

FIFTH INTERNATIONAL CONFERENCE ON THE EU, TURKEY AND THE KURDS

EUROPEAN PARLIAMENT, BRUSSELS,

28TH - 29TH JANUARY 2009





FIFTH INTERNATIONAL CONFERENCE ON
EU, TURKEY AND THE KURDS

IN MEMORY OF HAROLD PINTER
NOBEL LAUREATE AND PLAYWRIGHT
AND EUTCC PATRON

EUROPEAN PARLIAMENT, BRUSSELS
28TH – 29TH JANUARY, 2009

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The Conference was sponsored and organised by the EUTCC which was established in 2004 by:

Kurdish Human Rights Project is an independent, non-political human rights organisation founded and based in London, England. A registered charity, it is dedicated to promoting and protecting the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include Kurdish and non-Kurdish people.



The Bar Human Rights Committee is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial. The remit of the BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales.



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Founded in the humanistic tradition of the Helsinki Accord, the aim of the Rafto Foundation is the promotion on the fundamental human rights of intellectual and political freedom and free enterprise. Established in 1986, in fond memory of Professor Thorolf Rafto, it awards the annual Professor Thorolf Rafto Memorial Prize to recipients who are active participants in the struggle for the ideals and principles underlying the Human Rights Charter, or who are a symbol of these. Four Rafto Laureates have later received the Noble Peace Prize.



Contents

List of Abbreviations	11
Editor’s Note	13
Introduction	15
Patrons & Opening Remarks & Speeches	23
Session 1: EU - Turkish Accession – International Perspectives	39
1.1 The Review and Progress of EU Accession Speaker: <i>Kerim Yıldız</i>	39
1.2 EU Reform Process – and Future Prospects Speaker: <i>Andrew Duff</i>	47
1.3 The Turkish and Kurdish Perspective on EU Accession Speaker: <i>Ahmet Türk</i>	48
1.4 Socio-Economic Development: Prospects for Long-term Change through the EU Process Speakers: <i>Osman Baydemir</i> <i>Sarah Ludford</i>	54
1.5 Turkey, EU & International Relations Speaker: <i>Michael M. Gunter</i>	60
1.6 The Role of Europe in Promoting Democratic Changes Speakers: <i>Pasqualina Napoletano</i> <i>Amed Dicle</i>	77
Session 2: EU Turkish Accession, Human Rights and Rule of Law	85
2.1 Turkey’s Compliance with International Human Rights Obligations Speaker: <i>Ibrahim Bilmez</i>	85

2.2 Role of Civil Society in Promoting Democratic Change	87
Speakers: <i>Emilio Molinari</i> <i>Jonathan Fryer</i>	
2.3 Civil & Political Rights and the Implementation of the Copenhagen Criteria	93
Speakers: <i>Ozturk Turkdogan</i> <i>Omer F. Gergerlioglu</i>	
2.4 The Role of Women in Building Democracy	101
Speaker: <i>Sara Aktas</i>	
2.5 Development of Cultural and Linguistic Rights	105
Speakers: <i>Frieda Brepoels</i> <i>Eurig Wyn</i>	
2.6 Constitutional Reforms and the Impact on EU Accession	110
Speaker: <i>Cengiz Candar</i>	
Session 3: Ongoing Conflict: Different Perspectives	115
3.1 The Effect of Cross-Border Operations in Neighbouring States	115
Speakers: <i>Susan Breau</i> <i>Mark Muller</i>	
3.2 Prospects for a Democratic, Peaceful Solution to Kurdish Question	120
Speakers: <i>Adem Uzun</i> <i>Dirk Rohtus</i>	
3.3 Is Turkey Ready for a Dialogue with Kurds?	129
Speakers: <i>Hans Branscheidt</i>	
3.4 Lessons from International Peace Processes	131
Speaker: <i>Brian Currin</i>	
Final Resolution from the Fifth International Conference on the EU, Turkey and the Kurds	145
Appendix I: Background Paper	155
About the Contributors	195

List of Abbreviations

AKP	Justice and Development Party
BHRC	Bar Human Rights Committee
CEDAW	Convention on the Elimination of all Forms of Discrimination Against women
CHP	Republican People's Party
CPT	Committee for the Prevention of Torture
CRC	Convention on the Rights of the Child
CSCP	Caucasus Stability and Cooperation Platform
DEP	Democratic Party
DTP	Demokratik Toplum Partisi or Democratic Society Party
ECtHR	European Court of Human Rights
ECHR	European Convention on Human Rights
EU	European Union
Göç-Der	Migrants' Social Solidarity and Culture Association
HADEP	People's Democracy Party
HEP	People's Labour Party
HRFT	Human Rights Foundation of Turkey
HSK	People's Defence Force
IDP	Internally displaced person
IHD	Human Rights Association of Turkey
ILO	International Labour Organisation
KADEK	Kurdistan Freedom and Democracy Congress
KDP	Kurdistan Democratic Party
KHRP	Kurdish Human Rights Project
Kongra-Gel	Kurdistan People's Congress
KRG	Kurdish Regional Government
MEP	Member of the European Parliament
MDG	Millennium Development Goals
NGO	Non-governmental organisation
PKK	Kurdistan Workers' Party
RTUK	Radio and Television Supreme Council
SHP	Social Democratic People's Party
TGNA or TBMM	Turkish Grand National Assembly
TIKA	Turkish Cooperation and Development Agency
WTO	World Trade Organisation
YNK (PUK)	Patriotic Union of Kurdistan

EDITOR'S NOTE

The fifth annual EU-Turkey Civic Commission (EUTCC) Conference was held on 28th and 29th January 2009 at the European Parliament in Brussels. The event was hosted by the founders of the EUTCC, namely, the Bar Human Rights Committee of England and Wales (UK); the Kurdish Human Rights Project (UK); medico international (Germany); and the Rafto Foundation (Norway), and was supported by members of the European Parliament. The conference was dedicated to the memory of the writer and Nobel Prize laureate Harold Pinter, who died on 24th December 2008.

This publication sets out the speeches and papers of the 2009 Conference, including the Final Resolutions, in order to give an idea of the key issues discussed over the 2 days of the conference, although not all remarks by moderators have been included. A brief account of the background to the Conference can be found below; for a more comprehensive guide to the accession process and related recent developments in Turkey, the Background Paper that was given to Conference delegates is included in this publication (Appendix 1).

For the purposes of publication, the speeches reproduced here have been edited and in some cases abridged or transcribed from the simultaneous translations made at the conference on each day. Where given, the title of each speech has been included. Where speeches were submitted to the publisher as papers, author's footnotes have been retained.

The opinions expressed in this work do not necessarily represent the views of the EUTCC.

INTRODUCTION

What the EUTCC does

The EUTCC was established in November 2004 as the outcome of the first international conference on ‘The EU, Turkey and the Kurds’. The following organizations decided to establish the **EU Turkey Civic Commission (EUTCC)**:

- Rafto Foundation (Norway)
- Kurdish Human Rights Project (United Kingdom)
- Medico International (Germany)
- Bar Human Rights Committee of England and Wales (United Kingdom).

The aim of the EUTCC is to contribute to the progress of Turkish membership of the EU. It does this by spreading accurate, objective information both in Turkey and Europe about the progress made by Turkey, but also about any shortcomings which may still persist. One of its most important tasks is to monitor Turkish compliance with the EU accession criteria. It organizes every year a conference in Brussels on “The EU, Turkey and the Kurds”. The EUTCC is registered in Belgium as a non-profit organization.

The EUTCC supports Turkey’s bid for EU accession, but only in so far as it meets the conditions for membership as defined by the accession agreements. In particular, it must demonstrate that it has achieved the condition of “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” as required by the EU’s Copenhagen Criteria for membership.

Thus the EUTCC seeks to ensure that the accession process is used to achieve respect for human and minority rights in Turkey, as well as a peaceful, just and democratic solution to the Kurdish situation. It monitors the European Commission’s performance in ensuring Turkey’s full compliance with the accession criteria, as defined within the meaning of the accession agreements, and conducts regular audits to that end. It disseminates accurate and objective information to EU institutions, other governmental and non-governmental organizations and to the public in Turkey and the EU in order to bring attention both to the progress Turkey has made and the shortcomings that persist. It also seeks to play a positive role in the negotiation process by making recommendations and acting as a point of contact for the parties involved.

The EU-Turkey Civic Commission (EUTCC), annually held at the European Parliament in Brussels (Belgium), is hosted by the founding members, and supported by members of the European Parliament.

The EUTCC brings together leading academics, writers, legal experts, human rights institutions and prominent Turkish and Kurdish intellectuals from all over the world. The aim of the EUTCC is to promote the accession of Turkey as a member of the EU, and to help to guarantee respect for human and minority rights and a peaceful, democratic and long-term solution to the Kurdish situation. The EUTCC monitors and conducts regular audits of Turkey's compliance with the accession criteria, as defined within the meaning of the accession agreements. It also makes recommendations, act as a point of contact, and exchanges information with the institutions of the EU and other governmental and non-governmental organizations.

The 2005 conference

The Second EUTCC Conference (2005) was called to evaluate developments of the EU-Turkey accession process during the first year of accession negotiations. The Conference noted the escalating military conflict in the Southeast region of Turkey and the failure of certain State institutions to adhere to its obligations under the European Convention on Human Rights. The Conference also noted the beginning of the slowdown in the reform process in Turkey.

The conference also focused on concerns over the new Anti-Terror legislation, continued restrictions on freedom of expression, and issues of torture and ill-treatment during detention. The Conference reiterated its support for the creation of a multi-cultural Europe and called upon leading European politicians to take a central part in the debate.

It concluded with the unanimous adoption of declarations concerning the accession process, specifically calling upon the British presidency of the EU to ensure that talks with Turkey opened as planned on 3 October 2005, and to urge Turkey and other member states to foster a climate of peace so that a democratic platform for dialogue could be established between Turks, Kurds, and other constituent peoples and minorities resident in Turkey.

The 2006 conference

The 2006 conference, titled *'Time for Justice, Dialogue and Solution'*, focused on implementing a resolution to the Kurdish question—the most divisive issue for Turkey in her bid to develop a democratic country. The conference also focused on the need for fundamental changes to the judiciary, the situation of internally displaced people, continued violations of human rights, and suggestions for compliance with the Co-

penhagen Criteria, specifically the obligation to respect and promote the rights of minority groups. The Conference concluded with the adoption of new resolutions.

2007

Within months of the 2006 Conference, there were major setbacks in the accession process. Promised reforms were not implemented, regular violations of human rights were reported, and detention issues continued to intensify. Turkey failed to make substantial progress towards meeting the Copenhagen Criteria. The European Commission's Progress Report of 2007 acknowledged the slowdown in the reform process, and stated that Turkey must address a number of areas if it was to meet international human rights obligations. However, the report failed to adequately impart the urgency of the need to reinvigorate Turkey's previous progressive path.

In December 2006 the EU suspended accession talks with Turkey in 8 key policy areas over the issue of Turkish restrictions on trade with the Republic of Cyprus; however, in March 2007 action was resumed on 35 new issues. The decision to resume accession talks was made despite the existence of serious concerns over the ability and commitment of Turkey to reform. Indeed, by the end 2007, three years after the commencement of the EU accession negotiations, there was little evidence that Turkey was anywhere close to adequately implementing the core standards of the Copenhagen Criteria.

By the end of 2007 it was becoming increasingly clear that even the passage of legal reforms in Turkey, which was far from complete and an increasingly slow process, was no guarantee of real progress. The evidence suggested that an increasingly large implementation gap was arising as a result of the lack of the will, skills, or administrative capability needed to ensure that reforms had their desired effect.

Freedom of expression and the media was violated by the existence of a legal framework which included the Article 301 provisions which allowed journalists and writers to be imprisoned for 'insulting Turkishness'. This issue became particularly poignant in January 2007 when the Armenian journalist Hrant Dink was murdered, possibly as a result of his frequent indictments for writing about the 'Armenian Genocide'.

Minorities continued to be marginalised in Turkey. In particular, the uncooperative behaviour of the state in response to the struggle for language rights for non-Turkish speaking people was highlighted by the dismissal of Mayor Abdullah Demirbaş at the request of the Ministry of the Interior and the dissolution of his Sur Municipality in Diyarbakır because of his attempts to provide multi-lingual services to its citizens.

Even when it came to the issue of torture the Turkish government's claim that it ran a 'zero tolerance' policy continued to be undermined by sustained reports of ill-treatment during detention.

The 2007 Conference

The 2007 Conference took place against a backdrop of ongoing conflict in Turkey. By December the size of military presence in south-east Turkey had been increased to around 250,000 soldiers, with the military claiming this was necessary to combat the PKK near the Iraqi border. There was also increasing speculation that a cross-border operation might be launched by the Turkish military into Kurdistan, Iraq to prevent PKK violence, an operation which did in fact occur just two months after the conference in February 2008.

The 2007 conference aimed to build on the work of the 2006 conference and on the work of the EUTCC by consistently providing a platform for discussion of the key issues surrounding the Turkish accession process and assessing the obstacles to a resolution of the Kurdish question.

2008

The conference set for December 2008 was moved to early 2009. In the 2008 the security situation in Turkey remained poor. There was an increase in Turkish military operations in the Kurdish region and against PKK bases in Kurdistan Iraq, there were a number of attacks that killed civilians, including a bombing that left 17 dead in Istanbul, and the conflict between the PKK and the Turkish State intensified. Additionally, there were periods of civil unrest, in particular in the Kurdish region in response to the alleged ill-treatment of Abdullah Öcalan, leader of the PKK, who is the sole inmate of the prison on İmralı Island.

There remain serious concerns that Turkey has not made enough progress in the areas of rights and democracy. Although the amendment of Article 301 of the Penal Code was welcomed, concerns persist that these amendments are insufficient and superficial. The Final Resolutions from the Fourth International Conference on EU, Turkey, and the Kurds noted that ‘no major issue [had] been addressed and significant problems persist,’ especially with regards to Turkey’s obligations under the European Convention on Human Rights and Humanitarian Law, military activities of the state, and democratically supported dialogue between all peoples constituting the Turkish Republic. Turkey’s military activities continue unchecked, with no promise of a democratic resolution to the ongoing conflict in the Kurdish region and no impetus from the EU to end military activities.

The 2009 Conference

The 5th International Conference on the EU, Turkey and the Kurds in 2009 adopted resolutions focusing on the need for commitment and cooperation on the part of both Turkey and the EU with regards to the accession process. In particular, emphasis was placed on the need to resolve the ongoing military conflict with the PKK in

Northern Iraq and South-east Turkey. The EU must support dialogue on the Kurdish issue and the situation of minorities in Turkey as well as pressing for an end to the conflict through diplomacy and dialogue, thereby rejecting Turkey's security-centred perspective on the Kurdish issue and denouncing Turkish military operations. In addition, the EU must ensure that the conflict is resolved solely through diplomatic channels and political means. The 2009 Conference built upon previous conferences and on the work of the EUTCC by providing a forum for dialogue regarding key issues related to Turkish accession and the Kurdish question in Turkey; it also attempted to renew confidence in accession and encouraged fundamental reform in Turkey supported by the EU.

2009

In March 2009, The European Commission passed a resolution, which underlined the Commission's finding that the Turkish government has failed to reverse what has been a continuous slowdown of the reform programme since its inauguration in 2005. Regarding specific human rights issues, the Parliament noted that freedom of expression and freedom of the press are still not sufficiently protected, and specifically called for the repeal of the notorious Article 301 of the Turkish Penal Code, which criminalises criticism of the state. Other matters of concern to the Parliament include the growing number of cases of torture and ill-treatment, with such abuses largely left unprosecuted.

Following the elections on 29th March 2009, in which the Democratic Society Party (DTP) gained impressive results which almost doubled the number of municipalities from 56 to 98, there was widespread unrest and large-scale raids took place against the leaders, activists and offices of the DTP, particularly in the south-eastern part of the country. This unrest and harassment continued on into the summer, with members other organisations such as *İnsan Hakları Derneği* (Human Rights Association, İHD) and Confederation of Public Employees Trade Unions (KESK) also being detained.

Progress was made in the case of the Ilisu Dam in July, when German, Swiss and Austrian export credit insurers withdrew their key financial support for the construction of the dam in south-east Turkey over the failure to meet international standards. Work on the Ilisu Dam had been put on hold for 180 days starting in December 2008, after European financial backers issued a final warning on the need to address serious concerns about the project. The announcement came as this period drew to an end with the conditions still not met. Despite this, Turkey remains adamant that it will complete the project. Construction work on the dam has continued intermittently and villagers in the immediate area of the dam site have had their land expropriated. Turkey has also announced that it is approaching China's export credit agency, Sinosur, for funding, although as at the beginning of December 2009, the Chinese Embassy in Ankara denied any Chinese company is involved in the project.

In October, the European Union issues a progress report which confirmed the need for further progress to be made before Turkey can meet the criteria for accession. It considered that positive steps had been taken in judiciary reform and welcomed the investigation of criminal charges against military officers and nationalist circles in the Ergenekon trial as an opportunity for Turkey to strengthen its commitment to democracy and the rule of law. However it noted that there was still a considerable issue with limited access to justice, particularly in the south-east of Turkey. It also expressed concern towards many specific areas such as freedom of expression, freedom of assembly, freedom of association, women's rights, cultural rights and children's rights. Turkey is still lacking in its implementation of European Court judgements and its use of anti-terror legislation, the severe treatment of juveniles in the justice system and the allegations of torture and ill-treatment are all areas of primary concern.

There was much talk of a democratic or Kurdish initiative coming from the government which plans to grant more political and cultural rights to minority Kurds, and in October a Kurdish 'peace group' including members of the PKK, surrendered to the army after returning from Iraqi Kurdistan region, in a move intended help efforts to end the conflict. After being questioned, all members of the group were released without charge.

However the initiative seemed to lose momentum towards the end of the year, and 2009 ended with the Constitutional Court ruling to close the DTP, which had been the first pro-Kurdish party in the Turkish parliament in 14 years. This decision means that 37 members of the DTP are banned from politics for 5 years and raises concerns for other members following the lifting of their Parliamentary immunity.

This ban was furthermore extended to Leyla Zana, who is not a DTP member. As part of an operation launched by Anti-Terror Units of the Diyarbakır Security Directorate simultaneously in 11 provinces of Turkey, in which more than 80 people were detained, including the Mayor of Sur Abdullah Demirbas, the Mayor of Batman Nejdet Atalay; former co-chair of the DTP Hatip Dicle, and Mayor of Cizre Aydın Budak. The Vice President of the Human Rights Association of Turkey (İnsan Hakları Derneği or İHD) and President of the İHD's branch office in Diyarbakır, Muharrem Erbey, was also detained. These detentions are in contravention of the Turkish government's recent Kurdish initiative and represent a setback to genuine democratic reform in Turkey.

The next conference will take place at the European Parliament in Brussels on the 3rd and 4th February 2010. It will bring together politicians, human rights advocates, academics and journalists from the EU, Turkey and internationally, and will provide a platform to debate these issues.

PATRONS & OPENING REMARKS & SPEECHES

Ms. Kariane Westrheim

Dear Patrons, EUTCC Advisory Council, Distinguished Speakers and Moderators, Honoured Guests, Ladies and Gentlemen!

On behalf of the Board of the EU Turkey Civic Commission (EUTCC), it's a pleasure to welcome you heartily to the 5th International Conference on EU Turkey and the Kurds. This year's conference motto is 'Time for Chance in Turkey!' One person, internationally recognised, who through his writings and political and human courage worked hard to realise this was Nobel Prize Laureate Harold Pinter. Pinter has been a dear friend and supporter of the Kurdish people for many years, and he was also a EUTCC patron. A while ago we received the sad message of his death. We will however remember him by continuing his tireless work for freedom and human dignity. Let us stand up for a minute of silence to honour Harold Pinter, and I hereby dedicate this conference to his dear memory.

The aim of the EUTCC is to promote the accession of Turkey as a member of the EU, in order to guarantee respect for human rights and a peaceful, democratic and long-term solution to the Kurdish question. To this end, the EUTCC will monitor the European Union's performance in ensuring Turkey's full compliance with the accession criteria, as defined within the meaning of the accession agreements. The accession negotiations started already in 2004, but as stated in the EUTCC background paper 2009, change in Turkey has not developed as quickly as we had hoped for – in some areas the situation has actually worsened.

The EUTCC believe, in spite of hindrances and challenges, there still exist an opportunity to transform Turkey into a stable democracy, but in order for this to happen, it is central that both the EU and Turkey manage to identify those areas that have not been fulfilled satisfactorily or which fail to meet the Copenhagen Criteria. The EU must pay much more attention to resolving the conflict – and take concrete steps towards a durable solution. This however, cannot be done unless the military operations carried out by Turkey come to an end. Peace can only be assured through dialogue and negotiations, and the EU has a particular responsibility to facilitate for this process and urge Turkey to show its rhetoric on progress in concrete practice. Referring to the background paper again, 'the EU must take a firm stance against Turkish military action and insist upon a political approach'. The Kurdish issue is not

only a human rights problem, it is a fundamentally political issue and the right to self-determination is one of the fundamental principles of international law. Unless Turkey finds political ways to address the current situation of Kurds, the unsolved situation will continue to create instability in Turkey.

This conference is sponsored by the EUTCC founding organisations; and for the fifth time we express our sincere gratitude to the Confederal Group of the European United Left and the Nordic Green Left in the European Parliament. But the one person who has worked tirelessly for months for this conference is our dear friend Stefano Squarcina. I doubt that we would have been sitting here today without you. Thank you for support and solidarity. I also take the opportunity to thank the speakers, moderators, EUTCC Advisors - and - participants for making this conference possible.

The patrons of the 5th International Conference are; Archbishop Emeritus Desmond Tutu; Shirin Ebadi, both Nobel Peace Prize Laureates; Goodwill Ambassador to the Council of Europe and Chair of the World Future Council Bianca Jagger; the world-known scholar and writer Noam Chomsky; the Kurdish Author Yasar Kemal and the former MP and Kurdish politician Leyla Zana. I thank you all.

Professor Noam Chomsky and Mr. Yasar Kemal send their best wishes for a good conference and regret that they are not able to attend. I also have the pleasure to read to you the greetings that has been sent to the conference:

From Dr. Shirin Ebadi

Human Rights Defenders regardless of which country they live in or what nationalities they belong to, are like an international family because they all have the same goals. The success of one of them is the success of all of them. The defeat or suffering of one of them is defeat or suffering of all of them.

My wish is that the Turkish State will show respect for human rights and that the difficulties that have plagued my dear sister will soon come to an end. I wish you good luck with the conference, sincerely yours.

From Professor Kader Asmal

I regret very much that I will not be able to attend the EU conference on the 28th and 29th January because of my commitments in South Africa. It is nearly over two decades since my involvement in the rights of Kurdish people, self-determination and free association. As a Minister in Mr Mandela's government from 1994 onwards,

the South African government by word and deed has supported a peaceful settlement of what has wrongly been seen as an intractable issue. It really is a simple matter. Turkey must recognise the cultural, religious and linguistic rights of the Kurdish people, and their right to decide their future within the framework of independent Turkey. I very much hope that the conference in Brussels will further focus urgent attention on the rights of the Kurdish people and avert a humanitarian crisis that has regrettably occurred arising out of legitimate struggle for their rights. The conference should, of course, insist that all parties should attempt to arrive at a settlement by peaceful means. The EU and other parties should do their utmost to ensure that Turkey responds to the minimum requirement of international law by recognising the legitimate rights of the Kurdish people. I wish you all the best.

From Ms. Bianca Jagger

I am talking to you as a campaigner and advocate committed - like so many thousands of others - to raising awareness of the human rights violations taking place against a large portion of people in the Middle East and elsewhere.

Since I last spoke at this conference in 2007, conditions have not improved for the majority of Kurds in south-east Turkey. However, recent news that the German, Austrian and Swiss firms funding the Turkish Government's \$1.7 billion Ilisu dam project on the River Tigris have halted operations - at least until June 2009 - has surely brought a smile to the faces of the 65,000 people (from 185 settlements), that would have been forcefully evicted from their homes, and to the environmental campaigners that have fought so hard to stop this disastrous project from going ahead.

The fight is certainly not over, but some progress has been made. The Turkish Government failed to meet 150 World Bank conditions concerning the environment, neighbouring states and human relocation. The Turkish government has now been given 180 days to meet such standards, or else the project will subside. A continued effort must urgently be made to ensure that the Ilisu project does not go ahead, because in addition to the human rights implications, this project is a crime against our common cultural heritage: the Ilisu Dam would bury under its reservoir the magnificent ancient city of Hasankeyf, not to mention hundreds of other unexplored archaeological sites and by disrupting the flow of the Tigris to neighbouring countries Iraq and Syria, this ill-conceived project will exacerbate the threat of a future 'water war' in an already volatile region.

I urgently call upon all Members of the European Parliament and the international community to do all they can to prevent Turkey from building the Ilisu Dam project. We cannot stand by as one of the world's most precious archaeological treasures is

destroyed. The next few months are crucial to use all necessary measures to put a swift end to the implementation of this dam.

Another important issue that I wish to highlight are the terrible conditions which Kurdish women face on a daily basis in Turkey. One such woman is Leyla Zana, a Kurdish politician from eastern Turkey who advocated for the rights of the Kurds. Last month, she was sentenced to ten years in prison by a Turkish court in Diyarbakır for having supporting the PKK (the Kurdistan Workers Party). But what is her real crime? Since the early 1990s, Leyla Zana's only crime has been to fight for the rights of Kurds in Turkey. In 1991, she was imprisoned for speaking her native language in the Turkish Parliament after taking her parliamentary oath and for her political actions which the Turkish Government claimed to be against the unity of Turkey.

Leyla Zana was nominated for the Nobel Peace Prize in 1995 and in 1998 and was awarded the 1995 Sakharov Prize by the European Parliament, but was unable to collect it until her release in 2004. Since then, she has been hailed by international human rights groups as a courageous woman that will stop at nothing to improve the lives of Kurds in Turkey.

As Member of the UK Parliament, Ann Clywd notes that Leyla Zana asks for nothing more than recognition of the Kurdish language, Kurdish identity, freedom of expression and political and cultural rights; freedoms that you and I enjoy everyday. She seeks a non-violent and democratic solution for the Kurds living in Turkey. She is now a role model and inspiration for Kurdish women everywhere. She is often lauded for improving their position in the patriarchal Kurdish society and has twice been nominated for the Nobel Peace Prize.

Another ethnic group which are discriminated against are Iranian Kurds. Human Rights Watch has recently documented how Iranian authorities have implemented tight measures to suppress the basic human rights of Kurds in Iran by arresting and prosecuting them simply for exercising their right to freedom of expression. The 4.5 million Kurds living in Iran are entitled to the very same rights as their fellow 60 million country men and women.

Human Rights Watch goes onto to say that what is going on in the Kurdish areas of Iran is the routine suppression of legitimate peaceful opposition. Iran has closed Persian and Kurdish language newspapers, banned books, and punished publishers, journalists, and writers for opposing and criticizing state policies. The legitimate activities of nongovernmental organizations have also been suppressed by the refusal of the authorities to issue registration permits as well as charging campaigners with security offenses. The Iranian authorities have even gone so far as to sentence peaceful activists to death, without providing any evidence to support their allegations.

We cannot allow this to continue. I urge the international community to use diplomatic measures to encourage Iran to abolish laws which allow it to suppress peaceful dissent in the country's Kurdish regions. I am also very hopeful that the new wave of optimism brought on by the Obama administration will enhance efforts to bring Iran in from the cold.

These cases demonstrate that Turkey and its neighbours must act fast to implement political reforms. There must be respect for the cultural and linguistic rights of Kurds. Should Leyla Zana come before a court again, her supporters believe she will not get a fair trial. This may be the sad truth, and it is precisely why Turkey, as a member of the European Union must uphold the human rights of all its citizens, regardless of race, religion and gender.

Thank you very much.

OPENING SPEECHES

Leyla Zana

Dear friends and esteemed participants,

I would like to respectfully extend my greetings to you. I stand with great respect in the memory of Mr Harold Pinter, one of the pioneers of this organisation who has unstintingly offered his friendship to the Kurdish people for many years. May his soul rest in peace.

'Real Change', which is the theme of this year's conference, is a topic I find difficult to dwell upon. The reason for this difficulty stems from my concern for bearing the historical responsibility of being fair and objective.

While the balance in nature changes in general, social, political, economic and administrative aspects of life, in short, life itself also changes. One needs to take up the confrontation between the static and the dynamic independently of ethnic identity and geography. In fact such processes of change have almost always unfolded as such. The resistance of status quo in the face of change has always been very painful in all eras of history.

Yes, the process of change continues. What gives me hope and even excites me at times is this process of change within society. The society is in general dynamic. The Kurdish and Turkish societies are rapidly changing. Not only are they changing, they are simultaneously changing other things. Despite all the obstacles put up by the military, political and administrative status quo, the dynamic force is forcing itself upon laws, which in turn are forcing society. On this issue, the toughest resistance is being put up by the judiciary. As long as the constitution put in place by those who made the coup d'état is still in place, such problems will continue. On the other hand, societies which manage to place change on the side of development are those where the judiciary has the highest flexibility. When the legislative is in step with the social dynamic and when the judiciary becomes a part of this process through its libertarian interpretation, transitional periods can be overcome without pain. That is why the Kurds' expectation from the EU-Turkey accession negotiations was for the EU to play its arbiter role fairly. Unfortunately, it is not felt that the EU is playing this role fairly. Legislative arrangements put in place remain on paper. When that is the case, Turkey flunks in the implementation phase. Laws go hand in hand with justice and freedom.

Otherwise, what's left behind is a will, a raw force masquerading as law. Laws are there to be changed, because they are made for man, and men do change.

In Turkey too, factors of change manifest their existence sometimes through what is expected and at other times by surprise. When change cuts speed, pessimism descends upon us. When resistance starts accelerating, erroneous observations are made, such as the one that change is changing direction. Circumstances, sensitivities and country specific conditions impact the nature of change.

When looked at from this perspective, the process of change in Turkey is moving forward with conflicts. We observe that there is a serious confusion about EU-Turkey relations. We also observe that four or five different mind sets have been emerging from this confusion during the last four or five years.

The first: The EU needs Turkey in any case. We don't need them; they are compelled to have us. There is therefore no need for new initiatives or reforms. They have to accept us as we are.

The second: Even if we undertake revolutionary reforms, the EU will not accept us for membership. So, as an alternative we need to develop the Eurasia project. We need to change our direction that way. Among the adherents of this thinking there are right wingers, left wingers, Kurds, Turks and those with other ethnicities.

The third: To stand by the U.S. in order to realise the Greater Middle East Project—a project that is sometimes claimed to be supported by Prime Minister Mr Erdoğan. I hope the Prime Minister, who changed his direction once again towards the EU following the change of administration in the US, focuses on the process skilfully from now on. The necessity of this approach has become once more evident when we look at it from the view point of transforming an environment of confrontation to one of lasting peace. What happened in Palestine is a case in point. Neither the Kurds must view themselves as Palestine, nor should the Turkish State display an attitude like that of the state of Israel. When looked at from this point of view, forming the will to solve issues on a democratic platform through dialogue is vitally important.

The fourth and last approach: The existence of a intellectual section of society which sincerely wants the EU accession process, which believes in the EU criteria and have internalised them and one which carries the struggle to achieve this on every platform. Many writers and intellectuals continued their struggle against fatal provocations. It is exactly at this point that I need to draw your attention to a certain issue. Although Kurds have been struggling for this very aim for years, they have been too weak to voice this in the Turkish public opinion. This shortcoming should be analysed on a multidimensional footing. There does not exist a mechanism for enabling people to make their voice heard since the existence of these people is denied.

We all know the farthest point many media organs can go along the road to democracy and what they understand from a pluralistic approach in Turkey. *Taraf* newspaper has worked with a certain goal during the one year it was in publication. If your goal is democracy, that is the greatest service you can provide for this country. I believe one of the most basic outputs of the process of change is the contribution this publication has made to Turkish democracy. So far, it has always been the Kurds who talked about the problematic situations in Turkey. And it was them who were left alone. It was almost always the Kurds who were detained, beaten up, harassed and killed. The dynamo of change against anti-democratic initiatives has predominantly been the Kurds. It is for these reasons that different quarters of the society assessing Turkey's record of democracy are important, meaningful and valuable. I believe that at the very least, the role of this publication, which has reached large masses and which has questioned the approach of 'people at the service of the state', in the change of the mind set should not be denied. The glorified state can now be debated. This, in itself bears a conflict in fact. If *Taraf* newspaper had been a Kurdish publication with real content, it would not have had the chance to survive so far. Kurdish newspapers that have struggled for years against closures now have to fight against not only censorship and closure but against fines as well. Recently, the Kurdish newspaper *Gündem*, which was published in Turkish, ended its publication in protest of this situation. *Azadiya Welat*, a Kurdish daily newspaper, continues its work under many difficult circumstances.

In Turkey, change was perceived as getting in step with the changing world. This perception entailed achieving universal values. These were the phases of freedom, equality, justice and democracy which found their concrete manifestation in the EU accession process. In short, change in Turkey was related to the creation, building and perhaps a complete reinstating from scratch through institutionalisation of a very belated culture of democracy. The process was not solely consistent of the Copenhagen or the Maastricht criteria or a process of a series of reforms that had so far not been implemented. Or at least, that should not have been the case. The important thing was that the criteria were reflected in the actual implementation in and integral manner and internalised by the country.

The goals of change are very important in a country like Turkey which has its own specificities. Factors bringing about change are also themselves the factors determining the road map for change. Change without reason is change without vision. Change without vision is without participation. Social change is collective in nature. It should be shaped from the bottom up like a pyramid, enveloping society. Therefore, the target group of the change that is being expected should be the man in the street. However, even if the issue of democracy is solved, unless the Kurdish issue is solved correctly and in a durable manner, the problem will remain. An issue of democracy that would be solved with the existing mentality is synonymous with an impasse. One should not think of democracy separately from the Kurdish issue and the Kurdish issue from democracy. The Kurdish issue cannot be solved solely through a 24 hour

Kurdish TV broadcast. Such a broadcast can only make a contribution to solving the issue. In fact, in the present day Turkey, the issue has been transformed into a main agenda item. It acquired a political and sociological character. A prime minister who used to say, "If you do not think about it there is no Kurdish problem" uttered a Kurdish sentence on the occasion of the TRT 6 Kurdish broadcasts. All this tells us that we have left behind the phase of acknowledging the problem.

The issue should now be taken up within the framework of a project. We need a realistic, determined as well as a sincere approach concerning the method of solution. It is not possible to talk about a realistic solution unless you open to discussion main topic headings such as the legal reflection of the demands of the Kurdish people, safeguarding of these rights, liberalising organisation and association, providing the opportunity to be involved in politics, enabling the ones who are in the mountains to participate in normal life and the situation of Mr Öcalan.

I believe we should start out by changing the atmosphere within the country. In the initial phase we should display the skill of separating the political dimension of the issue from the technical dimension. The primary aim should be to remove the lack of confidence between the peoples. The peoples have been made opposing parties despite themselves. The lack of confidence on the part of the Turkish people cannot be removed by the cross border land or air operations as it can be observed. The Kurdish people for their part do not perceive anything that does not have a legal guarantee as a legitimate initiative. In fact that say they do not even take them into consideration. Then, the project to be developed must take Kurds as an integrated whole, rather than dividing them up. Moreover, the state and government officials must express their sincerity. The solution is too comprehensive and deep to be left to the mercy and capability of the existing government. A solution can only be formulated by taking into consideration international norms. No project which is not satisfactory in essence, nature and depth can provide for a real solution.

An environment where all the above headings can be discussed without getting caught up in the judicial process is necessary. All parties to the issue must be given the opportunity to participate without hesitation. Giving decisions about the future of the individual living in the mountains without knowing that individual's feelings would only be misleading. Turks and Kurds must not be left alone in these debates. The solution must come from within and be specific to the country. But the contribution of friends on the way to a solution must be given due importance.

This is not as difficult as it might be though in fact. If the recent positive movement acquires a legal identity and covers implementations in Kurdistan as well, we can say the mentality of the state is rapidly changing. When the democratic environment in which these topic headings can be discussed without any censorship emerges, we can have hopes about an honourable and durable peace project. Otherwise, this will not

be written on the positive side of change. It will be thought that all this hullabaloo is hogwash geared for the local elections.

World famous playwright and actor Rodrigo Garcia says, "They tell us that you cannot get anywhere by killing and they tell us not to kill. Meanwhile, they keep killing relentlessly..."

What would you want to be left as a legacy? I personally want to live in a world where no one kills anyone, where everyone looks at life with hope and loves life. I want to see smiling eyes from now on...I know you want that as well. Then, let our eyes well with tears of happiness only. This is something we owe to history, to mankind and to future generations.

Franciz Wurtz

On the 19th January last year before the Conference of Presidents of the political groups of the European Parliament, the Turkish Prime Minister Mr. Erdoğan introduced himself as a staunch defender of democratic reform, and I quote,

'Reform is indispensable and we will not hesitate to carry out this reform. A number of reforms have already been implemented and the Turkish Parliament is going to speed up the process of reform. At least 30 pieces of new legislation have been decided upon or will be between 2008-2009 on freedom of opinion women's rights, associations, changes to Article 301, the Kurdish language television channel, the programme of development in the south-eastern part of Anatolia...and as far as the justice reform is concerned, this will be carried out over the next 3 or 4 years.'

Having listened to all of this, the only obstacle to further progress was emanating from the European Union which was still blocking certain chapters of the negotiations, and also from the European Parliament, where the reports are not at all balanced and not at all encouraging vis à vis Turkey. But obviously it was enough for me to ask Mr. Erdoğan just what crime it was that Leyla Zana, the winner of the Sakharov Prize, had committed, that she be given a ten year prison sentence. Then his tone changed. He said, 'well, there have been other winners of the Sakharov Prize but when we talk about Leyla Zana then we have to talk about the independence of the justice system. In European countries, do they really have an interest in interfering with way our courts work?' This is what he said speaking in favour of a separation of powers. A little later he went on to add 'those who wish to preserve their identity and divide the state, in these cases we will take all measures necessary to prevent them from doing so.' Perhaps I ought to remind you here that he was very much against the fact that candidates expressed themselves in other languages. I don't think I need to tell you that such replies, not only in the case of the Kurdish problem are obviously

like a cold shower to the groups of representatives and high officials who until then had seen him as a true reformer, even if a somewhat difficult interlocutor.

Before I put my question to him I had taken the trouble to make it quite clear that I was very happy to have the opportunity to hold a dialogue, that everybody recognised the importance of the role of the Turkish Prime Minister and the role to be played by him in many international dossiers; that my group, the Nordic Green Left, was in principle in favour of Turkey's accession to the European Union, that we don't want the EU to be seen as a 'christian club'; that we also feel that it is important to show that Islam is compatible with democracy, as he himself had pointed out, and that we also felt that Turkey could serve as a bridge from the EU to the Middle East and that there was also an important contribution to be made by Turkey. I thought that this would entitle me to more constructive replies.

In fact, the conversation that we had, given its tone, very well summarises the current moment in EU Turkey relations. Following the democratic hopes we had the democratic disappointment. Those who had placed all of their hopes on the emergence of this new leader have done so at their cost. His party, the AKP, which holds the majority position in Parliament, is not in a position to be able to solve the most pressing problems and challenge on the agenda. I think that this reality unfortunately stems from a democratic culture which, for the moment, is not functioning as it should, and the political will is not there to carry out the process of modernisation of the country.

Certain measures have been taken that is true, but these seem more to be painful concessions to the EU rather than the first starting elements of a new process in the case of turkey. So we seem to be crawling forwards -one step forward, two steps back -without being able to do anything about the intolerant and oppressive elements of the old system. Here is the obstacle that we have to overcome.

It almost seems as if there has been a deal that has been passed between the political power and the army. One tolerates the election of an Islamist President to the Republic and the other renounces a political settlement to the Kurdish problem. There are two major indicators which underpin this thesis.: The incredible trial of Leyla Zana and the very provocative threat to dissolve the DTP and its parliamentary group. It's these two events, logically, that should form the centre of our mobilisation in this period.

