights report sparks row in Turkey'.
118. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p48.
119. *Turkish Daily News*, 'Minority phobia haunts Turkey'.
120. European Commission, 'Turkey 2006 Progress Report', p. 19.
121. Many Kurds dislike the label 'minority' since they seek recognition as a 'constituent element' of Turkey. While this publication does not express an opinion on this issue, it considers that the international mechanism to protect and promote cultural and linguistic rights for minorities is beneficial for the Kurds.
122. Sometimes also referred to as Syrians.
123. See, for example, Nigar Karimova and Edward Deverell, *Minorities in Turkey*, Occasional Papers No. 19 (Stockholm, Swedish Institute of International Affairs, 2001).
124. Mesut Yeğen, 'Prospective-Turks' or 'Pseudo-Citizens'. *Kurds in Turkey* (Ankara, Middle East Technical University, Department of Sociology), p2.
125. Karimova and Deverell, *Minorities in Turkey*, pp9–14.
126. Human Rights Foundation of Turkey, 'Monthly Report', October 2004.
127. Now known as *Yeniden Özgür Gündem*.
128. COE, Parliamentary Assembly, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, 'Turkey: Explanatory memorandum by the Co-Rapporteurs Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande', March 2004, p31.
129. *Ibid.*
130. Global IDP Project, 'Profile of Internal Displacement – Turkey: Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 5 April 2004)', p97.
131. Human Rights Foundation of Turkey, 'Monthly Report', February 2004.
132. *Turkish Daily News*, 'Minority phobia haunts Turkey'.
133. Al-jazeera, 'Rights report sparks row in Turkey'.
134. *The Economist*, 'Human rights in Turkey: haunted by the past', 11 November 2004.
135. *Ibid.*
136. KHRP Trial Observation Report, *Suppressing Academic Debate: The Turkish Penal Code* (London, KHRP, June 2006), pp11–12.
137. COE, 'Humanitarian Situation of the Displaced Kurdish Population in Turkey' (Doc. 9391), 22 March 2002; Info-Türk 'No real improvement in living conditions for the Kurds', June 2002.
138. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p48.

139. Ibid.
 140. COE, 'Turkey: Explanatory Memorandum', p13.

5 CONFLICT IN THE SOUTHEAST

1. Robert Olson, *The Emergence of Kurdish Nationalism and the Sheikh Said Rebellion, 1880–1925* (Austin, University of Texas Press, 1989).
2. These figures were reportedly given by President Suleyman Demirel in a speech in December 1998. *New York Times*, 'Nationalism is mood in Turkey's Kurdish enclaves', 16 May 1999.
3. GlobalSecurity.org, 'Kurdistan – Turkey', <www.globalsecurity.org/military/world/war/kurdistan-turkey.htm>.
4. Ibid.
5. Ibid.
6. Council of Europe (COE), Parliamentary Assembly, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, 'Turkey: Explanatory Memorandum by the Co-Rapporteurs, Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande', March 2004, p19.
7. AFP, 'Ban on Kurdish party could be fresh blow to Turkey's EU Prospects', 13 March 2003.
8. BBC, 'Turkey's Ocalan trial "unfair"', 12 March 2003.
9. BBC, 'Death sentence for Ocalan', 29 June 1999. Ocalan's trial was adjudged by the European Court of Human Rights in 2003 to have violated European human rights standards. *Ocalan v. Turkey*, Application No. 46221/99. The case is currently before the Grand Chamber.
10. BBC, 'World: Europe: Ocalan orders PKK out of Turkey', 4 August 1999.
11. Ibid.
12. *Guardian*, 'Ocalan says war was mistake', Special report on the Kurds, 1 January 2000.
13. US DOS, 'Country Reports on Human Rights Practices for 2004: Turkey', February 2005.
14. With the exception of 2002, when only 30 deaths were reported. İHD, 'Human Rights Violations in Turkey – Summary Tables', January–June 2004.
15. COE, 'Turkey: Explanatory Memorandum', p39.
16. Monty G. Marshall and Ted Robert Gurr, 'Peace and Conflict 2003', Integrated Network for Societal Conflict Research (INSCR).
17. Human Rights Watch, 'World Report 2001: Turkey', 2002.
18. The PKK at the time were under a variety of names, including KADEK and Kongra-Gel.
19. BBC, 'Kurds move to end Turkish truce', 29 May 2004.
20. AFP, 'Kongra-Gel is latest reincarnation of Turkey's Kurdish separatist PKK', 29 May 2004.
21. BBC, 'Kurds move to end Turkish truce'.
22. BBC, 'Kurdish rebels abandon truce', 2 September 2003.

23. *EU Business*, 'EU membership offers ray of hope for Turkey's conflict-weary Kurds', 15 December 2004.
24. AFP, 'Police officer killed in clash with Kurdish extremists: report', 13 August 2004.
25. Reuters, 'Syria hands over Kurds to Turkey', 10 September 2004.
26. Human Rights Watch, 'Last Chance for Turkey's Displaced?', 4 October 2004.
27. UN Secretary-General Kofi Annan, 'Preventing Conflict in the Next Century: The World in 2000', 2000.
28. The Treaty of Amsterdam on the European Union (EU) came into force on 1 May 1999, Preamble and Articles 2, 29 and 40.
29. European Commission, Department of Justice and Home Affairs, 'Strengthening the European Union as an Area of Freedom, Security and Justice', <http://europa.eu.int/comm/justice..hOme/fsj/iftro/fSJ_intro_en.htm>.
30. Roger Mac Ginty, 'The Irish Peace Process – Background Briefing', 1998.
31. VOA News, 'Spain's Basque separatist group agrees to peace talks', 16 January 2005.
32. COE, 'Turkey: Explanatory Memorandum', p40.
33. Final Resolution of the International Conference 'The EU, Turkey and the Kurds', 22–23 November, European Parliament, Brussels, co-organized by Rafto Foundation (Norway), Kurdish Human Rights Project (United Kingdom), Medico International (Germany).
34. COE, 'Turkey: Explanatory Memorandum', p40.
35. UN Commission on Human Security, 'Outline of the Report of the Commission on Human Security'.
36. *Washington Post*, 'Turkey rejects two nations' offer to ease conflict', 30 November 1998.
37. *Ibid.*
38. Quoted in GlobalSecurity.org, 'Kurdistan – Turkey', <www.globalsecurity.org/military/world/war/kurdistan.htm>.
39. BBC, 'Kurds move to end Turkish truce'.
40. BBC, 'Turkey looks to US for help with the Kurds', 19 September 2003.
41. UN Secretary-General Kofi Annan, 'Preventing Conflict in the Next Century', 2000.
42. K. Yildiz, *The Kurds in Iraq: The Past, Present and Future* (London, Pluto Press, 2004), p151.
43. UNHCR, 'The State of the World's Refugees 2000: Fifty Years of Humanitarian Action – Chapter 9: War and Humanitarian Action: Iraq and the Balkans', 2000.
44. Former Turkish Prime Minister Bülent Ecevit has, among others, reportedly claimed that '[t]here is no Kurdish issue in Turkey, just a PKK problem'. See N. Dixon, 'US/NATO Hypocrisy Exposed as Turkey Attacks Kurds', 21 April 1999.
45. UN Security Council Resolution 688 (1991), para.1.
46. See, *inter alia*, ECtHR, Application No. 36217/97, *Menteşe and Others v. Turkey*, 18 January 2005; ECtHR, Application No. 27306/95, *Kismir*