To condemn one person to 10 or 45 years of imprisonment for having tried to use their Kurdish identity during a speech in the European Parliament or the House of Lords is beyond understanding. The trial brought against Leyla Zana is a trial brought against the European Parliament, and our political group will not only sent it's own delegation to the appeal in order to give a detailed report when we come back, but we will also be demanding that the European Parliament defend the honour and the

right of a Sakharov Prize winner in-situ during the course of the trial. We have to make a lot of fuss about this trial and we will defend this position.

The same goes for the totally unacceptable trial against the DTP. We are going to look at the file so that we can give our colleagues have a better idea of what's going on in current Turkish politics. We have to explain just what the problem is. In order to have 22 members vote the DTP was able to set itself up as a parliamentary group and then it acquire political autonomy, but instead of this being seen as a step towards democracy, those in power see this as a threat. And this is why they have engaged in yet another process of trying to dissolve this group although this has turned out to be a phoenix that keeps re-emerging from the ashes. There is the hope is that even then they will still manage to dissolve the group and so this is a highly strategic affair. And obviously if those in power are successful then they will be going back towards the past.

All of this shows that there needs to be a clear strategic revision of the European Union's mandate when it comes to the accession negotiations with Turkey. The Council had decided that negotiations would be suspended as soon as there were any serious infringement vis à vis the principle of the state of rule of law and well, that is what we see before us. It is a flagrant case.

Obviously we would not wish to go that far and I think it is possible that we don't have to. Everyone who is in favour of a real re-launching of EU-Turkey relations has to do what is necessary, and in our view above all invite the Turkish government to get into formal relations with representatives of the Kurds and meet with the DTP. Then of course we have to ensure that any attempts to divide the Kurds fail by sending out an appeal to the unity of the Kurdish people. It is by recalling loud and clear that the military operations against the north of Iraq are a violation of international law and that this is something that the international community in general and the European Union cannot ignore. So, on the eve of the European Parliament elections in June and a few months before the renewal of the European Commission, this is the message that we would like to get across. I'd like to thank all of the participants of this 5th conference on the European Union, Turkey and the Kurds in particular I'd like to thank Leyla Zana . I'd like to thank you for everything you've done for justice, democracy and peace and we are very much on your side.

Ms. Louisa Morgantini

I would like to start by thanking everyone here. Looking at your faces I can see that many of you are people that I have met over the years, on the streets of Kurdistan and Europe. Speaking now to members of the Kurdish Diaspora, I want to thank you for your determination and for the sacrifices that you have made because what you have to endure is incredible. You come to Europe where we talk about respect for funda-

mental rights, although your fundamental right to the status of political exile is often denied. You also have had the right to your own media flouted, so I must say that I have the greatest respect and affection for those who have taken action; those who have gone on hunger strike and have constantly called for the respect of a very simple right the right to freedom; the right to speak your own language; to have your own political culture. They've expressed their pride to be Kurdish within the Turkish State and I'm very grateful to all these men and women that I have met on the streets of Kurdistan in Turkey, but also in Istanbul. Very often Kurds have been forced to move to Istanbul because of the destruction of their villages during the turbulent years. I'm thinking of how many children have suffered following the imprisonment of so many Kurds for calling out for their freedom. So thank you to you and of course you to Leyla as a symbol of your cause. I'm a woman too and I would say that Leyla has been a symbol of freedom and the quest for freedom, not just for her people but also in the women's movement.

I remember a young Kurdish woman who was with us for a long time and who also carried her own family's suffering with her. She was homesick and missing Diyarbakır and Van. I'm grateful to all of you for teaching us lessons of great dignity over the years. I believe that we pale Europeans also have to have enough strength to be consistent with our beliefs and practice what we preach. We also seek democracy and freedom because democracy is never a process which you can regard as being finished once and for all. You have to fight for it every day. It is a process that we have not yet completed and we cannot complete it unless we defend other people's freedoms too.

Leyla Zana mentioned the need for a vision and she mentioned the change that has constantly occurred in Turkish society, not just in Kurdistan, and there is no denying that in recent years there have been many changes. I really think that the DTP's vision, even if it has not been fulfilled, is one that needs to be taken forward and pursued with great decisiveness. It's a vision of political rights, cultural and identity rights for the Kurdish people within the Turkish state and it's a choice to use non-violent popular means of struggle. They have opted to be part of a process of democracy and I believe that is the point that the Turkish government needs to grasp. This can only help enrich Turkey. Acknowledging differences is a sort of enrichment. Recognising Kurds as a minority would not weaken Turkey, it would enrich it in its diversity, its culture. It would show an ability to create dialogue in a world that needs dialogue.

So it seems to me that the DTP vision is as I've described it; I believe that I'm giving a faithful interpretation of what I've heard from you over the years when we've taken part together in meetings. And when I've spoken in various local council areas these are the ideas that I have grasped from you. Hearing what Mr. Baydemir has said and looking at the whole economic development of the region that is the vision I've seen. On the 29th March I trust that the elections will allow the DTP to be a strong unifying force for the Kurdish people which will pull them together. I'm not saying that the AKP and other parties should not be there, of course, they are all part of the diverse

mix but I think that this juncture it is vital for us to work to ensure that the DTP can speak out on the broadest possible basis. I think we should acknowledge it as a party that represents the needs of the Kurdish people while also embodying Turkey's need to be a really democratic country. I think we really must work together on this.

There's another point I'd like to make; Leyla Zana and her trial. Francis Wurtz is right; we bear responsibility for that. We chose to award the Sakharov prize to Leyla Zana and we must ensure that she is not re-imprisoned. She and all Kurds must be entitled to express themselves. We've taken a step further. On the occasion on the most recent award of the Sakharov prize we had a meeting of prize winners which I attended that as Vice-President of Parliament. The proposal that the Sakharov Prize winners came up with is that we must ensure that all figures who have won the prize over the years must help ensure that Leyla Zana does not go back to jail, because Leyla's is the voice of so many Kurds. It is the voice of freedom and as I look at her eyes, they are eyes that can smile like the eyes of the young Kurds that I meet in the streets of Diyarbakir, and I'm sure that we'll all be working hard on this. Mr Pöttering, the President of the European Parliament himself, in reply to my letter on this, expresses his support too. It is true we have to make it very clear that Leyla Zana was awarded the Sakharov Prize in 1995 when she was still in prison so many years later but I think today there is awareness in the European Parliament amongst us that it is vital to avoid things being left in the dark. It has to be acknowledged that we are working to change things.

We need to create a state of affairs where there will be better dialogue and co-operation amongst Kurdish and Turkish forces. Very often we've had proposals in the past that we have not managed to implement. As I see it the Palestinian issue has acquired priority status, but as women if we can establish relations with Turkish and Kurdish parliamentarians perhaps we can get a dialogue going and get those groups talking to one another. In opting for democracy, in creating a popular non-violent moment to press your claims, we need to get women involved. We are working for a general amnesty; we don't need any more guns going off on either side. But this needs to be achieved by means of an agreement rather than one side just giving up, as it were. We must press for an amnesty so that many young people, and those who are not so young any more, can return to their homes and their families and help build the process of democratisation.

May I just thank you once again for the work you've done and the commitment you shown, and let's keep talking to one another. I do think it is worthwhile. Our values, our love of justice our love of humanity are what can strengthen us even in adversity. We recognise the dangers ahead of us and we acknowledge the contradictions, but I would say that Turkey today is a very multi-faceted country. There are proposals for the Kurds balanced by some positive positions in the Middle East for example. I will leave it there, thank you.

FIRST SESSION: EU - TURKISH ACCESSION – INTERNATIONAL PERSPECTIVES

1.1 The Review and Progress of EU Accession

Kerim Yildiz

Ladies and Gentlemen, I want to welcome you all and thank you for coming. This conference is important because although it has been over six decades since the end of the Second World War, civilians today continue to pay a devastating price during times of armed conflict. Throughout the past year, as the battles between the Turkish state and the PKK have intensified, innocent men, women and children have suffered not just death and grave injury but also the loss of their property and livelihoods. Both Turkey and the PKK have a responsibility to work towards a peaceful and enduring resolution to this ongoing conflict. However, the European Union as well has an obligation to call attention to the suffering and injustices being endured on both sides and to demand the real action and lasting reforms necessary to encourage political dialogue and a peaceful conclusion to this long ongoing conflict.

Today I would like to highlight some of the major events and the most serious ongoing challenges that continue to plague the Turkish state in relation to its accession to the European Union and to discuss the responsibility of all parties involved to find lasting solutions. The European Union must begin to play a more constructive role in helping Turkey to continue making reforms, which enable it to live up to European standards of human rights protection, democracy and the rule of law.

Cross-border operations

The intensification of cross-border operations by the Turkish military into Kurdistan Iraq continues to result in widespread destruction and the displacement of civilians into refugee camps. Since these military interventions were authorized by the Turkish Parliament they have had little if any effect in damaging the PKK and have enjoyed very little support. As in the past, Turkey's use of force in dealing with the PKK has created an atmosphere where dialogue and reform are increasingly not possible. Despite last year's EUTCC Resolution, which called on the PKK and the Turkish military to stop 'all hostile military operations', aerial and artillery bombardments of Iraqi Kurdistan have continued at regular intervals, with little reaction from EU countries or the larger international community.

In the past year I have travelled to Kurdistan Iraq and have seen first hand the destruction and devastation caused by the Turkish bombings. The loss of property and livestock and the displacement of whole villages is an avoidable and unacceptable consequence of these bombardments. The civilian and environmental toll of these operations is overwhelmingly clear and more must be done to ensure that they do not continue.

London based KHRP has submitted a number of cases to the ECtHR on behalf of victims of these cross border attacks. These cases represent clear violations on the part of Turkey to the right of life and the right to respect for private life and home. There has been no effective investigation by the Turkish authorities into allegations of suffering and ill treatment. Moreover, it is unclear what, if any, domestic remedies are available to the victims of the attacks. Unfortunately, many civilians have become victims of a conflict that they did not ask for and cannot control.

Although some in the international community have expressed concern, more needs to be done or the use of force will persist. Turkish attacks not only violate international law but breach several rules of the UN charter as well. These include Iraqi state sovereignty and the UN announcements regarding the peaceful relations between countries and the non- use of force against one another.

Turkey's actions are also in violation the Geneva Convention as the conflict has had devastating effects on the life and livelihood of innocent civilians, both in Turkey and Iraq. Both Turkey and the PKK have a responsibility to abide by international humanitarian law and to do all in their power to avoid the targeting of civilians. The seemingly indiscriminate attacks amount to a serious breach of international law and the failure to conduct military operations with a sense of proportionality and with no advanced warning to the civilian population in my opinion can be seen as the most explicit violation of human rights committed by the Turkish authorities in the period between 2007 and 2008.

The EU needs to forcefully and continuously insist that Turkey refrain from using military operations and instead engage in dialogue and negotiation to begin to bring an end to the violent conflict and heal wounds on both sides. The continued use of military force impedes implementation of much needed reforms, reforms that are called for in the Copenhagen Criteria and which the European Union itself has declared necessary for Turkish accession.

Additionally, cross-border operations have provided a justification for maintaining temporary military security zones in southeast Turkey, which give the military greater direct control of certain regions. This is worrying as such arrangements create an atmosphere where the 2006 Anti-Terror Legislation and resulting cases of ill treatment are regarded as justified in the self-defence of the Turkish state. The silent

approval of the European Union has allowed Turkey to resist finding a political solution in regards to the Kurdish issue.

IDPs

The escalation of the conflict in the Kurdish region and particularly those operations carried out close to and across the border with Iraq, has slowed progress for the approximate 3.5 internally displaced persons in Turkey. Millions were displaced during the period of intense conflict between the Turkish government and PKK in the 1980s and 1990s; with some displaced by fear of the conflict, and others moved as part of a deliberate state policy to integrate Kurdish people. Although the Turkish government made considerable effort to address the IDP situation after 2004, the 2008 EU Commission Progress Report on Turkey stated that Turkey has lacked an 'overall national strategy to address the situation of IDPs.'¹ The Report finds problems with the law on Compensation and points out that IDPs continue to suffer from economic and social marginalization. KHRP can find little in the way of progress since our report on the subject in 2006. The security situation, lack of basic infrastructure and limited employment opportunities make returning home impossible for many IDPs.

The situation of IDPs was dealt another blow with the decision of the European Court of Human Rights in the case of *İçyer v. Turkey* in January. The Court rejected an application for compensation by a Turkish IDP on the grounds that the domestic mechanisms represented by the 2004 compensation law were adequate to deal with his case. This led to all similar cases pending review by the Court being thrown out and, subsequently, to deterioration in the quality of applications under the Compensation Law. This resulted in substantially reduced amounts being awarded to IDPs.

Freedom of expression and association

The reform of Article 301 of the Turkish Penal Code has attracted considerable attention but has, in reality, been one of many reforms that are far less extensive than is necessary to bring about real change. The impact of amending the article so that it criminalises 'insulting the Turkish nation' as opposed to 'insulting Turkishness', seems little more than cosmetic, and leaves in place the ban on insulting 'the Republic or the Grand National Assembly of Turkey', 'the Government of the Republic of Turkey, the judicial institutions of the State' and 'the military or security structures'. The ability of the Turkish state to prosecute speech that is critical or questioning of the political or military establishment is considerable and remains a threat to free speech in Turkey.

Article 301 is just one of a host of anti-freedom of expression provisions within the Turkish Penal Code and Anti-Terror Law, and has been used frequently during 2008

1 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 28.

to punish those making statements not approved by the establishment. Other provisions have led to prosecutions under laws banning ‘targeting public officials who are part of anti-terror activities’; ‘provoking people to hatred and hostility, or denigration’; ‘alienating people from military service’; praising crime and the criminal’; ‘doing propaganda for an illegal organization through the media’; and ‘publishing the comments of a terrorist organization.’²

The case against Leyla Zana, who was sentenced to 10 years in jail in December 2008 under Article 314/2 of the Turkish Penal Code which criminalizes being a member of a terrorist organization, is one example of how Turkey continues to restrict freedom of expression.

Another example is the ongoing trial in the murder of Hrant Dink, who was killed in 2007. Dink was prosecuted three times under Article 301 and had received death threats, which were given little attention by authorities. It is widely believed that the Turkish security forces were in some way involved in Dink’s death. The trial is seen by many as a critical test of Turkey’s judicial independence.

On a positive note, following an amendment to the broadcasting law in June 2008, the government began discussing the creation of a state-controlled TV channel broadcasting entirely in Kurdish. Turkish Radio and Television’s (TRT) new Kurdish-language channel, TRT-6, went on the air on January 1, 2009. While this must be considered a major step forward, some restrictions and doubts about the project remain. For instance, current laws would still not allow the station to legally broadcast educational or children’s programming. Additionally, there is widespread concern that the station will simply be used as a tool to broadcast government propaganda. Many in the Kurdish region are suspicious that the AKP government has established TRT-6 just before the local elections in March 2009.

Although legal, no private Kurdish language schools currently exist. As public schooling in Kurdish remains illegal, many children are denied the right to a proper education. In addition, access to public services in languages other than Turkish remains an issue. These rules effectively discriminate against anyone who does not speak Turkish and disproportionately hurt the Kurdish population.

Despite some promising developments in other areas, freedom of association and assembly remain heavily restricted. People taking part in political demonstrations, trade unions or other activities critical of the government or dealing with taboo subjects are often met with police harassment, violence and detention.

2 BIA Quarterly Report Released: State’s Security Hijacks The Freedom of Expression – www.bianet.org 2 November 2008

Party closure cases

In March 2008 the Chief Prosecutor of the Supreme Court of Appeals launched a closure case against the governing AKP. The charges claimed that the party had become the focus of 'anti-secular activities' and was in violation of the constitution. These charges were closely related to the party's efforts to relax the ban on wearing a headscarf in universities. Although the Constitutional Court fell short of the majority necessary for closure, the AKP government's state funding was cut in half.

However, the case for closure against the pro-Kurdish Democratic Society Party (DTP) remains ongoing. The case alleges that the DTP has links with the PKK. The Public Prosecutor has asserted that all DTP members should be banned from political activity for a minimum of 5 years. Closure of the DTP thus threatens to disenfranchise and alienate a large proportion of Turkey's Kurdish population. The closure has been widely condemned by observers and is based predominantly on non-violent statements and speeches made by party officials. The case has been drawn out and, it has been suggested, is being delayed until after the spring elections this year to avoid public sympathy for the DTP and may give the party's pro-Kurdish candidates an electoral boost.

Torture and ill-treatment

Turkey has made efforts to combat the use of torture, which have included reducing the pre-trial detention period and providing detainees access to medical examinations and legal counsel. However, despite these changes, torture and ill treatment remain a problem in Turkey. What is more, the anti-terror law has rolled back some of the fundamental protections that prevent torture, and indeed has led to an increased reporting of torture on police premises. Further, inadequate implementation of legislation, legislative loopholes and a surviving mentality conducive to the practice of torture ensure that the use of torture continues. When reported, instances of torture are often not properly investigated and the perpetrators go largely unpunished.

Although Turkey signed the Optional Protocol to the UN Convention against Torture in 2005, it has yet to ratify it. Turkey has also failed to implement independent inspections of detention facilities despite a recommendation from the Council of Europe's anti-torture committee³ and has all but ignored the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) regarding the detention of Abdullah Öcalan on Im-

³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report to the Turkish Government on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7-15 September 2003, Strasbourg, 18 June 2004, § 40.

rali Island.⁴ Turkey would be wise to recall that isolation of prisoners does little to mitigate their reputation and, as was the case with Robben Island in South Africa and Guantanamo Bay in Cuba, can have devastating effects on international opinion.

Another obstacle to achieving an acceptable level of respect for human rights in Turkey has been the poor implementation of European Court of Human Rights (ECtHR) case law. The Turkish constitution requires that the judgements of the ECtHR supervene over the decisions of national judicial bodies. This should be an extremely important tool for transforming the jurisprudence of Turkish courts and the policies of the Turkish government; however, to date this has not been the case. The Turkish state has often failed to ensure implementation of ECtHR judgements; as the 2008 EU Commission Progress Report notes ‘a considerable number of ECtHR judgements are still awaiting enforcement by Turkey’. Areas in which implementation has been lacking include laws on conscientious objection, control of the security services, remedy of abuses, and freedom of expression.

What the EU needs to do better

Although the EU has played an important and valuable role in Turkish reform over the last decade it has failed to radically advance the human rights situation in Turkey in the way that many of us hoped it might. Particularly significant has been the EU’s failure to highlight the importance of resolving the Kurdish issue and the conflict in the southeast of Turkey. If Turkey is to deepen its democracy, improve its human rights situation and achieve EU membership, the problems I have highlighted here today will need immediate attention.

The EU must no longer accept at face value Turkey’s assessment of the PKK insurgency in the southeast and must push for a political solution to what is, essentially a political problem. For instance, in this year’s EU Commission Turkey report considerable emphasis was placed on the Turkish government’s pledges to increase the funding for the South-eastern Anatolia Project, with seemingly less attention being paid to issues like language rights, and none at all to proposals that have been suggested by some opposition party politicians and civil society groups for greater devolution of power to the regions in order to cater for Kurdish cultural differences.

The ongoing conflict between the Turkish state and the PKK has caused a great deal of suffering and economic damage to those living in the Kurdish region. The conflict must not be seen as merely a question of state security, but as the right to one’s ethnic identity. The existence of similar problems in Iran, Syria and Iraq, all of which have attempted to suppress the Kurdish identity, indicates that ethnic identification is a very important factor in unrest in the southeast of Turkey.

⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report, 6 September 2006.

Given the importance that the EU attaches to improving the human rights situation in Turkey, it is extremely important that they acknowledge the Kurdish problem in Turkey. A large proportion of the human rights violations that occur in Turkey are related to the Turkish establishment's distrust and suppression of ethnic pluralism. The time has come to not just manage Turkey's conflict with its Kurdish population, but to move towards resolving it.

The EU must do a number of things:

Firstly, it must cease to underplay the severity of the conflict in the southeast of Turkey and Northern Iraq. In the 2007 and 2008 Progress Reports the Commission seriously underemphasised the extent to which there has been an escalation in the violence in the past couple of years; failing to address the fact that it is once again a fully blown conflict. The EU has also failed to address the issues raised by Turkey's cross-border operations into Iraqi-Kurdistan. The reality of the conflict must urgently be publicly acknowledged and the EU must bring its full influence to bear on Turkey to begin a dialogue with the PKK and move towards lasting conflict resolution.

This situation is inevitable so long as the EU fails to acknowledge the political nature of the Kurdish issue, and it is also extremely damaging for the EU and for Turkey. It risks undermining the EU's reputation as an honest and ethical arbiter of regional issues, creating resentment amongst Kurds.

Most importantly, without the external impetus and support provided by the EU, political leaders in Turkey seem unlikely to act forcefully on the Kurdish issue given the political risks attached to altering the status. Thus it seems likely that only once the EU explicitly lets it be known that achieving a political resolution to the Kurdish issue is vital to Turkey's chances of achieving membership of the EU will the issue begin to receive the energy and attention from within Turkey that is required to achieve a resolution. The European Union should identify and promote a set of legislative changes and judicial and administrative targets necessary for Turkey to put itself in compliance with the political and human rights criterion for accession as outlined by the Copenhagen Criteria. For example changes need to be made in to increase civilian control of the Turkish military; Constitutional reforms are in order to ensure that closure cases like those against the AKP and DTP do not disrupt Turkish democracy; Judicial reform is necessary to ensure that judges and prosecutors are carrying out their duties in a fair and unbiased manner;

And the rights to freedom of expression and association must be respected. Although not a comprehensive list of necessary reforms, these issues help make clear that the EU can and should be doing more to urge and assist the Turkish state in achieving the progress necessary for accession. It must make clear that meeting the Copenhagen Criteria is absolutely vital and non-negotiable to order to move toward accession. The EU must be open and honest in discussing the ways in which Turkey currently

fails to live up to the democratic and human rights standards of the Copenhagen Criteria, and explicit in identifying what changes need to be made in order to bring the country into compliance. This kind of precision and consistency is required in order to ensure that the EU's rigorous human rights standards do not end up degraded.

Conclusion

This conference comes at an important moment in the development of Turkey's relationship with the EU. Within the EU it is vital for both Europe and Turkey that all the relevant players unite around the membership criteria. It is equally important that the EU adopts an activist stance when it comes to encouraging Turkey to pursue the reforms necessary to meet the criteria, providing the right rhetoric, incentives and encouragement to help push reforms through. In Turkey the momentum for reform needs to be regained after a period in which the pace of progress has slowed.

It remains vital that the current Turkish state policies of conflict and confrontation in response to the Kurdish Problem be replaced by dialogue and engagement. To achieve this it seems likely that Turkey will need the assistance of the EU, which must acknowledge the severity of the problem and act constructively by providing a forum for dialogue. The EU must be firm in its stance against the Turkish military action and insist upon a political approach. Turkey is unlikely to recognize the rights of its Kurdish population without international pressure, and the EU should use accession negotiations as an opportunity to engage Turkey and urge substantive reforms in order to move toward peaceful resolution of the conflict.

The ongoing conflict between the parties has been accepted largely because of the language of the 'War on Terror.' With many international figures, including Gordon Brown and President Obama, now questioning that language and the logic it flows from, Turkey has a unique opportunity to be at the forefront of a new era in conflict resolution. By reaching out to its Kurdish population and working to instil trust in government and establish true democracy, Turkey will begin moving towards reconciliation. The EU must demonstrate its global leadership by committing to all the ideals enshrined in the ECHR and other international human rights conventions, and assist Turkey in reaching its goal.

It is important that both Turkey and the EU remain committed to the accession process. Those national governments that suggest that Turkey is too large, too poor or too distant to become a full member should be opposed and condemned. The impression that the EU is not committed to accession is likely to result in declining Turkish reform.

All parties in the conflict, as well as the EU, have to realize that the conflict cannot be resolved by security measures alone. A space for dialogue – a hearts and minds approach, if you will – needs to be created to address the root causes of the alienation

between the Kurdish and Turkish populations. Regardless of the difficulties, we all must continue to move towards resolution. As one famous international figure once said, ‘The good news is there is a light at the end of the tunnel. The bad news is there is no tunnel.’ This means that as long as there is a channel for communication between parties, there is always hope of compromise and resolution.

Finally, it is my belief that this conference will help assist in advancing the three-way rapprochement that is necessary between the Kurds in Turkey, the Turkish state and the EU, through frank, open and constructive discussion of the relevant issues.

1.2 EU Reform Process – and Future Prospects

Andrew Duff

Thank you for proposing that I speak at this conference; I think it’s the third such conference I’ve spoken to over the previous decade and I think its very important for all of us here in the parliament to keep up the profile of the Kurdish problem, to keep enquiring, exchanging opinions and seeking solutions. Its important, of course, that the Turkish accession process continues, and some of us have been quite hard pressed to ensure that despite the growing opposition inside some of the states of the EU including France (which was the president of the EU for the last six months) the accession process is still on track, but the speed that the accession process is proceeding as it were on that track is very slow, and I sometimes think that the accession negotiations are slightly more formalistic than political and actual.

There is a great symmetry between things that are happening in Turkey and things that are happening inside the Union. The constitutional process has stalled both in Turkey and here. We are both of us plunging into a financial and an economic crisis and in both cases it is the peripheral and the poorer provinces, states and regions that suffer the greater social effect of the economic downturn. Both of us are suffering from a problem of the energy supply, the security of supply, and we have both of us experienced the crisis in the South Caucasus at first hand in the course of the past 12 months. We are embroiled in an unsatisfactory manner in the problem of Palestine and Israel. So, we have a lot in common and I sometimes think it would be more fruitful for Turkey and ourselves to focus a lot more on the things we had in common than the things we have that separate us or divide us.

Turkey of course has the extra problem of the PKK. But we share an important problem of Cyprus and insofar as it is absolutely essential for the Turkish accession process to contribute to a solution of the Cyprus problem and also because it is essential to prioritize the problems that must be tackled and solved as part of the protracted accession process. It is, I think, Cyprus that for the next 12 months is to have priority

in our common agenda between Brussels and Turkey. But can Turkey assist a solution of the Cyprus Problem as it confronts the extraordinary Ergenekon scandals and court cases? Can Turkey cope and make the necessary concessions? Can it prove to be sufficiently flexible for the Cyprus problem to be solved as tension inside Turkey between the Kemalists and the Islamists grows? Can the AKP restore the good trust and confidence that it first had inside the middle class and the intellectual opinion in Turkey as it confronts the complex problem of trying to unpick the Cyprus problem? Can we be certain that the freedom of the press in Turkey that we had taken for granted sometime ago is still sufficiently strong to permit there to be inside Turkey a frank and pluralistic debate about the options for Turkey, first in Cyprus and second with respect to the Kurdish problem? Can we be certain that the army in Turkey is going to perform scrupulously and to obey the command to withdraw its troops from the island of Cyprus, especially at a time as part of, I should emphasize, as part of a comprehensive settlement of the division of the island, especially at a time when its armed forces are being very hard pressed by the PKK in Turkey and beyond its south-east border itself? Can the Turkish political class, both the AKP and the opposition parties in Ankara show sufficient skill and courage to support Mr. Talat in grasping a truly federal solution to the settlement of the Cypriot problem? I sometimes think there is an insufficient grasp of federalism, of the federal thought, of the federal concept of sharing power in Cyprus, perhaps on the Greek Cypriot side too. But certainly it is not assisted by an obstinate refusal to discuss, to think more fluently about, federalist solutions for Cyprus in Turkey. And, here I come to the Kurds again, that if there is an obstacle to considering to tolerating federal solutions in Cyprus, I fear that the prospect of an imaginative political solution for the Kurds is also far off.

In all of these things, the Cypriot and the Kurdish problem, the standing authority function of the EU is terribly important, as has been said before. We can be terribly helpful, but we cannot be the critical factor in the solution of these problems. The critical factor is Turkey and its peoples. Thank you very much.

1.3 Turkish and Kurdish Perspectives on EU Accession

Ahmet Türk

Dear friends, dear participants, dear members and executives of EUTCC,

To begin with, in the name of myself and my party I'd like to congratulate all friends and comrades for their great efforts during working for and organizing this fifth international conference. Moreover, I would like to express my greatest respect to the memory of Mr. Harold Pinter. He was a true intellectual and a courageous friend. He represented the true intellectual conscience that we need most today. Our heritage from him is to continue the struggle for peace and freedom.

This international conference organized under the name of 'EU-Turkey and the Kurds' is very important particularly in the context of the times through which we have been living. Both in the European Union, in the US and in our world, historical changes and transformations are taking place. Neo-liberal economic policies have led to a global economic crisis which has taken hold of the whole world. Nation states are still concentrating on their security issues and internal and external armed struggles, and protests against these struggles are still going on throughout the world. Therefore we need new political approaches and power structures for the stability of the system. We need a fairer, more equal and more controllable political economy for a more democratic, more tolerant and more pluralistic governmental approach as an absolute necessity for the sustainability of system.

In the US the Obama Administration has come to power and this new process has created an important hope for settling international problems through dialogue. Societal and political conditions have appeared to constitute a new order for the whole world pioneered by the leftists, socialists, social-democrats and progressive democrats. From this point of view, the new American government lead by the presidency of Barack Hussein Obama, and the level of success I have been hoping for from Party of European Socialists (PES), European Leftist Party, Greens and progressive Democrats at the prospective elections in June can be evaluated as indicators of this new order.

Problems will have to be tackled in a new way. This will be also be a new opportunity for Turks, Kurds and all of us. Here I would like to emphasise that the problems that we are confronting today can be resolved with a common understanding and mentality as long as we stick to democracy; as long as we pay attention and respect to human history. If we do that, I do not think that there is any problem today that cannot be overcome.

We have attached a great deal of importance to this forthcoming European election to the extent of triggering a re-contact process for EU and its foundation philosophy which is very important in that it left the understanding of nation state aside. The European Union is the union of cultures, the union of societies. This is the responsibility of the European Union. If the European Union is treated with the mentality of a nation state and if we try and interpret the European Union as a nation state, we will be far from solving the problems of oppressed peoples, let alone the problems of Europe and European citizens.

From here I would like to come to the perspectives in Turkey. From the very beginning we, as the 20 million Kurds living in Turkey, believed in the importance of the European Union and we were aware of what it really meant. Turkey's accession to the European Union will make it possible for the Turk's at least to breathe freely and comfortably but when we highlight the reforms conducted to this effect we will see how unsatisfactory these reforms have been. In view of the militarist stance in

Turkey the Kurdish people have been oppressed but at least within the framework of the European Union they will have the opportunity of enjoying their democratic rights. They therefore give their support to Turkey's accession to the EU at the rate of 90% - 95% and in every forum we have clearly stated our support to this process. The reasons of this level of support are very clear: governing of Turkey with a perfect democracy, adopting the diversity as a richness, honouring fundamental rights and liberties, guaranteeing the cultural and political rights of all communities including Kurdish people, and finally, following a more contemporary, equitable and fairer development program.

With the AKP coming to power in 2002 some small reforms were realised which are still not very satisfactory but are important steps for us because they are against the status quo. This political party has earned a victory against the status quo but because of its Islamic identity it has had great difficulties in Turkey. They have had no other choice than to adopt the European ideal, not because they are in support of democracy but because they need the European Union for their own interests. That's why they have implemented these reforms, in order to protect themselves against the militarist approach in Turkey.

However, after constituting partial reforms in 2002-2003, in its very first governing years and immediately after starting accession talks for full membership process, the AKP government laid reforms aside. In particular, AKP almost forgot the Copenhagen Criteria which is the fundamental condition of being a full member EU for Turkey. Instead, they strengthened the Anti-Terror Act and Police Authority Act with articles that are completely anti-democratic and anti-human rights. As a result of this authoritarian governing experience, there came about a great rise in the number of occurrences of torture, mistreatment, death and injury under surveillance conditions. Principally, the level of violence applied by police against Kurdish people living in Kurdish populated areas and in cities came into existence in a very striking and public way such as never before. In short, the democratic and legitimate struggle of Kurdish people for getting their cultural and political rights was considered under these Acts and defined as a criminal and security problem.

In this context, let me share with you our one and half-year democratic struggle adventure as DTP in parliament. Following the 2007 July elections, as you know, we succeeded to exist as a political group in the Turkish Grand National Assembly (TGNA) in spite of all sorts of barricades. In this one and half-year legislature period, as DTP, we went through with an incredible parliamentary struggle for democracy and rule of law. Additionally, we went on being together with our people physically supporting their democratic activities. Yet, we could not fulfil the mission we took upon ourselves completely, due to the Government's exclusive and theorization attitude directed towards us, whereas the TGNA had a relatively pluralistic composition, for first time in its very history, thanks to our existence. Soon, a closure case was opened by the Constitutional Court, and pogroms and campaigns started against us. Even so,

we managed to continue to exist by going on struggling democratically always on the grounds of legitimate and lawful principles.

I can say this frankly, we proved by our struggle in parliament that AKP, who attained power by seeming to be a very reformist and libertarian movement to the electorate masses, has very reactionary-conservative and authoritarian inclinations. We brought to light their oppressive and discriminative potential by holding on stubbornly to our democratic and societal political line. In the end, the Prime Minister acted very insolently by meaning 'love it or leave it' to our people, who carried out democratic civil disobedience activities to protesting government applications. This motto, as you know, has no longer use in the political lexicon of even the most chauvinistic parties.

The Democratic Society Party became very insistent on enlarging the limits of classic political arena, drawn by the status quo, by on the one hand arguing for programmes of solution and studies for Turkey's primary structural problems. On the other hand it functioned as a litmus paper to show to the public eye the true face of AKP government.

The aim of my analysis of the characteristics of government is to make evident for anyone to see the AKP's isolation politics against opportunities for a peaceful and democratic solution to the Kurdish 'question'. In honesty, if AKP had been a government believing in the values of the EU, it would have used the opportunity for a solution presented by a democratically elected political party that existed in parliament and had the potential to open a way of settlement for the most burning question of the Republic's history. They would have constituted the Copenhagen Criteria by getting our support. They would have drawn the attention of the European to the progressive changes in Turkey. They would have taken the steps of democratization and pluralisation. Unfortunately, AKP did not act in this way.

On the other hand, when we consider the dominant EU's stance on accession, we see that an approach awakening nationalism in Turkey, takes over gradually. In particular, the fact that EU has been ruled by conservative and rightist politics in recent years has had a great deal of influence on making this sort of approach. The sort of expression like 'privileged membership' have done a great deal to cause a rise of popular nationalism, which has been either ignored or supported openly by AKP government.

As a party, either during our visits to Brussels or periodic meetings with EU Commission authorities, we have always mentioned a reality that Kurdish 'question' is characteristically a universal set of all structural problems which are main handicaps for the democratization of Turkey. It is not to be considered as a terror problem with a very short and narrow political horizon. Unless there is a direct political intervention for settlement of the question, it is very clear that none of these obstacles will be removed. Therefore, we have mentioned an immediate need for establishing an

Observing Committee of the Kurdish question in order to make periodic meetings with each side having potential to influence the nature of the case. We talked about this suggestion with Mr. Barroso as well when he visited Turkey last year.

Another issue that I'd like to mention is the "Democratic Autonomy Project" that we would like to bring to the attention of the public eye and TGNA on settlement of primary democracy cases including Kurdish 'question' as well. The very essence of this project is an offer on comprehensive reformation of the Turkish public and administrative structure in accordance with the 'subsidiarity' principle for making a participatory and decentralized new administrative system. Turkey, with a population exceeding more than 70 million and suffering from a cycle of misgovernment due to the centralized and gross bureaucracy, cannot be a member of EU with this style of administration. Therefore, a re-rebuilding process is a must for Turkey in accordance with the concept of 'regions of Europe', an essential approach in the foundation philosophy of EU.

We foresee that a notion of inclusive citizenship will be carried through to regional councils. Citizens will participate more than before in the governing system at a cultural, societal, economic and political level, and they will not be a target of top to bottom transformation politics by the application of assimilation and theorization. Briefly, we believe that constituting this project will strengthen the union and harmonization of peoples on equal ground, and thus, prevent the rise of nationalism.

There are no political parties, including the AKP government, who offer this kinds of project either for speeding up the EU accession process or achieving contemporary civilization values. From this point of view, as DTP, we are a party making the most important attempts coinciding with EU aims on the grounds of offering both this kind of comprehensive administrative and public reforms and a new constitution.

Also, the EU, Turkey and Kurdish people have a very great potential and role for the democratic transformation and peace of Middle East. The membership of Turkey to EU will have a direct affect on the process of political and societal democratization and meeting with the values of EU of the countries like Iraq, Iran and Syria. As you know, Kurdish geography and Kurdish people were divided among four nation-states during establishment of Middle East at the beginning decades of last century. It total, there are approximately 40 million Kurds in Middle East as a whole. It is clear that Kurds will be a bridge of democracy and peace in between EU and Middle East during the accession process and, if it is successful, in the aftermath of full membership period.

The Kurdish 'question' has achieved a very crucial nature by the period we have lived. By comparing and contrasting the years of the 1990's to the present time, we observe that there have appeared the signs of ethnic disengagement, and trends of conflict between our peoples. The organized forces of dominant Turkish nationalism have tried

to make pogroms and violent attacks against Kurdish people. In 90's, despite the fact that there was a very dirty war, and countless murders and assassinations, tortures, burning of thousands of villages and so on were experienced as everyday facts, there was still no atmosphere in society of a kind of lynching against Kurdish society. In this current period, we face a very different condition of facts. The urgency of this period has made it a must for the solution of problem through peaceful and compromise methods as soon as possible.

The obstacles of a possible settlement are based on ongoing denial and a destructive mentality. These people, whose least national rights have not even been recognized, can no longer endure in this mess of denial and destruction. We, as a party, have been offering the most logical and most sustainable settlement prescription. We have been struggling to deactivate the violent methods and achieve a peaceful environment as soon as possible. The demands we have been offering are to guarantee the cultural and political rights of Kurdish people as free and equal citizens of the Republic; to make possible the teaching and education in mother tongue, and lastly, to create a decentralized ruling apparatus which will allow the opportunity for participation in the governing process from bottom to top.

Let me ask you; is there a more acceptable suggestion than this? Moreover, we say that 'let's just start to talk directly; we are sure we will achieve a consensus.' But yet, putting aside the contemporary national rights, these demands are at the very lowest basic level of the rights and liberties of native peoples. The related UN documents and conventions are the best examples of this fact.

To sum up my speech, I should mention again that we like to feel and see the triggering force of EU accession process for saving our people from the vicious cycle of denial and violence and to get a way of peaceful-compromise and common logic solution process. I believe that we will see this kind of approach and practical application at forthcoming period.

With these thoughts I leave you all with my deepest respects. Thank you

1.4 Socio-economic development: Prospects for long-term change through the EU process

The following speech by the Mayor of Diyarbakır was delivered along with a power point presentation of slides which can be viewed on the EUTCC's website at www.eutcc.org/articles. It is taken from a longer piece of research that was done by the Union of South-eastern Anatolia Region Municipalities (GABB) and Diyarbakır Metropolitan Municipality in November 2008, which can also be found at www.eutcc.org.

Osman Baydemir

Madam Chairperson, I am speaking here as the Mayor of Diyarbakır and also of the chair of the eastern and south-eastern municipalities. Unfortunately the reform process has stopped and has in fact been regressing in the last couple of years, but this is not going to be my topic because other speakers who will follow will take up these issues.

I would like to focus in my speech on a *sine qua non* for a dignified life, which is the economic sphere. If you take a look at the map which is now projected on the screen (*indicates slide 1*) you will see in yellow Turkey and in red the eastern and south eastern part of Turkey. These are the areas where the Kurds constitute a majority. Ladies and Gentleman, in terms of regional imbalance and inequality, Turkey ranks as number one in the OECD countries. If you take a look at all of the OECD countries (*indicates slide 2*), Turkey has the highest regional imbalance in the OECD and this is certainly not very positive. In fact it is something that bothers us very much as those living in Turkey. We need to ask whether all regions are the same in Turkey and this is certainly not the case. If you look at the eastern and south-eastern parts of Turkey you will see that these have a very low income (*indicates slide 3*), that is to say the per capita income in these regions is only 12% of the EU average, so these regions indeed have the lowest per capita income and in fact I represent those people who have the lowest per capita income in the OECD.