- v. *Turkey*, 31 May 2005. Note that the European Commission's 2004 Annual Report stated: 'Although is no longer systematic, numerous cases of ill-treatment including torture still continue to occur and further efforts will be required to eradicate such practice'. See KHRP Fact-Finding Mission Report, 'Thirteen Bullets', supra n. 31, p7.
47. See, *inter alia*, ECtHR, Application No. 30949/96, *Ateş v. Turkey*, 31 May 2005.
 48. Grand Chamber, Application No. 19392/92, *The United Communist Party of Turkey and Others v. Turkey*, 30 January 1998. See also Grand Chamber, Application No. 21237/93, *Socialist Party v. Turkey*, 25 May 1998. Read Gilbert, supra n. 53, p348.
 49. UN Secretary-General Kofi Annan, 'Preventing Conflict in the Next Century'.
 50. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 4 November 1998, p19.
 51. *Ibid.*, p20.
 52. COE, 'Turkey: Explanatory Memorandum', p38.
 53. European Parliament Committee on Foreign Affairs, 'Report on the 2004 Regular Report and the Recommendation of the European Commission on Turkey's Progress towards Accession', (COM(2004)0656-C6-0148/2 0042004/2182(INI)), 3 December 2004, para. 27.
 54. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p50.
 55. *Ibid.*
 56. *Ibid.*
 57. European Commission, 'Turkey 2005 Progress Report', 8 November 2005 p38.
 58. European Commission, 'Turkey 2006 Progress Report', 8 November 2006', p21.
 59. *Ibid.*, p22.
 60. Council of Europe, Parliamentary Assembly, Resolution 1519 on the Cultural situation of the Kurds, 4 October 2006, para. 14.
 61. *Ibid.*, para.13.
 62. European Parliament, 'European Parliament Resolution on Turkey's Progress towards Accession' (2006/2118(INI)), Strasbourg, 27 September 2006, para. 50.
 63. 'The Commission recommends to start negotiations with Turkey under certain conditions', press release, Brussels, 6 October 2004.
 64. US DOS, 'Country Reports on Human Rights Practices for 2004: Turkey'.
 65. Office of the Commissioner for Human Rights, 'Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his Visit to Turkey 11-12 June 2003 for the Attention of the Committee of Ministers and the Parliamentary Assembly', Strasbourg, 19 December 2003.
 66. BBC, 'Turkey approves amnesty for Kurds', 29 July 2003.
 67. Radio Free Europe/Radio Liberty, 'Kurds cancel cease-fire, offer schedule for talks', 2003.
 68. BBC, 'Turkey approves amnesty for Kurds'.

69. AFP, 'Turkey's main Kurdish party urges "courageous" steps to end conflict', 27 June 2003.
70. Embassy of the Republic of Turkey, 'Law on the Reintegration into Society: Media Release', <www.turkishembassy.com/II/IA2.htm>.
71. Office of the Commissioner for Human Rights, 'Report by Mr Alvaro Gil-Robles'.
72. Embassy of the Republic of Turkey, 'Law on the Reintegration into Society: Media Release'.
73. Dođn Ergil, 'The Kurdish question after Ocalan', CNN, 2001. This relates back to a statement made by President Çiller in 1994. James M. Dorsey, *Talking Turkey*, 'Amendments, Abolitions, Autonomy', September 1995, pp41, 97.
74. *Radikal*, 'Reacting To Kurds', 13 December 2004.
75. *Turkish Daily News*, 'Erdođan: Kurdish Ad Political Assassination', 16 December 2004.
76. Ibid.
77. BBC, 'Leyla Zana faces new threat', 9 July 2004.
78. Ibid.

6 THE INTERNATIONAL DIMENSION TO THE CONFLICT

1. Oil is found in Kirkuk and Khaniqin in Iraq, Batman and Silvan in Turkey and at Rumeylan in Syria. Other minerals in significant quantities include chrome, coal, copper, iron and lignite. David McDowall, 'The Kurds', Minority Rights Group, <www.minorityrights.org/Profiles/profile.asp?ID=I1>.
2. BBC, 'Shia parties triumph in Iraq poll', 14 February 2005.
3. Civitas Research, 'Turkey and Iraq: Conflict Responses and Implications', October 2002.
4. Edgar O. Ballance, *The Kurdish Struggle 1920-94* (London, Macmillan Press Ltd, 1996), p19.
5. Inter Press News Service, 'All not quiet on the northern front', 20 February 2005.
6. International Crisis Group, 'Iraq: Allaying Turkey's Fears Over Kurdish Ambitions', Middle East Report No. 35, 26 January 2005.
7. Reuters, 'Iraq Kurds celebrate vote in Kirkuk, tension feared', 14 February 2005.
8. International Crisis Group, 'Iraq: Allaying Turkey's Fears Over Kurdish Ambitions' Crisis Group Middle East Report No. 35, 26 January 2005.
9. *New York Times*, 'Turkey warns Kurds about Kirkuk control', 26 January 2005.
10. Quoted in Human Rights Watch, 'Turkey and War in Iraq: Avoiding Past Patterns of Violation', March 2003.
11. BBC, 'Rice smoothes relations in Turkey', 6 February 2005.
12. Ibid.
13. Inter Press Service, 'Disquiet on the northern front', 19 February 2005.

14. Nouri Talanaby, 'Iraq's Policy of Ethnic Cleansing: Onslaught to Change National/Demographic Characteristics of the Kirkuk Region' (London, 1999), <www.kirkuk.kurdishpoint.com/>.
15. *Washington Post*, 'Regional Kurdish victory could lead to conflict', 14 February 2005.
16. Inter Press Service, 'Disquiet on the northern front'.
17. *New York Times*, 'Turkey warns Kurds about Kirkuk control'.
18. Ibid.
19. GlobalSecurity.org, 'Kurdistan – Turkey', <www.globalsecurity.org/military/world/war/kurdistan-turkey.htm>.
20. Kerim Yildiz, *The Kurds in Iraq: The Past, Present and Future* (London, Pluto Press, 2004), p79.
21. Ibid., p79.
22. Ibid.
23. Ibid., p80.
24. Ibid., p81.
25. Radio Free Europe/Radio Liberty, 'Turkish incursion', 22 December 2000.
26. Associated Press, 'Turkey bolsters forces along Iraqi border: U.S. cautions against action outside of coalition', March 7, 2003.
27. Speech by Prime Minister Bulent Ecevit to the US Chamber of Commerce, Washington DC, 15 January 2002.
28. Turkey's Premier, Recep Tayyip Erdoğan, stated in September 2004: 'The Turkish government is gradually losing patience as America continues avoiding taking military actions against the Kurd rebels in Turkey who are presently based in Northern Iraq.' GlobalSecurity.org, 'Kurdistan – Turkey', <www.globalsecurity.org/military/world/war/kurdistanturkey.htm>.
29. Henry J. Barkey, 'Kurdish Geopolitics', *Current History*, January 1997.
30. International Crisis Group, 'Iraq: Allaying Turkey's Fears Over Kurdish Ambitions'.
31. Ibid.
32. Dawn Guardian News Service, 'Elections fuel fears over Kurdish independence', 16 February 2005.
33. Quoted in *Daily Mail* – Daily News from Pakistan, 'Iraq poll results heighten Turkish fears over Kurds', <<http://dailymailnews.com/200502/25/index.html>>.
34. Inter Press Service, 'Disquiet on the northern front'.
35. *Turkish Daily News*, 'Büyükanit warns separatists, Iraqi Kurds and "regime change seekers"', 15 February 2007.
36. CNN, 'Turkey's battle plan could threaten northern Iraq', 25 May 2007.
37. *Der Spiegel*, 'Turkish military leaders pushing for invasion of northern Iraq', 8 June 2007.
38. CNN, 'Turkey's battle plan could threaten northern Iraq'.
39. Reuters, 'Turkish forces shell northern Iraq', 3 June 2007.
40. Reuters, 'Turkish prosecutors open an investigation against Barzani', 19 June 2007.