Before I became the Mayor of Diyarbakır and the south-eastern municipalities I didn't know that the situation was so tragic, so horrifying. The data that we have managed to collect clearly indicates a total disrespect for human dignity. In fact I presented the same data to the Prime Minister and President of Turkey before I came. This data is not just from a couple of years. They reflect a conscious effort to keep these regions at a level of poverty. Whereas in the past we used to obtain 39% of the total income of the country, this figure has continuously declined, dropping down to 9% of Turkey's average, and currently I think it is below 7%, that is to say during the period of the Republic in Turkey, this region has been subject to a policy of systematic poverty (*indicates slide 4*).

Between the years 2000-2006 a relatively peaceful environment prevailed in this region and in socio-economic terms these years were the most appropriate years for investment. So if you take a look at 2000 and 2007 (*indicates slide 5*) you will see that among the seven regions in Turkey, public investments have still be very low for the regions concerned. If you look at the data you will see that the total population was 10 million but its proportion in total public investments was only 7.94%. The same applies to the eastern part of Turkey as well to both south-eastern and eastern parts of Turkey. Look at Marmara were 26% of the Turkish population live. There 28% of total investments go to the Marmara region. Now, you can see that there is a stable growth in the Marmara region. In 2007, it was 31% whereas my region sees a continuous decline in public investments. That is to say, a region that is already underdeveloped remains so and is stopped from developing, whereas regions which are already developed continue to receive more and more investments.

Here is another table which shows that Marmara, which is the richest region (*indicates slide 6*), is followed by interior parts of Anatolia and the Mediterranean region as well as the Black Sea Region. There is a clear perspective to increase investments to these regions but nothing changes for the south-east and eastern parts of Turkey. There is still no will to make an improvement in those two regions and to give you some figures, between 2000-2007, the Marmara region received 32 billion Turkish lira (TL) in investment whereas the south-eastern part of Turkey only received 8 billion TL worth of investment. If you take a look at this discrepancy you need to understand that there are also internal imbalances in the regions. For instance, Turkey gives 7% of its budget to the military, while 6% of its total investments go to various regions. 29% of investment coming into to my region is for military purposes. In Turkey the average military spending is 300 units but in Dersim the same ratio is 1998 units. To make what I'm saying clear, in the western parts of Turkey, in Marmara and Bursa, public investments come in the form of factories. In our region, they come in the form of prisons and police stations. In the West investments turn out to be bridges. In our case they turn out to be military zones. Now is there a will to change it or why is there not a will to change it?

One of the most critical factors for removing regional imbalances is public incentives. Let's look at the policy of public incentives in Turkey. This is something very interesting and it really hurts my dignity and really is a major tragedy here because between the years of 2000-2007, the amount of incentives my region received compared with the incentives received by the Black Sea region is a clear indication of the imbalance. In 2002 the south-eastern part of Turkey received 9.2% of the total incentives. As you can see, there is actually a clear decline throughout the years. For 2002 the Black Sea region received 3.9% of the total incentives in Turkey. Take a look at it throughout the years, there's a continuous increase. In fact from 3.9% in 2002 the Black Sea starts receiving 14.2% in 2007 so there's a reverse policy. Of course the Black Sea region should develop as well and we would never claim that the Black Sea should not de-

velop but we would like to see a similar policy implemented in the eastern and south-eastern regions as well.

There are four cities that have comparable populations with my city. If you take a look and compare these cities on a sector by sector basis (*indicates slide 7*), you see clearly that there are wide discrepancies and unless these discrepancies are addressed justice cannot prevail and if justice cannot prevail, we cannot have a dignified peace. Dignified peace is a critical concept for me. To ensure a dignified resolution to the conflict we need to address these imbalances. Now take a look at Diyarbakır, Samsun and Mersin. Try to compare them on the basis of their transportation, public production, tourism and agriculture. Take a look at the resources that these cities received between the years 2002-2007. This will give you good idea of the policy of the Turkish state. Diyarbakır received around 14 million Turkish liras (TL); Samsun received 250 million TL and Mersin 191 million TL. Kocaeli received 102 million TL for transportation investments. That is a 17-fold difference between what Samsun receives and what Diyarbakır receives. The same applies to public manufacture where Kocaeli received 270 million TL in public investment and Diyarbakır only received a very small share of that. Tourism is also a very interesting indicator. Tourism can remove poverty and there is great potential for tourism in my region. Between the years 2002-2007, Diyarbakır received no money for tourism investment from the public budget while Samsun Mersin and Kocaeli received millions of Turkish lira. A similar situation applies to agriculture. Kocaeli is a newly developing city. In total Kocaeli has seen an increase 573% in amount of public investments for tourism and agriculture but nothing for Diyarbakır.

This map (*indicates slide 8*) and the lighter colours on this map developed cities and developed regions of Turkey and the dark colour represents the poor regions or underdeveloped regions of Turkey. See that there is a clear regional disparity in Turkey. Almost all our region is coloured in dark red. Another table (*indicates slide 9*), shows the resources that the regional or local authorities receive in Turkey. The average in Turkey is an investment of 366 TL per capita in local authorities. We have 21 cities in my region and the average in my region is 187 TL per capita. In Kocaeli the municipality spend 738 TL for every single individual living in Kocaeli. In our region we can only spend 187 TL per individual living there and in Kars this is 168 TL. So clearly there is a discrepancy.

During Turkey's integration into the EU, it has the opportunity to make use of harmonisation funds. Now if you take a look at these cohesion or harmonisation funds, Turkey can actually use these funds to fight against this disparity. Unfortunately the funds have to go through the Turkish ministries and that means that certain local authorities in my regions, that is to say those of DTP origins, cannot benefit from these resources.

We keep talking about the same thing. In Turkish we say, we reheat the same bowl of rice again and again, and that is the SE Anatolian project abbreviated to GAP in Turkish. This is a major project that has been established to generate energy. \$18 million of energy transfer have been realised with this project, that is to say \$18 million of electricity has been transferred from the south-east to the west of Turkey. Unfortunately there has been no return on investment for the region. The irrigation aspect of this project leaves much to be desired. Only 6% of the irrigation projects have been completed. Most of the project has focussed on generating energy and power and most of the other parts have failed to a great extent.

I see economic and social development as the way to a dignified life, and to tell the truth I see these two aspects as important as language, as important as identity, as important as ethnic origin when it comes to the Kurdish problem. Social and economic development are both as important as these other issues. Therefore we need to make sure that we find a solution on all levels simultaneously. We need to make sure that change happens in these dimensions as well. I hope that the 6th of these conferences will be held in the Turkish Parliament and if we can ensure that it is, then we can talk of a real change. I would like to thank you wholeheartedly because I know that you have made a real effort. When I talked in the 4th conference we had a major disadvantage because we did not have a political party in Parliament. Now we have 22 members of Parliament and I hope that we can use this to our benefit and use this opportunity to hold the next conference in the Turkish Parliament. We are going through really difficult times. 2009 will be very difficult for all of us. Ms Zana, Madam chairperson, I have never lost my hope as much as I did today but I know that after 2009 conditions will change and that is why we have to work extremely hard and we need to ensure extreme solidarity in 2009. This will ensure we will have a brighter future. With these words I'd like to greet you all and wish you success.

Sarah Ludford

I am very glad that you switched us around in the order of speakers to hear Mayor Baydemir first because he is actually an expert on socio-economic development which I make no claim to be. I think my privilege of being here, is first of all the fact that I am a London MEP and I represent something probably in the region of a quarter of a million Turkish speakers in London, and secondly, I am really a specialist in political human rights and civil liberties but I make no claim, unlike my friend Andrew Duff to be a specialist in Turkey.

I very much agree with Mayor Baydemir that socio-economic development is as important as political and cultural right. Of course, people have to live and have to make a living. What I just wanted to add some thoughts on is how socio-economic development is intertwined with the issues of human rights, civil liberties and equality. And

unlike, I understand that Prime Minister Erdoğan only sees the backwardness of the south-east region in economic terms, which has been explained to us, as an economic problem. It clearly is not just an economic problem; none of us would think that it was. It is clear that daily life is disrupted by the conflict. How can you carry on and develop a prosperous economy if people are displaced? We know there have been 3 or 4 million people displaced over the last twenty years and forced to migrate. There all of the disruptions of that, not only to speak of the deaths obviously, but also the physical mental and emotional toll that takes on people. The impact on villages and agriculture has been severe.

Secondly the ban on using one's mother tongue in education or in the public sphere, which clearly is something that is unacceptable, is an inhibition to equal opportunities in education and the economy. We've heard about the disproportionately low level of public spending on essential public services and on infrastructure investment. Things like education and health are starved of money as Mayor Baydemir has made clear. When it's counted up, although it's got 16% of the population, only 9% of public spending goes to the south-east, and of that a large part is military barracks or prisons, rather than schools, bridges, hospitals, or roads. That is no way to finance regional development, and I think there is a very clear case for some sort of positive discrimination towards the south-east in allocation of EU funds, as well as local democratic accountability for the spending of those funds.

The Mayor has also pointed out the failure to follow through on the promise of a comprehensive GAP project as an integrated regional development plan. There has been a lopsided development of energy investment, the most of which is presumably exported to the rest of Turkey, rather than in other aspects that would be locally supportive. I don't know what his view is but I'm personally glad to see that more European countries have pulled the plug on export credit guarantees for the Ilisu dam. I was an early member of the Ilisu Dam Campaign. I hope that it will be stopped and that the shocking cultural crime of flooding Hasankeyf will be avoided. In 2000-2001, Feleknaş Uca, Jean Lambert and I visited Hasankeyf. Rather than be flooded, it should obviously be developed for tourism and the whole tourist potential of the region recognised. Clearly there is archaeological, historical and biblical tourism that could be developed. All the statistics on poverty in the southeast are shocking, as well as the level of unemployment, and not to be forgotten is the role that corruption plays in inhibiting economic development and in keeping people poor, not least because you've got to pay money to corrupt public officials. But I don't need to labour the point about how corruption inhibits a healthy market economy.

Then I just wanted to turn to the discrimination not only against the region but also against Kurdish people and I was just going to quote from a Kurdish Human Rights

Project publication. Kerim is here and can I just say what great work Kerim Yildiz and KHRP do. I also have a quote from an International Crisis Report. The KHRP report from last June says that ‘physical but equally psychological intimidation is a tool of governance in the region. The (fact finding) mission was told by many with whom it met that they believe the military is carrying out a psychological war against the Kurdish people illustrated by the fact that the forces continually insult the Kurds through words and actions treating them like second class citizens.’⁵

International Crisis Group quotes someone they talked to saying ‘we are at the breaking point. Over the past years there are 3 million young Turkish men who have done their military service in the region. They have hostile feelings, not just to the PKK but to Kurds. Its getting into society, you can’t get peace out of this.’⁶ You can’t get a flourishing and healthy socioeconomic scene if you have that level of hostility and discrimination. I would link the inhibitions on economic development to the authoritarian state, which classifies critical comment as insult to the state, the nation, or government. You can’t have flourishing society or economy if there’s no freedom of speech or association, as well as the denial of identity. You all are familiar with the problem still of Article 301 and its restriction on the freedom of expression and also other articles of the penal code, criminalizing offences against public order, and the Anti-terror Law. These between them have a huge effect on academic, intellectual and educational life as well as the press, journalists, and individuals like trade unionists. People lose their jobs, and people become afraid to say what they ought to be able to say in a free society. And these prosecutions go on. I believe there were 79 journalists prosecuted in three months from April to June last year. We’re supposed to have seen the back of the worst of these prosecutions but it’s not true.

Then there are the lawyers and human rights defenders as well of persecuted for non-violent expression of opinion especially on the Kurdish issue or for ‘disseminating separatist propaganda’ which I believe is the normal expression. And this goes down to the level of the street. It inhibits families and people in their daily lives, not just exalted intellectuals and writers and so on. If people feel discriminated against, insulted, threatened, monitored, surveyed, they are going to be fearful rather than outgoing, they are going to keep their heads down rather than be enterprising, they’re going to keep their mouths shut, rather than communicate and inspire.

Turkey routinely bans YouTube and one thousand websites, we heard on the human rights subcommittee visit last November, are blocked at the moment. You can’t have a modern economy with modern jobs which depend so much on communication and networking when you’re banning things like YouTube. I believe that as of last

5 KHRP Fact-finding mission report Return to a State of Emergency? Protecting Human Rights in South-East Turkey, KHRP London June 2008

6 International Crisis Group Report Turkey And Europe: The Decisive Year Ahead, Europe Report N°197 – 15 December 2008

June here were 21 outstanding cases against Mr. Baydemir but he can perhaps confirm that. May I say how proud I am by way, in the context of communication, that the liberal Danish Prime Minister refused to bow to pressure to close down Roj TV because of the strong freedom of expression protections in Denmark and I would claim of course it is in the liberal political tradition. Maybe there is a furor about the Danish cartoons but the other side of the coin is they will not be bowed into shutting down a TV station.

Finally I want to stress the importance of gender equality and the dimension of continuing discrimination and oppression of women. There may have been changes in the law but women in Turkey, and I'm afraid perhaps particularly Kurdish women, are subject to domestic violence, forced and early marriages, sexual assault, abuse, denial of education and so-called honour killings. This must stop and Kurdish men must fight as hard as Kurdish women against this. The fact of all the conflict and all the killings and so on, can't help in the situation of the family and domestic situation. I would just put down a quick marker about the headscarf ban, controversial subject, I personally believe there is no case in modern European society for telling adult women what they can wear and cannot wear and so I very much regret, by the way, the judgment of the European Court of Human Rights. Also I would like to mention gay and lesbian equality. There is no sexual orientation equality clause in the Turkish Constitution and there is no freedom and equality for gay and lesbian people.

Finally I'll wrap up by saying, I very much agree with Kerim Yildiz, there is no military solution to the Kurdish question, which is of course, the core, if you solve the Kurdish question for which a political solution is necessary, you unlock so much else, socio-economic development, the human rights and the civil liberties – all roads run to the Kurdish question, the Kurdish issue. The army gave the PKK as the pretext for so much of this repressive law. I don't have time to mention the visa policy but I do work on visa issues in the civil liberties committee, and I look forward to the day that there is at least facilitation for Turkish citizens, en route to freedom of movement. Thank you.

1.5 Turkey, EU & International Relations

Michael M. Gunter

My brief comments today will deal with Turkey's currently evolving role in international relations. A multi-tasking, diplomatic and mediatory effort that climaxed by Turkey being elected as a non-permanent member of the United Nations Security Council on 17th October 2008 for the first time in more than 40 years.

International Relations

Turkey's successful candidacy for a non-permanent seat on the UN's Security Council for the term 2009-2010 gave it the opportunity to showcase its many positive accomplishments before that world body.⁷ As a founding member of the United Nations, for example, Turkey has actively participated in many efforts to preserve peace and stability at both the regional and international levels. This has been accomplished through the United Nations (UN), North Atlantic Treaty Organization (NATO), Organization for Security and Cooperation in Europe (OSCE), and European Union (EU), among others. Turkey has provided troops, civilian police officers and observers to international peacekeeping missions in Asia, Africa, Latin America, the Balkans, the Caucasus, and the Middle East. Furthermore, Turkey has been an integral element of international efforts concerning arms control, including adherence to the relevant international agreements.

Increasingly, Turkey also has played an important role in convening neighbours and regional states in various formats with the object of bringing about peace, security, and cooperation. Specific examples include: 1) sponsoring indirect talks between Syria and Israel in May 2008, 2) establishing the Ankara Forum bringing Israel and the Palestinian Authority together to promote economic development projects in the West Bank, 3) initiating and hosting the Neighbouring Countries Process that brings together Iraq and its neighbours for ministerial consultations and which includes P-5 and G-8 countries, as well as the United Nations, the Organization of the Islamic Conference, the Arab League, and the European Commission, and 4) launching the Caucasus Stability and Cooperation Platform (CSCP) to bring together five countries in the region including Turkey, Russia, Georgia, Azerbaijan, and even Armenia to discuss common issues. Additional Turkish regional initiatives include the Black Sea Economic Cooperation Organization based in Turkey, the Black Sea Naval Task Force, the Southeast Europe Cooperation Process, and the South-east Europe Brigade, among others.

There are two main, but different factors behind Turkey's new activism in the Middle East: Neo-Ottomanism and the Kurdish problem.⁸ The latter is basically defined by the Kemalist ideology which considers Kurdish nationalism an existential threat to Turkey's very existence.⁹ In contrast, Neo-Ottomanism is not as concerned with the Kurdish problem but more with Turkey's 'soft power' that exports peace, stability, and

7 The following discussion is largely based on Omer Taspinar, "Turkey's Middle East Policies: Between Neo-Ottomanism and Kemalism," Carnegie Papers No. 10 (Washington, DC: Carnegie Endowment for International Peace, September 2008).

8 The following discussion is largely based on Omer Taspinar, "Turkey's Middle East Policies: Between Neo-Ottomanism and Kemalism," Carnegie Papers No. 10 (Washington, DC: Carnegie Endowment for International Peace, September 2008).

9 For a pithy analysis of Turkey's position, see Asa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy* (London, UK and New York: I.B. Tauris, 2007).

economic growth.¹⁰ As such, Neo-Ottomanism is comfortable with Turkey's Islamic heritage and multiple identities. Without seeking imperialist ambitions, this philosophy emphasizes a higher diplomatic, political, and economic profile for Turkey in the Middle East and Europe than does Kemalism. Since the military means called for by Kemalism to suppress the Kurds will not solve the problem by itself, Neo-Ottomanism with its stress on Turkey's 'soft power' has become increasingly important. Both factors, however, are driving Turkey's newly conceived activist role.

Turkey also has provided significant humanitarian and technical aid throughout the world and contributes to numerous international and bilateral aid programs. Indeed, Turkey is rapidly emerging as a major donor state with international Official Development Assistance in the range of \$714 million for the year 2007. When supplemented by the aid provided by the Turkish private sector, this figure more than doubles to \$1.7 billion and corresponds to 0.18 percent of its GNP. In 2007, the Turkish Cooperation and Development Agency (TIKA), operating through its branch offices in approximately 25 different states, was actively involved in various development projects in more than 100 states. In addition, Turkey has increased its voluntary contributions to various UN funds, programs, and affiliated organizations. During the period 2005-2007, these contributions amounted to more than \$43 million. Turkey has also been sensitive to the social and economic problems faced by the developing countries, such as poverty and social inequality and has taken a balanced approach with regard to issues preventing progress in the free trade negotiations under the World Trade Organization (WTO).

Furthermore, Turkey has contributed to the field of human rights, children's issues, and the status of women. It remains dedicated to the implementation of the Millennium Development Goals, the achievement of sustainable development, and strong cooperation with other UN member states in the goals established by the 2005 World Summit Outcome. Turkey also has played a leading role in efforts to strengthen energy security both regionally and internationally. Indeed, she increasingly serves as a transit route for energy resources from the Middle East and Central Asia to Europe. This in turn might help Europe to diversify its energy resources. Clearly the Iraqi war and the instabilities in the Caucasus have added to the strategic value of Turkey as an energy conduit.

In addition, Turkey has assumed an important role in the struggle against terrorism, drug trafficking, and corruption. Along with Spain, Turkey is also a co-sponsor of the Alliance of Civilizations launched in 2005 to emphasize the common values of different cultures and religions and now a full-fledged and comprehensive UN process. Clearly, Turkey is playing a very positive role in international political, economic, social, and cultural relations that stands in marked contrast to the politicized

10 On Turkey's 'soft power,' see the issue of *Insight Turkey* 10 (No. 2; 2008) entitled "Turkey's Rising Soft Power."

caricature painted by many of her detractors. As the *New York Times* concluded after Turkey was elected to the UN Security Council as a non-permanent member on October 17, 2008: Turkey 'has been seen by other [UN] members as working hard to establish peace in a difficult region—it has been the liaison between Israel and Syria, for example.'¹¹

As noted above, Turkey was last elected to the UN Security Council more than 40 years ago. Thus her recent selection to that UN organ indicates the current international support for her diplomatic activities and mediating roles in the Middle East, the Caucasus, and the Balkans. Problems may arise, however, as Turkey attempts to play an impartial role between different parties given the various contentious issues that are likely to create some tough dilemmas for Turkish decision makers. One can foresee situations, for example, in which Turkey will be confronted with dilemmas regarding the way it should vote in the Security Council as a part of Europe and the West or as an Islamic state with extensive ties to the Islamic world and such key states as Iran and Syria.

Among recent Turkish diplomatic initiatives, one of the most prominent was the so-called 'soccer diplomacy' that saw Turkish president Abdullah Gül journey to Erevan, Armenia on September 6, 2008 to meet his Armenian presidential counterpart Serzh (Serge) Sarkisyan (Sarkisian). The occasion involved the two attending a World Cup qualifying soccer match between their two countries in the Armenian capital. It was the first ever such trip by a Turkish president and sparked speculation that 'soccer diplomacy' might initiate reconciliation between the two historical enemies as 'ping-pong diplomacy' had 35 years earlier between the United States and China.¹² If a breakthrough in relations is going to occur, however, solutions to the current standoff concerning the Armenian occupation of Nagorno Karabakh (which constitutes some 15 percent of the territory of Turkey's Turkic ally Azerbaijan) and the resulting lack of diplomatic relations between Turkey and Armenia will have to be found. In addition, the continuing impasse has led to Turkey and Azerbaijan having their oil pipeline by-pass Armenia and thus shut that state off from the benefits entailed. Therefore, Turkey's plan for advancing cooperation and stability in the Caucasus region among Russia, Turkey, and the Caucasus states including Armenia and alluded to above is an imaginative initiative.

Although Turkey and Israel have maintained a mutually beneficial *de facto* alliance for almost two decades, Turkey almost certainly will have to adopt a favourable position toward the Palestinian and Arab side in the Security Council over this perennial problem. This situation will challenge Turkey's role as a mediator. In addition, frequent Turkish incursions into northern Iraq to chase Kurdistan Workers Party

11 Neil Macfarquhar, "3 Nations Win Security Council Seats," *New York Times*, October 18, 2008.

12 For background, see Bulent Aras and Fatih Ozbay, "Turkish-Armenian Relations: Will Football Diplomacy Work?" No. 24, *SETA Policy Brief* (Ankara), September 2008.

(PKK) guerrillas have led to fierce problems with the Kurdistan Regional Government (KRG) in northern Iraq, the Baghdad government in Iraq, the United States, and the European Union (EU), among others, and also will challenge Turkey's capacity to assume a stabilizing role for peace in the region and on the Security Council. Periodically, Turkey has been sending jets to bomb suspected PKK sanctuaries in northern Iraq, while expressing alarm at the prospect of Iraqi Kurdish independence that would act as a magnet for Turkey's own ethnic Kurdish population.¹³

Turkey's policy toward Iraq is based on two core national interests: 1) preserving Iraq's territorial integrity and 2) fighting the PKK whose militants use remote northern Iraqi safe houses in the Kandil Mountains from which to stage attacks inside Turkey. Turkey believes that if Iraq broke apart, it would encourage Kurdish nationalism to challenge Turkish territorial integrity as well as remove an important counterweight to Iran. As a result, Turkey has sought to prevent sectarian conflict in Iraq from escalating, while opposing the KRG's attempts to annex Kirkuk and thus gain its oil resources which could lead to KRG independence. At the same time, however, while Turkey has been working against the KRG's political ambitions, Turkey has entered into important economic ties with the KRG and begun meeting with its political leaders. This bipolar relationship will have to be carefully managed, but if it proves successful, Turkey can achieve tangible benefits that will leave the Kurds dependent upon Turkey as the United States gradually draws its presence in Iraq down in the next few years.¹⁴

The United States' role, of course, will remain key to Turkey's place in international relations. Barrack Obama's election as the new president of the United States offers both new opportunities and continuing problems for this relationship. Because of his opposition to the war in Iraq and his message of 'change,' the new US president will enjoy initial popularity in Turkey. Obama has promised to restore good relations with Turkey, lead a diplomatic effort to bring Turkey and the KRG together, and negotiate a comprehensive agreement that will deal with Turkey's PKK threat while guaranteeing Turkish territorial integrity and facilitating badly needed Turkish investment in and trade with the KRG. Obama also has promised to help promote democracy, human rights, and freedom of speech in Turkey as well as support Turkish EU membership.¹⁵ Many Turks are weary of him, however, because of his position on the Armenian issue. Any premature recognition of the events of World War I as genocide would badly damage US-Turkish relations. Also closely watched will be the new vice

13 For a recent analysis of Turkish-KRG relations, see International Crisis Group, *Turkey and Iraqi Kurds: Conflict or Cooperation?* Middle East Report No. 81, November 13, 2008.

14 For background, see Michael M. Gunter, "Turkey's New Neighbour, Kurdistan," in Brendan O'Leary, John McGarry, and Khaled Salih, eds., *The Future of Kurdistan in Iraq* (Philadelphia: University of Pennsylvania Press, 2005), pp. 219-32.

15 Emrullah Uslu, "What Lies Ahead for U.S.-Turkish Counterterrorism Cooperation in the Obama Era?" Vol. 50; Issue 40 *Terrorism Focus* (Jamestown Foundation), November 27, 2008.

president Joe Biden's earlier suggested plan for a tripartite division of Iraq,¹⁶ which Turkey fears would lead to an unwanted independent KRG which would serve as a dangerous model for Turkey's own ethnic Kurds. Everything about Obama, however, suggests that he will move discreetly on these explosive issues as well as support a regional solution to the problem of the PKK. Thus the new US administration has a tremendous potential to reconstruct positive relations that have been badly damaged by the Iraqi war and the rise of the KRG.

Finally, some have noted the irony of Turkey being elected as a member of the Security Council from the European group even though its eventual EU membership remains very problematic. On the other hand, if Turkey manages to fulfil a constructive role on the Security Council, it may help soften some of the resistance to her being accepted as a full member of the EU. For example, in a positive response to this development, the EU Parliament declared in a motion that it 'congratulates Turkey on its election to the UN Security Council, and encourages the Turkish government to adopt an approach within the UN that is closely coordinated with the EU's position.'¹⁷ Turkey's current EU candidacy, however, also continues to showcase her many problems. Both the most recent EU Progress Reports on Turkey and the US State Department Country Report on Human Rights Practices list numerous examples. First, however, it would be useful to analyze the important role of Turkey's ruling AK Party and its prime minister Recep Tayyip Erdoğan.

The AK Party

Recep Tayyip Erdoğan's *Adalet ve Kalkınma Partisi* (AK Party or Justice and Development Party) with its roots in Islamic politics¹⁸ first swept to victory in November 2002 on the promise of economic achievement, honest government, and pursuit of EU membership which implied a solution to Turkey's longstanding Kurdish problem as well as further democratization of the state.¹⁹ As progressive Islamists, the AK Party was increasingly opposed by the reactionary Kemalist establishment including Turkey's influential military fearful of losing their long held privilege positions.²⁰ This

16 Michael M. Gunter, "The Permanent and New Realities Facing the Kurdistan Regional Government: Options and Prospects," *Journal of Muslim Minority Affairs* 28 (August 2008), pp. 238-39.

17 Cited in European Parliament, "Motion for a Resolution . . . on Turkey's Progress Report 2008," (RE\748541EN.doc; PE414.936v01-00), November 21, 2008, p. 8/9.

18 M. Hakan Yavuz, ed., *The Emergence of a New Turkey: Democracy and the AK Parti* (Salt Lake City: The University of Utah Press, 2006).

19 Michael M. Gunter, "Turkey's Floundering EU Candidacy and Its Kurdish Problem," *Middle East Policy* 14 (Spring 2007), pp. 117-123.

20 Ihsan Dagi, "Turkey's AKP in Power," *Journal of Democracy* 19 (July 2008), pp. 25-30; Michael M. Gunter and M. Hakan Yavuz, "Turkish Paradox: Progressive Islamists versus Reactionary Secularists," *Critique: Critical Middle Eastern Studies* 16 (Fall 2007), pp. 289-301; and M. Hakan Yavuz and Nihat Ali Ozcan, "Crisis in Turkey: The Conflict of Political Languages," *Middle East Policy* 14 (Fall 2007), pp. 118-135.

situation eventually led to the crisis of 2007 over the election of the AK Party's Abdullah Gül as Turkey's new president. Although the AK Party seemingly triumphed in this struggle by winning an enormous electoral victory on July 22, 2007 and then electing Gül as president, the party was soon put on the defensive by a nearly successful attempt in the Constitutional Court to ban it as a threat to Turkey's secular order.²¹ Having survived this threat to its very existence²², the AK Party seemingly lost its reformist zeal and become a party of the status quo that has forsaken reform and the Kurdish issue.²³ A detailed analysis of these developments will throw more light on the current situation.

Initial Hope

When it first rose to power, the AK Party had a unique opportunity to change Turkish politics by pursuing EU membership and a solution to the Kurdish problem, among numerous other initiatives.²⁴ Instead of being a traditional Islamic party seeking to install an Islamic political order, the AK Party seemed to be endeavouring to improve the political, social, cultural, and economic opportunities of Muslims by democratizing the state. Seeking EU membership became both a catalyst and result of this democratization process. In harmonizing Turkish laws with the EU *acquis communautaire* (in effect the existing EU law), the AK Party implemented a series of important democratic reforms including the reduction of military influence over politics, abolishment of the death penalty and the State Security Courts, and improvements in freedom of the press and speech, among numerous other initiatives such as economic improvements. These steps had the side effect of creating a Turkey more tolerant and supportive of its ethnic Kurdish population.²⁵ Indeed in August 2005, Erdoğan journeyed to Diyarbakır, the largest city in Turkey's southeast and long considered the unofficial capital of the historic Kurdish provinces in Turkey, to declare that Turkey has a 'Kurdish problem,' had made 'grave mistakes' in the past,

21 Hasan Kosebalaban, "The AK Party Closure Case: Domestic Situation and International Reactions," SETA, Policy Brief No. 10, April 2008; Ihsan Dagi, "The Kurdish Question and Current Political Crisis," *Today's Zaman*, March 31, 2008; and Morton Abramowitz and Henri J. Barkey, "Turkey's Judicial Coup D'état," *Newsweek*, April 14, 2008.

22 Ihsan Dagi, "AK Party Survives Closure Case: What Is Next?" SETA, Policy Brief No. 19, August 2008.

23 Saban Kardas, "Turkey under the Justice and Development Party: Between Transformation of 'Islamism' and Democratic Consolidation?" *Critique: Critical Middle Eastern Studies* 17 (Summer 2008), pp. 175-87.

24 For background, see Michael M. Gunter, *The Kurds Ascending: The Evolving Solution to the Kurdish Problem in Iraq and Turkey* (New York: Palgrave Macmillan, 2008); and Umit Cizre, ed., *Secular and Islamic Politics in Turkey: The Making of the Justice and Development Party* (London: Routledge, 2007).

25 Michael M. Gunter, "The AKP Catalyst: Progressive Islamists and Ambitious Kurds," *Georgetown Journal of International Affairs* 9 (Summer/Fall 2008), pp. 59-68.

and now needed ‘more democracy to solve the problem.’²⁶ Never before had a Turkish leader so explicitly addressed the Kurdish problem and seemingly promised to try to solve it. As a result of these achievements, the EU decided that Turkey had met the required Copenhagen Criteria²⁷ for membership and initiated accession negotiations with Turkey on October 3, 2005. Indeed, the AK Party actually polled more votes in the southeast in the elections of July 2007 than the explicitly pro-Kurdish *Demokratik Toplum Partisi* (DTP) or Democratic Society Party.

Retrenchment

The EU accession process, however, has introduced divisive issues into Turkish domestic politics that have led to sharp debates between the AK Party and its secular Kemalist opposition, which includes the still politically powerful military. During the crisis over electing the AK Party’s Gül president in 2007, for example, the military famously posted on its web site a so-called e-memorandum (*e-muhtıra*) warning against the threat posed by some groups aiming to destroy Turkey’s secular system under the cover of religion, read the AK Party.²⁸ As recently as 1997, the military had forced Necemettin Erbakan’s Islamist *Refah Party* (RP) to resign.²⁹ In 2004, the military apparently considered yet another coup.³⁰

During the fall of 2008, the continuing Ergenekon trial of ultranationalists and retired military officers charged with planning violent campaigns to destabilize the AK Party government continued.³¹ Indeed, the massive indictment of 2,455 pages described an incredible plot connecting some 86 military, mafia, ultra-nationalists, lawyers, and academic figures supposedly attempting to weaken the country’s administration and justify an illegal intervention against the AK Party government. Erdoğan himself was

26 Cited in “The Sun Also Rises in the South East,” *Briefing* (Ankara), August 15, 2005.

27 The Copenhagen Criteria required for EU membership mandate the stability of institutions guaranteeing democracy, the rule of law, human rights and protection of minority rights. To these political requirements are added economic ones regarding the functioning of a market economy. Copenhagen European Council, “Conclusions of The Presidency,” June 21-22, 1993.

28 See the Turkish military’s web site: <http://www.tsk.mil.tr>.

29 See Michael M. Gunter, “The Silent Coup: The Secularist-Islamist Struggle in Turkey,” *Journal of South Asian and Middle Eastern Studies* 21 (Spring 1998), pp. 1-12.

30 See the detailed analysis in Walter Posch, “Crisis in Turkey: Just Another Bump on the Road to Europe?” Occasional Paper No. 67 (Paris: Institute for Security Studies, 2007), p. 18ff. The prominent Turkish journal *Nokta* was forced to close down in April 2007 after publishing apparent details of the attempted coup.

31 See Frank Hyland, “Investigation of Turkey’s ‘Deep State’ Ergenekon Plot Spreads to Military,” Vol. 5, Issue 26 *Terrorism Focus* (Jamestown Foundation), July 16, 2008; and Gareth Jenkins, “Murky Past of Turkey’s Gendarmerie Intelligence Emerges in Ergenekon Investigation,” Vol. 6, Issue 17 *Terrorism Monitor* (Jamestown Foundation), September 4, 2008. For background, see Michael M. Gunter, “Susurluk: The Connection between Turkey’s Intelligence Community and Organized Crime,” *International Journal of Intelligence and CounterIntelligence* 11 (Summer 1998), pp. 119-41; and Michael M. Gunter, “Deep State: The Arcane Parallel State in Turkey,” *Orient* 47, 3 (2006), pp. 334-48.

said to be on the alleged hit list. Critics, however, accused the AK Party of simply taking revenge on its Kemalist opponents with all these charges.³²

Unfortunately, therefore, the AK Party has not succeeded in countering the hostile political atmosphere. ‘The dilemma the JDP [AK Party] faces is that it can only reform the system by solving the deeply rooted political tensions emanating from the undemocratic management of identity claims in Turkey without upsetting the status quo. This dilemma necessitates consensus-building between the JDP, the Republican People’s Party (CHP or RPP) and the secularist establishment, which is not happening.’³³ The Kemalist establishment still considers demands for changes to its strict interpretation of secularism as a security threat. Although at first the cultural and identity dimensions of the Kurdish issue could be debated, for example, the AK Party has now been forced to shift back to an economic and security agenda à la the Ecevit days.

Following its tremendous electoral victory in July 2007, the AK Party apparently committed an error by trying to amend Turkey’s secular constitution to allow the headscarf to be worn in universities. Not only did this attempt place Kurdish reforms on the back burner, but it also presented the Kemalist establishment the ammunition it needed to attack the AK Party as an Islamic threat to secularism. In short order, the AK Party was battling for its very life against the attempt by the Constitutional Court to ban it. Although Erdoğan’s party managed to survive this attempt at a ‘judicial coup’ by one lone vote in July 2008, the AK Party seemingly emerged from the ordeal significantly chastised. Many believe that it was at that point Erdoğan struck an informal compromise with the military to drop his reformist agenda in return for being allowed to remain in power. According to Yavuz Baydar, a columnist for the daily *Today’s Zaman*, the result is ‘a new, sort of confused, aimless AKP.’³⁴ Thus, accession talks with the EU have drifted. Pre-existing Kemalist constitutionalism is replacing parliamentary sovereignty. Plans for writing a new constitution have been shelved. On top of this, the AK Party itself has shown problems with being publicly criticized and increasingly has been using the language of democracy only in rather selective ways. At the same time, the military has managed to recoup its political influence despite the EU harmonization laws that sought to limit it. New strategies such as press briefings on political developments in the country as well as activities intended to further popular support have been employed.

32 See, for example, Michael Rubin, “Erdoğan, Ergenekon, and the Struggle for Turkey,” *Mideast Monitor*, August 8, 2008, <http://www.meforum.org/article/1968>, accessed August 11, 2008.

33 Burhanettin Duran, “The Justice and Development Party’s ‘New Politics’: Steering Toward Conservative Democracy—A Revised Islamic Agenda or Management of New Crises?” in Unit Cizre, ed., *Secular and Islamic Politics in Turkey: The Making of the Justice and Development Party* (London: Routledge, 2008), p. 91.

34 Cited in Sabrina Tavernise, “Turkey’s Liberals Speaking Out as Reform Stalls,” *New York Times*, November 24, 2008.

The AK Party's retrenchment on the Kurdish issue was amply illustrated when Erdoğan journeyed to the southeast in the fall of 2008 to campaign for the local elections scheduled to be held in March 2009. As noted above, the AK Party had already shocked observers by slightly out polling the pro-Kurdish DTP in the south-east during the July 2007 elections. At that time the AK Party's stress on improving economic conditions for the locals had seemingly resonated more with them than the DTP's Kurdish nationalist stance. Thus, when Erdoğan arrived in the fall of 2008, the pro-Kurdish DTP reacted strongly against the attempt to seize what its mayor in Diyarbakır Osman Baydemir has called its 'castle,' by orchestrating the closure of shops, stone throwing, and running street battles. Erdoğan responded with a call to his Kurdish opponents to love Turkey or leave it.³⁵ Nothing more strikingly could contrast the newly security-oriented prime minister of 2008 with the one who had called for more democracy to solve the Kurdish problem in 2005. 'These are not the words of a reformer,' declared Yasemin Çongar, the deputy editor in chief of *Taraf*, a liberal newspaper.³⁶ Hasan Cemal, a columnist for the daily newspaper *Milliyet*, added: 'Erdoğan changed the whole discourse. This is the kind of disillusionment we have been having.' Cemal also confessed that he was now having doubts about 'whether Erdoğan is still sincere about Turkey's membership accession to E.U.'

At the same time another signal event of the AK Party's new Turkish nationalist, security-oriented position occurred with the resignation of Dengir Mir Mehmet Fırat as the deputy chairman of the party. Fırat had been known for being a relative of a former Kurdish rebel and more to the point his progressive opinions on the Kurdish issue, EU membership, and writing a new constitution. He had recently ruffled Kemalist feathers by joining some DTP leaders for lunch in Istanbul. Thus, his resignation announced on November 7, 2008 not only seemed forced, but also in protest against his party's new hardened attitude toward the Kurds. He was replaced by former Interior Minister Abdülkadir Aksu who, although of Kurdish origins, has always had positive relations with the state security forces.³⁷ The annual EU Progress Reports on Turkey and US State Department Country Reports on Human Rights practices in Turkey offer detailed analyses of the evolving situation.

35 Cited in Emrullah Uslu, "Fırat Resignation May Indicted a Hardening of AKP Kurdish Policy," Vol. 5, No. 216 *Eurasia Daily Monitor* (Jamestown Foundation), November 11, 2008.

36 This and the following citations were taken from Tavernise, "Turkey's Liberals Speaking Out as Reform Stalls."

37 Lale Sariibrahimoglu, "Kurdish Issue Is Deadlocked Again," *Today's Zaman* November 14, 2008.

EU Progress Reports on Turkey

The European Commission (EC)—the EU’s executive organ—released its annual Progress Report on Turkey on November 5, 2008.³⁸ The Report did not criticize Turkey’s ruling AK Party as harshly as it might have probably due to its near death experience with the Constitutional Court during the year in review. Nevertheless, the Report made it clear that the EU was not satisfied with the lack of reforms on issues ranging from human rights and the protection of minorities, democracy and the rule of law, corruption, and the role of the military, among others. Little was new in all this except for the first time the EU Report referred specifically to the *Kurdish issue* on several occasions. For example, in its section on ‘civil and political rights,’ the Report observed how ‘Articles . . . of the Turkish Criminal Code, that criminalise offences against public order, and the Anti-Terror law have been applied to prosecute and convict those expressing non-violent opinions on *Kurdish issues*. . . and *Kurdish-related issues*’ (p. 16. Italics added.) This, declared the Report, ‘is not in line with the ECtHR [European Court of Human Rights] case law on freedom of expression and implies in particular a lack of differentiation between violent and non-violent opinions’ (*Ibid.*).