41. *New York Times*, 'Turkish Premier opposes move on militants in Iraq', 13 June 2007.
42. Lale Sariibrahimoglu, *Today's Zaman*, 'Turkish democracy will inflict real blow against terror', 14 June 2007.
43. KHRP, Bar Human Rights Committee and Human Rights Association, *The Lifting of Emergency Rule: A Democratic Future for the Kurds?* (London, KHRP, November 2002), p6.
44. Application No. 31821/96. This case was brought by the London-based Kurdish Human Rights Project.
45. *Ibid.*, para. 69.
46. *Ibid.*, para. 71.
47. *Ibid.*, para. 75.
48. *Ibid.*, para. 81.
49. See KHRP et al., *The Lifting of Emergency Rule*.
50. Yildiz, *The Kurds in Iraq*, 2004, p80.
51. Article 8, Constitution of the Syrian Arab Republic.
52. Human Rights Watch, 'Syria: The Silenced Kurds', October 1996.
53. Aland Mizell, 'The Exploitation of the Kurds: The Effects of Globalization and Third-party Intervention on Democratization in Turkey', *KurdishMedia.com*, 1 January 2005.
54. Kurdish Human Rights Project, The Corner House and Ilisu Dam Campaign, *Report of Fact-finding Mission to Syria and Iraq: Downstream Impacts of Turkish Dam Construction on Syria and Iraq* (London, KHRP, July 2002).
55. *Ibid.*, p7.
56. *Ibid.*
57. *Ibid.*, p21.
58. BBC, 'World: Middle East Turkey losing patience with Syria', 4 October 1998; Mideastnews, 'Syria Turkey quarrel, water is behind Turkey Syria border tension', 6 October 1998.
59. CS Monitor, 'Syria forms new alliances', 26 June 2002.
60. *Ibid.*
61. Al-jazeera, 'Syria hands over Kurds to Turkey', 10 September 2004.
62. *Tehran Times*, 'Turkey, Syria sign free trade agreement', 23 December 2004.
63. Michael M. Gunter, 'Turkey and Iran Face off in Kurdistan', *Middle East Quarterly*, March 1998, Vol. V, No. 1.
64. *Ibid.*
65. *Ibid.*
66. Yildiz, *The Kurds in Iraq*, p80.
67. United Nations High Commissioner for Refugees (UNHCR), 'Background Paper on Refugees and Asylum Seekers from Iraq', June 2000, p5.
68. The PUK and the KDP, for example, both have their roots in the Kurdish Democratic Party of Iran KDPI formed in Iran in 1945. Yildiz, *The Kurds in Iraq*, 2004, p88.
69. Yildiz, *The Kurds in Iraq*, pp136–7.
70. *GlobalSecurity.org*, 'Kurdistan – Turkey'.
71. BIA, 'Turkey and Iran converge on countering PKK', 28 July 2004.

72. Radio Free Europe/Radio Liberty, 'Iran, Turkey see eye to eye on Kurds', 31 July 2004.
73. Gunter, 'Turkey and Iran Face off in Kurdistan'.
74. Ibid.

7 THE MILITARY AND THE ISLAMIST MOVEMENT

1. The 'deep state' is a phenomenon that has been described as an informal structure formed by the military in which state institutions, police, and so on, cooperate to influence the government for their own purposes.
2. The press release issued on the military website has been described as a memorandum-like warning or an 'e-memorandum'. See, for example, 'Military steps in presidential election debate', *Today's Zaman*, 28 April 2007.
3. According to the Constitutional Court, only 358 of the required 367 MPs voted.
4. Draft KHRP Briefing Paper, *The Twin Precepts of the Turkish Republic. Nationalism and Secularism* (KHRP, London, June 2007), pp1–2.
5. Ibid., pp3–4.
6. Niyazi Berkes, *The Development of Secularism in Turkey* (Routledge, London, 1998), pv (preface).
7. Ibid., p435ff.
8. Ibid., p456ff.
9. Ibid., p463ff.
10. Soner Çağatay, 'Secularism and Foreign Policy in Turkey: New Elections, Troubling Trends', *Policy Focus* 6 (April 2007), Washington Institute of Middle East Studies, p8.
11. Ihsan D. Dağı, 'Islamic Identity and the West: Is Conflict Inevitable?', *Islam and Tolerance in Wider Europe* (2007), Policy Perspectives, International Policy Fellowship Programs, pp103–11, at p104.
12. Draft KHRP Briefing Paper, *The Twin Precepts of the Turkish Republic*, p2.
13. Dağı, 'Islamic Identity and the West', p105.
14. See, for instance, Marc Tessler and Ebru Altinoğlu, 'Political Culture in Turkey: Connections among Attitudes Toward Democracy, the Military and Islam', *Democratization*, Vol. 11, No. 1 (London, Frank Cass, February 2004), pp22–51.
15. However, it was not the first time that a non-secular-oriented party came to power. The Democratic Party, referred to above, as well as the Justice Party in the 1960s, both depended on latent Islamic support. See Michael M. Gunter and M. Hakan Yavuz, 'Turkish Paradox: Progressive Islamists versus Reactionary Secularists', *Critique: Critical Middle Eastern Studies* 16 (Fall 2007), p1.
16. Dağı, 'Islamic Identity and the West?', pp106–7.
17. Ibid., pp108–9.
18. Ibid.

19. This has also been noted by Gunter and Yavuz, *Turkish Paradox*, pp280–301.
20. Nilufer Narlı, 'The Rise of Islamist Movement in Turkey', *Middle East Review of International Affairs*, (1999), Vol. 3, No. 3, pp38–48.
21. Christopher Houston, *Islam, Kurds and the Turkish Nation State* (Berg, Oxford, New York, 2003) pp147–55.
22. Kemal Kirişçi, 'Religion and Politics of Turkish Accession to EU', *Edam Bulletin* (Spring 2007), Centre for Economics and Foreign Policy Studies
23. The AKP party programme is available at <<http://eng.akparti.org.tr/english/partyprogramme.html#2.6>>; last accessed 25 September 2007.
24. As opposed to the previous military ones. The 1924, 1961 and 1982 Constitutions have all been prepared under military rule.
25. *Today's Zaman*, 'New constitution prioritizes individual', 14 September 2007. See also the Turkish Constitution, available at <www.byegm.gov.tr/mevzuat/anayasa/anayasa-ing.htm>; last accessed 27 September 2007.
26. *Bianet*, 'New constitution must be pluralist', 24 August 2007, and 'Young civilians movement remembers 12 September', 12 September 2007.
27. Bezen Coşkun, 'The Triumph of an Islamic Party in Turkey: Effects of the Democratisation Process in the Rise of the Justice and Development Party (AKP)', *Interdisciplinary Journal of International Studies* No. 1 (2003), p69.
28. *Irish Times*, 'Iraq incursion could be scenario for coup', 17 October 2007.

8 INTERNAL DISPLACEMENT

1. David McDowall, *A Modern History of the Kurds* (London, I.B. Tauris Publishers, 1996), p200.
2. KHRP, *The Status of Internally Displaced Kurds in Turkey: Return and Compensation Rights*, (London, KHRP, 2006), p11.
3. The Ministry of Interior counted less than 400,000 IDPs, but its figure includes only persons displaced as a result of village and hamlet evacuations in the southeast, and does not include people who fled violence stemming from the conflict between the government and the PKK, which included evacuations, spontaneous movement, displacement and related rural-to-urban movement within the southeast itself.
4. Human Rights Foundation of Turkey, 'Monthly Report', August 2001.
5. Migrants' Social Solidarity and Culture Association (Göç-Der), 'Recommendations on the Kurdish Problem and Internal Displacement to the Turkish Government, Kongra-Gel (Kurdistan People's Party) and the EU', 8 December 2004.
6. *Ibid.*
7. US DOS, 'Country Reports on Human Rights Practices for 1993: Turkey', February 1994.

8. United Nations Commission on Human Rights, 'Letter dated 19 August from the Permanent Mission of Turkey to the United Nations Office at Geneva addressing the Acting High Commissioner for Human Rights', E/CN.4/2004/G/15, 7 November 2003.
9. European Court of Human Rights, Press Release, 'Chamber Judgement in the Case of *Doğan and Others v. Turkey*', 29 June 2004.
10. Government officials put the number of displaced at 352,576, but this probably includes only those subject to 'official' village evacuations and does not include the much larger numbers forced to leave as a result of the activities of Turkey's security forces. Permanent Mission of Turkey to the United Nations, 'Information Provided to the NRC from the Permanent Mission of Turkey to the United Nations, Geneva concerning Internally Displaced Persons (IDPs) and "Back to Village and Rehabilitation" Project', Geneva, 18 March 2004.
11. KHRP, *Internally Displaced Persons: The Kurds in Turkey* (London, KHRP, June 2002), p9.
12. Ibid.
13. Established by Decree 388 of November 1989.
14. See <www.gap.gov.tr>.
15. KHRP, and National University of Ireland, Galway, *The Cultural and Environmental Impact of Large Dams in Southeast Turkey* (London, KHRP, February 2005), p 23, 67.
16. The letter was published in mid-November 1993 in the English-language weekly *Turkish Probe* and the *Turkish Daily News*. See also Republic of Turkey Prime Ministry, 'GAP Regional Development Administration, Social Policy Objectives', October 1998.
17. On 19 July 1987 in response to the deteriorating security situation, the Turkish Parliament declared a civil State of Emergency in southeast Turkey, providing for an emergency civil administration and the appointment of a Regional Governor in which all powers of the State of Emergency administration were vested.
18. Articles 5, 6, 8, 10, 11 and 13 of the ECHR.
19. Council of Europe, Conventions and Agreements in the European Treaty series.
20. Ibid.
21. Bill Frelick, *The Wall of Denial: Internal Displacement in Turkey* (US Committee for Refugees Washington DC, 1999), p23.
22. TOHAV, *The Problem of Turkey's Displaced Persons: An Action Plan for Their Return and Compensation*, Foundation for Society and Legal Studies, Minority Rights Group International (MRG), financially supported by the European Union (Istanbul: Foundation for Society and Legal Studies Publications, December 2006), p8.
23. KHRP, *The Status of Internally Displaced Kurds in Turkey*, p13.
24. TOHAV, *The Problem of Turkey's Displaced Persons*, pp8–9.
25. Council of Europe, Treaties: List of Declarations made by Turkey.
26. KHRP, *Turkey: The Situation of Kurdish Children*, 9, 2004.
27. Osman Baydemir, 'The Kurdish Question and Civil Society', The EU, Turkey, and the Kurds International Conference, 22–23 November 2004, European Parliament, Brussels, p126.