The Report also cited ‘the case against 53 DTP mayors for sending a letter to the Danish Prime Minister requesting that [the pro-Kurdish] Roj TV not be closed’ and mentioned that the case ‘was finalized in April 2008. The [Turkish] Court sentenced the defendants to 2 months and 15 days imprisonment, which was commuted to a fine’ (*Ibid.*). Continuing, the Report stated that ‘overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with European standards’ (p. 26). The Report did note that amendments to the relevant law had supposedly allowed broadcasts ‘nationally all day long in languages other than Turkish,’ while ‘a new local radio channel, Muş FM, has received authorization to broadcast in Kurdish’ (*Ibid.*).

However, the launching of a channel broadcasting in languages other than Turkish has been delayed on several occasions. Furthermore, two of the four local TV and radio channels that started broadcasting in languages and dialects traditionally used by Turkish citizens closed down during the reporting period. Time restrictions laid down in the law on the Radio and Television Supreme Council (RTUK) continues to apply, with the exception of films and music programmes. Education programmes teaching the Kurdish language are not allowed. All broadcasts, except songs, must be subtitled or translated into Turkish. These restrictions make broadcasting in languages other than Turkish cumbersome and non-viable commercially. The police and the Radio and . . . RTUK apply a policy of strict monitoring of broadcasts in Kurdish. Several court cases and investigations against GUN TV—the only TV channel cur-

38 Commission of the European Communities, Commission Staff Working Document, Turkey 2008 Progress Report {Com(2008)674}, Brussels, November 5, 2008. The following citations from this document are referred to in the text by page numbers in parentheses.

rently broadcasting in Kurdish—are ongoing, in relations to the wording of Kurdish songs the channel has aired. Children whose mother tongue is not Turkish cannot learn it in the Turkish public schooling system. Under the current legislation such education can be provided only by private educational institutions. However, in the case of Kurdish courses which had opened following the changes to the law [these] have now closed down. As a result, there are currently no opportunities to learn Kurdish in either the public or private schooling system. Finally, according to the Law on political parties, the use of languages other than Turkish remains illegal in political life. In this context, a large number of investigations and court cases have been launched against officials and executives of the Democratic Society Party (DTP) (*Ibid.*).³⁹

The Report also took issue with Turkey's continuing approach to the rights of minority ethnic groups, which—with the exception of such non-Muslim groups as Greeks, Armenians, and Jews who are protected as minority groups by the Treaty of Lausanne (1923)—only grants rights to individual not groups. 'This should not prevent Turkey, in accordance with European standards, from granting specific rights to certain Turkish citizens on the grounds of their ethnic origin, religion or language, so that they can preserve their identity' (p. 25) concluded the Report. Although 'Turkey is a party to the UN International Covenant on Civil and Political Rights, . . . its reservation regarding the rights of minorities and its reservation concerning the UN Covenant on Economic, Social and Cultural Rights . . . regarding the right to education are causes for concern' (*Ibid.*). Finally, the Report also noted that 'Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages' (*Ibid.*).

The Report also listed a number of other points specifically concerning the Kurds. 1.) 'The Kurdish *Newroz* Spring celebrations in March 2008 resulted in violence against demonstrators in several provinces' (p. 17). 2.) 'No steps have been taken to abolish the system of village guards,' (p. 28) long seen by many as an instrument of official state repression. 3.) 'The 'temporary security zones' established in June 2007 in the provinces of Sirnak, Siirt and Hakkari close to the Iraqi border remain operational' (p. 27). These 'temporary security zones' were suggestive of the former emergency rule provinces that had been seen as another arm of state repression but had been finally abolished in 2002. In all fairness to Turkey, however, the Report explained that 'terrorist attacks by the PKK, which is on the EU list of terrorist organizations, [not only] continued in the South-East, but also throughout the country and claimed many lives' (*Ibid.*). In addition, 'landmines remain a security concern for both military personnel and civilians. The government reported ongoing use of anti-personnel mines by the PKK/KONGRAGEL' (*Ibid.*).

39 In January 2009, however, the state-owned Turkish Radio and Television Corporation (TRT) launched an exclusive Kurdish-language television station. It remains to be seen how successful this initiative will prove. Ihsan Dagi, "The Turkish State's Kurdish TV Channel," *Today's Zaman*, January 5, 2009.

The ongoing attempt to ban the DTP for allegedly ‘engaging in activities against the unity and integrity of the country’ (p. 6) also merited concern: The Report noted that the Chief Public Prosecutor had applied to the Constitutional Court requesting ‘that 221 former and present members of the party be banned from being member[s] of a political party for five years’ (*Ibid.*). This would preclude these DTP members from simply joining a new pro-Kurdish party as previously had occurred when the earlier one had been banned. The Report concluded that the closure cases against the AKP and the DTP . . . illustrate that the current legal provisions applicable to political parties do not provide political actors with an adequate level of protection from the state’s interference in their freedom of association and freedom of expression’ (p. 18).

Regarding the new constitution for Turkey ‘aligning Turkey with international standards on fundamental rights’ (p. 6) and promised by the AK Party following its great electoral triumph in July 2007, ‘no draft has been presented either to the public or to parliament, and no clear timetable has been set for discussing it’ (*Ibid.*). Rather, the government spent its energies on trying to constitutionally lift ‘the headscarf ban for university students’ (*Ibid.*). Furthermore, ‘the armed forces have continued to exercise significant political influence via formal and informal mechanisms. Senior members of the armed forces have expressed their opinion on domestic and foreign policy issues going beyond their remit, including . . . the south-east’ (p. 9). The Report also added that ‘no progress has been made on strengthening parliamentary oversight of the military budget and expenditure’ (*Ibid.*).⁴⁰ In addition, the Şemdinli case was transferred to a military court and the accused released ‘pending trial’ (p. 10). The Şemdinli case involved a bombing in November 2005 that killed one person and injured others in this south-eastern town. This bombing was apparently carried out with covert military approval as a provocation against Kurdish nationalists and has now been covered up.⁴¹

On a more positive note, the report mentioned that the Turkish government had announced an economic plan of development for the southeast in May 2008. This proposal would fund 14 billion Euros to complete the Southeast Anatolia Project (GAP). ‘The four pillars of the action plan are: economic development, social development, infrastructure development and institutional strengthening. Most investments will concentrate on the energy and agriculture sectors.’ (p. 27)

40 For a recent evaluation of the changing political role of the Turkish military, see Sule Toktas and Umit Kurt, “The Impact of EU Reform Process on Civil-Military Relations in Turkey,” *SETA Policy Brief* No. 26, November 2008, which points out that “Turkey has traditionally regarded its military as [a] strength in international organizations such as NATO. Yet in the EU accession process, the Turkish military has come to be considered a weakness.” *Ibid.*, p. 2. The formal lessening of the role of the National Security Council has been the most visible concession Turkey’s military has made to the country’s EU candidacy.

41 For background details concerning the Şemdinli case, see Michael M. Gunter, “Deep State: The Arcane Parallel State in Turkey,” *Orient* 47, 3 (2006), pp. 344-46.

In conclusion, although ‘the government expressed its commitment to the EU accession process and to political reforms . . . despite its strong political mandate, the government did not put forward a consistent and comprehensive programme of political reforms.’ (p. 7) ‘Further efforts are needed in order to create the conditions for the predominantly Kurdish population to enjoy full rights and freedoms.’ (p. 28) A motion on behalf of the EU Parliament’s Committee on Foreign Affairs regarding the Report called ‘on the Turkish government to launch as a matter of priority a political initiative favouring a lasting settlement of the Kurdish issue, which initiative needs to address the economic and social opportunities of citizens of Kurdish origin’⁴² The Kurdish Human Rights Project (KHRP) in London, a major watchdog for Kurdish rights, concurred, arguing that the EU Progress Report ‘underlines the failure of the Turkish authorities to press ahead with earlier human rights reforms.’⁴³ The KHRP added that it was also ‘disappointing’ that the Report had not addressed ‘the human rights impact of Turkish cross-border military operations in northern Iraq, and the impact of hydro-electric projects in south-eastern Turkey on local populations.’

Others were not so diplomatic. A report in *Today’s Zaman*, a newspaper usually sympathetic to the AK Party, concluded that ‘the European Union is simmering with anger and discontent about . . . Erdoğan’s performance since his last election victory in July 2007. . . . Erdoğan is about to lose his once-immense respect among EU officials.’⁴⁴ According to this report, ‘many diplomats and other high-level bureaucrats in Brussels . . . think Erdoğan is leaning towards ‘old-style Ankara politics,’ where all the energy is focused on winning elections and smearing rival politicians, but not reforming the country.’ More specifically, ‘EU officials think that Erdoğan pushed all the wrong buttons in the wake of his enormous election victory by shelving the proposed constitutional reform and focusing on the specific issue of the headscarf ban at universities, committing a massive strategic mistake.’ One high-level EU source concluded that ‘Erdoğan has no strategy at all with what to do with the EU. The perception we have is that he has shelved all EU-related reform and, more seriously, many think that he could not care less about Turkey-EU relations.’ As for the Kurdish issue specifically, ‘Erdoğan’s latest remarks calling on ‘those who do not want to live in Turkey to leave’ have created waves of shock in the diplomatic center of Europe.’ On the other hand, Erdoğan’s supporters claim that his government’s inertia has more to do with the upcoming municipal elections scheduled to held in March 2009. ‘Once

42 Cited in European Parliament, “Motion for a Resolution . . . on Turkey’s Progress Report 2008,” (RE\748541EN.doc; PE414.936v01-00), November 21, 2008, p. 5/9.

43 KHRP Response to European Commission Turkey Progress Report. For the full KHRP response to the EU Progress Report, see http://khrp.org/component/option,com_docman/task,cat_view/gid,40/Itemid,47/

44 This and the following citations were taken from Selcuk Gultasli, “EU about to Lose Hope in Erdoğan,” *Today’s Zaman*, November 11, 2008.

the elections are over, you'll see the old AK,'⁴⁵ declared Abdurrahman Kurt, an AK Party MP from Diyarbakır.

U.S. State Department Country Report on Turkey

Although the United States and Turkey have had an alliance for more than half a century, in recent years it has been challenged by the Kurdish issue, among other factors.⁴⁶ Thus, the U.S. State Department Country Reports on Human Rights Practices—2007 offers another highly placed evaluation of Turkey's progress in those areas that most concern its Kurdish problem and a valuable confirmation of the EU Progress Report on Turkey.⁴⁷ The most recent Country Report, for example, found that 'serious [human rights] problems remained in several areas,' and cited 'a rise in cases of torture, beating, and abuse by security forces . . . [who] committed unlawful killings' (p. 2). The Report also noted 'the overly close relationship of judges and prosecutors [which] continued to hinder the right to a fair trial' (*Ibid.*). Finally, 'the government limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government, the state, 'Turkishness,' or the institution and symbols of the republic' (*Ibid.*). On the other hand, a respected Turkish newspaper revealed how a recent decision by the High Court of Appeals in effect incited ultra-Turkish nationalists to kill pro-Kurdish DTP members and concluded: 'In this country, you cannot say 'Happy Bayram' in Kurdish. But you can say 'cleanse the Kurdish microbes' in Turkish.'⁴⁸

Regarding the Kurdish issue in particular, the Country Report noted how in November 2007, the Diyarbakır prosecutor 'investigated 14 children, ages 12 to 17 for 'promulgating propaganda on behalf of an illegal organization [the PKK]' after they sang a Kurdish folk song also utilized as the anthem of Iraq's Kurdistan Regional Government at the San Francisco International Music Festival, held during the last week in October [2007]' (p. 12). Although 'at year's end the prosecutor had not formally indicted the participants,' (*Ibid.*) the mere threat such an indictment represented obviously placed a chilling effect over Kurdish cultural rights and freedom of speech in Turkey.

45 Cited in "Turkey: The Worrying Tayyip Erdoğan," Economist.com, http://www.economist.com/world/europe/PrinterFriendly.cfm?story_id=12696853, accessed December 3, 2008.

46 Michael M. Gunter, "The U.S.-Turkish Alliance in Disarray," *World Affairs* 167 (Winter 2005), pp. 113-23.

47 U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Turkey: Country Reports on Human Rights Practices—2007*, March 11, 2008. The following citations from this document are referred to in the text by page numbers in parentheses.

48 Mustafa Akyol, "Insulting Kurdishness (and Even More Than That)," *Turkish Daily News*, October 4, 2008.

The Country Report also mentioned how ‘throughout the year, law enforcement and the judiciary increased pressure on members of the pro-Kurdish DTP. The most common tactic used was investigation and prosecution of DTP leaders for speaking in the Kurdish language or making statements critical of the government’ (*Ibid.*). The Country Report noted how a court in Ankara ‘sentenced DTP co-chairs Ahmet Türk and Aysel Tuğluk to 18 month’s imprisonment for violating the Political Parties Law by printing and delivering Kurdish-language handouts on the occasion of World Women’s Day in March 2006’ (pp. 12-13). ‘On March 8, [2007] a Kars court ordered police to seize Nevruz (Kurdish New Year) invitations and posters from DTP’s Kars office because they used the letter ‘w’, which occurs in Kurdish but not Turkish’ (p. 13). Less than two weeks later, ‘a Van heavy penal court sentenced Hakkari DTP Mayor Metin Tekçe to 10 months in prison for ‘making propaganda on behalf of a terror organization,’ for his comment in March 2007 . . . that the PKK was not a terrorist organization’ (*Ibid.*).

The Country Report also stressed how on June 14, 2007 a Council of State court, following a request from the Ministry of Interior, ‘decided to dissolve the Sur Municipality of Diyarbakır and dismiss its mayor, Abdullah Demirbaş, after the municipality attempted to institute a program to offer multilingual services to its citizens, 72 percent of whom the municipality stated spoke Kurdish as a first language’ (*Ibid.*). On October 19, 2007, the Grand Chamber of the Council of State upheld this decision. In addition, ‘prosecutors opened 15 cases against Diyarbakır Mayor Osman Baydemir during the year, bringing the total number of cases against him to 24. . . . He faces a total of 280 years’ imprisonment if convicted on all charges in the remaining 20 cases’ (*Ibid.*) The Country Report also noted how ‘the prosecution continued at year’s end against DTP mayor of Batman Huseyin Kalkan for his remarks on the PKK and Kurdish sentiments in the *Los Angeles Times* in May 2006’ (*Ibid.*). Furthermore, ‘on February 14, 2007, an Ankara court sentenced 13 officials of the pro-Kurdish Hak-Par for speaking Kurdish at, and distributing Kurdish-language invitations to, the 2004 party convention’ (*Ibid.*). In addition, ‘there was no new information available regarding the appeal of the 2005 conviction of DEHAP [an earlier pro-Kurdish party that merged with the DTP in 2005] official Ahmet Dağtekin for illegal speech for using Kurdish language and symbolism during a 2004 campaign event’ (*Ibid.*).

Finally, it should be noted that just as this article was being finished news arrived that Leyla Zana, one of the most prominent symbols of Turkish repression of Kurdish cultural rights, again was sentenced to prison for her comments regarding the Kurdish situation in Turkey.⁴⁹ The Turkish court ruled that she had violated the penal code and the anti-terror law in nine different speeches by stating that Abdullah Öcalan was one of three Kurdish leaders. Previously, of course, Zana, a former MP in the Turkish Parliament, had served a lengthy ten-year prison term for earlier remarks she had made about Kurdish rights. Her new prison term reminded one of what the

49 “Leyla Zana Sentenced to 10 Years,” *Yeniden Ozgur Politika*, December 6, 2008.

French sighed about the Bourbons: ‘They learned nothing and they forgot nothing.’ Nevertheless, Zana continues non-violently to demand recognition for the Kurdish language, Kurdish identity, and freedom of speech as well as political and cultural rights.

Conclusions

As many argue, Turkey must solve its Kurdish problem to attain the promise implied by its recent initiatives in international relations. The vast majority of ethnic Kurds living in that state favour a democratic Turkey along the guidelines of the EU’s Copenhagen Criteria, rather than an independent Kurdish state or federation.⁵⁰ These people argue that a wave of globalization has swept over the world making national boundaries insignificant in economic and even political terms. Thus, instead of nation-states, regional economic and political organizations like the EU are gaining importance. What is more, an ethnic federation would not work in Turkey for a variety of reasons. 1.) Approximately 60 percent of the ethnic Kurds living in Turkey inhabit the western part of the country. This would make a federation based on the historic Kurdish homeland in south-eastern Anatolia impractical. 2) It is estimated that there are now more than 1 million marriages between Turks and Kurds. Many ethnic Kurds have been assimilated into the larger Turkish population and do not even speak Kurdish. 3) Economic integration has reached an advanced degree as ethnic Kurds have established substantial economic enterprises in virtually every part of the country.

On the other hand, as this article has amply documented, political, social, and cultural problems remain. True democratization within the pre-existing boundaries of a unitary Turkey offers a solution. This requires that schools providing Kurdish language instruction be opened in Istanbul, while schools offering Turkish language courses be made available in Hakkari. Everybody should be able to receive their education in the language of their preference. The limited Kurdish language broadcasting on radio and television should be expanded to private stations, while an official TRT station should be reserved for broadcasting in Kurdish. Geographical locations in the south-east should be referred to by their Turkish and Kurdish names. If this is honestly and fairly implemented, advocates of the Turkish language have little to fear, since clearly a continuing knowledge of Turkish will be necessary for anyone of Kurdish ethnic heritage who wants to succeed in the larger Turkish state or the outside world. Even now, for example, most of the Kurdish leaders in Turkey communicate in Turkish, not Kurdish. Indeed, historically Turkish has shown an amazing ability to assimilate and absorb other languages in Anatolia. Once given the right to use Kurdish, how many Kurds will really want to educate themselves exclusively in a medium that would only lead to a limited end? Moreover, such language and cultural rights are nothing more

50 The following discussion is partially taken from Altan Tan, “Solution to Kurdish Problem: A Kurdistan for Iraq, Democracy for Turkey,” *Today’s Zaman*, July 23, 2008; and Michael M. Gunter, *The Kurds and the Future of Turkey* (New York: St. Martin’s Press, 1997), pp. 127-36.

than what Turkey demanded in the 1980's for the Bulgarian Turks, who constituted only some 10 percent of the total Bulgarian population and still demand for the Cypriot Turks, who make up approximately 20 percent of the population of Cyprus.

Furthermore, a new civilian and democratic constitution should be drawn up that would preserve the borders and flag of Turkey and continue Turkish as the official language, while making education, publishing, and broadcasting in Kurdish completely legal. The provision 'Everybody is Turkish' that the present Turkish Constitution carries should be altered to state that everybody is a Turkish citizen. This would allow for the official recognition of ethnic Kurds who are Turkish citizens. Such a solution would eliminate the unfortunate situation in which Professors Baskin Oran and İbrahim Özden Kaboğlu were prosecuted for simply arguing in a report regarding EU harmonization laws and commissioned by the prime minister's own office that 'Turk' is an identity of only one ethnic group and that Turkey also includes other ethnic groups such as 'Kurds.' By satisfying the demands of the more moderate Kurdish population on these issues, Turkey could gradually co-opt and even end up partially leading the Kurdish movement as a trusted and valued ally, instead of regarding it as a debilitating and mortal enemy.

1.6 The Role of Europe in Promoting Democratic Changes

Pasqualina Napoletano

I would like to thank the EUL group and all of you for organizing this extremely interesting seminar and I think this is a very welcome opportunity because in February the European Parliament Foreign Affairs Committee will be giving its scrutiny to a report that has been prepared in connection with annual report on Turkish progress in its European integration bid. Now, the preparation of that report and the assessment of the Commission's findings, have been covered by wide ranging debate, and I must tell you that some progress has been noted by the European Parliament, which a forum which is very keen to ensure this dialogue with European society, the debate about the prospect of Turkey joining the European Union is ceasing to be an ideological issue. Rather, increasingly debate is focusing on the true merits of the process within Turkey, looking at the prospects of Turkish integration within the EU.

Furthermore, in the history of the European Union, looking at our foreign policy tools, the instrument which has really been absolutely crucial in bringing about integration and democratic stabilization is actual accession. As things stand at the moment, the European Union does not have the United States' ability to determine the course of events around the world. Our institutions are weak, we don't speak out with one voice and we don't always pursue the same agenda, which means that foreign policy comes up against obstacles, and we see divisions amongst the member states.

On such few occasions as the member states manage to speak with one voice, they do sometimes manage to bring some influence to bear. That was the case for example in August of last year, on the occasion of the clash between Georgia and Russia. There at least we did manage to stop the arms firing. But in other instances, for example the Balkans, which neighboured on the European Union zone territory we didn't manage to work out any means of avoiding the massacres that occurred there.

For all these reasons, if we look back at our history, we can see that integration has been a wonderful instrument. I say that because we have managed to welcome and stabilize countries which were emerging from the experience of totalitarianism, countries such as Spain, Portugal and Greece, and joining the European Union allowed them to stabilize their democracies. And I think we can say that process can be regarded as irreversible, I am sure no one could imagine the Colonels returning to Greece or Salazar-like figures returning to Portugal. So integration and accession has been the key. With Spain and Portugal joining, and now Eastern European countries, we have gotten away from the idea that the European Union was a club for rich countries. With the prospect of Turkey joining today we can break another taboo, the idea that the European Union is some sort of Christian club. So that might hold out a wonderful prospect.

If Europe really wishes to play a role in the future of the world, it cannot overlook its south-eastern flank, made up by a key country, Turkey, as well as relations with Russia. I also think we need very wide-ranging relations with Africa too. We need a privileged partnership with that continent in my view.

Now, precisely because we want to have some bearing on the course of world affairs, I think that Turkish accession isn't some sort of concession that the European Union will be making to the Turks as a whole or to Prime Minister Erdoğan. It is in Europe's own interest, for the prospect of peace and prosperity. Having said that, it is not a European Commission issue to debate.

In my talks with colleagues from other European countries I would say that we in Italy are in a privileged position in this debate in so far as all our political parties are in favour of Turkish accession. No one is saying this should not take place. Public opinion may be slightly more sceptical, but in the political sphere this isn't an issue that's being used to score party political points. In other European countries, this has become a domestic political concern. That's something we should avoid. I feel though that things are improving on this front, in France too, where there was that terrible decision on the part of president Chirac to have the constitution amended, so as to bring in a referendum tailored towards Turkey. The constitution was duly amended. Perhaps similar tools should be made available. In Italy, for example, we can have a referendum, but you cannot convene a referendum on the economic issues to do with the state budget, nor on international treaties, because the people who wrote our constitution realised that international relations and international treaties could not

perhaps be called into question depending on turns of public opinion at that point. So I think it's important to stabilize our climate in Europe today, a political control climate, which will be consistent with our goal of making success of this process.

However, my last point would be to say that things are not going terribly well. The most recent report from the Commission which has come on to Parliament does pick up this point. There's a clear feeling that the reform process has ground to a halt. It is felt that the AKP, which had the great merit of holding out to European accession as a clear prospect, is not today in a position to pursue a reform agenda. I listened very carefully to what the other speakers have said, in particular to what Mr Türk said. The way we see things, as members of the European Parliament who monitor events and want to know exactly what's going on, we've got the impression that something is going wrong. For example, we get the impression that instead of having a coherent reform of the constitution and of the penal code, a lot of time has been lost on this issue of the veil that's divided public opinion quite pointlessly. Perhaps it might be important for those who are wearing it, but anyway, in a country such as Turkey these issues which have been resolved in one way or another should not be used to distract public attention from far more important issues, such as the reform of the constitution and the penal code.

And above all is the issue of the ambiguity surrounding the law on terrorism. On the basis of that law, Leyla Zana can be brought to trial because, once again, no distinction is being drawn between so-called offences of opinion, although I wouldn't call people's opinions an offence, as opposed to the actions of those advocating terrorism as the means of pursuing a particular political agenda. In a country where you have no distinction between those two there is no rule of law. It would mean that anyone could be arrested simply for peacefully speaking out or even speaking their own language. That's a source of quite some concern and this is something that will have to be addressed in talks with the Turkish authorities.

You have people such as the Foreign Minister, who at one stage was heading the negotiations on the various facets of accession with the European institutions. He is extremely well versed in all the issues I think he is a very intelligent young man, so there's obviously something going wrong, and again I think there's something going wrong in relations between the army and the protocol classes. Now, this is something that has constantly been pointed to, in particular by those who were more sceptical about Turkey's European integration process, and it always been cited as a major obstacle. When you have a country where the politicians don't seem to be in charge of the armed forces it is in no position to join a free democratic community. And as Mr Türk has reminded us, it had to be hoped that once this party had won the elections, it would in a way provide the degree of freedom over the army. But now there are good reasons to place a question mark over that. As the speaker has quite rightly reminded us, this is one of the areas where change is wanting.

I think we have to speak out very clearly and I will leave you with this thought. Within Turkey and beyond there is the PKK, which has chosen terrorism and chosen violence as its means of action. There is no getting away from it. It is on the list of terrorist organizations recognised by the European Union. We're slightly sceptical about the way that list was composed in the European Parliament but you can't deny that the PKK uses terrorist methods. Indeed it has attacked the civilian population. So I believe the Kurdish issue could only be addressed by democratic means in Turkey. Like many of the representatives of your movement have consistently done, I would say we have to make the non-violent option of your political grouping clear, and that must apply also to relation with the PKK. The disproportionate response of the armed forces to the terrorist threat is perfectly clear to me, but at the same time, using terrorism as a political method does provide the armed forces in Turkey with a very strong alibi for acting within and beyond Turkey's border and even resuming their prominence in Turkish public life.

There should be no ambiguity about this. Turkish legislation does embody unacceptable ambiguity when it comes to drawing distinction between terrorist acts and opinions. I think there has to be a similarly clear distinction between the democratic option and the terrorist option. I believe this will help this country to clarify matters.

I believe the European Union is well advised to follow Turkish application process very carefully, going into all the details, because if any country wants to join the European Union it has to be aware that that process implies change. And I was extremely unhappy to note the latest declaration of President Erdoğan which deeply contrasts with previous declarations, up to the point of using for example the issue of energy as a weapon of exchange in negotiations regarding accession with the Commission. That's unacceptable. The country has to make progress with its reforms because otherwise the prospect of accession to the Union will be a remote one. I believe that if this prospect does become remote we'll be heading for a very difficult situation for Turkey, for the Kurdish minority and for Europe, and let's hope that this doesn't not happen.

Amed Dicle

Before beginning to my speech, I would like to pay respectful homage our colleague, writer, thinker and also one of the hosts of this conference Harold Pinter. In my speech I'll have another view on the subject 'The Role of Europe in Promoting Democratic Changes'. In it I'll focus on the 'Freedom of Press' and democratisation itself.

Please allow me to make an initial statement. The AKP government has never seen the accession process to the European Union as a strategic ambition. The AKP has instead considered it as an opportunity for a tactical manoeuvre. That is why, when

AKP thought it was in its interests, it pushed reforms forward; when not, it decelerated the reform process. Sometimes, as has been the case for the last two years, it forgot the reform process completely. Now, with the local elections coming up, the AKP government has again remembered the EU accession process and democratisation, which doesn't seem to be honest, fair-minded and stable, since democracy can not be compatible with nationalist, racist and religious slogans. In my opinion, the difficulties that the Kurdish media are facing in Turkey and the politics that the Turkish state is using against the Kurdish media will draw a very serious and understandable picture of where Turkey has got to in its accession to the European Union.

Despite the wars and intern conflicts in Kurdistan, Middle East and in different parts of the world, it is evident that the 21st century is at the same time a century of progress in democracy and human rights. It is a shame for humanity that in this century, a people consisting of millions individuals is still considered as one without identity. In spite of values of this era, as a member of a people whose language, culture and identity is denied, as a journalist of these people, I would like to point to the violence and oppression that Kurdish media is facing.

Kurdish Media begun with the newspaper *Kurdistan* which was published for the first time on the 22nd April 1898 by Miqtat Mithat and Bedirxan. Between 1992 and 1994, 19 friends and colleague of ours lost their lives as a result of assassinations by a Turkish contra-guerrilla organisation. For the first time in history a prime minister ordered the bombing of a central building of a newspaper, namely *Ozgur Ulke*. The building was totally destroyed and journalist Ersin Yildiz lost his life. Also official notices were distributed which gave orders to silence journalists. In only the last 15 years in Turkey writers and journalists including Hafız Akdemir, Musa Anter, Hüseyin Deniz, Ferhat Tepe and dozens of journalists, labours of newspapers and newspaper distributors have been murdered.

Even today censorship in Turkey is practised in a very strict, crude way. A very strict policy is pursued, particularly against Kurdish Media. The printing of Kurdish Media's publications have been halted one by one; their magazines are closed down, their television channels are declared illegal by state censorship. For instance between 4th August 2006 and 27th December 2008, 22 Kurdish newspapers had their printing halted 49 times. Yes, this happened in a Turkey governed by the AKP, and it continues to happen. This shows how Kurdish Media and opinions about the 'Kurdish question' are oppressed in Turkey. Kurds are forced to issue a new newspaper almost every day. They now even have difficulties finding new names for their newspapers. *Gundem*, which is published in Turkish and *Azadiya Welat*, which is published in Kurdish, are two Kurdish daily newspapers facing an unprecedented censorship. Because they printed the letters W, Q and X they have been closed down several times. I suppose such a tyrannous practice of a similar oppression is not seen anywhere else in the world. While the Turkish state is using all opportunities and instruments it can to mute Kurdish Media, it has also always tried to mute the first multilingual Kurdish

satellite television MED TV, then MEDYA TV and now our television channel ROJ TV, which are forced to broadcast in exile. It is still trying to silence our television channel.

From outside the AKP government looks partly like a 'reformist' government, but today the same government has developed a holy war and has become a government of denial. After the general election on the 22nd July 2007 it forgot all its promises. It betrayed Kurdish votes. As a result of secret and open agreements with army generals, it said 'yes' to their militarist politics. It gave all authority required by the army for air assaults and a land offensive against southern Kurdistan, and encouraged cruel attacks against Kurdish people. On the 10th November 2008, Turkish defence minister Vecdi Gonul, here in the heart of European Union in Brussels, openly advocated one of the greatest crimes against humanity, namely the genocide of the Turkish state against Armenian, Pontus-Greeks and Assyrian people. In the same period, during a trip to the cities of North Kurdistan, Turkish Prime Minister Tayyip Erdoğan threatened Kurds with deportation and genocide, saying 'love it or leave it'. It is Erdoğan, who in Germany said 'assimilation is a crime against humanity'. It is the same Erdoğan who every day says daily 'one homeland, one people, one language and one state'. If really he considers assimilation as a crime against humanity, why has the Mayor of Sur been removed from his duty because of his project of 'multilingual municipality'? It may seem strange for Europeans that even though Kurdish deputies of Turkish Parliament spoke some Kurdish words, these words are written down into the official record as an unknown language. It was written down as an unknown language three months before, and since one month, instead of Kurdish words, three dots have been noted on the record. Is there any bigger insult, any bigger denial against a people and a nation imaginable?

I would like to point to the oppression against Kurdish television channel ROJ TV, for which I work. I would clearly state that ROJ TV is an objective sign of practicing the right of the Kurdish people, to have access to news and information in its own language. Now the Turkish state tries to hinder the right of a nation to have access to information in its own language. ROJ TV renders a very valuable service in order to protect and develop Kurdish culture, to create a visual Kurdish national archive and to protect diminishing Kurdish dialects from decline and also to protect and develop Assyrian languages. In addition to this ROJ TV is a solely secular institution for faith communities such as Alevis, Yezidis and Christians which suffer under the oppression of dominant political Islam, where they can express themselves freely. For the preparation of Turkey and Kurds for EU, it is doubtless that ROJ TV is the broadest communication and news source. Millions of people have heard about the EU-criteria for the first time on ROJ TV. Its is an important channel that communicates steps on the way reaching peace and democracy to the community and which also strengthens these steps. ROJ TV is the television channel which most broadcasts discussions in this conference.

On one hand the Turkish State doesn't recognize the rights of Kurds and other ethnic minorities in Turkey, on the other hand it tries to mute and determine them beyond its borders. These efforts on the part of Turkey contradict the values of our era. The Turkish State's approach is anti-democratic and outdated. I have unfortunately to state that some member states of the EU are supporting this anti-democratic and outdated approach on the part of the Turkish State. This situation is not compatible with democratic values of EU. Germany has banned the television channel ROJ TV, and this is a very clear example of this very contradiction. Germany had earlier banned *Ozgur Politika* (daily newspaper) and the news agency Mesopotamia. The attack against ROJ TV in Germany is part of a wider campaign against press freedom and the Kurdish Media. Mostly Kurdish, ROJ TV has an audience of millions of Kurdish viewers who consider this as an attack against their language, culture, songs, history, values and future aspirations and are following the events with concern. The German Interior Minister's 'justifications' for the decision against ROJ TV mirror the Turkish States attacks of freedom of expression. These spurious grounds have been several times refuted by the High Secretariat of Broadcasting in Denmark. It has been stated forcefully that ROJ TV did not and does not abuse broadcasting codes and regulations. The German Interior Minister has already stated that the decision to ban was not juridical but rather political. From this, we see very clearly that the European states such as Germany are not sincere in pursuing the required reforms by Turkey as laid out by the Copenhagen Criteria.

Kurds who have escaped the oppression of Turkey and other states in the region and were obliged to flee to European countries, have benefited from the juridical system and democracy of these countries. In order to defend their cultural existence, they established very important institutions. These institutions are not only for democratic rights of Kurds, but also for European Democracy's progress important signs. Unfortunately, first of all Germany and France, some members of European Union have criminalized Kurdish institutions mainly for their own economic, military and political interests. These practices were made legitimate by 'anti-terror-laws' and constitute a criminalization of Kurds. These practices have limited rights and freedom of Kurds living in Europe. We observe that these practices have changed into durable policies. These policies of EU encourage Turkey and other states in the region and tragically leave Kurdish people alone in the face of their oppression. Kurdish people have the impression that oppression practiced by Turkey and other states in the region are supported by EU. And naturally this situation decreases credibility and sustains disillusion among Kurdish people.

The European countries should abandon this policy of aiding Turkey in its denial and assimilation policies and rather help Turkey to comply with European laws by ensuring compliance with the Copenhagen Criteria. The United States of America and the EU should forcefully encourage Turkey to undertake steps for solving the Kurdish question in a democratic and durable way. Every support that is given to the racist and denial policies of the Turkish state will mean the encouragement of war and more

unnecessary deaths. Unfortunately this is the situation at this moment. We hope that this given situation will change. We hope that the day will come, in which the rights of the Kurdish language, of the Kurdish media, of the Kurdish identity and the right of Kurdish people to decide their own future will come. If we all work together for this aim, in the words of the newly elected US President, ‘Yes, we can!’

Session 2: EU Turkish Accession, Human Rights and Rule of Law

2.1 Turkey's Compliance with International Human Rights Obligations

Ibrahim Bilmez

Deadlock and the human rights situation

At last year's conference we discussed where Turkey was in terms of humanitarian law. Unfortunately there is not much of a change. Although the AKP government have made some quick cosmetic changes, the human rights situation in Turkey is definitely not looking bright.

One would wish to talk about positive developments and the steps that have been taken in terms of democratization and human rights. Yet, in 2008 there have been immense violations on the issue of human rights. Instead of searching for a permanent solution to the problems, the AKP government continued with their hard-headed approach. The reform process that had started during the EU membership process halted in 2005 and any developments rapidly reversed, due to the government's decision not to solve the Kurdish issue, but instead intensify the cross border operations. These kinds of developments caused the violations of the fundamental rights such as the right to life, freedom of thought and freedom of expression.

A report published by the Human Rights Association Diyarbakır Branch highlights this. According to the organisations' report, in 2005 there were 7,499 reported violations, in 2006, 7,499 reported violations and in 2007, 18.479 reported violations in the Kurdish areas. In 2008 that figure rose to 35.992.

The situation in terms of the right to life, which is the core of the rights and freedoms, is not very promising. Legal changes in 2007 gave more power to the police force and as a result violence committed by the police and gendarmerie has increased massively. During the Newroz celebrations in 2008, hundreds of woman and children were badly beaten in front of the TV cameras. Members of the police force fired on the crowd and five civilians were killed. Women and children were arrested and some of those children have been sentenced for up to 25 years in prison.

It is not very meaningful to talk about the human rights situation in a country where there is no guarantee of the right to life. Kurds still face problems when expressing themselves in the mother tongue. While these atrocities are going on, the government has launched a public television channel that broadcasts in the Kurdish language. This is just before the local elections, and can be assumed to be a tactic to get the votes of the Kurds as well as improving the government's position with regards to the EU. Yet one should not be blind to the possibility of the TV channel being used as a propaganda tool espousing the official ideology of the government. And there are still obstacles and difficulties for private television channels wanting to broadcast in Kurdish. Prisoners still are not allowed to talk to their families in Kurdish. The mayors who wrote New Year cards in Kurdish face trials. According to the law governing political parties, the parties are still not permitted to use any other languages apart from Turkish. In the TBMM (The Grand National Assembly of Turkey) sections of some speeches of DTP members that were in Kurdish are recorded as being spoken in 'an unknown language'. The legal obstacles for education in Kurdish as a mother tongue still exist. The root of the problem is that Kurdish and the existence of the Kurds are denied. If the government launched the Kurdish channel after the elections, Kurds would perhaps welcome it as a more sincere step. In addition to this, there are more important steps to be taken than opening a channel, for example Turkey is still not a signatory of the European Regional and Minority Languages Agreement. Kurds rightfully become suspicious of the goodwill of the government in the wake of the increase of human and civil rights violations in 2008. Kurds are experienced in the ways of the government policies and it seems that the Kurds are not convinced and will not be drawn in by the manipulations of the government.

Always being at the heart of any debate on the Kurdish issue, my client Mr Abdullah Öcalan's imprisonment conditions seem to run parallel with the general negative overview of Turkey's progress. As human rights violations increased in 2008, the kind of treatment that my client received also became increasingly brutal. Mr Öcalan has been the sole inmate in a prison that is kept totally isolated from the outside world for nearly ten years. In November 2008 he received isolation cell punishments ten times and Mr Öcalan now faces new cell punishments. These cell punishments as well as the isolation that my client faces are an unbearable torture for him. Öcalan receives these punishments as a result of expressing his opinions on the solution of the Kurdish problem during the limited meetings with his lawyers. These punishments give the message to my client that 'You cannot think and express what you think.' In October 2008, our client was subject to a physical attack and received a death threat from the prison authorities. Öcalan is watched for 24 hours by the cameras, his cell has been raided, he is sworn at, insulted, and furthermore threatened with being killed. Such incidents, as my client believes, are the responsibility of the government.

Once the treatment of Öcalan was made public, Kurds took to the streets to protest. This resulted in violent intervention by the police with hundreds of people taken into custody and many people sent to prison. The reaction of the public indicates once

again their sensitivity to the Öcalan issue. The question that needs to be asked is how can those who lead Turkey act in such a way when the Kurds are so sensitive on this issue and can they not comprehend that such treatments do not serve to solve the issue?

As I indicated at last years' conference, Mr Öcalan stresses in his defence that the violence on both sides must end; according to Öcalan it is clear that the problem cannot be solved by violence. What needs to be done is to pave the way for an honourable and just solution. Our client has never been hesitant to play his role for such an initiative. On 1 September 2006 on the International Peace Day, intellectuals, various political parties and NGOs called on the PKK to declare a ceasefire. My client also supported such calls and as a result of these calls, the PKK declared a unilateral ceasefire. Yet due to operations by the army, the conflict started again and the ceasefire was broken. Unfortunately still to this day the violence continues costing the lives of both soldiers and guerrillas.

As I have indicated at the beginning of my speech, violence is detrimental to society in Turkey and to the daily lives of its citizens. For Turkey to be a state of democratic values, it is necessary for her to take the initiative to end the violence. Turkey also needs to be willing to face her past. However not in the way that we are seeing in the Ergenekon case, where recent developments in the trials show that the case will proceed within the accepted framework of both the army and the government. The Ergenekon case could easily identify the 'unidentified' murders in the past as well as the deep state organisations. The best way to proceed, as my client has also suggested on many occasions, is by setting up a 'Truth and Reconciliation Commission' as had been done in South Africa and some American countries; for people from across the spectrum to discuss different past experiences. It is never too late; however, the state would need to decide to make peace with its Kurds.

2.2 Role of Civil Society in Promoting Democratic Change

Emilio Molinari

I'm not an expert on international affairs but I'm a good friend of the Kurdish people. I'm interested in this issue of basic human importance, which is access to water. So this may be a somewhat partial approach looking at the role of the civil sector to this process. The Kurdish issues lies at the heart of the Turkish process of accession into the EU. I shall take as my starting point what has been said by a representative of the Kurdish community in Italy. He recently wrote in a newspaper 'We Kurds are being bombed and forgotten by everyone.' When we leave this room I think that is the expression that we have to acknowledge as a dramatic reality. The Kurds have been forgotten by everyone.

Now, in the run up to the World Water Forum in Istanbul on 17th March this is very relevant. Indifference to the Kurdish issue even applies to the alternative movements in the World Social Forum the water networks and its not been at all easy to get across the point that having turkey host the World Water Forum means that as part of the preparation for that forum we've absolutely must involve Kurds and their movements and their administrative representatives. Its' not been easy to do that. I need hardly remind you that the Kurds have been bombed for decades. They've been condemned for tens of years in prison. But there's a big difference that civil society. This must be almost a unique case. There's hardly a single image of events in the recent past or today in turkey or in the border areas with Iraq, Syria and Iran. We're not being shown a single image of the dramatic course of events. There is no single voice is speaking out about the fate of Öcalan or about Leyla Zana's lengthy jail sentences.

So my question is, how can we bring the Kurdish issue into the international political agenda? At the moment it is being characterised by the Obama era. Things do seem to be changing. There's also the crisis in major resources, which the life of the whole human race depends on. This silence about the Kurds, we need to bring them in to the heart of the issue. Now I think that Kurds may be tempted to toughen their resistance and that is a perfectly understandable temptation on the Kurdish side. But I think we need to make a strong effort amongst the friends of the Kurdish people within and outside the European Union institutions and amongst the Kurds themselves to inject some politics into this. We have to get the Kurdish point of view into this major international forum. They have to be given the chance to speak out in major international debates. Whether you talking about the alternative global movement or the official meetings, their voice must be heard in international afraid. The major issues today according to the United Nations are water energy and food. The Kurdish peoples territory lies at the heart of these concerns the UN secretary general has declared that water will be the fuel of future wars. Any numbers of conflicts are leading towards a world food conflict which is on the horizon. The energy crisis seeks a solution in the proliferation of dams and in the cultivation of bio-fuels and it therefore needs lands and water.

In Africa and in Asia entire regions are already being sold to multinational companies for the production of food and water for the companies themselves. The UN reports that in the upcoming decades 820 million farmers will be driven out of their lands. How many Kurds are included in this estimate? Look at the Ilisu dam or all the other dams as part of the Turkish development plan. This is very much part of this issue. This is a concern you can see on all continents. There are movements emerging to fight. Peasant farmers and people who have been expelled from their land are speaking out in India and Latin America. And these movements are getting in touch with one another. They are building up a network. They meet in the world social forum. They are also sketching out alternatives. And so I believe that a joint commitment should be to get the Kurds involved in this major forum. We must remove the obstacles that prevent them from making their voices being heard in the concert of people

affected. And it's not just the water movements either. We need the peasant farmer's movement. We need to give them a voice as well. They must be able to take part.

The Turkish Parliament is pressing ahead towards the final vote on the Ilisu dam. This may be linked to the EU membership bid because they want to avoid EU directives, as they would have to respect EU legislation. There are at least two. There's the directive 2060, on water protection and on participation of people to the rivers. The whole process of dam construction in Turkey has clearly flouted those provisions. And then there is directive 2001/41 on environmental impact studies. There again that has been completely overlooked in the whole process of building the dams and Europe has just kept quiet about it. But the social movements have also kept quiet about it, even those movements that are active in the field of protection of water resources. In India Africa and Latin America people are also fighting the dams but they've kept quiet about it too. How, then, can you enable the Kurds to speak out?

The Commission of Environment of the EU Parliament has met the main Turkish NGOs. The same NGOs have confirmed the violations of laws on minority rights and on environmental protection. However Kurdish organizations were not allowed to take part in the meeting. The Commission has met also with Minister Veysel Eroğlu, who has instead denied such allegations. Well whom is Europe going to believe? Those who say that the rules have been broken, or the Minister? The Commission has reiterated the importance for Turkey to take in the Kyoto Protocol and of further negotiations on climate. The negotiations and the Protocol are strongly linked to the water issues that characterize the Kurdish region. Here on the 15th February in the European Parliament there will be a meeting of movement and figures on water in the context of the Kyoto protocol. There will be Gorbachev, Danielle Mitterrand and other speakers there and my intention is that they introduce into the negotiations the issues of dams and the cultivation of bio-fuels. I think that this is an important meeting and the Kurds and other popular movements must be given an opportunity to take part there and have the opportunity to express their concerns and link with other movements.

On the 21st March in Istanbul, the 5th World Water forum will convene. It's extremely important to the whole of humanity. The fate of water and human rights to water will be affected by this. They'll be talking about dams and people being denied access to water or to their land. As I was saying earlier on there have been problems nonetheless in getting the various movements involved to accept a Kurdish presence. I think we have to step up our efforts on this, within the social movements but also the Kurds themselves have to make it clear that they are keen to take part and this is a part of their political agenda. This is something that seems to be hard to get into the Kurdish political agenda. There will be councillors from all over the world at this forum and local government representatives. I'd be glad if the Mayor of Diyarbakır who spoke yesterday could be there. Let's have Kurdish Local government represen-

tative coming to tell us what they want in terms of water access. I gather there are movements in Turkey dealing with the dam issue.

The World Water forum in March is going to be a very large-scale event. 150 cabinets will be present, all the main associations, the unions, the World Bank, the EU and representatives from the UN. At the counter-forum led by the social movements, Miguel d'Escoto, President of the 63rd session of the United Nations General, someone who is very close to our cause and no doubt is very disposed towards the Kurdish issue. In Turkey, in Kurdistan in particular but also in Istanbul, there will be a celebration of the Kurdish New Year which could be dedicated to water, as it is going on at the same time as the water forum. And there will also be the election campaign. Here again the question of internal democracy within Turkey arises. In the world water contract we're organising a caravan, which will be leaving from Diyarbakır and will tour Kurdistan. And we believe that together with other movements working on water we can open up a roundtable to grapple with the facts of the Kurdish situation.

Perhaps you will allow me to pick up on what Leyla Zana has done. She has a wonderful initiative, which I think is very relevant to all of us. She had the idea of an academy for peace in a major Kurdish city, Diyarbakır no doubt. Well as part of the question of peace at that academy let's envisage a sort of faculty, a place where university academics that are interested in water issues could come together. If you are talking about water you are talking about peace: water and peace. Let's look at how water can cause conflicts but can also be a way of reconciling people and bringing peace. That is something I think that we could work on together. While we are here together with Kurdish representatives and Leyla Zana lets make the most of this. Let's try and make sure that part of that academy's work is devoted to water.

Thank you for your attention.

Jonathan Fryer

Throughout history, countries have tended to be judged by the strength of their government, the strength of the State. Particularly in the case of larger powers, that strength has often manifested itself most publicly through its armed forces, both at home and abroad. However, the excesses of Nazi Germany and Imperial Japan in the 1930s and 1940s meant that since the end of the Second World War, our judgement of countries has become more nuanced. We recognise that might is not always right, and we increasingly respect 'soft' power. Moreover, in a world in which democratic values are championed as a desirable norm, countries can now to a certain extent be better judged by the strength of their civil society. Certainly, no true democracy can exist without a healthy and diverse civil society.

Let's be clear about our terminology here. Academics often identify three main players within society: the state, the market (business) and civil society. One might argue that in an ideal world, these three should be of similar size, though that is rarely, if ever, the case. In the few remaining communist countries, most notably North Korea, the state is all-powerful, the market very weak and civil society negligible. At the other end of the scale is an example like Somalia, where the state barely exists at all.

Of course, in the case of Turkey, the situation is complicated by the fact that the concept of state is more complex than it at first seems, because of the existence of the 'deep state', some of which is currently being exposed in the Ergenekon trial. Similarly, whereas an independent judiciary should within a democratic system be a part of – or at least an ally of – civil society, the situation is once again more complex in Turkey. Elements of the Turkish constitution and penal code actually undermine some sectors of civil society, including the independent media. The Turkish legal system also enables individuals or groups aiming to curb democratic freedoms to instigate prosecutions which in most European countries would be viewed as malicious, and there are groups of ultra-nationalist lawyers who use the law in an extremely political way.

In my professional work as a journalist and academic, I spend a lot of time studying societies in transition, especially in the Middle East, including Turkey. But I am also involved with two UK-based organisations which in their different ways work with and endeavour to support civil society in emerging democracies and countries in transition. Both offer an interesting insight into the role of civil society in promoting democratic change.

The first is the Westminster Foundation for Democracy (WFD). Though this is funded by the British Foreign and Commonwealth Office, it is essentially independent of the government of the day and works through all the main political parties in Britain and their partners abroad to help strengthen democratic structures and civil society in various parts of the world. This is done by organising seminars and training sessions, both in Britain and in the countries concerned, giving material support to the offices or publications of political parties or NGOs, election preparation and monitoring, etc. Through the WFD and the UK Liberal Democrats, for example, I have worked on projects in countries as varied as Angola, Egypt, Jordan and Macedonia.

The other organisation I have been involved with for many years now is English PEN, the English branch of International PEN, the writers' organisation which campaigns in favour of freedom of expression and against the persecution or harassment of writers, editors and publishers. Through the auspices of PEN, I have sat in on a number of trials in Turkey resultant on Article 301 and related parts of the penal code, such as Fikret Baskaya's arraignment in Ankara and the trial of Murat Belge and others in Istanbul. Sometimes the 'crime' being considered relates to Kurdish cultural rights or even discussing them. At others, writers or publishers are systematically harassed and persecuted for daring to talk about things which certain people wish to be silenced.

The conduct of ultra-nationalist lawyers in some of these trials has been a disgrace to the legal profession and some of the demonstrators outside the court-houses can be pretty scary too.

It is right and proper that the European Union sometimes observes these important trials, either using diplomats on the spot or by sending Euro-parliamentarians. Though ultra-nationalists loudly object to this European 'interference' in Turkey's internal affairs, it is an essential part of the ongoing evaluation of Turkey's transition to a truly democratic country worthy of EU membership. It is worth underlining the fact that the EU, unlike other regional bodies such as ASEAN, sets strict political as well as economic conditions for membership, notably the so-called Copenhagen Criteria. For an applicant to be successful, it must reach clear standards on a wide range of human rights issues, including respecting minority cultural rights. It is true that the government of Recep Tayyip Erdoğan has made some important progress in bringing Turkey more in line with European norms, including some reforms to Article 301. But there needs to be more than tinkering at the edges. Otherwise civil society cannot function normally and fully within Turkey, and without a properly functioning civil society, celebrating its own pluralism, Turkey cannot be a fully-fledged democracy.

When I read the history of the Ottoman Empire, I am struck by the strong elements of multi-culturalism that were evident in the past, even if that term was at the time unknown. Although the ruler in Constantinople (Istanbul) had a specific, Islamic religious role for much of the Empire's existence, different ethnic, linguistic and religious groups comprised a vast patch-work of peoples and in many areas, happily coexisted. Now I quite understand why, in the 1920s, there was a perceived need to create a new Turkish identity within the much smaller boundaries of the new country of Turkey. But the model of assimilation adopted and the narrow definition of 'Turkishness' proved in the end to undermine, not strengthen, the unity of the country. The suppression of minority cultural rights, including the right to use one's own mother tongue, proved singularly counter-productive, as well as being morally wrong. Once again, I salute the recent improvements that have been made by the current government in Ankara, but there is still a long way to go.

Sometimes, when I am monitoring a Freedom of Expression trial in Turkey, a demonstrator will shout, 'Why do you hate Turkey?' The truth is I don't. On the contrary, I love Turkey, its peoples and its civilizations and I am always learning something new when I am there. But I will love Turkey even more when it comes to terms with its own diversity and genuinely treats Kurds, Armenians and other minority peoples as first class citizens, as they deserve.

2.3 Civil & Political Rights and the Implementation of the Copenhagen Criteria

Ozturk Turkdogan

The Human Rights Association (İHD) considers the Kurdish question as a human rights problem. There will not be a Kurdish question when individual and community rights, which are pointed out in the fundamental human rights instruments, will be exercised by Kurds. When we examine the Kurdish question in terms of Copenhagen Political Criteria, in terms of pluralistic principle of democracy, there is still a political atmosphere where there is an attempt to maintain the monist mentality and culture in Turkey. The definition of the citizenship, which based upon Turkish ethnic origin, is still ingrained in the Turkish Constitution and not recognizing any other ethnic origin, religious or sect (like Alevi) identity as well as different language groups indicate that monist mentality is going on. Not recognizing education in mother tongue in the Turkish Constitution is a serious obstacle for the solution of the Kurdish question. Although attending a private course to learn Kurdish is free for people over 18 years old, private courses were closed due to lack of interest. Recognizing existence of different peoples and cultures as well as right to education in mother tongue in the Constitution, preparing a definition of constitutional citizenship are primary issues to be solved.

Although the paragraphs 4 and 5 of the Article 39 of the Treaty of Lausanne, which has established the Turkish Republic, state; 'No restrictions shall be imposed on the free use by any Turkish national of any language in private intercourse, in commerce religion, in the press, or in publications of any kind or at public meetings. Notwithstanding the existence of the official language, adequate facilities shall be given to Turkish nationals of non-Turkish speech for the oral use of their own language before the Courts.' This main rule is still violated. For instance; prohibition of use of Kurdish language in prisons, prohibition of propaganda in Kurdish for political parties, prohibition of correspondence in Kurdish for associations, prohibition of sermon in Kurdish, prohibition of names in Kurdish according to Latin alphabet.

Not only Turkish Republic but also other states that signed the treaty, especially England and France, have responsibility for ongoing of these prohibitions. Within the context of responsibility of other states that signed the Treaty of Lausanne, I would like to remind that Kurdish 'question' is an international question, too. Countries, which have supported Turkey in regard to crimes that committed against Kurds and other peoples during the 1990s that was described by Mesut Yılmaz-one of the former prime ministers of the country-as the state had acted in an unlawful manner, and when the violence was dominant, are responsible too. We, human rights defenders, do not want to experience serious human rights violations that resulted from solution of the Kurdish 'question' based on violence. According to data of the İHD, there are 840 forcedly disappeared for political reasons, 2,949 unknown killings (for us these

unknown killings have been conducted by illegal organizations belong to the state), 2,308 extrajudicial executions, 709 people were killed in detention places and prisons since 1990. Of course, these are not the exact numbers of the all incidents because these are the numbers that İHD could determine or based on applications made to the Association. We do not want to experience the dark period of the 20th Century at the beginning of 21st Century.

Some Kurdish letters, which are used in the Kurdish TV Channel, in the Latin alphabet, are forbidden in the Turkish alphabet. This has caused the prohibition of thousands of people's names and the changing of place names and hundreds people were sent to prison, yet now there is an atmosphere in which it is as if these facts were forgotten. The government and especially the Parliament must apologize to Kurds. Although establishing a TV Channel in Kurdish language, which was considered as unknown language until recent time, is a positive improvement, the question can only be solved with recognizing Kurdish identity and a Constitutional circumstance that will provide an atmosphere for survival of the identity. The existence of Kurdish language is still not accepted in the Turkish Grand National Assembly (TBMM), speech of parliamentary of members in Kurdish is written in meeting minutes as a speech in an unknown language. There is comedy of monist mentality.

Common and strong reactions of Kurds in 2008 have shown that the question must be solved through peaceful policies. Other peoples, like Kurds, live in Turkey want peace. Militarist policies, which insist on solutions based on violence, are not solution anymore.

In accordance with clarity principle of the democracy; the state structure, as a result of deadlock in the Kurdish 'question, carries out its activities mostly via secret documents. Acceptance of the paper of the national security policy, which is prepared by members of the National Security Council, without presenting to the TBMM and directives on almost every issue, is a serious intervention to the clarity principle of the democracy. İHD and Human Rights Foundation of Turkey (HRFT) brought a law suit before the Council of State for the cancellation of council of ministers secret decision that put the document into effect. We suppose that the decision of the suit will be made in this year. Moreover, activities of the illegal organizations in the state are maintained via using concept of state secret.

The outcome of this insistence on a violence-based solution in the Kurdish 'question' is the continual bombing of Northern Iraq. A new under-secretariat for security has been established. The Ergenekon case has been opened, which has started as an investigation in 2007, and new investigations are an important step. However the investigation does not include crimes committed in east and south-east regions of Turkey. Not including the crimes in this region has caused a serious disappointment in Kurdish and democratic public opinion. Although the detention and arrest of the highest ranking generals has abolished a taboo in Turkey, the State's unwillingness to face

the realities of the Kurdish 'question' is a serious problem that should be overcome. Public opinion, and particularly that of human rights defenders, will have a more motivated attitude to face realities, investigate crimes, sentence the people who are responsible for these crimes and find out truth. The guarantee of a peaceful solution in the Kurdish 'question' means not only a change in legislation but also in mentality. In order to accomplish it, the truth must be found out and realities must be faced. It is a task in front of us.

In terms of the democratic principle of participation, the current situation of the Kurdish 'question' puts a period in front of us that we should follow carefully. There is still a ten percent threshold for elections, which is high, and the political party regime is full of prohibitions and closure threats for parties in Turkey. The ongoing court case against the Democratic Society Party or DTP concerns us. EU officials, like they did in the court case against the Justice and Development Party or AKP, should interest themselves in the court case against the DTP, should they not? When EU officials will stop the isolation of the DTP, which is practised by the Turkish Government too, it will have an important role for peaceful solution of the Kurdish 'question'.

The 'Democratic Autonomy Project', which has been presented to the Parliament by the DTP, is an important argument for accomplishment of the local administration (decentralization) principle. There should be a free atmosphere, in which people will vote according to their preference, in the forthcoming elections that will be held in March 2009. There was an increase in violence after the Prime Minister's claim that AKP would win the municipality in Diyarbakır and Tunceli provinces in the south-east region. There were serious attacks by members of the security forces against children and women who had joined the demonstrations and children were arrested and given heavy sentences.

There is the impression that the AKP wants to solve the Kurdish 'question' via a Kurdish 'type' that it will create in accordance with its religious and political ideology. It is dangerous. The Kurdish 'question', which has not been solved via nationalism, cannot be solved via religious community either. It is clear that such an approach will not be accepted by Kurds. If EU and the European Parliament officials will monitor the Local Elections in March 2009 in a satisfactory level, it will be useful for having elections with fewer problems. According to complaints made to our branches in the east and southeast regions, some of the governors and district governors have already started elections campaigns in favour of AKP, and such campaigns are signals for various kinds of interventions to the elections in March.

Turkey is a country, which has failed in terms of the rule of law. The monist mentality, which is based on not recognizing the Kurdish identity and not keeping its culture alive, has shaped the law, too. Although the Article 90 of the Turkish Constitution states that in the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect, and the domestic laws due to

differences in provisions on the same matter, the provisions of international agreements shall prevail. Not having an independent and impartial judiciary system has blocked Turkey in terms of improvement in the field of the rule of law. There is still a military judiciary system, with its all institutions, in Turkey. State Security Courts maintain their practices as there is change of their name only. High judiciary organs have court practices according to the state's approach towards the Kurdish 'question'. Despite the Article 90 of the Constitution, unfortunately there is no change in the judicial practices.

Moreover there is a serious problem of immunity in Turkey because members of the parliament, ministries, soldiers, policemen and all other civil servants are protected via a comprehensive immunity shield. Although there is no article about prescription for crimes against humanity in the new Penal Code, the ongoing 'impunity policy' blocks the path to the rule of law. Turkey should be a party to the Additional Protocols to the Geneva Conventions and the Rome Statute, which has established the International Criminal Court immediately. Thus the international community will have accomplished an important function for breaking the impunity policy via international assistance.

Conscientious objection, which has an important function in struggle against militarism and is also a right, is considered as a serious problem in Turkey. Requirements, resulted from the decision by the ECtHR about the case *Ülke vs Turkey* (39437/98), have not been fulfilled yet.

In terms of the freedom of expression; it has been revealed that the amendment of the Article 301 has not made any change in the essence of the article, so; problem in this field is going on. There has been no change in the following articles, which are related with freedom of expression; Turkish Penal Code (TCK) articles 215, 216, 217, 220/8, 222, 288, 300, 305 and 318 and articles in the Anti-Terror Law (TMK). Even after the amendment of the Article 301 of the TCK, the Ministry of Justice has given permission for the opening of court case in more than 50 cases. Particularly in the case of the author Mr. Temel Demirer, the Ministry had asked for judge in a manner that sentences the author. Articles of the Penal Code on freedom of expression are being used severely when there is a court case against Kurds and subsequently they are sentenced. This issue has been pointed out in the EU Turkey progress report. The most problematic event in the field of the freedom of expression is that the High Court has made decisions according to which people can be sentenced as a member of illegal organizations, in accordance with the Article 220 of TCK, though they are not. These decisions have been made to sentence people as a member of illegal organization if their expressions in demonstration show similarity with expressions of illegal organizations. It is a decision, which has been made to reduce social opposition to silence. This decision aims to make Kurdish public opinion ineffective. This decision of the High Court is even opposite to the Turkish Constitution of 1982. The judiciary decisions, which are not impartial, in regard to the freedom of expression have been

sustained with old State Security Court's practices through new heavy penal courts. Increase in number of arrest people is a typical indication of this situation.

The practise of torture, arrests and the heavy imprisonment sentences for Kurdish children who join meetings and demonstrations and throw stones to policemen, judged before special Heavy Penal Courts instead of children's courts, shows the seriousness of the situation. Turkey continues to violate the Convention on the Rights of Child (1989) in terms of Kurdish children seriously. At mass demonstrations, which were organized by Kurds in February, March, May, October and November 2008 and in which Kurds rebelled, police and gendarmerie forces used excessive force that resulted in torture being practiced on the streets. Images of policemen, who were breaking arm of a child, are still in our minds. However the EU has not shown adequate sensitivity to this violation.

A report, prepared in relation to the campaign conducted by the İHD about sick prisoners in Turkey, shows that violations in prisons have reached a very high level. The total numbers of prisoners are higher than the capacity of prisons in Turkey. Prisoners' fundamental rights are ignored, and prisoners' many rights especially right to life, right to health, right to communication, right to conversation and linguistic rights have been violated. Isolation practices in High Security Prisons are going on. Violations in İmralı Prison, in which Mr. Abdullah Öcalan is being kept, have caused serious reactions by democratic public opinion and many Kurdish people. The requirements mentioned in reports by the CPT have not been fulfilled. The joint application of the İHD, HRFT and Mazlum-Der to deploy a mission to the İmralı 'One Person Prison' has not been accepted by the Ministry of Justice. We hope that the Government's statements, which have been announced to the public opinion, will decrease problems in İmralı prison in 2009 to the lowest level. İHD has stated many times that İmralı prison should be closed. Optional Protocol to the Convention against Torture (OPCAT) has not been ratified yet.

The current situation for respect to human rights, which fluctuates, is that it is decreasing. The AKP Government, which insist on implementing policies based on violence and expect something from this kind of solution for the Kurdish 'question', has changed anti-terror law in a manner which is even more anti-human rights than the former version in 2006, allowing police forces to use their guns arbitrarily in an opposite manner to the Constitution. It has not abolished regulations that limit freedom of expression in the TCK, increase in torture incidents in prisons and detention places and refugee tragedies show that there is not a good picture in our country. The fact that the Government has not established a national human rights institute within the frame of Paris Principles, and does not have direct contact with human rights organizations for about last two years indicate that the Government considers human rights as a security problem. Indeed, the state ministry for human rights is also the minister for security. This situation shows the Government's mentality.

There is no definition of a minority in Turkey that is suitable to human rights concept. Turkey defines only non-Muslim groups, which are accepted in the Treaty of Lausanne, as minorities. Kurds, who can be defined under minority status, do not want to be included in this definition because they consider themselves as one of the main founding groups of the Turkish Republic. Defining Kurds, who are right in terms of history, as an indigenous or minority or main founding group, does not have a great importance in terms of human rights. The important point is that their wish to reach a level in which they will benefit from fundamental rights that they deserve as a people.

The Kurdish 'question' is in a level that is closest to solution than ever. Unless the Kurdish 'question' will be solved, it seems that Turkey's EU membership is not possible. Actually solving the Kurdish 'question', which is a human rights problem, in a manner that is suitable to humanitarian law is our wish. Finally, I would like to express that I think the Turkish policy, which is in a deadlock situation can improve via accepting the Copenhagen Political Criteria as a guide for it.

Omer F. Gergerlioglu

On behalf of Mazlum Der I would like to greet you all. On the 22nd of June in 1993 certain conditions were brought to countries that wanted to accede to the European Union. These are called the Copenhagen Political and Civil Criteria for seeing that an institutionalised democracy prevails in the country. The rule of law, respect to and protection of minorities were further criteria. Also economic criteria had been foreseen and a compliance with the European Aquis was considered as another criteria. I would like to inform you about the progress in all these fields.

First of all I would like to comment on the Kurdish problem. The Kurdish problem has been an open wound for the last 85 years and because that wound has not been allowed to heal, we are witnessing social lynching cases in our country not only in the eastern provinces but also in the western provinces. In a district called Altınova, social lynch cases were witnessed which human rights organisations reported on. For the solution of the problem accession to the European Union will be a step forward. Only then will concrete steps be taken for the solution of the problem because otherwise a government who refrained from solving that problem for the last 85 years will not be ready to do so. This is an understanding that needs to be changed.

The Kurdish problem is not the only problem in Turkey. There are other rights that are being violated in Turkey. I would like to mention another area of freedom that is directly related to the Kurdish problem, where interventions into this area are very severe and which needs to be commented on. This is the area of freedom of religion.

We are living through serious problems in this area. Turkey has realised certain reforms but reforms regarding freedom of religion are stagnating still. Although there is no progress in the general religious area, requesting a solution of certain problems relating to the minority religion is a duty. We have to ask for all these rights in a fair manner without employing any double standards. The Halki seminary needs to be opened but there are other religious problems that need to be resolved as well. Even if you solve the problem of religious minorities, as long as you have failed to solve the headscarf problem it means that there is still no freedom of religion in Turkey.

Turkey is a signatory party to many human rights conventions and all those conventions have become part and parcel of the Turkish constitution and legislation according to a new amendment of Article 90 of the Turkish Constitution. This applies to the International Convention of Civil and Political Rights, the International Convention on Economic Rights and other human rights conventions which all put under safeguard the individual rights and freedoms of the people. Turkey is under the obligation of making legislative and constitutional changes in order to accommodate the provisions of all the international human rights conventions to which it has become a signatory party. The Turkish government has to make those amendments without taking into consideration certain political concerns or without being under pressure by international fora like the European Union. Yes, important legislative changes have been made like Article 301 of the Turkish Penal code. Turkish society was quite enthusiastic at the beginning of 2008 because we thought a new constitution was on its way. However certain deep forces in Turkish society did some tactical work in order to prevent the emergence of a new constitution. We understand that very well now. By underlining the problem of freedom of religion, particularly the nationalistic MHP party try to cancel the new constitution and we realise once again that individual freedoms cannot be taken in parts but have to be treated as a whole. Problems related to Article 41 and 42 of the Turkish Constitution resulted in a case for the dissolution of the AK Party.

Why am I explaining to you all these issues? All these manoeuvres were done in order to make the Kurdish problem an unresolved problem. They started negotiations with the government therefore freedoms should not be taken in part but in a holistic approach. Turkey will not be a happy country if you only solve the Kurdish problem or only the problem of religious freedom. Only if you solve all of these problems together can we reach anywhere. The EU constitution underlines democracy, equality the rule of law respect of human rights and other similar values. There is no direct reference to Christianity. It is stated that it has been inspired by the general cultural heritage in Europe, but we again see that there is an increase in intolerance regarding the Muslim minorities in EU member states like. This kind of activity is in contrast to the principles and values of the new European constitution. You cannot disregard the religious rights of the Muslim citizens living in the EU member states because

if this continues, then inequality will remain on the agenda and subsequently these problems will also remain unresolved in Turkey.

With regard to freedom of expression, there are still certain inconsistencies in the Turkish legislation. The interim courts of appeal are not functioning. Institutions and structures are still not in place in order to deal with corruption. There are still insufficiencies with regard to the rights of minorities, civil and political rights. There are inconsistencies in the implementation of the rulings of the European Court of Human rights and there are still problems with the lack of compliance with the European Legislation. With regard to torture, there are deficiencies in fully granting the rights of detainees. The use of disproportionate violence in the process of interrogation in prisons and detention areas led to 37 people losing their lives. In the pre-trial custody period we still have a disregard to the recommendations of the European committee for the prevention of torture. And the supplementary protocol to the European Convention for the Prevention of Torture still has to be signed by Turkey. But it was quite important when the Minister of Justice made a public apology for the incident that happened in Metris prison whereby one of the prisoner lost his life due to use of excessive force there.

In the implementation of laws there is still a difference in interpretation. Heavy punishment of authors and writers is still going on; the limitation to access to internet and prohibitions in that area are still going on; the use of certain languages in broadcasting programmes are still prohibited, although the recent launch of a new television channel for the Kurdish Language is an important step. The use of excessive force by the law enforcement officials towards demonstrators is another important development that needs consideration, particularly at the time of Newroz celebrations. Non-Muslim minorities still have problems regarding property and religious education of their priests. The rights of Alevis is another problem area. Domestic violence is widespread and the rights of women are still not fully implemented. There is a limitation to the rights of education for minorities. Restrictive and discriminatory implementations are being conducted and problems relating to the return of internally displaced persons are continuing.

The progress report regarding accession was announced but still that relationship is in stagnation and Turkey seems to have accepted this fact. The reform packages are still not to be seen on the agenda of Parliament. Democracy, civil liberties and social development cannot progress without the presence of Copenhagen Criteria. We do not have this political will in Turkey. We need courageous decisions but I'm afraid that we don't have that political will yet. The economic crisis, international and domestic problems are occupying the agenda in the EU and will do for many years to come. Obviously in this period problems in international politics have to be resolved and we will see what kind of a new world order will emerge as a consequence. But Turkey and the EU have to create a new vision vis à vis their relationship. With regard

to the present situation in relations between Turkey and the EU the progress report should be rephrased and called the stagnation report because the Commission has put the accession process into deep-freeze and this is also not acceptable.

Thank you.

2.4 The Role of Women in Building Democracy

Sara Aktas

I'd like to start by welcoming all the participants. As a Kurdish woman, who was raised in the midst of the war in our country, and who now wholeheartedly wishes to see peace and fraternity take root on these soils, I sincerely believe that our partnership is very valuable for all of us.

Kurdish and Turkish people share hundreds of years of intertwined socio-cultural history. However, authoritarian and totalitarian approaches that emerged as the dominant ideological tools of the state rationality and, developing parallel to that, the state policies that deny and annihilate different identities, have been the main reasons for the Kurdish uprisings that have continued since the end of the 19th century to our day. The confrontational grounds that marked the last 30 years of Turkey have to be evaluated in the light of this historical reality. Evaluation of the issue as a concept of security and terror has gravely aggravated rather than contributing to the solution. It has become inevitable for the Turkish Republic to reject a pluralist and democratic method in the face of undeniable demands of the people. Consolidating this struggle for rights upon women's struggle is indispensable for the understanding of justice and equality to fully settle into all levels of society. In this sense, it is clearly evident that the quasi-democratisation initiatives, which do not internalise the resolution of the women's liberation as central to the issue, cannot maintain justice and equality.

A new society, in which women will participate and form successive institutions with their free-will and consciousness, can only be possible with the achievements of women's movement. Women have been unable to freely participate and express themselves in the current system of Turkey. This situation has been one of the main handicaps in the democratisation of the republic. The state has evolved through masculine characteristics. We know that the unnamed war in our country is not independent from its dominant militarist, racist, sexist and masculine characteristics. Precisely due to this reason, it is of vital importance to do away with the oligarchic, militarist and masculine language and discourses of the constitution, which also includes the founding principles of the state.

Patriarchy is a standpoint that has social and cultural roots, and is strengthened and reproduced through political mechanisms. It is the system and regime of masculine social gender and that of the state, which is its concrete expression. The fact that repercussions of violence against women, war and conflict are felt intensely in our country and that violence against women has thus been rendered integral part of the system require us to evaluate it as state violence. We are perfectly aware that all types of violence against women are political, that the state is one of the perpetrators who systematise the violence, which is also the power who protects the other perpetrators. State violence against progressive women appears as denial of basic human rights, torture rape and execution in police stations, under detention, at the medical jurisprudence, in prisons and courts. For instance, here are the data in relation to the first 10 months of 2008 according to the report prepared to mark '25th November International day of Struggle and Solidarity against Violence towards Women,' by the Legal Bureau of Assistance Against Sexual Harassment and Rape under Detention established by women lawyers and human rights activists: A total of 36 women, 24 in prisons, made applications regarding sexual harassment under detention. One woman was detained while pregnant and another woman with her six-month old child. It has been established that the perpetrators in 11 incidents were policeman, 25 were gendarme and soldiers, two were from special teams, 24 were prison guards, and one was a mayor. 28 women were detained due to political reasons, 27 detentions were due to their own political affiliations, and one was harassed due to her family's political affiliations. 8 women were arrested for judicial reasons. One of these women claimed to have been raped by policemen 27 years ago as well. There have been 33 law suits on these claims this year, and only 5 have resulted in favour of the victims. While the duty of constitutions is to prohibit all sorts of direct and indirect sexual discrimination and provide the opportunities for women to benefit from basic human rights, the state uses judicial power too as its back up.

The evidence in relation to women's situation today is sufficient to clearly demonstrate the accuracy of criticisms. Although women have been enfranchised, only in the early 20th century, effects of the rigid gender roles have been prevalent in Turkish history to our day. Kurdish women are twice the victims within these structural mechanisms. Denial of Kurdish identity, prohibition of education in languages other than the official one, and rejection of approaches in the resolution of the Kurdish issue other than the method of denial and violence, compel Kurdish women to struggle for their ethnic identity while also struggling against gender inequalities and masculine power relations.

In spite of all the oppression, Kurdish women have started a multi-faceted organised struggle. Although Kurdish women have recently been portrayed by the movie series as victims of mores who need saving, they are also creating the tools that reveal their motivation with the strength of organised struggle. In this sense what is really remarkable is the social, political and gender struggles of Kurdish women. As well as experiencing the intense effects of the war in our country, Kurdish women became

the subjects of the war and acquired the consciousness of their gender in it. They also managed to create the social and political channels that equally strengthen them. The struggle for democracy which started with the political party in 1990s and the Patriotic Women's Association in 1991, have been transformed into an organised gender identity, with the Mothers of Peace initiative at the public sphere, in politics, with the associations in solidarity with the families of prisoners, and with the women's institutions that increase day by day as a result of serious endeavour and resistance. Kurdish women, who have place in many spheres at the moment in Turkey, have come together under the roof of Democratic Women's Liberation Movement as a result of their organised will and common identity.

What I'd like to draw attention to here is that beyond their quantitative visibility in politics, Kurdish women struggle for their perspective to seep into all the levels of society and that the effects are being considerably felt in the political arena through the women's institutions and civil society organisations. Despite women's low level participation in politics in Turkey in general, Kurdish women demonstrate undeniably substantial involvement in the mechanisms of political decision making. A comparison between the levels of representation of women in general and that of Kurdish women would make this more concrete and understandable. On the world scale, Turkey is the 72nd amongst 75 countries just before Egypt, Saudi Arabia and Yemen according to Gender-Related Development Index of Human Development Report 2006 of UN's Development Programme. Lets consider the proportion of general political representation of women in Turkey: Only the 0.6% of mayors, 1.7% of general committee members in provinces, 2.5% of council members are women, as well as only 50 women members of parliament. So, only 9.1% of representation can be translated as a "syndrome of non-existence" beyond an injustice in representation. In contrast, lets compare the proportion of political representation within DTP; 17% of mayors, 7% of general committee members in provinces, 10% of councils, and the 40% of members of parliament are women. Kurdish women's liberation movement constitute important evidence in terms of carrying their understanding to the centre from their own local organisations and central cadres without emulating the established policies of the cadres. Disregarding this would also mean to deny the existence of Kurdish women as the unrecognised ones of the unrecognised Kurds.

For this reason, the struggle for peace and democracy is not an abstract, far away dream for Kurdish women. Peace is not about silencing the weapons. It forms the terrain for the realisation of their own organisational activities. We will provide the peace ourselves with our own faith, will and determination.

It should be mentioned that neither the women's movements in Turkey nor the other social groups have been efficient in ending the war and democratisation of the state. The power of women in the anti-war struggle or the democratisation of Turkey does not stem from their innate peace-making traits. This approach feeds the theories that

justify war by reducing it to a natural structure. It is matter of consciousness, organised work and struggle.

We know that women in organisations that do not possess this consciousness turn into mechanisms that support the war. Women, whose brother, son or relative go to war, are easily effected by the chauvinist anti-Kurdish atmosphere. Just as in the example in which the Mothers for Peace were confronted by the mothers of martyrs. Doubtless that as the women's movements get organised and raise their consciousness, they will also manage to shield women against militarist mechanisms and even transform them. It should also be mentioned that women's movements have not acquired a strategic role for themselves, despite the fact that the inefficient struggle for democracy in Turkey has been a serious experience. Although domestic violence has been the issue around which the women's movements in Turkey formed a sort of partnership, there has not been any sufficient unification in terms of militarism or the Kurdish question. The organised women's movement will create a strong synergy when this gap is closed.

As is known, a struggle for democracy confined to a limited agenda cannot be efficient or provide any solutions. If there are problems in a social phenomenon that go back hundreds of centuries, if a just and honourable solution cannot be reached, it becomes necessary to look for the real problem inside the approach to the solution itself and in the realism and practicability of the approach. For this, it is firstly necessary to recognise the basic inalienable rights guaranteed by international agreements and to demonstrate the will, patience and determination by taking seriously the opportunities for solutions.

It is essential to accept that the solution to the Kurdish issue is above all a matter of recognising Kurdish people's reality and the resultant national, cultural, social, economic, political rights and of the denial of basic human rights. A democratic and peaceful solution to the Kurdish issue is contingent on the constitutional maintenance of basic human rights. A constitutional approach based on the demands of peoples is inevitable against the oppression that is based on denial, annihilation and the interest of international capital, which aims to do away with people's will and destroy legitimate defence. I believe the most accurate work that we, the Kurds did is to merge our destiny with that of the women. It is a remarkable attitude for a people to see their own freedom as a matter of women's liberation.

Construction of democracy is surely also dependant on reaching a social convention. However, it would be impossible to talk about a social convention without facing the reality. Peace is not only a political but also social issue. Solidarity and organisational unity between Turkish and Kurdish women will play one of the most essential roles in creating the conditions in which people can exist together. In this sense, it is of vital importance to resolve the phenomenon that breeds militarism, patriarchy and nationalism. Strengthening and spreading the partnership between women will help

us to gain on peace or even to construct it. We, Kurdish women are not the victims harmed by somebody else's war. We advocate and resist for both Kurdish people's struggle for freedom and for Kurdish women's struggle against the male dominant system. I'd say that faith, struggle and patience is essential for this and thank you all for listening to me.

2.5 Development of Cultural and Linguistic Rights

Frieda Brepoels

I believe that the possible accession of Turkey to the EU has come a long way but I must say that during the 20th century there was very little interest in Europe regarding the situation of the Kurds in Turkey. At a time when civil rights and the desire for peace was developing in Europe after the 2nd World War, we saw a situation where millions of men and women were being cut off from their rights in Turkey, which is a neighbouring country of Europe. And at the end of the last century the prospect of Turkey perhaps joining the EU and the reform process that that entailed, did generate a degree of interest in the Kurdish issue within the European Union.

Since 1993, an attempt has been made as you all know, to work out a criteria for accession which involved respect of human rights, the rule of law, but also of course the rights of so-called minority groups. Now the lady who spoke earlier is quite right to make the point that the Kurds are no ordinary minority within Turkey, I'm not happy using this terminology but this is the way this is referred to in the accession documents. The number of the Kurdish population in Turkey is not precisely known and the reason for this is that the government does not collect information of this kind during the census in Turkey. So demographic data is mostly based on assumptions and according to these assumptions there are 15 million Kurds in Turkey as you know.