28. Ibid.
29. *New Antolian*, Ankara, 7 October 2006.
30. KHRP FFM Report, *The Status of Internally Displaced Kurds in Turkey: An Update* (KHRP, London, December 2006), p13.
31. Ibid.
32. *New Antolian*, Ankara, 7 October 2006.
33. TOHAV, *The Problem of Turkey's Displaced Persons*, p8.
34. Ibid.
35. KHRP FFM Report, *The Status of Internally Displaced Kurds in Turkey: An Update*, p14.
36. Ibid., p36.
37. European Commission, 'Turkey 2005 Progress Report', 8 November 2005, p38.
38. European Commission, 'Turkey 2006 Progress Report', 8 November 2006, p23.
39. European Commission Reports on Turkey's progress towards accession, 1998–2004.
40. AFP, 'Turkish watchdog accuses security forces of forcible village evacuation', Diyarbakır (Northern Kurdistan), 24 August 2004.
41. This was first established in *Akdivar v. Turkey*, Application No. 21893/93, and has been confirmed in many subsequent judgments by the Court.
42. Global IDP Project, 'Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council: Profile of Internal Displacement: Turkey', October 2002.
43. Göç-Der, 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic who are Forcibly Displaced due to Armed-Conflict and Tension Politics; the Problems they Encountered due to Migration and their Tendencies to Return back to the Villages', 2002.
44. Council of Europe, 'Humanitarian Situation of the Displaced Kurdish Population in Turkey', Doc. 9391, 22 March 2002.
45. World Organization Against Torture and Human Rights Association, 'House Demolitions and Forced Evictions Perpetrated by the Turkish Security Forces: A Form of Cruel, Inhuman or Degrading Punishment against the Kurdish Population. Notes presented to the Committee against Torture (CAT) by OMCT and HRA', May 2003.
46. A report by the World Organization Against Torture and the Human Rights Association found that 43.4 per cent of displaced children no longer had formal relations with schools and were forced to work, often as street sellers or in the textile industry. World Organization Against Torture and Human Rights Association, 'House Demolitions and Forced Evictions Perpetrated by the Turkish Security Forces'.
47. The European Commission reported in 2003 that there were an estimated 10,000 street children in the Diyarbakır area. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2003.
48. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p50.
49. Ibid., p19.

50. *Turkish Daily News*, Survey: IDP numbers triple those acknowledged by state, 7 December 2006.
51. Frelick, *The Wall of Denial*, p8.
52. Reported by Firat News Agency, 11 July 2006.
53. Frelick, *The Wall of Denial*, p9.
54. *Turkish Daily News*, Survey: IDP numbers triple those acknowledged by state.
55. These amounts pertain to the twelve provinces: Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Hakkâri, Mardin, Muş, Siirt, Şırnak, Tunceli and Van.
56. The Interior Ministry says that 358,335 people were displaced from 945 villages and 2,021 hamlets during 1984–99 and that 137,636 of them have returned to their homes since 1998. See TESEV, *Overcoming a Legacy of Mistrust*, p. 12.
57. The survey was conducted in 14 provinces: Adıyaman, Ağrı, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Hakkâri, Mardin, Muş, Siirt, Şırnak, Tunceli and Van.
58. Internal Displacement Monitoring Center, IDP News Alert, 11 January 2007.
59. For example, according to a survey by Göç-Der of 18,000 people in six provinces in 2000, 87 per cent of people who had been compelled to evacuate their villages wished to return. Reported in Yıldız Samer, 'Kurdish Villagers Still Far From Home', 1 September 2004.
60. The European Commission also observes this. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2003, p40.
61. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p51.
62. Human Rights Watch, 'Last Chance for Turkey's Displaced?' Briefing Paper, 4 October 2004.
63. Statement of Jonathan Sugden, Turkey Researcher, Europe and Central Asia Division, Human Rights Watch to the Commission on Security and Cooperation in Europe, 10 June 2003.
64. Permanent Mission of Turkey to the United Nations, 'Information provided to the NRC from the Permanent Mission of Turkey to the United Nations, Geneva concerning Internally Displaced Persons (IDP5) and "Back to Village and Rehabilitation" Project'.
65. *Turkish Daily News*, 'Return to vacated villages at turtle-speed', Ankara, 25 May 2000, quoted in KHRP, *Internally Displaced Persons: The Kurds in Turkey*, p35 n186.
66. KHRP, Bar Human Rights Committee and Human Rights Association, *The Lifting of Emergency Rule: A Democratic Future for the Kurds?* (London, KHRP, November 2002), p34.
67. These concerns are reflected in European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2003, p40; Göç-Der, 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic'.
68. Comment by Prof. Dr Gurol Ergin, Chairman of the Chamber of Agricultural Engineers, reported in Human Rights Foundation of Turkey, 'Monthly Report', February 2001.

69. See International Federation of Human Rights Leagues (FIDH), 'Trial against the Turkish NGO "GÖC-DER" before the Istanbul State Security Court', 21 January 2004.
70. Human Rights Foundation of Turkey, 'Monthly Report', February 2001.
71. Human Rights Watch, 'Last Chance for Turkey's Displaced?', 2004; Göç-Der, 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic'.
72. As presented by Dr Deng at 'Hearing: Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia', Commission on Security and Cooperation in Europe – United States Helsinki Commission, 10 June 2003.
73. Fédération Internationale des Droits de l'Homme, 'Turkey – Human Rights in the Kurdish Southeast: Alarming Situation Despite Extensive Legal Reforms', No. 367/2, July 2003.
74. KHRP, *Internally Displaced Persons: The Kurds in Turkey*.
75. *Ibid.*
76. United Nations Commission on Human Rights, 'Letter dated 19 August from the Permanent Mission of Turkey to the United Nations Office at Geneva'.
77. KHRP, *Turkey's Implementation of Pro-EU Reforms: Fact-Finding Mission Report* (London, KHRP, November 2004), p20.
78. European Court of Human Rights, 'Press Release issued by the Registrar – Chamber Judgement in the Case of *Doğan and Others v. Turkey*', 29 June 2004.
79. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p51.
80. Göç-Der, 'The Research and Solution Report on the Socio-Economic and Socio-Cultural Conditions of the Kurdish Citizens Living in the Turkish Republic'; Dr Deng at 'Hearing: Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia', p7; Human Rights Foundation of Turkey, 'Monthly Report', June, August and October 2004.
81. Human Rights Foundation of Turkey, 'Monthly Report', June 2004.
82. See Council of Europe, 'Humanitarian Situation of the Displaced Kurdish Population in Turkey' (Doc. 9391), 22 March 2002.
83. Sefika Gürbüz, from Göç-Der, quoted in Samer, 'Kurdish Villagers Still Far From Home'.
84. Council of Europe (COE), Parliamentary Assembly, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, 'Turkey: Explanatory Memorandum by the Co-Rapporteurs, Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande', March 2004, pp45–6.
85. *Ibid.*, pp44–5.
86. *Ibid.*, p51.
87. Human Rights Foundation of Turkey, 'Newsletter', November 2003.
88. COE, 'Turkey: Explanatory Memorandum'.