But in spite of the efforts of successive Turkish governments to assimilate the Kurds and to repress their language, Kurdish has remained the first language of many Kurds in Turkey, and according to a poll carried out in 6 cities of the South east, 65% of the interrogated people speak Kurdish at home as well as outside and 52% speaks a language mixture of Turkish Kurdish while 21% speaks only Kurdish. Kurdish children generally learn Kurdish at home and they learn Turkish at the age of 7 when they go to school. Kurdish is mostly widespread amongst elderly people, women, and those who live in the rural areas. But an act of 1983 proclaimed that Turkish is the mother tongue of the Turkish citizens and this act bans any activity that uses another language except Turkish. The Turkish government expressed that the purpose of the act was to protect indivisible unity of the state, country and people, national independence, republic, national security and public order. But even though the act

of 1983 was annulled in 1991, Turkish is still the only official language and the use of any other language in education, media, and political life and in many other areas is still very strongly restricted, as we know.

In 2002 a group of students at the Istanbul University signed a petition that demands optional lessons in Kurdish and announced this activity also with a press conference and they probably didn't expect that their actions would trigger similar actions in universities and high schools countrywide. Eventually students from 24 universities tried to submit more than 10,000 petitions to the authorities and thousands of families of primary and high school students joined them with their own petitions to speak Kurdish at schools and universities. But the reply of the authorities was rude and sharp. More than 1,359 people were taken into custody and 143 people were put into prison for trial and 46 were discharged from their schools or universities and this action I think brought really up the question of optional Kurdish lessons on demand for a moment in the centre of attention. But of course this is only one aspect of the matter of language rights, and after this KHRP started an inspection to research broader subjects in the context of the status of the Kurdish language in Turkey. And during this inspection it became clear that an extreme official paranoia existed. The permission for the use of Kurdish outside private life is regarded by the Turkish state as surrender to terrorism, disintegration of the state, and the first step that the Kurds would take on the way to establishing a separate state.

It was in this atmosphere that the demand for only optional lessons in Kurdish was regarded as dangerous and unacceptable. But my question is why is the idea of optional lessons in Kurdish regarded as a sensitive subject that causes mass arrest, accusation of terror and discrimination? Apparently the government considered that the students who supported or participated in the campaign aimed at establishing a separate Kurdish state. The government has concluded that the whole campaign was conducted by the PKK. In other words, according to the government, a campaign for optional Kurdish courses is considered as terrorism and discrimination. Fortunately some people are voicing different perspectives. In April 2002 the chief judge of the European Court of Human Rights stated on Turkish television that broadcasting by minority groups in their mother tongue would not mean the disintegration of Turkey, he said, on the contrary, if the minorities would express themselves it would be much more comfortable. So it was not the first time that people stood up for their rights to use the Kurdish language.

I've been following the Kurdish question already for a long time, and maybe one of the reasons for my interest is the singularity with the language struggle that took place in my country, in Belgium, in the 19th and deep into the 20th Century, and honestly it is still going on, if you think of the case of Brussel Hallo Filvoerd for example. For this reason I would like to take this opportunity to express my deepest feelings of respect, sympathy, and appreciation for several Kurdish people who have worked throughout their lives for the recognition of Kurdish rights.

First of all, she was here yesterday, I heard Leyla Zana, and I first heard of her case when I was member of the Belgian Federal Parliament. In 1991 she became as you know the first Kurdish woman to be elected into the Turkish parliament but for taking her oath in Kurdish and for other political actions that were claimed against the unity of Turkey she was convicted and imprisoned and it was only the last sentence of the outspoken in Turkish and expressed her wish for better living together with the Turkish people – and I quote her ‘I take this oath for the brotherhood between the Turkish people and the Kurdish people.’ It was her immunity as Member of Parliament that protected her from prosecution but her party was banned and her immunity was lifted. And in December 1994 along with 4 other Democracy Party MEPs she was arrested and charged with treason and membership of the armed Kurdistan Worker’s Party. She did not obtain a fair trial and Ms. Zana denied PKK affiliation but with the prosecution relying on witness statements allegedly obtained under torture Leyla Zana and the others were sentenced to 15 years in prison.

Now I could mention all the awards, recognitions and nominations she received by several international organizations that fight for human rights but let me just tell you how proud I was and also other members when she received the Sakharov Prize from this house in 1995 but it was only after her release in 2004 that she was able to collect this prize. And as most of you probably know Leyla Zana was again sentenced to 10 years of prison on December 4 last year after being accused of violation of the Turkish penal code and the Turkish anti terror law in 9 different speeches. We see this of course as another violation of the freedom of expression. This courts decision was a major set back I think for the democratic process in Turkey.

There was another case that shocked me very much. On the 14th of June the Turkish State Council approved the appeal of the Turkish Ministry of Interior Affairs for the dismissal of Mayor Demirbaş and the dissolution of the Sur municipal council. And this decision raised high concerns for me and amongst other members of the parliament. We do not think it is acceptable to fire an elected mayor who got 60% of popular vote and dissolve the municipal council just because they defend more languages, and especially the Kurdish language. According to a public survey of the Sur municipality published in 2006, 72% of the local residents spoke Kurdish, 24% spoke Turkish 3% Syriac and 1% Arabic. So Mayor Demirbaş is a well respected advocate of linguistic and cultural rights and has put great effort in the protection and promotion of the cultural and language heritage of his municipality and I think I am also member of my municipality council and I am very convinced of the necessity of fair and participatory local governments and this requires the local governments to respond to the needs of the people. How could multi-linguists in a local municipal council be any threat to the security of the Turkish state? I had a another case, but I have no time any more for our Kurdish author Orhan Miroglu, he was convicted for 6 months on the 3 of April because he used Kurdish in public, you know, we are discussing at this moment.

At the moment as you know in the EU parliament we are debating resolutions and progress reports as they are called on the accession of Turkey to the European Union. I think its very clear in this reports that there is a degree of change but there's still a long way to go because if you look at the 21007 report for example, the Commission stated that the Turkish authorities should respect the rights of the Kurdish minority but this is constantly recalled in all the reports and we still have to keep banging home the same point every time you look at a commission report. So I've tailored a number of amendments myself to ensure that we can focus more clearly on the Kurdish issue in the report and spell out exactly what sort of conditions we want to see fulfilled in the months and years to come. This report will be debated next week and like all of you I'm sure, I feel convinced that the Turkish authorities must do far more to find a solution to this.

And in closing I'd just like to refer to the motto of the EU namely 'Unity in Diversity' and I would suggest that we allow this to become an example for Turkish society whereby the Kurdish people with their rich language and culture can be accepted and why not indeed be embraced as an added value for Turkey.

Thank you for your kind attention.

Eurig Wyn

In my cultural intervention here in the debate its worth considering what we have achieved to date in Wales, which will be relevant of course to the aims of the Kurdish autonomous cultural movement and any advice that we can convey to you. Welsh doesn't have full official status but what's called co-official status. For example, ministers will be able to speak Welsh in future at European Council meetings. Members of the committee of the regions, a committee I was a member of at one time, can speak Welsh in its plenary sessions. Citizens will be able to correspond, to write letters from now on to the European institutions through the medium of the welsh language, and the right also will be accorded to deposit translations of European Union documents in the council of archives. These as well should be the aims, the long-term aims of the Kurds in its cultural linguistic debate with the European Union.

I was a member of the petitions committee at one stage in the Parliament and I don't see any reason why a Kurd or a Kurdish delegation, not from Turkey but from a state that is a member of the EU, why they should not bring a case before the Petitions Committee on the injustice meted out to the Kurdish language by the Turkish state. 20% of the population of Wales speak Welsh; our population is 3 million, 70% of the population in my committee, in West North Wales, speak the language as their first language. Far more as well, it's worth stressing, than the Irish in Ireland who have full official status, and are beginning to use their language now far more often in the EU

Parliament possibly because of the pressure and the new status that other minority languages like the Catalan and Welsh and Basque languages have attained.

Leyla Zana's protest for her language happened in Wales in the 60's and we commend the massive amount of work and sacrifice that she's undertaken in the cause of her culture and language but that sacrifice and protest happened in Wales in the 60's and 70's of the last century. Hundreds of my fellow countrymen and women were imprisoned in our campaign to establish a Welsh language act, which we have now, but it's an act that isn't powerful enough. This is why knowing the problems of being a minority then there is so much common ground between us and the Kurds. We empathize clearly with the problems that you face as Kurdish people and very soon there will be a debate and a delegation from the Kurdish minority in our parliament in Cardiff and as well in the London Parliament to focus the attention of the international community on the injustice for the Kurds and their language and culture. We have a valley in Wales that has been drowned to provide water for England so we can empathize with the Ilisu dam protest, and it was a very effective protest that happened on that day but despite the fact that all the members from Wales in the British Parliament, the London Parliament that voted against that the drowning of that community, of that valley, the project went ahead. So we know, and can empathize and sympathize, with the protests that you are waging so effectively against the Ilisu dam project.

As we speak the convention is now at work deliberating whether Wales should be allowed more powers. British MPs in London including Welsh Labour and Tory members are trying to limit Welsh legislation going through on very important issues to do with language and second homes. That is another massive problem in our country. So you have Welsh MPs, Welsh British MPs trying to oppose and limit legislation that is of massive concern and importance for our country. And should not a convention of this nature, a European convention, be an essential prerequisite in dealing with the Kurdish issue in Turkey and the problem of the accession of their state?

I'd like to turn to the problems as I see them in relation to minority rights for the Kurds, Catalans, Welsh and Basques. We formed in the European Parliament when I was a member a stateless nations committee which focused the problems and addressed the issues concerned by states that aren't full members like the Catalans and Basques. The question must be asked, should that committee be reconvened in the interests of other stateless nations such as the Kurdish people in their homeland in Turkey, because there is a problem with the European Union itself in the legislation that is at present in place here.

Under the Maastricht Treaty, Article 3b, devolving power doesn't go further than the nation state level. So unless that is happening and is enacted properly within the European Union, how can we hope that the European Union itself through its legislature will be able to assist properly the interests of the Kurdish people? The convention on the constitution never actually went to the root of that problem, which is the legis-

lature of the EU itself that is at the root of the problem. And its quite interesting, in the referendum of the Lisbon Treaty in Ireland and the no vote there, that one of the main concerns of the Irish was the possible loss of the tax limiting powers to allow multinational companies to come into the West of Ireland to settle there. People don't like top-down directive delivered either from the UN or the EU.

And if we expect large power brokers to administer fairly the allocation of powers to minorities, we're making a big mistake. In the recent occupation of Georgia by the Russian state we heard far more about Russia and Georgia than we actually heard about a small nation like South Ossetia, and Chechnya is now beginning to go off the new radar until it emerges there again, as Gaza is starting to become news and history again. For South Ossetia then, see Wales, Scotland, Catalonia, the Basques, and the Kurdish people. There are 97 smaller nations than Wales that are now members of the United Nations. That's where Wales should be as well, that's where the Kurds should be. And trumpeted as the saviour of regions and stateless nations when it was established in the EU, the Committee of the Regions, of which I was a member, is seldom, if ever, consulted by the Parliament on important issues to do with regions and culture and democratic rights.

I was surprised when I joined the EU that London was represented there, a region that doesn't have the same problems of language and culture and democracy as I have in my nation of Wales. And we now expect another amalgam of large institutions the so-called quartet of super states Russia, UN, USA, and Russia to resolve problems like Gaza and Kurdistan. But coming from such a top down culture and philosophy, the prognosis doesn't look promising. Should we not then be looking in future at a new reformed UN or a possible two tiered UN, where lesser nations and people can be enabled to feature more prominently in a new democratic institution? This could possible be the hallmark of a new campaign of a future Obama administration in the UN. Through a reformed UN, where small countries like my own could feature prominently, there would we have had Iraq, Gaza and would we now have the Kurdish un-democratic problem that we have now within the Turkish state. What struck me when I read Abdullah Öcalan's book, was his humility, despite the persecution. His humility and kindness and forgiveness. We admire your humility, your sacrifice and your patience as Kurdish people, and express our solidarity as a Welsh nation with you in your important campaign.

2.6 Constitutional Reforms and the Impact on EU Accession

Cengiz Candar

The topic that I will take up today is constitutional reforms and their impact on Turkey's accession to the EU. This is a fundamental problem because the Turkish consti-

tution is the product of a military coup d'état it's a product of the 1980 military coup and in fact, Turkey has seen four military coups. The one in 1980 was the most severe one; it gave the most serious results. The current constitution is a product of that era. In the last 8 years and even before that, certain amendments have taken place. In fact one third of the constitution has been amended in this period but no matter how much you change you cannot really correct this constitution because its sense is wrong. It is there to protect the state from its people. This is the mentality. It protects the state from the individual. And since this is the spirit of the text, no matter how much you change, unless you totally abandon it, there's no way you can correct it.

The only way is to adopt a properly civilian constitution. And in fact a real civil constitution is the only way to Turkey's integration into the EU and I also believe that without a civil constitution there is no way to a lasting peaceful resolution to the Kurdish issue so a new civil and democratic constitution is needed. This constitution should not prioritise any religious or ethnic identity. It should preserve and foreground the pluralist composition of Turkey. It should have a broader understanding of citizenship, and furthermore, it should lift all types of prohibition on the way to using fundamental rights and freedoms. Furthermore this new constitution should allow Kurdish people to receive public services and education in their mother tongue. It should prohibit all anti-democratic acts. For countries, which have an experience of military coups, this is critical; you need to prohibit anti-democratic acts. For instance, look at the Greek constitution, a military coup is a crime according to this constitution and being involved in initiating a coup is a crime and all officers are required to disobey their superiors if they are ordered to start a military coup. So as a Greek military officer, even if I'm ordered to take part in a coup, because of these articles in the constitution, by definition I have to oppose my orders. A similar mechanism where all such acts are offences should be considered for the Turkish constitution.

Not only the constitution, but also a series of legal amendments are required to ensure democracy. For instance, the law on political parties, the law on elections, higher education, press radio and television broadcasts. Law on all these topics need to be thoroughly amended. And here I would like to refer to the economic dimension of all these acts. Yesterday Mr Baydemir presented striking figures, which showed the discriminations against Kurds and gave all the statistics. He thought I wasn't listening to him and that is why he said Mr Candar and his Bursa gets all the roads and we get nothing. What I would like to see is more roads in Diyarbakır in fact I'd like to see positive discrimination against Diyarbakır and police stations should be restricted to borders only. I agree with him completely and in fact I believe that with regards to the Kurdish situation there should be positive discrimination where it is legally justified. Ensuring all this will make Turkey democratic and allow Turkey to fully comply with the Copenhagen Political Criteria. In 2004 at the Brussels summit later on in 2005 all the decision that paved the way to starting up of negotiation with Turkey, they all said that Turkey sufficiently complied with the Copenhagen Criteria and was therefore eligible to start negotiations. They never said that Turkey fully complied with the

Copenhagen Criteria and all these decisions reiterated again and again that Turkey needed to comply fully with the Criteria to become a member and the things I've listed will ensure full democratisation.

EU membership can only be possible can only be possible if this entire list is completed. Within this framework the Kurdish problem has a pivotal role to play because the Kurdish issue and democratisation in turkey go hand in hand. They are like twins, and in a way there is a chicken and egg problem when it comes to democratisation and the Kurdish problem in Turkey. Unless Turkey takes major steps towards democratisation there can be no solution to the Kurdish problem and at the same time if no solution is found there can be no democratisation in Turkey. There's a struggle to ensure that this happens. Turkey is moving forward, it is not standing still. It is moving towards the EU and democratisation. It's a slow walk, it is a painful walk but it is moving in this direction, and there are people who are struggling to make the steps. Now there's a serious effort for democratisation and that needs to be acknowledged. If this major effort is not recognised or is disregarded I think it will be to the benefit of no one and particularly not to the benefit of the Kurds.

While saying this, I'd like to refer to the tone of some of the speeches here, which did not make me very happy I must admit. Some European speakers might listen to me say that the picture of Turkey that you presented made me question whether it is the same country where I live, 24 hours a day. This is why I'd like to call upon our European friends. Turkey is not Zimbabwe; it is not Burma or Darfur. Turkey is in the process of EU accession and is progressing. Leaving aside the shortcomings that need to be corrected by Turks (and we're already fighting for their correction) if you consider yourself a friend of the Kurds in Europe, you need to acknowledge that your own discrimination towards Turkey is a factor in the problem. The extra criteria that has been set for Turkey for accession is impeding the progress on the Kurdish front and its not helping the Kurds that you consider yourself to be friends with. I'd like to say this again and again because at least I personally am very much involved in the struggle for democracy in Turkey and I'm honoured to be struggling for this and I this painful move for further democratisation I personally suffer as well.

In the last year very important developments have taken place, developments that we could not have even dreamed of. There are three major developments that I would like to refer you to. One is the case of Ergenekon. You cannot underestimate its importance because this is the deconstruction of the deep state in Turkey. Let's not forget that the case is looking into the deep state and there is the military connection. For the first time in the Republic's history four-star generals are put in prison. Many are suspects and the process is extended every day. Here we are shaking all the lice from our shoulders. This is very important for Turkey's accession into the EU because you cannot enter into a clinic if you have lice. You contaminate the place, you have to first de-lose, and so this is critical. The importance of the de-construction of the deep state should not be unrecognised. There's a long distance to go and a lot needs to

be done there. This struggle is pivotal because in the 1990's many Kurds were killed and this Ergenekon is haunting those who were involved in these killings. Mr Türk is here and he says that there is no way that this case cannot look to the region east of the Tigris. The retired generals all most all of them have served in the east and their handprints are on many bloody events. New data is coming out every day and there is no way that the case cannot extend beyond the Tigris. This is a critical development, it's still underway and there's no way you can underestimate its importance.

The second development is a campaign was initiated to apologise to the Armenians for events in 1915. This was a courageous step in Turkey, initiated by Turks, to face their past. And despite incredible threats and indirect means of oppression, 28,000 people have signed the petition, asking to be excused by the Armenians. This is a giant step in Turkey's reconciliation with its past and event number three, which has totally surprised me when I listened to some of the discourses here, is that Channel TRT6 has started broadcasting in Kurdish. This is a critical step and it is very important that it is the state that is doing this. Will there be private channels to follow in the footsteps of TRT6? Of course, you cannot prevent it. You have a state channel broadcasting in Kurdish, how can you prevent private channels from doing the same thing? It would be

Life has forced Turkey to broadcast in Kurdish in the State TV. Someone was talking about the Kurdish letters that are prohibited, but in the Kurdish TV Channel there is X, Q and W. So if someone is prosecuted for using the Kurdish letters it will be so easy now to justify this. With the Kurdish channel there is no way you can avoid the X and the W, and once there is this Kurdish channel then you can't prevent these letters from being used elsewhere, so these myths are being deconstructed. The broadcast in Kurdish is very important for Turks as well. It has allowed us to feel much better to get rid of our own embarrassment. We as Turks are able to use our mother tongue. Kurds, our fellow citizens, our brothers and sisters, people we co-exist with, cannot make the same natural right that we exercise every day. Broadcasting in Kurdish has actually helped us go beyond our own embarrassment. As a friend said, Kurdish has re-gained its innocence, because for years in Turkey, Kurdish has been associated with offences terror crime and now people understand that you can write novels and poems in Kurdish, and that you can fall in love in Kurdish, so in a way Kurdish has reclaimed its honour in Turkish public opinion.

The Prime Minister in Turkey has spoken in Kurdish. Don't consider him the leader of AKP, he is the Prime Minister of Turkey, and he spoke Kurdish. This is the recognition of a people, who have been neglected for years. It is the first time that a Prime Minister of the Turkish Republic recognised the Kurdish people. You can criticise the Prime Minister and his party as much as you want, but a Prime Minister that brings a channel in Kurdish by speaking Kurdish is an important person. He has been subject to a closure case himself and I don't want to tell you that you should be in love with our Prime Minister or love his political party, but in struggling for democracy

sometimes you meet at certain points and sometimes you take different paths. The important thing is to move in the right direction.

Another thing that is particularly important for identity politics is that Turkey is giving back some places their former names that had been changed to Turkish. It happened in Bulgaria, which is now an EU member, and Turks suffered from this in Bulgaria, where the names of villages were changed, and the same thing happened to the Kurds in Turkey. This is totalitarianism and without changing it Turkey cannot become a member of the EU. The title of this conference is 'Time for Change in Turkey' which is a correct title. There is a black president in the US. Would we have ever dreamed of that before? It is a time for change in the world. We need to change our language, rhetoric and mentality. It is a time for change altogether. Turkey will become a member of the EU because we are there, because there are Kurds and Turks living in Turkey who will make it possible. Thank you.

SESSION 3: ONGOING CONFLICT: DIFFERENT PERSPECTIVES

3.1 The Effect of Cross-Border Operations in Neighbouring States

Susan Breau

If often feel like a sort of the 'bad news' person at this conference because I bring us back to the sad realities for the situation in south-east Turkey particularly because I'm an expert in the law of armed conflict and hopefully on this panel we're going to move on from that. I need to pose some questions to you today, and some discussion topics that I hope will provoke further thought with respect to that situation.

I was here last year, speaking about whether or not the situation in south-east Turkey had risen to the level of an armed conflict. Well that was in January 2008 and I think everyone in this room would agree that in March of 2008, with 100,000 Turkish troops entering another sovereign state, in the issue of whether there's an armed conflict, the answer is certainly very clear. There is an armed conflict and the issue is whether or not it has become an international armed conflict from what I argued last year was an internal armed conflict. Now I wish the answer could say was clear to that, it is not, and I want to just discuss a couple of the issues. Further more in the past couple of weeks there is another sovereign state that has become involved in an armed conflict and that is Iran which has also been shelling targets in the Kurdish region of Iraq. What we have now are three sovereign states involved in the situation that we're discussing today: Turkey, Iraq, Iran, and the group that you represent, the Kurdish peoples, a very complex situation, a very serious international situation. And I pose to you the question, why is it that this isn't the first item on CNN? Why is it that it is extremely difficult to even find media reports on what is happening? Israel and Gaza was on the TV 24 hours a day for weeks, and yet in March of 2008, 100,000 troops entered a sovereign state, and I challenge you to have found very many press reports about it. That in itself is a very interesting question. Why is the armed conflict in this region such a secret?

Secondly, a major issue that has arisen since 1995, when the first Turkish incursion took place into the territory of Iraq. Turkey argued that they had a right of self-defence and that their legal justification for the use of force was they were exercising their right of self-defence by pursuing Kurdish fighters into the territory of Iraq. Well, I've got news for Turkey. That is not an accepted justification for the use of force. If

it were, you would have to look at the proportionality and the necessity for the kind of force that Turkey is using in Iraq. 100,000 troops defined how many fighters. The proportionality is a very important question – what is the proportion of force in use? And again it is not a debate that is taking place, either in my field of international law, or in international public parlance. We aren't discussing why this is happening, and it's a very serious question. Furthermore, you have to look at not only the legal justifications for armed conflict, and I would suggest with the greatest of respect to the government of Turkey, that in fact, justifying a major incursion into another sovereign state to track rebels, well, think of the criticism that has been levelled against the United States for its so called 'war on terror.' There is no such legal justification as a war on terror. It does not exist in customary international law, nor in international treaties. It is not in the United Nations Charter. And the Charter indicates that it is against international law to violate the territorial integrity of another state, unless there is a legal justification based on self-defence. And the response has to be proportionate and necessary, according to the cases in the International Court of Justice, of Nicaragua, and the legality of the use of nuclear weapons. I would suggest that the ICJ has a good website, read some of those cases and you will get my argument that in fact the justification for the use of force may not quite be present in this circumstance.

Well that's the first part of my submission which is what is called the *jus ad bellum*, what is the lawfulness of the use of force. The second problem is the method of armed force, and as I said last year, it is not lawful in an armed conflict of whatever kind to target women, children or civilians. It is contrary to the four Geneva Conventions and customary international humanitarian law. Last year I didn't have a chance to finish my talk because we ran out of time but I wanted to say that there is often in the press a sense that because Turkey has not signed the two more recent protocols the Geneva convention, both the protocol on internal armed conflict and the protocol on international armed conflict of 1977 that they are somehow held to a lesser standard in humanitarian law. Well I helped to organize a project in London on customary international humanitarian law, and we found that most of the provisions in Protocol 1 and 2 were customary international law. Just to summarize those rules, they are the rules of distinction, proportionality, and military necessity. The only lawful targets are military targets. If you attack a military target, where there are civilians present, you have to argue that it is militarily necessary to take out that target; that it is of fundamental importance to your battle. I know some of you would like me to say that in all circumstances, civilians should not be killed. I cannot say that. There are circumstances where civilians will be at a military target, and as the rules of war state, civilians can be killed. But a commander, a military commander has an obligation under the rules – customary rules – of humanitarian law, to establish that that target is a lawful, legitimate target and necessary to the armed conflict.

Now I know I'm posing a lot of complicated questions that I hope you will just consider when you are dealing with the situation in Kurdistan and Turkey. The problem is that, I think that the silence has got to be broken in Turkey, in the sense that that

if there are violations of the rules of war, they should be stated to be such. Yes, there are many human rights violations that take place in south-east Turkey, but they also constitute violations of the laws and customs of war, and that a sovereign state that violates those customs of war has got international legal responsibility for ensuring that those violations cease.

My final argument is that there is an international responsibility when an armed conflict occurs, and this is particularly something I do research in. If there is an armed conflict, there is an international responsibility on all other nations - which includes the EU - to address the issue of the existence of the armed conflict and to attempt to secure satisfactory peaceful solutions. The general assembly of the UN adopted a policy called the 'responsibility to protect', and part of that responsibility is international responsibility to deal with situations where there are large-scale violations of the laws of conflict. And therefore the international community has a responsibility when, for example, what happened two weeks ago - a sovereign state shells another sovereign state and kills civilians, to deal with that situation. My question is, it's not just the EU's responsibility, although it is their responsibility, but it is also the responsibility of the United Nations. We've heard some criticism of the UN, and I certainly share that they desperately need some reform, but again this is a matter of international peace and security that engages the responsibility of the international community as a whole, and the international community as a whole should begin to at least discuss the situation and not keep it as the secret it seems to be.

Thank you very much.

Mark Muller

It is quite true to say as long as twelve to thirteen years ago, the KHRP took the case of *Issa v Turkey* to the European Court of Human Rights (ECtHR). The case concerned the murder of seven innocent shepherds in Northern Iraq when the Turkish military forces went in to create a buffer zone in their attempt to try and deal with the Kurdish problem and in particular the PKK. It is perhaps a measure of the failure of that policy that we are still talking, 13 years later, about bombs dropping on innocent villagers in northern Iraq. Throughout the last year or two, people from the Kurdish Human Rights Project, Kerim Yildiz and I have gone back to northern Iraq, back to those villages and we have seen the destruction of those villages, not just simply Kurdish villages, Yezidi villages, not just simply Muslim villages, but Christian villages. I can report, just as I reported for the European Court 13 years ago that bombs dropped from the sky don't discriminate against identity or indeed ethnic disposition. They fall where they land and they fall on innocent children, on schools, on farmsteads, on villages, and very rarely do they fall on their intended targets, because their targets are often hidden. We know that, the European Union knows that, NATO knows that,

the Turkish government knows that, and I hope that the incoming US administration knows that. You can't really bomb the physical manifestations of an idea, you can only bomb innocent civilians from the skies, and I think it is about time that we did call a halt to this type of policy. We've seen the results in Gaza; let's not see it repeated again this winter and spring in the hills of northern Iraq.

I'd like to say one or two other things about the wider political situation. I'll state for the record now that I don't believe for one moment that either President Gül or indeed Prime Minister Erdoğan is particularly enthusiastic about those cross border operations. In many ways in the last year they were played out as part of a chess game between the nationalist military elites in Turkey and the AKP government. And I think if anything in fact the failure of those cross border operations, the recent attacks of the PKK on Turkish soil, has if anything, dented the pride and standing of Turkish military forces, so that there is a new debate going on in Turkey, amongst not only civil society, not only amongst the Democratic Society Party (DTP), not only amongst the usual suspects, but in Turkish media and among business elites about the appropriate strategy to deal with the Kurdish conflict, and I think there's a renewed understanding that it cannot be dealt with by military means alone. I think that actually the AKP, President and Prime Minister may have an opportunity, once these local elections are out of the way, once the grandstanding is out of the way, once the short term political calculations are out of the way, they may well have an opportunity to once again reconfirm their commitment to the EU accession process, once again reconfirm their commitment to a constitutional reform process in Turkey and also once again, and for once to start looking at the Kurdish problem in a realistic way.

There are small elements of hope in the sense that Turkey has begun conflict resolution on behalf of other countries and there are talks between Syria and Israel, indirect talks, in the situation in Gaza, in the situation in Afghanistan, and I think amongst policy makers and indeed amongst probably the prime minister there is a growing understanding that if you really want lasting peace, if you really want democratic reform at home, you have to tackle the big political issues. And I agree with one of the comments recently of the panel that the European Union has to do that as well, it can't talk about accession gradualism, it has to make sure, especially in this year of change, in the Obama year of change, that we fundamentally grasp the issues. And so, I think, with the elections out of the way and with this conflict that is going on in Turkey between nationalists and military elites on the one hand and democratic forces on the other, although there's much pessimism, these are if you like the underlying tensions in Turkish society that are at last coming to the fore, at last being fought out in constitutional courts on the streets of Turkey and it's not a time now for Kurdish and Turkish diplomats and democrats to fall out, it's time to join forces and to push for real change in Turkey.

I think we have to make sure the European Parliament does everything it can. We have to make sure that the European Union presses the Turkish Prime Minister to do

everything he can. What has been missing is that this Prime Minister may go to the streets of Diyarbakır as he did in 2005 and make a speech. And he thinks a speech is in some sense a political strategy for peace. It is not. What the Turkish government has to do is not simply embark upon constitutional reform; it has to discover a viable mechanism for a platform for dialogue and peace. And that's where I think not only the EU can help, but the new US administration can help. And also partners, close partners like the UK, which is a strong supporter of Turkey, it has its strategic interests in Iraq, it also has a strategic interest in the EU, it has the experience of Northern Ireland and peacemaking there, which was an incredibly complex and difficult situation and it has the experience of devolution in places like Wales and Scotland. These types of EU member states shouldn't just stand on the sidelines worried about whether anchor is going to take umbrage them, they're getting interfered with what are deemed as internal problems. They should come to the fore and make sure that there experiences are communicated to the Turkish government and support progressive developments within Turkey because the reality is the Kurdish problem is an international problem, it will be an international problem for the Obama administration as it seeks to disengage from Iraq, that has huge consequences for the KRG and if there is going to be long term stability both for that regional government and for the state of Iraq, America must get this issue right this time.

I think there's a coincidence of geopolitical factors at the moment with the new administration appointing new envoys in Palestine, George Mitchell and Richard Holbrooke to Pakistan and Afghanistan, to start thinking about this region seriously, to start appointing envoys who understand this region seriously, and to being to put together a viable strategy for not simply change but for democracy, that's why I'm a little more hopeful than one might think when one looks at the situation in Turkey. I hope that these local elections will not result in violence and I hope that somehow when parties emerge from them they have a strong democratic mandate and I hope that this Turkish administration will once again, once it emerges, recommit itself to a process of reform and to open it's handout to it's Kurdish citizens and to all those Kurdish democrats to represent their citizens. And I think it must begin to do what every peace process in Europe and beyond has done when it really does talk about democratic change and a platform for dialogue, and that is talk to all the parties in this conflict, not only the PKK but also the KRG, and it's only if that happens that we'll have any chance of sitting here in this conference room one year from now with a sense of optimism.

Let's seize the day, lets seize the chance with this new administration, let's press all the buzzers we possibly can and send the message out from this particular conference, that once again people want a peaceful resolution to this conference, that the members of the EU Parliament that support this conference and the wonderful work that so many people do are not in vain, we hope and wish you success, and I look forward to the rest of the contributions of the panel. Thank you for letting me say a few words on the subject.

3.2 Prospects for a Democratic, Peaceful Solution to Kurdish Question

Adem Uzun

We are now at a stage where the forces of democracy and international public opinion are pressing Turkey for a permanent solution to the Kurdish problem. As the facts are well known, for decades past, the Kurds and the Kurdish movement had been subjected to ever-intensifying practices of oppression, torture, military operations both inland and abroad, with use of tanks and heavy bombings. However, despite all of these assaults, the Kurdish movement could not be eliminated. At this stage, a political change of direction has become inevitable for Turkey. Nevertheless, Turkey is still determined to continue with its liquidation policy. It is for this reason that instead of making constitutional reforms to acknowledge the Kurdish identity and rights, it suffices with some hollow, half hearted, fake steps in order to start propaganda, claiming to have solved the Kurdish question.

In the continuance of this process, Turkey will claim 'to have solved the Kurdish question, to have done everything that needed to be done, that there is nothing else to be done, and the rest is the problem of terrorism'. With this, and before the eyes of the domestic and international public opinion, there is an intention to complete the preparation for a massacre of the Kurdish movement. There are numerous examples in this direction that justify our concerns. For instance, in recent days public opinion has been dominated by an ongoing investigation called Ergenekon; in fact this is the 'state within state' or as it is popularly known in Turkey, the 'Deep State'. The investigation targeted a privileged section of the society, which has profited from all kinds of influence and which has been part of the existing regime for decades. However, this process resembles the reconstruction of the 'deep state' against the Kurds, because, instead of the Ergenekon investigation and trial turning into an Investigation of Truth Commission, in an exactly the opposite process, crimes committed in Kurdistan are not being investigated at all. For this reason, we are anxious that this investigation and debate are turned into a big deception. Consequently, only a short while ago, Tayyip Erdoğan, the Prime Minister of Turkey, confirmed how justified our concerns were when he addressed our people in Kurdistan by stating 'Love it, or leave it'

On the other hand, the popular official Turkish view still admits of no such thing as Kurds. If some progress has been made from the old Kart-Kurt⁵¹ to the present day where TRT, the state TV channel, is broadcasting in Kurdish, of course it is the result of the 30 years long struggle the Kurdish people fought. However, the Turkish state is using this situation to try to detach the Kurdish people from their struggle, to weaken their willpower and to suppress them. Other than this, and despite the Ottawa Treaty,

51 In 1980's the Turkish army disseminated lectures, claiming that the word Kurd originated from the crunching noise, ice and snow breaking under foot on frozen mountainous grounds, hence there was no such thing as Kurds.

Kurdish lands are being saturated with thousands of banned anti-personnel mines, while like the historic Hasankeyf, dozens of settlements are planned to be drowned by dams like Ilisu.

Non-stop air and ground bombardment of civilian areas of settlement are aiming to create military buffer zones against the Kurdish movement. Thus, a plan to develop a comprehensive military attack is afoot! Again, the Turkish Armed Forces are in preparation for a comprehensive cross-border war. In other words, it intends to shed more blood in Kurdistan. The intention is to adopt what is being practised in Palestine and to re-enact it in Kurdistan. To achieve this, the classic divide and rule, divide and suppress approach, is being tried to be employed. For this, relationships were established with Southern Kurdistan in order to step up these efforts to use Kurd against Kurd to ensure that one neutralises the other. Relations with Iraq and Iran should be set within this similar framework. The relationship with Syria is within the same framework. Within the same line, there is the fact of a strategic treaty and purchase of new armaments with Israel. Diplomatic efforts with the forces of Western capital are also within the same context.

This is all intended to make the world accept Turkey's actions under the policy of 'War against Terror'. Turkey's government and army have tried this method before. Upon the call from the Kurdish People's Leader, Mr Abdullah Öcalan, the PKK has accepted the call for a ceasefire and in 1998, declared it unilaterally. Following this, Mr Öcalan advanced the step even further in order to prevent the war from worsening as a result of the international conspiracy when he was taken hostage. And he called for the PKK to remove its military presence from Turkey. Despite having lost more than 300 guerrilla fighters in around 3-5 months, and the Turkish army not ceasing military operations, the PKK complied with this call and withdrew its forces. This meant a few years there as a long period of quiet. However, instead of the Turkish state seizing the opportunity to move towards a permanent peace, it fell into the misapprehension of 'having won the war, having defeated the PKK!' So no steps were taken towards peace and a solution. Quite the contrary in the post 9/11 period, taking courage from 'the war against terror' and the 'you are either with me, or against me' doctrine, Turkey escalated the war yet again. Thus, the dissolution was deepened further. At present, despite stating that they wasted the opportunity, they are none the wiser in repeating the same mistake. This has only one explanation. It means that the Turkish government and army agree on elimination mentality and have found support from abroad.

However, someone has to tell Turkey that it has not won any war, indeed that it cannot win this war, and that Kurds are not a gullible or ignorant lot; on the contrary, Kurds have placed themselves amongst the honourable peoples through succeeding in re-creating themselves. The Turkish administration should understand well that it could no longer rule Kurds in the old fashion. They have to consider seriously the democratic solution and peace. A denied Kurd and Kurdistan means an ongoing

problem, rebellion and external interference. It means the entire Turkish state and people's material and moral resources are being exhausted and rolling from one crisis to another. It means loss of esteem and strength in Europe, the Middle East and the world!

It is unfortunate that those profiting from the war in Turkey are being allowed to continue escalating it. There is no limit and boundary for these actions. As much as 80% of incidents that are taking place in Kurdistan do not get reported in the press. There is bombardment in southern Kurdistan (northern Iraq) every day. Dust and smoke raised by US and Turkish planes reach the sky, where it joins with that raised by Iranian cannon fire. All civilian Kurdish people in the region are forced to live in fear and panic. What we have here is a grand-scale brutality and intra-state terrorism. Secret meetings to liquidate the Kurdish freedom movement are continuously being held. This approach will not only fail to solve the problem, but it will also shed more blood. Unfortunately, the EU countries do not act on this matter.

The EU Progress report on Turkey was published 2 months ago. The report criticises Turkey on some matters, but fails to address the conflict in depth. In other words, Turkey's failure at democratisation, the army's hegemony in politics, its disregard for human rights and freedoms are not considered from the perspective of the inability to solve the Kurdish question, which is essentially the most basic reason for the these failings. Also the recently published WEU report addressed the question in a similar logic, which is essentially concerned with listing the methods how to liquidate the Kurds. More and similar reports could well be quoted. What we essentially would like to point out is that the EU's approach is prejudiced, more so, it regards the matter within the framework of the demands of the Turkish state. Let me explain: the EU reports portray the Kurds as bad, and uses all the Turkish Government's sources as their data. Due to both the EU and Turkey not having any project, these reports are full of contradictions. As a result, the EU reports justify the state violence. So much so, that they justify aerial bombardments and land attacks on the southern Kurdistan, i.e. northern Iraq. The EU report also consents to extra-judicial executions of Kurds, because it does not base any of the accusations against Kurds, such as "List of Terror" on any concrete evidence. The EU report also shows that European states are being taken hostage by US and Turkish policies. The EU reports tend to impose [conditions] upon Kurds, even ignoring their democratic rights by telling Kurds what kind of leaders they should choose for themselves.

However, a more objective approach will not only open the way to a democratic and peaceful solution to the Kurdish question, but also pave the way to stability in the region. We think it is time to see that the Kurds, who are divided into four countries in the Middle East, are the key to democracy. But, as a result of approaching to the truths from wrong angles due to economic, military, diplomatic and political interests bring about greater instability, more clashes and wider breaches of human rights. Unfortunately, the outgoing EU commission's practices bring about exactly that situ-

ation. Let us hope that the incoming EU commission due to take over in June will not repeat the same mistakes.

We are here today to acknowledge that this cannot go on as it is and a solution is to be found. A lot of debates are being held, a lot of reports are being published. We believe a permanent solution is possible. Starting from the obvious fact that a solution to the problem will have a direct impact on the peace and security in the region and the world, I will try to portray the Kurdish point of view. It will be observed that if the approach is the correct one, the Kurdish question is the key of democracy not only for Turkey, but also for the entire region. The opposite is to gain permanence to instability. In this context, whilst we have historic opportunities to solve the question, we also have the grave risks of new massacres and wars in failure. It is therefore beneficial to look into perspectives of 'Kurdish Solution' in this context.