89. World Organization Against Torture and Human Rights Association, 'House Demolitions and Forced Evictions Perpetrated by the Turkish Security Forces'.
90. Article 125, Turkish Constitution.
91. Human Rights Foundation of Turkey, 'Monthly Report', October 2004.
92. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p50.
93. Human Rights Watch, 'Last Chance for Turkey's Displaced?'
94. KHRP, Bar Human Rights Committee 'The Internally Displaced Kurds of Turkey: Ongoing Issues of Responsibility, Redress and Resettlement', 2007, pp66–7.
95. *Akdivar v. Turkey*.
96. US DOS, 'Turkey: Country Reports on Human Rights Practices – 2003', 25 February 2004.
97. Dr Deng at 'Hearing: Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia', p.7.
98. *Ibid*.
99. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p50, 64.
100. *Ibid*.
101. UN Document E/CN.4/1998/53/Add.2 of 11 February 1998.
102. Principle 6.
103. Principle 6.3.
104. Principle 10.
105. Principles 10 and 11.
106. Principle 21.
107. See *Akdivar v. Turkey*; *Mentes v. Turkey*, Application No. 23 186/94; *Selçuk and Asker v. Turkey*, Applications 23184/94 and 23185/94; *Bilgin v. Turkey*, Application No. 23819/94; *Dulaş v. Turkey*, Application No. 25801/94; *Orhan v. Turkey*, Application No. 25656/94; *Gündem v. Turkey*, Application No. 23144/93; *Yöyler v. Turkey*, Application No. 269 73/95.
108. *Selçuk and Asker v. Turkey*; *Bilgin v. Turkey*; *Yöyler v. Turkey*.
109. Resolution 1993/77, adopted on 10 March 1993 during the 49th session of the UN Commission on Human Rights.
110. Statement of Sugden to the Commission on Security and Cooperation in Europe.

9 THE EU AND THE KURDS

1. Point 12.
2. Kerim Yildiz, *The Kurds in Iraq: The Past, Present and Future* (London, Pluto Press, 2004), p11.
3. *Ibid*.
4. David McDowall, *A Modern History of the Kurds* (London, I.B. Tauris and Co. Ltd, 2004), p121.

5. For example, BBC, 'Kurds move to end Turkish truce', 29 May 2004.
6. Human Rights Watch, 'Weapons Transfers and Violations of the Laws of War in Turkey', November 1995.
7. Ibid.; Campaign Against the Arms Trade, 'Arms Sales to Turkey', January 1998.
8. Human Rights Watch, 'Weapons Transfers and Violations of the Laws of War in Turkey', November 1995.
9. Ibid.
10. Amnesty International, 'A Catalogue of Failures; G8 Arms Exports and Human Rights Violations', 19 May 2003.
11. EU Code of Conduct on Arms Exports, Criterion 2(a).
12. European Parliament, 'Resolution on the Situation in Iraq Eleven Years after the Gulf War' (200012329(INI)), June 2001.
13. Foreign and Commonwealth Office, 'Saddam Hussein: Crimes and Human Rights Abuses: A Report on the Human Cost of Saddam's Policies by the Foreign and Commonwealth Office', November 2002.
14. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1998, p53.
15. European Parliament, 'Resolution on the 2000 Regular Report from the Commission on Turkey's Progress Towards Accession' (COM(2000) 713-C5-0613/2000-2000/2014(COS)), 2000.
16. European Parliament, 'Resolution on the Annual Report on International Human Rights and European Union Human Rights Policy, 1999', Official Journal C 377, 29 December 2000, para. 26.
17. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1998, p53.
18. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1999, p14.
19. Council of the European Union, 'Council Decision of 8 March 2001 on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with the Republic of Turkey' (2001/235/EC), 24 March 2001.
20. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p55.
21. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1998, p19.
22. Ibid.
23. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 2004, p48.
24. European Commission, 'Regular Report on Turkey's Progress Towards Accession', 1998, p20.
25. Ibid.
26. Negotiation Framework for Turkey, Brussels, 8 November 2005, p2.
27. European Commission, 'Turkey 2005 Progress Report', Brussels, 8 November 2005, pp35-40.
28. Ibid., p38.
29. European Council, *Agenda 2000* - Vol. 1 - 'Communication: for a Stronger and Wider Union', DOC/97/6, Strasbourg, 15 July 1997, p54.

30. EU DG Enlargement Information Unit, 'Support for Roma Communities in Central and Eastern Europe', May 2002, p6.
31. *Ibid.*, p7.
32. *Ibid.*, p11.
33. Council of the European Union, 'Decision on the Principles, Priorities and Conditions Contained in the Accession Partnership with Turkey', Brussels, 23 January 2006, p5.
34. European Commission, 'Turkey 2006 Regular Report', Brussels, 8 November 2006, p22.
35. *Ibid.*
36. European Parliament, 'Resolution on the 2000 Regular Report from the Commission on Turkey's progress towards accession', para. 18.
37. Europarl, News Report, 'Turkey: yes to negotiations but no guarantee of membership Brussels', 30 November 2004.
38. *Ibid.*
39. European Commission, 'Commission Staff Working Document Issues Arising From Turkey's Membership Perspective', Brussels, SEC(2004) 1202 (COM(2004) 656 final), 6 October 2004, p22.
40. Council of Europe (COE), Parliamentary Assembly, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, 'Turkey: Explanatory Memorandum by the Co-rapporteurs, Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande (Co-rapporteurs)', March 2004, pp38–46.
41. *Ibid.*, para. 126.
42. European Council in Copenhagen, 21–22 June 1993, 'Conclusions of the Presidency', para. 7A(iii).
43. AFP, 'Turkey and EU speak "different languages" on minorities, says minister', 4 November 2004.
44. Council of the European Union, 'Brussels European Council, 16/17 December 2004, Presidency Conclusions'.
45. *Guardian*, 'EU puts Turkey on a long road to accession', 7 October 2004.
46. The 1992 Treaty on European Union created a three-pillar structure for the EU: the first pillar covered economic areas such as the single market, trade, the environment, agriculture and competition rules; the second pillar was the Common Foreign and Security Policy (CFSP); the third pillar was cooperation in the field of Justice and Home Affairs (JHA).
47. Commission of the European Communities, 'Recommendation of the European Commission on Turkey's Progress Towards Accession'.
48. Directive 2000/43/EC.
49. Indeed, such a provision was deleted from the original text. M. Nowak, 'Human Rights Conditionality in Relation to Entry to, and Full Participation in, the EU', in P. Alston (ed.), *The EU and Human Rights* (Oxford, Oxford University Press, 1999), p693.
50. Charter of Fundamental Rights of the European Union (2000/C 364/01).
51. *Ibid.*, Articles 21 and 22 respectively.
52. The Commission has stated that: 'The European Parliament, the Council and the Commission cannot, whether acting in a legislative, admin-

istrative or policy-making role, ignore a text that they have solemnly proclaimed and is part of the draft European Constitution.' <http://europa.eu.int/comm/justice_home/unit/charte/en/about_impact.html>.

53. This may change in accordance with developments relating to the EU Constitution.

10 THE FUTURE OF EU ACCESSION

1. For the Council's decision see Council of the European Union, General Affairs and External Relations, Brussels, 11 December 2006, 16289/06 (Press 352). For the Commission's recommendation see press release, 'Commission Presents its Recommendation on the Continuation of Turkey's Accession Negotiations', Brussels, 29 November 2006, IP/06/1652.
2. *Guardian*, 'Turkey's EU hopes suffer Cyprus setback', 27 November 2006.
3. *Financial Times*, 'Chirac and Merkel unite over Turkey', 3 December 2006.
4. *Guardian*, 'Turkey's EU hopes suffer Cyprus setback', 27 November 2006.
5. *Der Spiegel Online*, 'Is Ankara Gambling away its EU Future?', 3 November 2006.
6. Senem Aydın and Ruşen Çakır, 'Political Islam in Turkey', Centre for European Policy Studies Working Document, 12 April 2007 (Brussels, CEPS, 2007).
7. See European Court of Human Rights, 'Survey of Activities, Table of violations 2006'.
8. European Commission, 'Negotiation Framework for Turkey', Brussels, 8 November 2005, para. 5.
9. David Petrusek, unpublished article, November 2007.
10. *Today's Zaman*, 'The military intervenes: will the West lose Turkey?', 30 April 2007.
11. *Turkish Daily News*, 'Büyükanıt warns separatists, Iraqi Kurds and "regime change seekers"', 15 February 2007.
12. *Guardian*, 'EU warns Turkish military to stay out of election crisis', 2 May 2007.

Index

Compiled by Sue Carlton

- Abbasoğlu, Mehmet 71
- Accession Partnership 14, 24, 25,
32, 33, 40, 50, 173, 178, 180
- accession process 1–3, 20–38, 147
and conflict resolution 111–13
consequences of delay 27–8
and democratization 2, 20, 22,
30, 36, 142, 181, 193
and dialogue 185
and European reluctance 26, 189,
190, 195–6
future of 189–99
harmonization 40, 41, 49, 52, 87
and human rights reform 15, 22,
24, 28, 39, 142, 191–3, 194–5
see also Copenhagen Criteria
and Kurdish issue 22, 30, 33,
34–5, 77–8, 119, 122, 169–88,
193
assessment of EU approach to
178–83
Kurdish perspective on 184–8
lowering the bar 35–6, 39
negotiations
and EU credibility 197
and international reputation of
Turkey 195–6
Negotiation Framework 25, 32,
40, 176–7
opening of 1, 24–5, 191
suspension of 2, 29, 184–5,
189–91, 192, 193–4, 195
route to 20–4
support for 27–8
three pillar approach 121, 184–5
transition periods 24, 26, 37
Turkish public support for 190
in wider political context 25–9
acquis communautaire 24, 37, 189,
190, 192
- 'Agenda 2000' 35, 178
- AKP *see* Justice and Development
Party
- Aksu, Abdulkadir 163
- Albayrak, Hakan 57
- Alevi Kurds 5, 6
- 'Alvarez memo' 43
- Anglo-Iraq Treaty of Alliance (1930)
8, 128
- Ankara, bomb attack (2007) 110
- Ankara Agreement, Additional
Protocol 29, 189, 190
- Anti-Terror Law 22, 41
and development of civil society
65–6
and freedom of expression 52, 53,
55–7, 58, 59–60, 61–2, 86, 91–2
and political participation 73–4
and torture 47, 49–50
- Arabization 9, 11, 126, 130
- Ararat uprising (1930) 15
- Armenian genocide (1915) 18–19,
51, 57
- ART TV 84
- al-Assad, Bashar 140
- al-Assad, Hafez 138
- assimilation 102, 111
compulsory transfer 15–16
see also Kurds, assimilation;
Turkish Kurds, assimilation
- Association Agreement 21
- associations/organizations,
restrictions on 63–4
- Atatürk, Kemal 7, 13, 146, 170
and ethnic nationalism 4, 13, 40,
78, 101
Turkification programme 14, 15,
152
and Turkish language 81–2
and Western ideal 14, 20, 145, 147
- Aydın, Veysi 71
- Aydoğdu, Hilmi 92
- Ba'ath party, Syria 137
- Ba'athist regime, Iraq 8, 9, 14, 77,
128, 130, 132, 171

- Bakırhan, Tuncer 71
 Bar Human Rights Committee 90, 160, 161
 Barzani, Masoud 133, 134
 Barzani, Mullah Mustafa 8
 Başağaç 162
 Başbuğ, İlker 96, 130
 Baydemir, Osman 89, 156
 Bayraklı 162
 Belgium, and Turkey's EU accession 26
 BIA (Independent Communications Network), Annual Report 52
 Blair, Tony 27, 77
 Bosnian language 83
 Bozlak, Murat 6
 broadcasting
 closure of Kurdish satellite media networks 172
 in Kurdish language 23, 30, 82–6, 102–3
 in minority languages 40, 149
 subtitles 83
 Broek, Hans van den 22
 BTC pipeline 171–2
 Büyükanıt, Yaşar 133, 134, 194
- Çagri Radio/TV 84
 Capotorti, Francesco 99, 101
 Çelik, Feridun 71
 Cem, İsmail 113
 Centralized Villages Project 160, 161, 162
 Çetinkol 162
 Chirac, Jacques 26, 190
 Christians 18
 Çiçek, Cemil 96
 Çiller, Tansu 22, 108
 civil society 62–7, 121
 see also NGOs (non-governmental organizations)
 Committee Against Torture 47
 conflict in Southeast 106–25, 198
 and amnesties 122–3
 development of 106–10
 and EU 117–22
 humanitarian intervention 115–16
 international involvement 115–17, 196
 resolving 110–17, 196
 Convention Against Torture (CAT) 42
 Optional Protocol (OPCAT) 50
 Convention on the Rights of the Child 80
 Copenhagen Criteria 20, 23, 24, 25, 29–38, 40, 95, 178, 191, 192
 and civil society 65, 67
 and freedom of expression 86
 and IDPs 166
 and Kurdish issue 172, 175, 181, 183, 184
 and torture 45, 46, 50
 Corner House 138
 Council of Europe 21, 23, 179, 196
 and conflict in Southeast 108–9, 112–13, 116, 118, 120, 123, 182
 and human rights 49, 59
 and IDPs 162, 163
 and minority rights 35, 88, 92, 94–5, 99, 100
 cultural and linguistic rights 78–89
 international treaties 80
 reform 82–5, 86–8, 89, 90–1, 92
 Turkish Kurds 80, 81–9, 182
- dam-building projects 138–9, 154–5
 death penalty, abolition of 40
 deep state 40, 144, 148, 182, 193, 196, 198
 Değer, Mesut 156
 Demir, Ayhan 71
 Demirbaş, Abdullah 89, 115
 Demirel, Süleyman 131, 155
 Demirtaş, Selahattin 109
 Democracy Party (DEP) 69, 70
 Democratic Party (DP) 146
 Democratic Party of Iranian Kurdistan (PDKI) 11
 Democratic People's Party (DEHAP) 67–8, 70, 71, 75, 91, 123
 Democratic Society Party (DTP) 72, 74, 86, 91–2
 demonstrations 64–5
 Deng, Dr Francis 159, 162, 165–6

- Dersim (Tunceli) rebellion (1937)
15, 16, 106
- detention
illegal 153
incommunicado 16, 44, 45, 48
and legal council 49
and medical examinations 46
practices 43, 44, 48, 49
- Dicle, Hatip 69
- Dink, Hrant 2, 110
- Diyarbakir, Sur district 89, 115
- Doğan, Orhan 69
- Doğan and Others v. Turkey* 162
- Election Law 71, 72–3, 76
- Erbakan, Necmettin 146
- Erbil 8–9
- Erdoğan, Recep Tayyip 147, 177, 184–5
and election system 72, 130
and freedom of expression 55, 67, 124
and Iraqi Kurdistan 133, 134, 135
and post-modern coup 146
and pro-EU reforms 28, 36, 193
relations with Iran 141
relations with Syria 140
- ethnic cleansing 18
- ethnic nationalism 4, 13, 89, 99, 111, 127, 152
and accession process 172, 175
and civil society organizations 63
and forced assimilation 15
and freedom of expression 51, 52, 61, 62, 83
and minority rights 78, 81, 101
and reform process 40, 104, 182–3
and secularism 144
- Euphrates river 138–9
- Europe
responsibility towards Kurds 169–72
supplying weapons to Turkey 171
- European Bank for Reconstruction and Development (EBRD) 172
- European Commission
and civil society 65
and conflict in Southeast 118, 119–20, 122
and electoral system 75–6
and freedom of expression 55
and human rights standards 15, 20, 39
and internal displacement 157, 158, 166
and Kurdish issue 33–5, 173, 174–80, 182
and Kurdish language broadcasting 83
and minority rights 95, 96–7, 101
and reform process 30–2, 33, 36–8, 191
and torture/ill-treatment 45, 49
- European Commission against Racism and Intolerance (ECRI) 88, 95, 100
- European Committee for the Prevention of Torture (CPT) 15, 49
- European Convention on Human Rights (ECHR)
AKP's commitment to 149
and Anti-Terror Law 66
and electoral system 68, 70, 74, 75
and freedom of expression 52, 54, 59, 61
and internal displacement 155, 156, 162
and minority rights 98, 186
and torture 42, 116
violations 38, 91, 116–17, 135–6
- European Council, accession negotiations 20, 23, 24–5, 29, 39, 191
- European Court of Human Rights (ECtHR) 15, 23, 37, 38, 91, 116–17, 135, 167, 192
and election system 68, 69–70, 75
and freedom of expression 54, 59, 61
and internal displacement 154, 158, 162, 167
and minority rights protection 98
and political participation 15, 68, 69, 70–1, 74, 75