Three Alternatives for Middle East to choose

Due to the correlation and direct influence upon each other, if we were to look into the Middle East first; it is obvious that in the era of transition to democratic civilisation, the peoples of the Middle East have three main alternatives to choose from. The first one is the continuation of the 'established regime', i.e. preserving the status quo. Thanks to the system of the established balance of the 20th century, this is the regime that has survived so far. But, both the hegemonic power of the system from above and the awakening of the peoples from below makes it impossible to maintain the status quo forever. The status quo, which tries to turn dissolution into a way of existence, when forced, applies a bit of make up on its face, and/or tries to extend its life expectancy through conspiracies, is in the process of deepening isolation.

The second alternative is the mixed democratic regime with limited application, with greater emphasis towards practical aspects. The era makes interdependence more and more prominent. The third stage of globalisation expedites this process. Also, the intra-national period leads the way to intra-corporatism. Nation state more and more becomes a corporate state. National capital is being replaced by intra-corporate capital. On the other hand, local cultures are getting more and more animated. Domesticity becomes the rising value. In brief, this alternative can be described as globalisation and domestication gaining prominence under the given influence of these elements. Whilst this is the worldwide ongoing process, seemingly it is gaining probability, more so for the countries of the Middle East. The inevitability to supersede the regimes of the old status quo renders this choice current and popular.

Our third alternative is the peoples' democratic, ecological society based on freedom of the sexes, attaching great importance to morality and is not focused around the state. If the peoples and various free communities learn to live by developing the internal democracies, securing the social freedoms of the sexes, and meeting the eco-

logical needs of the society, will enable us to get closer and closer to such a society and democracy.

If communal society and ethnic social arrangements, which are closer to equality, and which the peoples of the Middle East have lived through for a long time are amalgamated with the means of science and technology of the modern era, a more developed, democratic, ecological society, based on freedom of the sexes will be epitomised as the most noble value.

Three Paths for Turkey

Under the light of these alternatives, if we look at the reality of Turkey, we are faced with three paths and three tendencies. In the process of reform and transformation based on the Kurdish question, these three paths and three tendencies will try to remain permanent through the struggle between the relations and contradictions of the parties. The logical, moral and political education, organisation and action aspects of the struggle itself will determine which path and which tendency will remain permanent and dominant.

The first path and tendency is the pro-status quo, inward-looking, divisive and violence inducing nationalist paradigms and practices that had been exercised in the recent past. This tendency is charged with a racist nationalism on the Turkish side and by definition it is very hard-line statist old fashioned conservative without distinguishing between left and right. Armed with “a state of permanent paranoid perception, as a state, a nation, even a society they are under the impression that the last bastion of Turkishness is about to fall, the honour and true faith is at stake, and their schizophrenia is beyond salvaging. It does not neglect the requirements of Islam either, believing that this state of mind will sort out the situation anyhow. As opposed to a true conviction, a showpiece of Kemalism, is the widespread stance both within the state structure and the wider society. This tendency’s reflection upon the Kurdish politics is the form of rejectionism, ‘out of sight, out of mind’ attitude, keeping Kurds excluded from the society and when rebelled, to suppress them with extreme prejudice.

The second tendency and path has emerged from the first one by means of an alienation process. It may also be called the weak liberal bourgeois path. The real emergence of it coincides with the globalisation boom of post-1980’s The ANAP⁵² experience, lead by Turgut Ozal was the first version of it. It aims at joining the supranational tendency for globalisation. By definition it is not anti-oligarchic. It is far from being fully open to democracy. Rather than being truly democratic, it satisfies itself by exploiting democracy as a means to its own interests. Its clash with the previ-

52 Anavatan Parti- Motherland Party, a liberal-reformist party of 1980’s and 1990’s. Still in existence, hence a minor party without deputies.

ous tendency is on the basis of which one would manage to be more dominant. AKP⁵³ is seemingly on the path of becoming the second version of it.

There is a strong possibility for its mask to fall especially regarding its approach to the Kurdish Question. It cannot possibly fight for long by hitting beneath the belt. Consequently, the AKP has no peaceful project regarding the policy on the Kurds. Although enthusiastic about harmonising with the West, it is not strong enough to determine a policy, let alone exercising it. Its entire hope depends on external forces having their turns to attack the PKK. Progressively it is becoming obvious that they wish to achieve certain goals by being semi-covert and not showing their true colours.

The third path and tendency is focused on civil democratic society and its base is the peoples' search for equality and freedom under co-joint democracies. By smashing the racist chauvinistic code of nationality, this can be the common denominator of all cultures. Instead of the race based nationhood, it relies upon the country based notion of nationhood. The learning of, and the use of all languages, their unbound use without any restraint is a modern and widespread practice across the entire world. The reform of the state is based upon liberating the state from the ideological role and to turn it into a technical means of service. The existence of cultures that are protected by international agreements, their free expression and continuing survival, the right to be free from being based from any ethnic entity, and not to press for any religious and sectarian segregation are the elements that need reforming.

Reforms that are not based on 'Uniformed and Impoverishing Homogenous Equality' as opposed to 'Equality in Difference, Wealth in Difference', are being guaranteed by constitutional protections. It takes comprehensive precautions against mentalities and applications whereby women are treated as property. It adopts the mentality that a truly free society can only be possible by means of ecological. It also embraces so many but so much important elements. The materialisation of this is closely related to the solution of the Kurdish question. The reflection of this tendency to the Kurdish question will be the foundations of a peaceful and democratic solution.

Kurdish Phenomenon and the Kurdish Question

As I related above, in order to materialise each alternative in the realities of Turkey and the Middle East, a realistic approach to the Kurdish phenomenon, which plays a fundamental role to materialise those alternatives, has become imperative even more so then ever before. The truth that has been acknowledged by everybody is that we have entered into an era that Kurds can no longer be ruled in the old way. For this reason, there is a great unease in the region. None of the established regimes are con-

53 Adalet Ve Kalkinma Partisi-Justice And Development Party. Presently in power. Centre-right reformist party with religious undertones

fidant any more. Nobody is sure as to what the near future will bring. Every single day will bring about elements that will affect the disintegration in the Kurdish phenomenon. As to how the solution will emerge, in which direction, will be determined by the qualities and the tempo of the forces intervening to the praxis. As to whether the process will reach a solution on the basis of the clash of two nationalisms, or whether it will reach a democratic compromise has entered into the agenda as the most burning two questions. For the first time ever, the internal relations of Kurds and their relationships with the neighbouring ethnicities and states has become an issue that concerns the regional strategies. Kurdish-Arabic, Kurdish-Turkish, Kurdish- Farsi relationships have entered into an era that keeps so many minds busy.

Under the given conditions two possible developments may be the subject of a democratic solution. The first mode of solution is closely related to democratisation process hand in hand with Turkey. To ensure this, as we have briefly dealt with, a state reform is essential. There is a necessity to avoid putting visible or covert barriers in the path of democratisation process of the Kurds and the practice of turning laws into obstacles must be abandoned. Constitutional amendments must be made. Turkish and Kurdish peoples meeting on a common democratic platform necessitates some arrangements. The parties of the problems must be taken into account. Here, the position of Mr Abdullah Öcalan, the leader of the Kurdish people gains great importance. Compromise and dialogue must be developed with Mr. Öcalan. Also; to end the clashes and achieve lasting peace a mutual ceasefire must be maintained.

The second path to a democratic solution is for the Kurds to establish their own democracies. If the first path is blocked, the path to enter is to establish the rules and bodies of democracy on their own. The latest local and general elections clearly showed that despite Kurds elected their own candidates, undemocratic laws and obstacles prevent such elections and their results from being enforced. In the future if the prohibiting practices continue, the self-imposed democratic applications of the Kurds will be more expedient.

Other than these, the remaining avenues are denial and suppression on the one hand and rebellion against such policies and war. The history is full of lessons on the subject. Whilst the cries for democratization and democratic solutions are continually rising, they are yet to take their deserved places on the political agenda. Not so surprisingly, however, many European, countries, even some African, Asian and American countries too, have intensely applied the democratic model upon the problems regarding cultures and peoples. This is the path that the world has taken. The time has come and almost too late for those countries concerned with the Kurdish 'question', perhaps Turkey first and foremost, to tow the line.

Dr. Dirk Rohtus

In the last few years many Turks have started to realize themselves that the denial of the Kurdish identity cannot be rationalize away the Kurdish 'question'. The Kurdish question is more than a matter of so-called 'terror', because it was there long before the PKK. It is also more than a socio-economic problem, because it is also about the cultural rights of a certain ethnic group. The Kurdish question has further reaching consequences too as it also decides about the structure of the Turkish state and the way in which democracy is being organized within that state. It is of no use to restructure the state if democracy is not following. The decentralisation of the Turkish state does not bring forward democracy if the bureaucratic and semi-authoritarian way in which a centralistic state is being governed would be duplicated or reproduced on the regional level. More important than federalism is democracy. Yet democracy can be strengthened by indeed federalism or at least cultural autonomy. The organization of the state in line with cultural diversity, for instance by granting cultural autonomy, is serving democracy when policy is coming closer to the citizens and so will be controlled much better by citizens participating in the democratic process.

A first step towards the solution to the Kurdish question would be the recognition by the Turkish state that the existence of another culture and another identity, the Kurdish one, does not have to be a threat to the Turkish Republic. The EU and Turkey also have to agree on a common definition of the concept 'minority'. Turkey still refers to an 86-year-old treaty, the Lausanne Treaty, in order to reduce the concept of 'minority' to the non-Muslim groups on its territory. The EU however understands something else by 'minority'; A group which is different from the dominating group by speaking another language or having another culture. The Kemalists are still seized by the concept of the state resting on one nation as it was current in the West until 1945.

A hundred years ago Europe meant 'nationalism' the oneness of state and nation. Today Europe means 'multi-ethnicity', a post-modern concept. The oneness of state and nation is being defended by Turkish nationalists with the argument that it is all about 'civic nationalism' being so much more civilized and rational than 'ethnic nationalism'. But if one looks closer, one sees that civic nationalism is in fact the nationalism of one dominating ethnic group, dominating in this sense that the language and culture of this group has been or has to be assimilated by other numerically smaller groups within the borders of that same state. The language of that 'civic nationalism' is the language of a certain group which has persisted due to numeric and/or military power. To expect from the Kurdish people numbering almost 15 million that they should assimilate in the name of 'civic nationalism', is asking them to give up their identity. A country that wants to become member of the EU must comply with this European narrative of attention and respect for minorities. As long as Turkey does not show any self-critical openness towards the 'Other', also within its own state and

society, the EU citizens will continue to frown, as the EU is built on a diversity of languages and cultures, even within its own member states.⁵⁴

So the first step is change of mentality, a mental click that the Turkish people have to make in order to progress from the modern to the post-modern state that integrates multi-ethnicity and multilingualism into its structures. That change of mentality has to break through the vicious circle of violence: the hardliners within the Turkish establishment use the violence exerted by the PKK as a pretext for a military approach of the Kurdish question. The violence by the one will always prompt the other one to violence too.

The second step contains two kinds of concrete measures: on the one hand those which must prepare the field for peace and reconciliation and must make an end to violence and regulate violence-related aspects like amnesty, the village-guards and the return of internally displaced persons; on the other hand those which would guarantee the expression of the own cultural identity. In a report of NGO's from the south-east some are named like 'the opening of Kurdish Studies faculties at universities and the use of Kurdish in local administration as well as in schools as elective course'.⁵⁵ This sounds still modest and if cultural autonomy is built up around these elements, there might not even be a need for federalism. Does the creation of TRT 6, the Kurdish channel on Turkish state television, prove that the Turkish government has a 'Kurdish plan'? According to the ESI-analyst Ekrem Eddy Güzeldere in the Turkish Policy Quarterly there is not much to discern yet.

The party program of the AKP looks promising when it says: 'On the condition that Turkish remains the official and instruction language, our Party regards the cultural activities in languages other than Turkish, including broadcasting, as an asset which reinforces and supports the unity and integrity of our country'.⁵⁶ The above mentioned change of mentality also appears from the use of the phrase 'being a citizen of the Republic of Turkey' instead of 'being a Turk'. The draft for the new constitution laid out the notion of citizenship and cultural and civic rights for different groups. But the government program is disappointing as it reduces the Kurdish question to a matter of economy and infrastructure. Güzeldere writes that the party program and the draft for a new constitution show that 'the AKP knows what should be done in the cultural and political field'.⁵⁷

54 Dirk Rochtus: Self-Criticism Gives Entrance to The Western Way of Thinking, in: Zaman, 16.12.2006.

55 http://www.haberDiyarbakir.com/news_detail.php?id=9252, 8 April 2008.

56 Quoted by Ekrem Eddy Güzeldere, "Was there, is there, will there be a Kurdish Plan?" Turkish Policy Quarterly, vol. 7, no. 1, spring 2008, p. 102.

57 Ekrem Eddy Güzeldere, op.cit., p. 110

The change of mentality also requires the courage to tackle the problem and to carry through the necessary reforms. But the question now is whether this will still be there, now that Prime Minister Erdoğan spoke in November 2008 about the 'one nation' and thus subscribed to the founding myth of the republic? The solution to the Kurdish question holds the renewed foundation of the republic as a multi-ethnic state. The accession to the EU as a post-modern entity presupposing the transfer of sovereignty to a higher authority could lend a hand to this process. The accession of Turkey to the EU would be comparable to a new Lausanne, be it not as a 'birth certificate', but rather as rite of passage into a post-modern world whereby some of the antiquated principles of Lausanne – such as unrestricted national sovereignty, cultural uniformity and the dominance of one ethnic group – would be shed. Yet the Kurdish question has to be resolved irrespective of Turkey's ambitions to become an EU member. It has to find a resolution for its own sake and the sake of peace and democracy.

3.3 Is Turkey Ready for a Dialogue with Kurds?

Hans Branscheidt

I think that it is not only a psycho-analytical approach but also a phenomenon in history and there is an historical aspect. That is what we are experiencing today when we talk about issues in Turkey such the Ergenekon complex. It has emerged again and has become yet more clear, that which had been suppressed by violence and force and which earlier, was even forbidden to be talked about: Organised killings, a whole system of organised criminality; Vicious attacks against Kurds, including attacks against suspected or actual members of the PKK, including PKK sympathisers. Targeted murders were carried out, for which the blame was laid at the door of the PKK or Kurds

The seriousness of these crimes is breathtaking, and the victims and the wrongly accused need to be comprehensively rehabilitated, while the perpetrators and those responsible should be severely punished. There is another thing that is also striking: the entire method, the procedure itself, which has been applied. If people are systematically murdered, because they are Kurds, and then there is prevention from identifying the victims, then their human existence is being denied.

The power elites of Turkey presently involved in trying to settle the Ergenekon complex amongst themselves, and this is connected with the democratic process. Things that have been suppressed in the past are coming back although they would still like to keep them under control. This would be called white-washing in Germany. What do we want? What are we discussing in the EUTCC? What do we mean when we say that it is time for change in Turkey at our conferences? Firstly we are calling on the EU institutions and also on the member state governments and civil society in

Europe and Turkey, above all before the opening of further negotiating chapters, to be consistent in their approach. That should be an open process for truth and reconciliation. One possibility would be to have a democratic, non-state actor platform in which all could participate, with no-one being excluded – specifically a ‘Truth Conference’ in which all those involved in the dreadful events of the past, and were most affected by them, could take part. Nothing would be more negative than hide again the events of the past. It would be of great interest to the world, if the European Union would support such a cathartic process, a crucial support of accession talks, perhaps under the auspices and supervision of designated honourable persons and entities who are highly respected internationally.

Such a procedure would not necessarily be a formal part of accession talk (which is probably not something that the official Turkey wants to see), but a separate process involving both Kurdish and Turkish civil society with democratic authority and presented in Ankara or Istanbul or Diyarbakır. It could be a general conference to talk about the democratic future. I think that my colleague from South Africa will clarify that. Anyone who participates, can and should look at all aspects and bring the dimensions of the ‘deep state’ to light. Kurds may link to their history of denial and persecution and others, if they want to, can criticise the PKK or criticise the Kurds. Everyone should be able to do this sort of thing. They should be able to do that in openness and in a transparent way. It’s not about keeping something quiet, it is about mutual discussion and this is only possible if they can deal with looking back at painful memories.

Let us remember that Lausanne is also part of this process. The Treaty of Lausanne in 23 July 1923 formed Iran, Iraq, Turkey and Syria and meant that there would be no more Kurds. At the end of last year, Swiss President Pascal Couchepin and his Turkish counterpart Abdullah Gül celebrated the relationship between the two countries and the reconciliation of the two states with great symbolism. As a sign of special connection Couchepin handed the government in Ankara as well as those present the original table that had those who signed the Lausanne Treaty had been sitting at and it is now in Ankara. If that wasn’t an meaningful symbol of history!

The ‘table of Lausanne’ must currently be re-constituted in a historical-political sense and provide the following results:

- A new, approach by the Turkish government towards the Kurdish issue.
- A direct, open and historical sense of appreciation in dealing with the Kurdish issue so that it can be resolved.
- An end to the exclusive focus on military methods, violence and repression
- End the bombing of Kurdish villages and areas on Iraqi territory.
- Establish a proper dialogue to shape a common future and a prosperous development in the Kurdish areas of Turkey.

- A comprehensive and general amnesty.
- Freedom for Kurdish language and culture and its institutional recognition and care.

That is something that we realise is difficult to achieve. It requires diplomatic skill, sociological imagination and intelligent dialogue strategies.

We have said it is ‘Time for Change in Turkey’ and I would like to add today that it is also Time for Change in Brussels!

3.4 Lessons from International Peace Processes

Brian Currin

Lessons Learnt From Peace Processes in South Africa, Northern Ireland and the Basque Country

There must be a shared preferred need by the protagonists at a political level, for a peaceful, negotiated resolution.

A preferred need means that in the minds of both sides there is no better alternative to a negotiated one. For as long as either party has a perceived better alternative the chances of launching a peace process are remote. This is especially the case if the state party believes that a solution is possible through pursuing a security option rather than a negotiated one. Relentless application of special security laws, strictly enforced, aggravate the situation and create a fertile breeding ground for recruiting militant opposition forces.

My experience has been that when the state party realises that a security option on its own will not provide a resolution and opts for a negotiated resolution the non-state opposition party generally, although not always, engages. Engagement also depends on other factors, which I will refer to later.

By the late 1980’s the apartheid government was under huge international pressure and sustained mass action internally. The very survival of the Afrikaner (whites generally) was under threat. It is also important to note that the international environment had changed (disintegration of the Soviet Union and the end of the Cold War) which removed the apartheid government’s fear of a “communist onslaught”. In the minds of most white South Africans the ANC was communist inspired and communist supported.

On the other side the ANC and other liberation forces had no desire to inherit a wasteland. Also, the armed struggle had run its course. The militants accepted that there would never be a military victory and that it was time for a new strategy. Fortuitously both sides came to a preferred need for a negotiated solution at about the same time.

In Great Britain and Northern Ireland unofficial talks between Westminster and Irish Republicans had been on and off from the early 1980s. The conflict in NI was costing Britain huge amounts in money, human resources and in reputation. Britain needed and wanted a resolution. Like the ANC a few years earlier, Republicans also believed that the armed struggle had run its course and that they would achieve more through a strategy of engagement and negotiations.

In Spain, there does not seem to have been compelling reasons for Madrid to resolve the conflict with Basque nationalists through negotiations. They have the upper hand in applying a security strategy and the world (importantly Europe) seems to hold the view that there is no merit to the Basque cause. The international perception appears to be that the vast majority of Basques are content with the current constitutional dispensation and that the conflict is caused by militant extremists and terrorists Euzkadi Ta Askatasuna (ETA) whose demands are irrational and unconstitutional. This perception enables Madrid to wage its own war against terror with international support.

Political leadership must have the support of the armed forces: army and police on the side of the State and; non statutory militants on the side of the oppressed.

This factor might be glaringly obvious. However, many attempted peace processes have failed because the negotiators on either one or both sides have not had the support of the armed forces. A recent example that immediately comes to mind is Zimbabwe. After last year's elections when the opposition MDC won the majority seats in parliament and Morgan Tsvangirai defeated Robert Mugabe in the presidential race, Mugabe was, according to reliable sources, willing to relinquish power. However, his army generals who fear prosecution for atrocities committed over many years pressured him into holding onto power.

Even at this stage after the establishment of a government of national unity with opposition leader Tsvangirai occupying the post of prime minister, the security forces continue to follow their own agenda. An MDC appointed deputy minister has been arrested and remains in prison. These actions undermine attempts to establish trust between the protagonists and as such undermine the peace process.

Similarly in Spain whilst Madrid was negotiating with the exiled pro- independence left (ETA), the security forces, supported by a conservative judiciary, continued to vigorously implement stringent security measures and by the time the peace process

collapsed virtually the entire internal leadership of the pro-independence left had been imprisoned. Of the approximate 300 convictions from mid 2007 to early 2009, the vast majority were for non violent offences.

During the peace process in South Africa there were elements (albeit a minority) from within both the police and the army who were opposed to a political settlement that would result in a black majority government. They engaged in covert activities intended to precipitate violence, chaos and anarchy. Their intention was to sway white public support away from a negotiated settlement with “the enemy” and revert to a security option even if that meant a military coup. Initially, no one knew who was responsible for the assassinations of ANC leaders and massacres of ANC supporters, although the ANC strongly suspected it came from within the security forces. This put considerable strain on the negotiations and eventually Nelson Mandela withdrew the ANC from the peace process for about 8 months. Under pressure from opposition forces and civil society, President De Klerk appointed a commission headed by a judge to investigate the ongoing violence. The commission concluded that the violence was indeed initiated by elements from within the security forces, subsequently referred to as the “third force”. Once their existence was acknowledged it became possible to deal with them: arrests and prosecutions followed.

In Northern Ireland, the Good Friday Agreement (GFA) was signed by all the major parties in April 1998. Its purpose was to lay the foundation for a lasting settlement. Relevant for present purposes is that the GFA made proposals for the decommissioning of paramilitary weapons and the future of policing in Northern Ireland. Commissions were established to oversee decommissioning of weapons and transformation of policing. The Royal Ulster Constabulary (RUC) was perceived by catholic republicans as a British security force trained and mandated to preserve Northern Ireland as a protestant land for a protestant people. The RUC was around 95% protestant and undeniably a highly politicized organisation. For many of its members catholic republicans, even those who were not active IRA volunteers, were regarded not as fellow citizens but as enemies of Northern Ireland. There had been collusion between elements within the RUC and pro-state loyalist paramilitaries so there was certainly a risk of an armed anti peace process force.

The establishment of a special commission on policing, in terms of the GFA, to investigate and make recommendations on the transformation of policing in Northern Ireland was a public acknowledgement by the state that there was a problem with policing that had to be resolved. The commission placed policing on centre stage subjecting it to constant public scrutiny and engagement by all the political role-players. As a result policing in Northern Ireland transformed slowly but steadily and in pace with other elements of the peace process. Nine years after the GFA, the republicans officially embraced policing and encouraged their supporters to join the Police Service of Northern Ireland (no longer the RUC). The incremental transformation of policing running parallel with political transformation neutralized the risk of ideo-

logical divergence between political leadership and the police at a top level, district level and local station level.

The power relationship between political leadership and military leadership within liberation movements / terrorist organisations is of critical importance. The militants' role is central during the pre-negotiation phase when issues such as ceasefires, indemnities, return of exiles, a moratorium on prosecutions, release of prisoners and decommissioning of arms are discussed. The substantive issues that require resolution in the negotiation process are inevitably political / constitutional issues. These negotiations are lead by the political leadership. It is essential that there are unhindered channels of communication open between the political leadership and the militants, and that once mandated political positions have been tabled for negotiations, the militants subject themselves to the political negotiation process. Unilateral breaches of ceasefires have devastating consequences. Importantly, much of the hard earned trust built at a political level is destroyed.

In both South Africa and Northern Ireland, there was convergence between political leadership and military leadership. The top leadership of the ANC and their armed wing, Mkonto we Sizwe (MK), overlapped considerably. Fortunately, the history of the relationship was such that when political decisions were made by the ANC, this was done in consultation with MK and when these decisions were implemented during negotiations there was discipline within MK and the decisions were respected by MK. The relationship between Sinn Fein and the Irish Republican Army (IRA) was similar.

This has not been the case in the Basque Country. Because there was no significant pre-negotiation phase to deal with issues such as the release of prisoners and the return of exiles, the channels of communication between imprisoned and exiled ETA leadership and the internal political leadership were complicated. As a result their respective agendas and strategies were at times divergent. When political negotiations deadlocked, instead of allowing the negotiators to resolve their differences, ETA resorted to bombings and killings. The consequences for the peace process were dire: the Spanish government felt betrayed and embarrassed. President Zapatero had, only days prior to a 500kg bomb being detonated at the Madrid airport, told the Spanish people that negotiations were progressing well. In Madrid's mind they were negotiating with a political front that was subservient to hard men in the military wing, which, from their perspective made political negotiations untenable; it was as if they were negotiating with guns to their heads.

There must be a shared sustained commitment by the protagonist to a peaceful, negotiated resolution.

This is different from having a preferred need for a negotiated resolution. Having the need is one thing – it is entirely different from having the commitment.

A shared sustained commitment requires that both sides must have a degree of trust in one another and a belief that a mutually acceptable resolution is achievable. There must be a shared vision for the future – not in the detail but at least in broad terms. It implies a willingness to negotiate in good faith and a willingness to make concessions.

Good faith negotiations are about exploring needs and interests to achieve a win / win outcome rather than about using power to force an opponent to accept a demand from a position of weakness.

When political negotiations commenced in South Africa there was a broad mutual understanding that a resolution would entail: the end of apartheid and the end of legislated racial discrimination; a new democratic dispensation in which all citizens, irrespective of race, would have an equal vote and that there would be mechanisms in place to protect the fundamental civil and political rights of all. There was a shared vision, albeit in broad terms, of a future South Africa in which the rights, needs, hopes, expectations and fears of individuals and of divergent groups would, somehow, be addressed. Subject to negotiations was the how – the detail: the nature of the state – a unitary state or a federation?; how fundamental human rights of citizens would be protected – through minority group rights or individual human rights?; what would be the constitutional principles on which the Constitution would be based?; what process would be followed in the drafting of a new constitution and who would participate in that process?; what would be the nature and form of transitional justice mechanisms?

There is also a broad shared vision of a new dispensation for Northern Ireland. The successful outcome of the peace process is premised on four fundamental principles, which required concessions from major stakeholders:

- From protestant unionism, an acceptance that Northern Ireland is not a protestant state for protestant people and that the catholic nationalist / republican tradition is of equal value and that all citizens are entitled to share equally in rights and opportunities irrespective of tradition or religion;
- From catholic nationalism / republicanism an acknowledgement that Northern Ireland is legally and constitutionally part of the United Kingdom, a willingness to operate within that context and to effect political change through peaceful democratic means only;
- From the government of the Irish Republic an amendment to its Constitution by deleting clauses which lay claim to Northern Ireland being part of a united Ireland;

- From the British government an agreement to relinquish its sovereignty over Northern Ireland should the majority of its citizens vote in favour of a united Ireland in a national referendum.

If one considers these constitutional concessions in the context of the Israeli / Palestinian dispute it is not difficult to realize why there is no progress. There is little evidence of a shared vision or of mutual acceptance of fundamental principles such as the withdrawal of Israelis from unlawfully occupied territory on the one hand and the recognition of the Israelis' right to nationhood on the other hand.

I see no evidence of a shared vision between Madrid and Basque nationalists. The Spanish government is not even prepared to allow the Basque people to publicly express their own vision about their future. The Spanish government used the courts to interdict the Basque President from consulting his own people by way of a non-binding referendum about their right to self determination.

Great leadership is a bonus – the Mandela factor

Leadership is an acquired skill either naturally acquired or learnt, which enables a person to effectively influence others to accomplish a mission, task or objectives. So an effective leader is one who succeeds in influencing others to accomplish a mission, task or objective.

But this is not just about effective leadership, it is about great leadership. Dr. Hendrick Verwoerd, the so-called father or architect of apartheid was a very effective leader. His objective was to persuade four million white South Africans that South Africa was a gift to them from God and that the 20 million indigenous black South Africans were in fact not South Africans at all, and therefore, could not enjoy civil or political rights in the country of their birth. The fact that the majority of white South Africans believed in that myth for 40 years says something about the effectiveness of his leadership skills and those who followed in his footsteps.

Hitler too, was a very effective leader. In mastering his ability to influence his followers he had a keen appreciation of the value of slogans, catchwords and dramatic phrases. In explaining his method he once used the following figure of speech, 'There is only so much room in the brain, so much wall space, as it were, and if you furnish it with your slogans, the opposition has no place to put up any pictures later on.'

To abuse the need and tendency which people have to feel comfortable in a homogeneous group, and to systematically reshape that comfort and preference into a negative bias, a disliking, a distrusting, a hatred towards another group, must surely be the antithesis of great leadership. It is planting, feeding, nurturing and abusing prejudice for power.

What then are the characteristics of a great leader?

1. An honourable character

A person with unquestionable integrity – someone who can be trusted unreservedly. I have defined leadership as an acquired skill that enables a person to effectively influence others to accomplish a mission, task or objectives. Surely great leadership, in the context of political leadership, demands *integrity of the cause* over and above integrity of the person? Is the integrity of the cause not one of the factors that distinguishes great leaders from effective leaders like Dr. Verwoerd? He may have been brilliant in every respect, but his cause, which was premised on prejudice, was doomed to fail.

2. Fairness

Great leaders epitomise *fairness* in what they do, what they say and how they deal with all other people. Nelson Mandela does not seem to carry with him an iota of prejudice. Since the day he walked out of prison 19 years ago after having spent 27 years behind bars, his lack of prejudice enabled him to be unscrupulously fair in what he has said, in what he did and how he has treated all South Africans including those who stole from him the best years of his life. The vast majority of white South Africans would have rejoiced had he been sentenced to death and executed, rather than to life imprisonment. Today, virtually every South African irrespective of race reveres him. That is the power of fairness in leadership.

3. Flexibility

Great leaders have open minds. They are open to persuasion to other view points if they have merit. They have the ability to appreciate that their own reality is not the only reality. They are able to stand in the shoes of their adversaries and see the world from their perspective.

4. An effective communicator

Was Hitler an effective communicator? He was certainly successful in cluttering the walls of peoples' minds and in getting his message across. But communication is surely a two-way process. Listening, hearing, taking on board what others are saying, giving effective feedback so that the other side knows that you have heard and understand their perspective, are on the essential other side of the communication coin. An effective communicator is an effective negotiator for peace because effective communicators are able to get into other peoples' shoes and see the world through their eyes.

Nelson Mandela was an exceptional leader. There have not been, and there will not be many more, Nelson Mandelas. What is needed, at least, is a core group of leaders from all sides who, as a collective, are able to demonstrate a preponderance of the essential characteristics of great leadership.

There needs to be an enabling environment for a negotiated resolution – essentially a levelling of the playing fields.

At the height of a violent political conflict a power imbalance in the relationship between the state party and the militant opposition is the norm. The period preceding a mind shift to a preferred need for a negotiated resolution is mostly characterised by a surge in oppressive security legislation in a final attempt to achieve a resolution through power and force. For negotiations to succeed there needs to be some balancing in that power relationship between the parties.

Levelling the playing field mean undoing much of what was done whilst the state was driving a security resolution. Typically it would require:

- Unbanning organisations that were regarded as unlawful or terrorist;
- Unbanning and or releasing from prison key political prisoners, particularly those in leadership positions whose participation in negotiations would be essential;
- Passing laws that would provide indemnity from prosecution of exiled leaders to enable them to return home and participate in the peace process;
- Suspending the most stringent security laws;
- Ensuring that there is no undue harassment of opposition forces by members of the security forces who are resistant to change;
- Declaring a moratorium on pending political trials;
- Making essential resources available to opposition forces so that they able to enter into negotiations with the necessary support structures – office accommodation, admin support and research capacity.

The apartheid government implemented most of these proactively. Their biggest challenge was to control third force elements in the security forces, which, as mentioned, resulted as some stage in the ANC's withdrawal from the negotiations.

In Northern Ireland, these issues were dealt with in the Good Friday Agreement (GFA) which included proposals on the decommissioning of paramilitary weapons, the future of policing in Northern Ireland, the unbanning of paramilitary (terrorist) organisations and the early release of paramilitary prisoners.

The body of the GFA opened with the words: "We, the participants in the multi-party negotiations, believe that the agreement we have negotiated offers a truly historic op-

portunity for a new beginning.” It referred to “tragedies of the past” that had left “a deep and profoundly regrettable legacy of suffering”.

The opening statement went on to say that the participants reaffirmed their total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and their opposition to any use or threat of force.

By contrast, in the Basque Autonomous Community (BAC), the Spanish government made no attempt at levelling the playing fields. Instead they consistently did everything in their power to weaken the pro-independence left. Batasuna remains banned and every attempt by pro-independence leaders to form a new party has been stopped. Meetings with representatives from the left are unlawful and as a result leaders of other parties in the Basque Country, including the democratically elected President of the Basque Country, who engaged with the left, were prosecuted.

During the past few years virtually every credible pro-independence leader has been imprisoned.

There must be a structured, transparent peace process.

Peace processes should be structured, planned, well organized, professionally facilitated and there should be agreed ground rules.

The venue for the negotiations must be well equipped and comfortable. That entails a plenary facility with breakaway rooms, well equipped conference facilities and an efficient secretariat serving all parties equally. Negotiations can be demanding, exhausting and tedious. Everything possible should be done to ensure that negotiations do not breakdown for any reason other than an impasse on a substantive matter.

Transparency is important, but it must be carefully managed. Transparency does not mean that every word, every discussion, every difference of opinion, every proposal and every counter proposal should be in the public domain. The ground rules should cover what is published, when and by whom. Negotiations should take place in the negotiating forum only and not simultaneously through the media.

The facilitators / mediators must be professional, they must be impeccably impartial and they must be trusted by all the parties. The facilitators must be given the right to determine and manage the process, albeit in consultation with the parties.

Both South Africa and Northern Ireland provide good examples of structured peace processes.

The official peace process in South Africa was launched with a series of meetings between the two major parties, the apartheid government and the ANC, in May 1990.

These initial talks were aimed at establishing key principles which would inform the negotiation process and build confidence. They gave rise to the issuing of a joint statement known as the Groote Schuur Minute: *'The government and the ANC agree on a common commitment towards the resolution of the existing climate of violence and intimidation, from whatever quarter, as well as a commitment to stability and to a peaceful process of negotiation.'*

The Minute went on to deal with the establishment of a working group to make recommendations on the definition of political offences, the release of political prisoners, the granting of immunity, and the return of exiles. Both government and the ANC agreed to establish channels of communication to curb violence and intimidation.

The next important meeting was held in Pretoria in August 1990. The Pretoria Minute recorded that 'the ANC had suspended the armed struggle and the South African government had committed itself to suspend the state of emergency as early as possible.

The third formal meeting between the ANC and government was held in Cape Town in February 1991 and concluded with the DF Malan Accord, signed by De Klerk and Mandela. It recorded that the meeting had received the report of the working group set up to deal with matters raised in Pretoria, and to identify problem areas and generally to assist in taking the negotiation process further.

Similarly in Northern Ireland substantive negotiations were preceded by agreements that would build confidence. A difference though is that these agreements were achieved through shuttle diplomacy. Some unionist parties refused to engage directly with republican Sinn Fein and in fact maintained that position throughout most of the substantive negotiations although they eventually were prepared to sit in the same room, but only engage through the facilitator.

Prior to the commencement of the negotiations in Northern Ireland, Senator George Mitchell, the chief facilitator, required from all the parties that they commit to what became known as the *Mitchell Principles of Democracy and Non Violence* namely:

1. Democratic and exclusively peaceful means of resolving political issues;
2. The total disarmament of all paramilitary organisations;
3. That such disarmament must be verifiable to the satisfaction of an independent commission;
4. Renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;
5. Agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and

6. Urge that “punishment” killings and beatings stop and to take effective steps to prevent such action.

Back to South Africa: the first formal meeting of the constitutional negotiating process was held at the World Trade Centre near Johannesburg in November 1991. The main function of the meeting was to make arrangements for the first plenary session of the negotiating structure – known as Codesa (Convention for a Democratic South Africa). The key issue was the basis on which Codesa would make decisions. The recommendation was that there should be ‘sufficient consensus.’ This public launching session was about process rules and setting ground rules.

Codesa’s first plenary session, one month later, was historic. It was planned, structured and presented in such a way as to convey to the participants, the observers, the public of South Africa and the world at large that this was indeed a momentous occasion. The leaders of all the parties and organisations, together with their delegations, were seated in the spacious conference hall, which had been appropriately decorated. On the rostrum were Chief Justice Michael Corbett, the two presiding officers and representatives of various religious denominations who opened the proceedings with prayer. Present in the visitors’ bays were ambassadors and dignitaries, and leaders from South African civil society.

The meeting went on to agree that the structure of Codesa would consist of plenary, a representative management committee, a small daily management committee, and five working groups in which each party would have two members and two advisors. Each group would deal with specific aspects of the negotiations, and there would be a secretariat.

The first working group was to consider the creation of a climate for free political participation and the role of the international community. The second would address the constitutional principles and the constitution-making body. The third would deal with the issue of an interim government. The fourth, the future of the homelands, and the fifth with time frames for negotiations and the transition.

The negotiations were constantly under threat as a result of ongoing violence and killings. Had it not been for the formal structures, the ground rules and the overt accountability to the public of South Africa and to the international community, it is likely that they would not have succeeded.

In Northern Ireland the peace process was given similar prominence. Not long after the IRA statement in 1996 restoring its 1994 ceasefire, a Sinn Fein delegation met British government officials at Castle Buildings (Stormont Belfast) to begin the process of taking up offices and preparing for their entry into the talks, which had begun with their exclusion. The ground floor was occupied by the representatives of the various (protestant) unionist parties. The Irish government, the representatives of the

(catholic) nationalists and republicans, the Women's Coalition and the locally based Labour Party occupied rooms on the second floor.

On the third floor were the offices of the British government, including the Secretary of State and the offices of for the independent chairs (facilitators). The top floor also contained the large room set aside for the negotiations. There were also small conference rooms on each floor.

All the negotiating teams had administrators, legal advisers, researchers, secretarial backup and public relations resources.

After the adoption of the Mitchell Principles most of the unionist parties began to participate directly in the talks, although the then largest unionist party (UUP) refused to engage with Sinn Fein. The first major achievement was the adoption of a procedural motion which saw the formal establishment by the two governments of the Independent International Commission on Decommissioning of arms; the establishment of two sub-committees, one on decommissioning and one on confidence-building measures; agreement on a comprehensive agenda for the commencement of substantive talks; and acceptance that a business committee should meet as required to co-ordinate the progress and procedures of the negotiations.

By contrast, the peace process in Spain and the Basque Country had no formal structure. Indeed there was hardly an acknowledgement from Madrid that there was a peace process at all. Meetings that took place between the Spanish government and ETA were generally secret and held outside of Spain. There was no transparency at all. Negotiations between Batasuna, ETA's political wing, and other political parties in the Basque Country were equally problematic. Because Batasuna remained banned and their leaders politically tainted, other political parties were not prepared to engage with them publicly. Direct engagement did take place, but secretly. When the peace process unsurprisingly collapsed, leaders of parties who were known to have engaged with the Batasuna leadership, including the respected President of the Basque Country, were prosecuted.

The citizenry should, through civil society organisations, be involved in peace initiatives at as many levels as possible.

As I have already mentioned, the political negotiations in South Africa were constantly under threat due to ongoing violence initiated in the main by hard line members of the security forces who were opposed to the democratisation of South Africa. Although the formal and structured negotiations played a major role in sustaining the peace process, it is more than possible that South Africa would have erupted into full scale war had it not been for the timely establishment of the National Peace Accord.

When it appeared that the country was on the verge of becoming ungovernable, leaders representing South Africa's major players (not just political leaders) came together and signed a pact called the National Peace Accord (NPA), in terms of which an extensive network of peace committees was established across the country. There were twenty six signatories to the NPA representing government, the security forces, all the major political parties, the independent and self-governing states (Bantustans), civic, community and traditional leaders and leaders from the universities, business, trade unions and churches. All made a pact to abide by the mechanisms laid out in the accord, which provided forums for resolving community and political conflicts at every level of society where violence threatened to destroy the groundswell commitment to political transformation.