- European Initiative for Democracy and Human Rights 178
- European Parliament 22, 75, 120, 172, 173, 179
- European Union (EU)
- Charter of Fundamental Rights 31, 75, 186
 - new Constitution 26, 186
 - role in solving Kurdish question 172–8
 - supply of arms to Turkey 171
- First World War 6, 119, 126
- Fourteen Point Program for World Peace 6–7, 170
- Framework Convention on National Minorities (FCNM) 35, 80, 94–5, 96
- France, and Turkey's EU accession 26
- Free Life Party of Kurdistan (PJAK) 141, 142
- freedom of expression 17, 23, 50–62, 65, 86, 91–2
- GAP *see* Southeast Anatolia Regional Development Project
- Gül, Abdullah 96, 133, 144, 145, 149, 194
- Gulf War (1991) 9, 14
- Gün TV 83, 84–5
- Gürbüz, Sefika 161
- HADEP (People's Democracy Party) 18, 69–70, 71, 75
- Hakkâri 133
- dam project 155
- Hamidian massacres (1890s) 18
- Hamidiye Regiments 18
- Haraszti, Miklos 60–1
- Hasakah census 11–12
- Hatay Province 138
- Hewremani 85
- human rights
- reform 15, 22, 24, 28, 39, 142, 191–3, 194–5
 - Turkey's record 2, 15, 20, 21, 31, 37, 39, 92
 - see also* cultural and linguistic rights; minority rights
- Human Rights Advisory Board report 54, 95–6, 99–100, 103–4
- Human Rights Association *see* İnsan Hakları Derneği (İHD)
- Hussein, Saddam 9, 77, 130, 172
- İlam 5
- İlcak 110, 158
- İlisu Dam Campaign 138
- İlisu Dam project 121, 155
- immigration, fears about 25–6
- İnsan Hakları Derneği (İHD) (Human Rights Association) 44, 45, 58, 90, 91, 103, 161
- Institute of Forensic Medicine 47
- internal displacement 152–68
- and centralized villages 162
 - and compensation law 159, 164–5
 - conditions faced by IDPs 156–7, 158, 168
 - government response to 157–62
 - and infrastructure projects 154–5, 158
 - international response to 165–8
 - return programmes 159–62
 - role of security forces 154, 165
 - state impediments to return 163–5, 168, 175, 181
 - survey of IDPs 159
 - village evacuations 153–4, 155, 158
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 74, 80
- International Covenant on Civil and Political Rights (ICCPR) 42, 56, 61, 74, 80, 94, 95, 96, 100
- International Covenant on Economic, Social and Cultural Rights (ICESCR) 80, 94, 95, 96, 100
- Iran
- bombardments on Iran-Iraq border 142
 - crackdown on PKK 141
 - and human rights 140

- and Kurds 10–11
 - support for PKK 140–1
- Iranian Kurds 10–11, 140
- Iranian Revolution (1979) 10
- Iran–Iraq war 9
- Iraq
 - and democracy 77, 142–3
 - and Kurdish autonomy 8–9
 - Turcoman population 129–30
 - US-led invasion 127, 137, 139
- Iraqi Kurds 8–10, 77, 127–37, 142–3, 171, 172
 - autonomy 9–10, 128–9, 130, 132, 142
 - displacement 128, 130
 - refugees 14, 137
 - safe haven 9
- Islamic fundamentalism 196
- Islamic Raiders 109
- Islamist movement 146–7
 - and human rights 147–8
 - and Kurdish issue 148
- Issa and Others v. Turkey* 135–6
- al-Jaafari, Ibrahim 130
- Justice and Development Party (AKP) 23, 144–5, 147
 - and civilian Constitution 149–50
 - and EU accession 27–8, 30
 - and human rights 148–9
 - and Kurdish issue 150
 - and pro-EU reforms 40, 55, 71, 193
- Kaboğlu, İbrahim 54–5, 103
- Kahraman, Ahmet 58
- Kermanshah 5
- Khatami, Sayyed Muhammad 11
- Khomeini, Ayatollah Ruhollah 9
- Kirkuk 9, 128–30, 132
- Kivinkoğlu, Huseyin 139
- Kızgın, Ridvan 58
- Komala 10
- Konalga 162
- Kretschmer, Hansjoerg 100–1
- Kurdish Alliance 10
- Kurdish Autonomous Region 8–9, 133
- Kurdish Human Rights Project 23, 90, 91, 135
 - and electoral system 70
 - and GAP 138, 155
 - and internal displacement 154, 155, 159, 160–1, 167
 - and minority rights protection 95
- Kurdish regions, strategic importance of 12, 126
- Kurdishness 34, 90, 91, 103, 126, 153
- Kurdistan 5–6, 128, 131
- Kurdistan Democratic Party (KDP) 8, 9, 131, 141
- Kurdistan Workers' Party (PKK) 10, 14, 16–17, 69, 106–7, 198
 - and amnesty 122–3
 - ceasefires 15, 18, 108–9, 110, 113, 118, 125
 - and Iranian support 140–1
 - in Iraq 15, 127, 131–2, 133, 134, 135, 196
 - and non-violent strategy 109, 114
 - resumption of violence 109–10
 - sympathisers 82, 85, 107
 - and Syrian support 138, 139
 - as terrorist organization 113–14, 141, 172
 - and village evacuations 153–4
- Kurds
 - autonomy 7–10, 169–70
 - and cross-border interaction 130–1
 - division of 6–7, 126
 - forced assimilation 4, 10, 126
 - history of oppression 4–12
 - language 4–5, 6, 15, 16, 137–8
 - origin of name 5
 - population size 6
 - and religion 5, 6, 10–11
 - tribes 4
 - see also* Iranian Kurds; Iraqi Kurds; Syrian Kurds; Turkish Kurds
- Kurmanji 4–5, 6, 83, 85
- Law on the Adoption and Application of the Turkish Alphabet (1928) 81–2

- Law on Associations 63, 65–6
- Law on Broadcasting in
Traditionally Used Languages
and Dialects 82–3
- Law on Compensation of Losses
Resulting from Terrorist Acts
164–5
- Law on Demonstrations and Public
Meetings 64, 65, 71
- Law on the Establishment and
Broadcasting of Radio Stations
and Television Channels 85
- Law on Political Parties 68–9, 71–2,
73, 75, 76
- Law on Teaching in Different
Languages and Dialects
Traditionally Used by Turkish
Citizens in their Daily Lives 87
- Law on Works of Cinema, Video
and Music 82
- League of Nations 8, 170
- Leterme, Yves 26
- al-Maliki, Nouri 133
- Mayors, and closure of Roj TV 86
- Medya FM radio station 83
- meetings 64–5
- Menderes, Adnan 146
- Merkel, Angela 26, 189
- Mesopotamia 5, 7, 170
- Migrants' Social Solidarity and
Culture Association (Göç-Der)
161
- military
civil–military relations 149,
150–1
role of 144–5
- Minority Issues Assessment Board
104
- minority rights 2, 35, 54, 88,
93–105, 123–4, 182, 183,
186–7
definitions 98–102
and exclusion of Kurds 94,
99–102, 176, 177
substantive rights 102–4
- Mongols 6
- Mosul 8, 9, 128, 170
- Motherland Party 14
- Munzur Valley, dam project 155
- Nagorno-Karabakh conflict 140
- National Compensation Law 159
- National Salvation Party (MSP) 146
- National Security Council (NSC) 17,
146, 198
- National View Movement (MGH)
146, 147–8
- NATO (North Atlantic Treaty
Organization) 21, 132, 171, 196
- NGOs (non-governmental
organizations) 63–5, 159, 185
and freedom of expression 55,
57, 66–7
and IDPs 160, 161, 166
and torture allegations 47, 49
see also civil society
- no-fly zone 9
- Öcalan, Abdullah 15, 18, 71, 108,
138
- OHAL *see* State of Emergency
Legislation
- oil reserves 11, 128, 129, 170
- Operation Provide Comfort 9, 171
- Oran, Baskın 54–5, 103
- OSCE (Organization for Security
and Cooperation in Europe)
21, 196
and conflict in Southeast 116
and freedom of expression 60–1
and internal displacement 166
and minority rights 76, 80–1,
97–8
- Ottoman Empire 6–7, 12–13, 119,
129, 145, 169–70
- Özal, Turgut 14, 17, 132, 155
- Özgür Gündem 103
- Özkan, Songül 57–8
- Özkan, Vahdettin 162
- Pamuk, Orhan 2, 57
- Patriotic Union of Kurdistan (PUK)
9, 131–2, 141
- peace process
and democratic dialogue 111–14,
118–22, 124, 196
and international pressure 115–17

- People's Labour Party (HEP) 69, 72, 108
 Pervari 109
 Petrusek, David 193
 PKK *see* Kurdistan Workers' Party
 Political Ethics Law 72–3
 political participation 67–76, 98, 108
 political parties 67–73
 10 per cent threshold 67–8, 71–2, 75–6
 harassment of 69, 71
 independent candidates 72
 inter-party mobility 72, 73
 law on 68–9
 post-modern coup 146, 147, 148
 Press Law (1950) 14, 51–2, 60, 82
 pro-EU reforms 18, 20, 23, 27–8, 36–8, 39, 40–2, 191–2, 193–5
 and detention practices 46
 effectiveness of 30–1, 90–3
 and freedom of expression 52–3
 and Kurdish issue 172–3, 187
 opposition of hard-liners 194
 political participation 69, 71–2
 resistance to 40–1
- Qamishli 12
 Qasim, Abdul Karim 8
 Qasimlu, Abd al Rahman 11
- Rehn, Olli 26, 190
 Reintegration Law 122–3
 Republic of Cyprus, restrictions on trade with 2, 29, 189, 192
 Republican People's Party (CHP) 13, 145, 146
 Revolutionary People's Liberation Front 109
 Rice, Condoleezza 129
 Roj TV 85–6
 Roma 35, 102, 178
 RTÜK *see* Supreme Board of Broadcasting
- Saandjar, Seljuk Prince 5
 Sadak, Selim 69
 Safavid Empire 6
 Salman, Feray 58
- Sarkozy, Nicholas 26
 Scheinin, Martin 56
 secularism 144–7
 self-determination, right to 6, 115, 117, 121, 169–70
 Seljuk Turks 6, 129
 Sezer, Ahmet Necdet 96
 Sharafkindi, Dr Sadiq 11
 Sheikh Said rebellion (1925) 15, 106
 Shi'ite Islam 5, 11
 Siirt 133
 Şirin, Emin 163
 Şirnak 133
 Slovakia, and Copenhagen Criteria 35
 Social Democratic Populist Party (SHP) 72, 107
 Social Solidarity and Assistance Foundation 157
 Socialist Party of Turkey (STP) 70
 Sönmez, Nurettin 71
 Sorani 4–5, 85
 Southeast Anatolia Regional Development Project (GAP) 138–9, 154–5, 158
 Söz TV 83, 84
 Spain, and democratic dialogue 112
 State of Emergency Legislation (OHAL) 16, 21, 44, 104, 108, 155, 161
 and compensation law 164
 lifting of 18, 40, 91, 156
 and violence and disorder 4, 14, 44, 106, 119, 136, 152, 155
 Sunni Muslims 5, 6, 10
 Supreme Board of Broadcasting (RTÜK) 83, 85
 Syria 137–40, 142
 Arab belt 11
 support for PKK 138, 139
 Syrian Kurds 11–12, 137–8
- Talabani, Jalal 134
Thoma v. Luxembourg 59
 Tigris river 138–9
 torture 16, 17, 37, 116, 177, 181
 and culture of impunity 44, 47, 48, 50
 definition of 42, 48

- torture *continued*
 eradication of 31, 42–50
 and international law 42–3
 legal regulation of 23, 30, 31
 systematic 31, 47
 zero-tolerance policy 31, 36, 42,
 43, 44, 48, 49, 50
- Treaty on European Union 186
- Treaty of Lausanne (1923) 7, 13, 15,
 54, 81, 94, 103, 170
 definition of minorities 99,
 100–1, 102, 176
- Treaty of Sèvres (1920) 4, 7, 13, 102,
 128, 170
- TRT channel 82–3, 90
- True Path Party 36, 108
- Turcoman Front 130
- Turcomans/Turkmen 129–30, 133
- Turkey
 1980 military coup 14, 16, 21, 43,
 81, 106, 146, 153
 addressing Kurdish issue 122–5
 arms industry 171
 as bridge between civilisations
 26, 27
 Constitution
 1924 13
 1982 14, 16, 51, 81–2, 98–9
 amendments 22, 40
 civilian (2007) 149
 cross-border incursions 127
 history of 12–19
 human rights record 2, 15, 20,
 21, 31, 37, 39, 92
 military activity in Iraqi
 Kurdistan 131–7, 196
 population size 21, 25
 relationship with Iran 137, 140–2
 relationship with Syria 137–40,
 142
 underdevelopment 14, 21, 25,
 185
 and US troops access to Iraq 137
- Turkey–EU Customs Union 22
- Turkification 14, 15, 152
- Turkish Foundation for Social and
 Legal Research (TOHAV) 45–6
- Turkish Kurds 6, 13–18
 and Armenian genocide 18–19
 committed to political solution
 107–8
 cultural and linguistic rights 80,
 81–9, 182
 exclusion from minority rights
 protection 94, 99–102, 176,
 177
 forced assimilation 13, 15, 16, 78,
 100, 126, 152, 153
 language 5, 6, 15, 16, 81–9
 broadcasting 23, 30, 82–4,
 85–6, 102–3
 personal names 86–7
 place names 14, 16
 political parties and 71
 and pro-EU reforms 90, 92, 94
 teaching 23, 30, 82, 83, 87–8,
 177
 and political participation 67–8,
 72–3, 74–5, 76, 98, 108
 political parties 17–18, 67, 69–70,
 72–3, 107–8
 as terrorists/separatists 125, 171
- Turkish Penal Code 40, 41, 56
 and freedom of expression 51–2,
 53–5, 57, 58–62, 67, 195
 and Kurdish language
 broadcasting 86
 and political parties 69, 70
 and separatist acts 108
- Turkish War of Independence 7
- unemployment 104, 156–7
- Unesi, Aydın 88
- United Kingdom
 and democratic dialogue 112
 and Kurdish autonomy 7
 and torture 43
- United Nations
 Charter 117, 170
 Commission on Human Rights
 167
 Convention Against Torture
 (CAT) 42, 50
 Declaration on the Rights of
 Persons Belonging to National
 or Ethnic, Religious and
 Linguistic Minorities 80, 97

- Guiding Principles on Internal Displacement 166–7
- High Commissioner for Refugees (UNHCR) 115
- and Kurdish autonomy 9–10
- United States
 - influence on Turkey 117
 - and Iraqi Kurds 129
 - and torture 43
 - and Turkish incursions into Iraq 196
- Universal Declaration on Human Rights 80, 149
- Verheugen, Guenter 47
- Versailles Conference (1919) 170
- village evacuation/destruction 17, 18, 22, 109, 118, 126, 153–4, 158
- Village Guard 17, 107, 153, 160, 163, 165
- Village Return and Rehabilitation Project (RVRP) 160, 166
- Virtue Party (FP) 147, 148
- War on Terror 27
- water resources 138–9
- Welfare Party (RP) 28, 146, 147, 148
- Wilson, Woodrow 6–7, 170
- Workers' and Peasants' Army of Turkey 109
- Yaki, Yaar 129
- Yezidism 5
- Yılmaz, Mesut 113
- Zana, Leyla 18, 69, 70, 108, 125
- Zaza 5, 6, 83, 85