This broad based peoples' bottom-up mechanism for peace was an essential element of South Africa's peace process. It mandated a countrywide structure with peace committees operating at national, regional, and local levels. Members of the apartheid police, soldiers, political activists, human rights lawyers, business people, academics and priests - many of them adversaries - worked together on peace committees. Meeting at any time of day and night they creatively adopted, adapted and constructed conflict resolution tools to meet the challenges that came their way. A plethora of previously unknown peacemakers emerged from all communities and from the ranks of stakeholders including government, security forces and political activists.

Many lessons were learnt. An important one worth mentioning is that when people who had been arch enemies worked together and discovered humanity in one another, they found it difficult to remain enemies. Adversaries on peace committees across the country began to learn about the power of forgiveness. Forgiveness, which does not mean condoning or forgetting, was a significant enabler of conflict resolution on peace committees because participants were able to let go the onus of anger and resentment. They also understood for the first time that truth is informed by one's own perspective and that there can, therefore, be more than one truth.

In terms of peace processes, the NPA was a unique mechanism and contributed greatly in enabling national negotiations to progress and eventually succeed. A factor which often hugely undermines political conflict resolution processes is the ever growing gap between leadership "in negotiations" and their constituents who do not have the benefit of engaging constructively with their adversaries.

Effective communication is, therefore, a key factor. The NPA, because it operated at different levels and throughout the country, facilitated both horizontal and vertical communication within the various political organisations. It thus enabled broad-based political education for South Africa's transformation so that the vast majority of South Africans from all communities supported their leaders.

There is a need for constructive, impartial international support.

This is, in my view, the “wild card” factor. International response in its many different forms, to other countries’ internal political conflicts has contributed towards outcomes that range from remarkable – South Africa and Northern Ireland, to horrifying – Rwanda, Palestine (Gaza) and Iraq to name some.

What are the major lessons learnt from South Africa and Northern Ireland?

- The impact of international world politics is significant. There can be no doubt that the collapse of the Soviet Union and the end of the cold war was an enabling factor for a peace process in South Africa. In the minds of indoctrinated white South Africans the ANC was no longer a communist threat, which shifted the focus from a military / security strategy to a negotiation strategy. The Republican movement in Ireland enjoyed meaningful support in the USA due to the significant number of Irish Americans. At the time of 9/11, although the IRA had been on permanent ceasefire for a number of years they had not yet decommissioned arms, which the unionist’s regarded as a threat to the peace process. After the United States’ first hand experience of a brutal terrorist attack on 9/11, much of the sympathy there may have been for the IRA amongst Irish Americans waned. In my view, this accelerated the decommissioning process.
- Neither South Africa nor Northern Ireland is of major strategic importance to world powers. International involvement in both conflicts was, as a result, motivated for the correct reason namely the interests of the country in conflict and not the selfish interests of any intervening third party nation. Although it cannot be said that there were no hidden agendas, to the extent that there were, they did not influence the outcome.
- International involvement in both of these peace processes was subtle, strategic and in consultation with all the participating parties.
- Involvement was determined and sustained from the beginning to the end.

FINAL RESOLUTIONS FROM THE FIFTH INTERNATIONAL CONFERENCE ON EU, TURKEY, AND THE KURDS

Introduction to Final Resolutions as read out at the Conference

The 5th International Annual conference has brought together contributors from all over the world including leading academics, writers, legal experts, human rights organizations and prominent Turkish and Kurdish intellectuals.

While the Conference welcomes the steps that have been taken in reforms since the conference last met, there is still a long way to go to get the process of accession moving again since it stalled in 2007. The title of this conference is ‘Time for Change’ but the initiative for change in Turkey must not come from within that country alone. The EU must take the lead in finding a peaceful resolution to this ongoing problem. It is essential that all of the groups involved make this a priority if the accession process is to move forward once more.

In addition to the above, The EUTCC Conference resolves to periodically make recommendations of measures for the Turkish accession process, the protection of human rights and the situation of the Kurds

Pursuant to the presentation of Conference papers and interventions made by delegates, this Conference resolves to adopt the following declarations and calls for action to be undertaken by relevant parties to the conflict in the Kurdish Regions of Turkey.

The Conference issues the following declarations:

The Conference notes that neither EU nor Turkey has publicly tackled the long-standing issue of the Kurdish issue which is central to the realisation of democracy, stability, and human rights in Turkey;

The Conference notes that the 2007 European Commission progress report on Turkish accession found that ‘no major issue has been addressed and significant problems persist’ and joins with the Commission in urging Turkey to confront these problems;

The Conference notes that the 2008 European Commission progress report on Turkish accession took note of ‘the process underway to prepare a new, civilian constitution; regards it as a key opportunity to place the protection of human rights and freedoms at the core of the constitution; reiterates that a system of checks and balances needs to be established, guaranteeing democracy, the rule of law, social cohesion and the separation between religion and state; underlines the need for a broad involvement of civil society in this process...’ The report also expresses concern about ‘the hostility shown to minorities and about politically and religiously motivated violence; calls on the Turkish Government to...make sustained efforts to create an environment conducive to full respect of fundamental human rights and freedoms’

Recalling the resolutions from the 1st, 2nd, 3rd and 4th International Conferences on EU, Turkey and the Kurds, the Conference continues to give its qualified support to Turkey’s bid for EU accession:

- 1) The Conference takes note of the European Commission’s assessment of the continued downward trend in the number of cases of torture and ill-treatment and the positive effect of the relevant legislative safeguards; however, it is concerned about whether the anti-terror law and the law on police powers will weaken this positive record;
- 2) The Conference notes the progress made with regards to the efficiency of the judiciary, welcomes the Turkish governments plan to implement a reform strategy designed to strengthen the independence and impartiality of the judiciary and to increase the confidence enjoyed by the judiciary amongst the public; is of the view that this strategy should ensure that interpretation of legislation related to human rights and fundamental freedoms is in line with ECHR standards. The Conference notes with concern that in 2007 the European Court of Human Rights handed down by far more judgements against Turkey for violations of the ECHR than against any other country, including against Russia;
- 3) The Conference welcomes the declaration of two ceasefires by the PKK on 1st September 2005 and 1st October 2006, and hereby once again calls upon all relevant parties involved in the armed conflict in Turkey to forthwith stop all hostile military operations in the region including Northern Iraq (South Kurdistan) and henceforth pursue non-violent resolutions to the conflict;
- 4) The Conference notes that though Turkey has made progress in some areas, much work remains to be done, and stresses that the EU must hold Turkey to the standards laid out as criteria for accession, must monitor Turkey’s progress, exert pressure on Turkey to implement further reforms, and most importantly, follow up on these conditions to ensure that concrete progress is made and that any gains made remain permanent. In its turn, Turkey must fulfil its

obligations both under international law and as set out in the Copenhagen Criteria.

This Conference calls upon the European Union/EU governments to:

- 5) The Conference calls upon the European Union to strongly and publicly support all EU requirements concerning democratic and legal reform within Turkey;
- 6) With specific reference to the 2007 European Commission progress report, the European Parliament report on the increasing suicide of Kurdish women in Turkey, as well as recalling the 2005 CEDAW response to Turkish Report to the Committee,) the Conference calls on the EU to ensure that Turkey address the status of all women and girls in the context of international standards, particularly considering the high rates of illiteracy, domestic violence, honor killing, suicide and forced and early marriages in Turkey, for which the lack of requisite services and judicial training fail to guarantee legal protections (and in particular notes the need to address the regional disparity in the position of women through education, literacy, access to meaningful employment, political representation and access to justice);
- 7) Furthermore, with reference to the above, it requests the European Union to use all its powers to ensure that the Turkish Government develops, in consultation and co-operation with Kurdish women a National Action Plan to implement UN Security Council Resolution 1325. Resolution (S/RES/1325), passed on 31st October 2000, is the first resolution ever passed by the Security Council that specifically addresses the impact of war on women, and women's contributions to conflict resolution and sustainable peace; and requires that women are equal participants in all peace-building measures;
- 8) The Conference also urges each member state of the European Union to assist—including by earmarking funds—in the creation of a democratic platform for dialogue between Turkey and Kurdish representatives and fully comply with their own freedom of expression obligations in respect of those Kurdish organizations and individuals who are concerned to promote the same;
- 9) The Conference reiterates that the Governments of the EU should not criminalize peaceful dissent of Turkey echoed by Kurdish organizations situated in Europe and to review its proscription of certain Kurdish organizations, especially in the light of public commitments to the search for a peaceful solution of the Kurdish question within the present territorial integrity of a democratically reformed Turkey;

- 10) The Conference renews its mandate for its directors, advisors and committees, to engage and campaign on both a political and civic level across Europe in support of Turkey's accession bid to join the European Union on the basis of this resolution.

This Conference calls upon the Turkish Government to:

- 11) The Conference notes with alarm the failure of certain institutions, including but not limited to the military and the police, within the Turkish State apparatus to adhere to its obligations under the European Convention on Human Rights and international humanitarian law in accordance with the spirit and terms of its own recent reform packages and commitments given under the accession process; in particular, it is dismayed that institutions of the State have continued its military activities, which primarily affect its Kurdish citizens;
- 12) The Conference notes that it has become clear over the last 30 years that there is no military solution to the ongoing armed conflict in Turkey;
- 13) The Conference welcomes the fact that in 2007 democracy prevailed over attempts by the military to interfere in the political process; encourages the Turkish government to make further systematic efforts to ensure that the democratically elected political leadership bears the full responsibility for formulation of domestic, foreign and security policy and that the armed forces respect this civilian responsibility; points out the need to establish full parliamentary oversight of military and defence policy and all related expenditure;
- 14) The Conference notes that there is evidence suggesting that the government and military are trying to influence the judiciary and calls upon the Turkish government and military to refrain from such interference and ensure a free and fair judicial system. Furthermore, the Conference encourages Turkish authorities to pursue investigations into the Ergenekon affair, noting the opportunity for Turkey to investigate cases related to the Deep State, such as disappearances, torture, extra judicial killings, etc., but stresses that relevant rules and procedures should be followed and that impartiality and fair trials should be guaranteed for all without exception;
- 15) The Conference calls upon Turkey to fully investigate the murders of Hrant Dink and of the three Christians in Matalya, as well as other cases of politically or religiously motivated violence, including full clarification of allegations of negligence on the part of the competent authorities, and to bring those responsible to justice;

- 16) The Conference expresses its deep concern over Turkey's employment of articles of the criminal code to prosecute writers, journalists, intellectuals, lawyers and many other defenders of free speech, including articles 215 (praising an offence and offender), 216 (incitement to hatred), 217 (provocation to disobey the law), 220, para. 8 (making propaganda for a criminal organization), 288 (attempt to influence a fair trial) and 301 (insulting the Turkish nation, the State of the Republic of Turkey, Institutions and Bodies of the State) of the Turkish Penal Code; the Conference calls on the EU to ensure that Turkey remove restrictions on freedom of expression from their legal framework entirely;
- 17) The Conference urges the Turkish government and the parliament to go further in its reform of Article 301 of the Penal Code and deplores the fact that no real progress has been achieved regarding freedom of expression underlining that further legislative reform, and most importantly, implementation steps will be required to ensure that Turkey fully guarantees freedom of expression and press freedom in line with ECHR standards;
- 18) The conference calls upon the Turkish government to encourage and support the growth of NGOs and civil society organisations and welcome healthy debate and constructive criticism as natural and beneficial to a vibrant democracy; to this end, the conference is appalled by the current climate of fear and intimidation faced by many in the NGO community, especially those working on human rights;
- 19) The Conference calls upon Turkey to fulfil its positive obligations under article 10 of the ECHR to promote a positive climate in which freedom of expression can flourish, and to protect writers, journalists, intellectuals, lawyers and many other defenders of free speech from unlawful interference by state and non-state actors;
- 20) The Conference welcomes the recent adoption by the Turkish Parliament of the Law on Foundations and calls upon Turkish authorities to ensure that the law is implemented in line with the ECHR and the case-law of the European Court of Human Rights;
- 21) The Conference calls upon Turkey, following the positive step taken with the adoption of the Law on Foundations, to fulfil its commitments regarding freedom of religion by establishing, in line with the ECHR and the case-law of the European Court of Human Rights, a legal framework enabling all religious communities to function without undue constraints, in particular as regards their legal status, training of clergy, election of hierarchy, religious education and construction of places of worship; calls for the immediate re-opening of

the Greek Orthodox Halki Seminary and the public use of the ecclesiastical title of the Ecumenical Patriarch;

- 22) The Conference is disappointed at the limited progress made in strengthening the social dialogue mechanisms in Turkey and calls upon the Turkish government to fully implement ILO conventions, underlining the need to remove current restrictions on freedom of association, the right to strike and the right to collective bargaining;
- 23) The Conference underlines its view that the resolution of the armed conflict in Turkey is essential to the establishment of a stable, democratic and peaceful Turkey capable of entering the European Union. True democratic reform can only occur if Turkey undertakes new political reform to its state institutions and banishes adherence to ethnic nationalism which is the root cause of the conflict and Turkey's endemic instability;
- 24) This Conference therefore asserts that the Kurdish people and their representatives should be given a genuine participatory role in the accession process and in any debate over Turkey's democratic constitutional future;

Confidence Building Measures

The Conference further asserts that more must and can be done on all sides and calls for the following confidence building measures to be adopted:

- 25) This conference notes that the resolution of the conflict and the constitutional recognition of Kurds in Turkey are central to regional stability;
- 26) In this respect, the Conference calls upon the Turkish Government to begin a public debate about the constitutional recognition of the existence of the Kurdish people within Turkey;
- 27) The Conference calls upon all political parties in Turkey to help foster the conditions within Turkey for a democratic platform for dialogue;
- 28) The Conference urges Turkey to recognize that for democracy to function, it is imperative that local municipalities across the country enjoy the full support of national government;
- 29) In particular, the Conference calls upon the Turkish Government to ensure that all legally constituted democratic parties are allowed to engage in peaceful political activity without interference or constant threat of closure, with particular reference to the Democratic Society Party (DTP) and its current

- democratically elected members of parliament; in accordance with Articles 10 and 11 of the European Convention of Human Rights;
- 30) This Conference calls upon the Turkish Government to immediately cease the harassment and politically-motivated investigations of Kurdish politicians;
 - 31) The Conference notes the judgements of the ECtHR in several cases, but in particular in the case of Abdullah Öcalan vs Turkey, regarding conditions of detention in Turkey. The Conference further calls on the Turkish government to implement CPT (Committee on Prevention of Torture) recommendations on conditions of detention and specifically relating to the health of Mr. Öcalan;
 - 32) The Conference calls on the Turkish government to step up its fight against torture perpetrated outside detention centres and against the impunity of law enforcement officials, and to ratify and implement the Optional Protocol to the Convention against Torture (OPCAT), thus providing for systematic torture prevention and for independent monitoring of detention centres;
 - 33) The Conference calls upon the Turkish government to launch a political initiative favouring a lasting settlement of the Kurdish issue, which can only be based on tangible improvements in the cultural, economic and social opportunities available to citizens of Kurdish origin;
 - 34) The Conference calls on the Turkish government not to engage in military operations in Northern Iraq (South Kurdistan) violating Iraq's territory; urges Turkey to respect Iraq's territorial integrity, human rights and the rule of law, and to ensure that civilian casualties are avoided. Furthermore, the conference notes that military operations make it difficult to sustain dialogue with its neighbour, Iraq and its Kurdish Regional Government;
 - 35) In reference to the above, the Conference notes that these are political issues and need a political response, that the military response jeopardizes any gains made in this arena and acts as a deterrent to future improvements, and calls upon Turkey to cease such military activities in Northern Iraq (South Kurdistan).

The Conference calls upon Turkey and the EU to:

- 36) In particular, the Conference urges Turkey and the Member States of the EU to take practical and visible steps to demonstrate their full support for the establishment of a democratic platform for dialogue between all peoples

- constituting the Turkish Republic; NGO's and civil society groups specifically should be encouraged and supported to contribute to such a platform;
- 37) The Conference supports the undertakings by the EU that reform in the area of Turkey's fundamental rights, democracy and the rule of law must be strengthened in the course of accession negotiations and welcomes the commitment by the EU Commission to continue to monitor the reform process;
- 38) The Conference reiterates the view expressed in the 2004 - 2007 Conferences, that Turkey has not yet fulfilled the political elements of the Copenhagen Criteria, and reiterates that its support for the accession process is dependent upon the institutions of the EU robustly enforcing accession standards. It further underlines that there can be no further compromises on membership criteria akin to the EU decision to allow Turkey access to the negotiating table for 'sufficiently' fulfilling the Copenhagen Criteria;
- 39) Recalling last year's conference resolution number 10, the Conference calls upon Turkey to ratify the European Framework Convention on the Protection of Minorities as well as other UN Instruments concerning minorities and to respect the existing cultural and minority rights of all groups; and calls on the EU to apply pressure on the Government of Turkey as a potential member of the EU to ratify said Framework;
- 40) The Conference calls on the EU to recognize that torture is still an administrative practice of the state rather than an isolated practice and forms part of the systematic policy of the state in Turkey, and calls upon Turkey to put a halt to all such practices and ensure the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Conference calls on Turkey to fully cooperate with and implement CPT recommendations with regards to the conditions of detention of Abdullah Öcalan, who has been held for more than nine years as the sole inmate of the prison on the island of Imralı, and recent allegations of torture of detained persons by law enforcement officials and prison officers, as well as the situation of foreign nationals detained under aliens legislation. The Conference condemns these activities and calls for an immediate end to such actions. The Conference calls on the EU to exert pressure on Turkey to abstain from the use of torture as a tool of the state and fully cooperate with the CPT;
- 41) Recalling Articles 10, and 14, and Article 2 of the first Protocol of the European Convention on Human Rights and Article 8 of the European Charter for Regional or Minority languages, and the Council of Europe's Parliamentary Assembly's resolution 1519 of October 2006 on the cultural situation of the Kurds, the Conference reiterates its call to the State of Turkey and the

European Union to develop and promote a strategic plan for mother tongue education;

- 42) This Conference expresses regret with regards to the Turkish government's initiation of work on the ill-planned Ilisu Dam in August 2006, and the start of the expropriation of land by the Turkish state which threatens mass displacement and loss of livelihood of the area's inhabitants, the majority of whom are Kurds; endangers the historically important city of Hasankeyf, in an apparent attempt to further disassociate Kurds from their rich heritage and culture; and will, according to several environmental assessment reports, further jeopardize access to water for Turkey's neighbours and cause irreversible environmental harm;
- 43) The Conference calls upon the Turkish government to reassess its position and calls on EU bodies monitoring the impact of internal displacement and potential effects of this project on the already overpopulated urban centres of the Kurdish regions, as well as on member governments to put pressure on foreign capital companies to withdraw their investments in the project;
- 44) The Conference notes that nothing has changed with regards to Turkey's stance on the Ilisu Dam, consultations, or resettlement of Internally Displaced Persons, and calls upon the EU to abstain from funding or supporting the project;
- 45) The Conference notes that all evidence suggests that the vast majority of Internally Displaced Persons are unable to return to their villages without government support and also face political difficulties. The Conference notes that the EU could play a vital role in assisting Turkey and exerting political pressure to remedy the situation of Internally Displaced Persons. The Conference calls upon the EU to make this a vital criterion to the accession of the EU, to monitor the situation with regards to Internally Displaced Persons and their conditions, and to follow up on such monitoring.

At this critical juncture all actors involved (the EU, Turkey and the Kurds) must take heed of lessons from their past, and act in accordance with international law and humanitarian norms. With this in mind, **this Conference calls upon the international community to:**

- 46) To take the lead in formally recognizing the consistent policies of discrimination directed at Kurds, and by consequence, all who live in the Kurdish regions and the resulting economic, political and social problems and make a concerted, visible and tangible effort to support all parties in putting an end to them;

- 47) This Conference calls upon Iraq and the Kurdistan Regional Government of Iraq to use its good offices to reduce regional tensions;
- 48) The Conference recalls Turkey's commitment to good neighbourly relations, and stresses its expectation that Turkey will refrain from any threats against neighbouring countries and resolve all outstanding disputes peacefully in accordance with the UN Charter and other relevant international conventions; Stresses the need to arrive at a comprehensive settlement of the Cyprus question; calls on both parties to use the current window of opportunity with a view to achieving a comprehensive settlement within the UN framework, based on the principles on which the EU is founded; in this regard, recalls its previous resolutions stating that the withdrawal of Turkish forces would facilitate the negotiation of a settlement;
- 49) The Conference calls on the Turkish government to end the economic blockade and to re-open its border with Armenia; calls once again on Turkish and the Armenian governments to start a process of reconciliation, in respect of the present and the past, allowing for a frank and open discussion of past events; calls on the Commission to facilitate this reconciliation process;
- 50) This Conference calls upon its directors, advisors, and committees, to engage and campaign on both a political and civic level across Europe in support of Turkey's accession bid. The Conference calls upon EU bodies and EU member states to support Turkey in its bid to join the European Union, and calls upon Turkey to make a firm commitment to further progress in the areas set out in the above resolutions. The time for change has arrived and opportunities for advancement must not be lost at this crucial juncture;
- 51) The Conference is alarmed by the decision of the Turkish courts to sentence Leyla Zana, winner of the European Parliament Sakharov Prize for Freedom of Thought, and welcomes the unanimous decision made by the Presidents of all groups of the European Parliament to closely monitor the case and raise the issue with Commissioner Rehn;

APPENDIX 1: BACKGROUND PAPER

Introduction

Last year's EU Commission Turkey Progress Report, published in November 2007, was arguably its most critical to date; in many fields it suggested there had been little, if any, progress, and in very few did it claim that significant progress had been made. Despite the relationship between Turkey and the EU having weathered the storm created by the temporary suspension of accession negotiations on eight chapters from December 2006 to March 2007⁵⁸, by the time of the EUTCC's 4th conference in December 2007, there seemed to exist a general feeling that progress towards the goal of Turkish EU membership was grinding to a halt. With several EU member state governments expressing strong reservations about the possibility of Turkey ever joining the EU⁵⁹ and support for joining the EU within Turkey down at 49%⁶⁰ compared with 62% in 2004⁶¹, the future of EU-Turkey relations did not seem bright.

In the 2008 the security situation in Turkey, which had taken a turn for the worse in 2007, remained poor. Despite an increase in Turkish military operations in the Kurdish region and against PKK bases in Kurdistan Iraq, there were a number of attacks that killed civilians, including a bombing that left 17 dead in Istanbul⁶², and the conflict between the PKK and the Turkish State intensified. Additionally, there were periods of civil unrest, in particular in the Kurdish region in response to the alleged ill-treatment of Abdullah Öcalan, leader of the PKK, who is the sole inmate of the prison on İmralı Island.

There have also been positive developments that have tempered pessimism within the EU about Turkey's future. In particular, there was a general sigh of relief in response to the Constitutional Court's decision not to close down the governing AK Party for 'anti-secular activities', even though the party's funding from the taxpayer was halved⁶³. Additionally, while doubts remain about the substantive impact of the

58 Background: European Parliament Vote on Turkey's 2007 Progress Report - www.europarl.europa.eu/

59 France Puts Brakes on EU-Turkey Talks – www.dw-world.de – 26/06/2007

60 Eurobarometer 68: Fall 2007 – www.europa.eu/public_opinion/

61 Eurobarometer 64: Autumn 2005 – www.europa.eu/public_opinion/

62 Death toll in Istanbul bombings rises to 17 - www.reuters.com – 28/07/2008

63 INSTANT VIEW: Turkish court rules not to close AK Party – www.reuters.com – 30/07/2008

alterations, the amendment of Article 301 of the Penal Code was greeted as a ‘step forward’⁶⁴ by EU officials.

However, 2008’s progress report on Turkey remains cautious in its assessment of Turkey’s progress in the areas of rights and democracy. As in the 2007 report, there remain serious concerns in areas where very minimal progress, or even regression, seems to have taken place. The report’s claims of progress sometimes seem forced, given the report’s own analysis of what changes have occurred. The implication seems to be that the efforts that are being made are appreciated, but that the speed of progress needs to increase. The Draft Report on Turkey’s 2008 Progress Report noted that there had been improvements in some areas, but that these improvements were insufficient, and that the recent revision of the Accession Partnership only served to prolong non-fulfilled priorities.⁶⁵ In light of this, it urged the Turkish government to hasten reforms, most importantly, in terms of military oversight. The report also criticized the fact that no progress had been made in the area of freedom of expression. Similarly, the Final Resolutions from the Fourth International Conference on EU, Turkey, and the Kurds noted that ‘no major issue [had] been addressed and significant problems persist,’ especially with regards to Turkey’s obligations under the European Convention on Human Rights and Humanitarian Law, military activities of the state, and democratically supported dialogue between all peoples constituting the Turkish Republic. Turkey’s military activities continue unchecked, with no promise of a democratic resolution to the ongoing conflict in the Kurdish region and no impetus from the EU to end military activities.

This paper will focus on the progress and the lack thereof to date in Turkey’s bid for EU Accession. It will give an account of the views of actors involved in the accession process and assess the responsibilities of each of them, as well as propose moves for the future. In addition some background is included to give context to the discussion.

Background: Pre-2004

Modern Turkey was formed out of the collapse of the Ottoman Empire in the wake of the First World War and the replacement of the hereditary caliphate with a republican form of government by Mustafa Kemal Atatürk in the early 1920s. Atatürk and his successors attempted to transform Turkey into a secular nation state defined along ethnic, but also religious, lines.

One problem for this Kemalist project, then, was the existence of substantial Greek and Armenian minorities in Turkey, even after the deaths of a large number of Arme-

64 <http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=140606>

65 Draft Report on Turkey’s 2008 Progress Report, European Parliament Committee on Foreign Affairs 6/3/2008

nians in 1914-15. Despite the overtly secular nature of the Turkish state these Christian groups were generally considered to endanger the Turkish state, since adherence to Sunni Islam was considered to be an integral part of the Turkish identity. The principle response to the 'issue' of Christian minority groups within Turkey was 'population exchanges' with Armenia and Greece, through which all three states attempted to make themselves more ethnically and religiously homogenous.

Those Christians that remained, along with non-Sunni Muslim minorities like the substantial Alevi population within Turkey, faced discrimination such as unequal opportunities for religious education and problems when attempting to form community associations. There were also occasional outbreaks of anti-minority violence, such as that which occurred during the 1955 Istanbul Pogrom, following which emigration of Greeks and Armenians from Turkey greatly accelerated.

Some of the greatest problems for Turkish nationalists of the Kemalist tradition were, however, posed by the existence of the substantial Kurdish population within the borders of modern Turkey, geographically clustered in the south-east of the country, where they make up a majority. Despite the fact that the majority of Kurds adhere to Sunni Islam, their cultural and linguistic differences from the rest of Turkey meant they have been perceived as a threat to the Turkish nation state.

Despite decades in which the Kurdish identity was denied and suppressed, Kurds proved resistant to assimilation. Many of the laws that are now the greatest barriers to improving Turkey's human rights standards derive from attempts to undermine the distinct identity of the Kurds. Thus the existence of the Kurdish ethnicity in Turkey was denied, the use of the Kurdish language and letters found in Kurdish was banned, giving children Kurdish names was made illegal, Kurdish media outlets were suppressed, demands for regional autonomy were punished, and Kurdish people were at times forcibly relocated away from Kurdish regions.

Armed resistance to the policies of the Turkish state by the Kurds goes back almost as far as does Turkey itself, dating back to the Sheikh Said rebellion of 1925. The use of vicious tactics by the agents of the Turkish state to repress such resistance also has a long history, with rebellion by a minority being met with retaliation against entire communities, such as during the repression of the Dersim Rebellion of 1937-8.

Despite the aspirations of Atatürk towards western-style democratic government, democracy was quite slow to take root in Turkey. The first true period of multi-party government only began with the elections of 1946. However, even since then the military's belief that it has responsibility for protecting the Kemalist nature of the Turkish state has at times led to democracy being partially undermined, or even totally suspended, as occurred following the military coups of 1960, 1971 and 1980.

The period following the 1980 military coup was particularly difficult for the Kurdish people in Turkey. During the 1980s the PKK's Kurdish nationalist insurgency – which had begun during the 1970s – increased in intensity, as did the aggression with which the Turkish state pursued its military strategy, affecting civilians caught up in the conflict. During this period many Kurdish areas came under the scope of State of Emergency Legislation that removed many of the normal constitutional checks on the actions of the security services, leaving civilians vulnerable to abuse by the authorities.

However, by the second half of the 1990s the PKK was increasingly on its back foot, and in 1999 Abdullah Öcalan, the leader of the PKK, was captured and imprisoned by the Turkish government. Following this, the PKK withdrew its permanent presence from Turkey and declared a ceasefire, after which there was a period of relative security in Turkey. Some of the worst legislation from a human rights perspective had begun to be removed during the 1990s, and reforms continued in the new millennium, particularly following the election of the AKP government in 2002 with a mandate to pursue EU membership. By 2003 the violence had receded to a level at which Project Ploughshares felt able to remove Turkey from its list of conflict zones⁶⁶; there was real hope that the violence, which, according to Project Ploughshares, had claimed between 30,000 and 40,000 lives between 1984 and 2003⁶⁷, was drawing to an end. Turkey has neither accepted nor admitted that there is an ongoing armed conflict between Turkey and the PKK and has refused to sign relevant protocols of the Geneva Convention.

EU Accession

Turkey's Route to Accession

In 2002, the EU agreed that accession negotiations would commence 'without delay' provided EU leaders at the Council felt that Turkey met the required standards. This decision was to be made 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.⁶⁸

On 6 October 2004 the Commission issued its recommendation as anticipated, concluding that Turkey 'sufficiently' fulfilled the criteria necessary to open accession ne-

66 Armed Conflicts Report: Turkey (1984 - 2002) - www.ploughshares.ca - 'Turkey was removed from the active list of armed conflicts because, despite some skirmishes between government and rebel forces, reported conflict-related deaths for 2002 totalled less than 25 for the second consecutive year.'

67 Armed Conflicts Report: Turkey (1984 - 2002) - www.ploughshares.ca

68 Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency.

gotiations.⁶⁹ Certain conditions were imposed, including that Turkey should first be obliged to bring into force six specified pieces of legislation.⁷⁰ On 17 December 2004, EU leaders largely endorsed the Commission's recommendation that Turkey was ready to begin accession negotiations at the Brussels meeting of the Council, and envisaged that talks would commence on 3 October 2005.⁷¹

The decision to open accession talks with Turkey was formally based upon fulfilment of the criteria as determined at the Copenhagen meeting of the Council in 1993⁷² (the 'Copenhagen Criteria'). These are the minimum standards which all states must fulfil before they are recognised as official negotiating partners. The political elements of the Copenhagen Criteria require that candidate countries must have achieved, 'the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.'

The Commission's regular report on Turkey's progress towards accession, submitted on 6 October 2004,⁷³ examined in detail Turkey's fulfilment of the political elements of the Copenhagen Criteria. Despite citing substantial reservations with regards to human and minority rights reforms, the Commission cast a broadly positive light on Turkey's progress and subsequently concluded in its recommendation that 'Turkey sufficiently fulfils the political criteria' and that accession negotiations should accordingly be opened.⁷⁴ The conclusion of the Copenhagen European Council set out in December 2002 had been that the December 2004 decision would be based upon whether or not Turkey had fulfilled the Copenhagen Criteria.⁷⁵ The Commission recommendation therefore represented an apparent lessening of EU requirements in relation to Turkish compliance with the Copenhagen Criteria.

69 European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final.

70 These include: 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, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final.

71 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency

72 Copenhagen European Council 21-22 June 1993, Conclusions Of The Presidency.

73 European Commission, '2004 Regular Report on Turkey's Progress Towards Accession', COM (2004) 656 final, 6 October 2004.

74 European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final, p9..

75 Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency [emphasis added].

By 1 June 2005 Turkey had enacted the six pieces of legislation as set out in the Council's decision of 17 December 2004. On 29 June 2005 the Commission issued its draft 'Negotiating Framework for Turkey',⁷⁶ a document which outlined the guiding principles and procedures for accession negotiations. The Framework had to be accepted by all 25 current member states before Turkey could commence formal accession negotiations. Turkey signed an EU protocol on 29 July 2005 which extended the existing Ankara-EU Customs Union, an agreement that came into force on 31 December 1995 pursuant to the 1963 EU-Turkey Association Agreement, to the 10 newest member states incorporated into the Union on 1 May 2004. The 17 December 2004 Council decision had mandated that Turkey needed to achieve this expansion of the Customs Union prior to the opening of formal accession talks.⁷⁷

On 3 October 2005, European and Turkish leaders welcomed the commencement of official EU Accession talks with Turkey. Prime Minister Recep Tayip Erdoğan's insistence on nothing short of full membership for Turkey paid off as the Negotiation Framework for full accession was agreed at the last minute. This was after Austria finally conceded on its request that Turkey be offered an option short of full membership.⁷⁸

The Negotiations

The Council, in its December 2004 decision,⁷⁹ invited the Commission to continue monitoring Turkey's progress regarding political reforms. The Negotiating Framework for Turkey,⁸⁰ prepared by the European Commission at the behest of the December 2004 Council, was drawn up in accordance with the Council decision and largely reinforced its findings on the opening of accession negotiations. The text of the framework was finally agreed at the official opening of accession talks on 3 October 2005. In terms of the future of accession negotiations, the Framework mandated that their advancement would be measured against a series of requirements which included the political elements of the Copenhagen Criteria.

It was decided that the Commission should continue to monitor Turkey's progress and regularly report on this to the Council. These reports would provide the basis for the Union's final decision as to whether the conditions for the conclusion of negotiations were met. Importantly, the Framework explicitly stated that the Commission needed to confirm that Turkey had fulfilled the aforementioned series of require-

76 European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

77 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency

78 BBC 'EU hails Turkey membership talks' 4 October 2005, at <http://news.bbc.co.uk/1/hi/world/europe/4307700.stm> (last accessed 21 November 2007).

79 *Ibid.*

80 European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

ments (to include the Copenhagen Criteria) before a positive decision on accession would be taken.

Accession negotiations were to proceed in the usual way through inter-governmental Conferences between the EU and Turkey, in which Turkey's current legislation and administrative structures were comprehensively 'screened' against each chapter of the *acquis communautaire*, (the body of economic, social, administrative and environmental legislation that all member states of the EU must implement). The *acquis* includes 'the content, principles and political objectives of the Treaties on which the Union is founded'; thus Turkey would have to abide by 'the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'.⁸¹ The Framework confirmed that to allow for the financial aspects of accession to be fully considered, negotiations would not be concluded until after the Financial Framework for the period from 2014 had been established. This meant, in short, that Turkey would almost certainly not accede to the EU before 2014.

The EU and Human Rights

EU enlargement is an important impetus for advancing peace and stability throughout Europe. Over recent years the EU has been increasingly promoted as a means of furthering commitment to shared principles and values within Europe, including human rights. Through the approval of the Copenhagen Criteria at the 1993 Council the protection of human rights became an explicit element in preparing candidates for membership, and as such enlargement can act as a potent force for change in the human rights environments of potential EU members.

In the period preceding the 2004 European Commission decision there is no doubt that Turkey had outwardly moved towards closer compliance with international standards on human rights, democracy and the rule of law through the enactment of a noteworthy series of reforms over a very short period of time: the legal regulations prohibiting torture were tightened⁸²; the prohibitions on broadcasting and teaching in the Kurdish language were somewhat relaxed⁸³; permissible pre-trial detention periods were shortened⁸⁴; and the death penalty was also abolished⁸⁵.

However, a strong case can be made that the conclusion by the EU heads of state in December 2004 that Turkey had 'sufficiently' fulfilled the Copenhagen Criteria misrepresented Turkey's progress on human rights, specifically regarding cultural, lin-

81 Article 6, Treaty of the European Union.

82 European Commission: *2004 Regular Report on Turkey's Progress Towards Accession* (page 17)

83 European Commission: *2004 Regular Report on Turkey's Progress Towards Accession* (page 18)

84 European Commission: *2004 Regular Report on Turkey's Progress Towards Accession* (page 55)

85 European Commission: *2004 Regular Report on Turkey's Progress Towards Accession* (page 166)

guistic, and political rights, and the Kurdish issue. Human rights violations remained common place in Turkey, and were frequently perpetrated by officials either with the tacit tolerance of the state or legally with the support of Turkish law.

Delay or breakdown of negotiations between Turkey and the EU would have serious implications for human rights in Turkey. The 'soft power' of the EU with regards to monitoring and political pressure would be transformational for Turkey. However, there is much work to be done in Turkey, with its abysmal record of human rights abuses, and there is an urgent need for a genuine commitment to and implementation of the EU reforms. A constructive dialogue between the EU, its member states, and Turkey is crucial if Turkey is to emerge into a fully democratic future.

Background: 2004-2007

This is a summary of the development of the accession process between 2004 and the end of 2007, a period characterized by a slowing of reform in Turkey. It gives an account of the accession process from the initial optimism following the Commission's decision to start negotiations in December 2004 to the cynicism about the prospects for further progress that seemed to have become entrenched by the end of 2007. It also highlights recent developments in Turkey and their implications.

Developments in the Relationship between the EU and Turkey

On paper, the most significant impediment to progress towards Turkish accession since 2004 has been its poor human rights record, which has undermined its ability to meet the political elements of the Copenhagen Criteria. However, Turkey's accession bid has also been influenced by the complex backdrop of issues relating to European politics, international security and economic affairs.

The prospect of Turkish accession was strongly welcomed by Britain and the US, since they considered that an EU-member Turkey could potentially create a 'bridge' between Europe and the wider Muslim world. Additionally, it was hoped that the process of entry negotiation would incentivise further reform in Turkey.

Key EU member states such as the UK have continued to champion Turkish membership, despite doubts over whether Turkey could fully attain the standards of a full EU member. However, while the EU's Enlargement Commissioner, Olli Rehn, has vehemently insisted that full accession remains the endgame of negotiations with Turkey, amongst the key EU players there are increasingly many who oppose Turkish membership. The new French President Nicolas Sarkozy is a well-known opponent of Turkish membership, and the German Christian-Democrat Chancellor Angela Merkel has advocated a 'privileged partnership' instead of full membership. Other EU member states such as Austria, Portugal, the Netherlands and Cyprus also oppose Turkish membership.

Public opposition to Turkish accession was seen as a factor in the 'no' votes in the 2005 French and Dutch referenda on the EU constitution, and as a factor in growing 'Euro-scepticism' within Europe. Opposition is in part attributable to concerns about Turkey's predominantly Muslim population, as well as that its size and economic under-development would potentially generate strain on EU budgets. The increase in the intensity of opposition to Turkish membership is arguably partly caused by a general trend towards the election of right wing governments in Europe. This shift within the EU itself represents a serious obstacle in the future of the accession process.

In December 2006 the Council endorsed the recommendation of the Commission and agreed to suspend membership talks with Turkey on eight chapters. Olli Rehn, the EU Commissioner for Enlargement stated that the suspension would mean that 'the train will slow down but not stop'⁸⁶, but it was of enormous symbolic importance.

In Turkey, the suspension of talks created a strong reaction against the EU and consequently public support for EU membership declined.⁸⁷ Despite the re-opening of negotiations in March 2007 the psychological effect of the suspension continues to have an impact on relations between Turkey and the EU, and may continue to do so for some time.

The decision to suspend negotiations was made as a result of Turkey not opening its ports to Greek Cypriot traffic. The decision has been criticised by some leaders within the EU, including former British Prime Minister Tony Blair, who said that this negative signal to Turkey could be a big mistake for the EU in the long run.⁸⁸ Other commentators, such as the European Parliament's Turkey Rapporteur Camille Earlings, also found the decision a harsh one.⁸⁹

Soon after the Cyprus roadblocks at the end of 2006 there was a warning that the EU's decisions could have devastating consequences.⁹⁰ The EU approach has been seen by many in Turkey as discriminatory against Turkey and as a victory for those within the EU who either believe that Turkey is not or should not be a part of Europe, or who are seen to use Turkey's accession as part of their domestic political posturing.⁹¹

86 The Guardian, 'Turkey's EU hopes suffer Cyprus setback', 27 November 2006

87 *Seeking Kant in the EU's Relations with Turkey*, December 2006, Tesev Publications, Foreign Policy Program. Istanbul: TESEV, p. 28

88 *Today's Zaman*, 'Rehn: No Train Wreck, Pace will Slow', 30.11.2006

89 *Today's Zaman*, 'Is the EU Kidding or Offering a Solution', 01.12.2006

90 The Turkish Economic and Social Studies Foundation (TESEV) EU Watch Reports: <http://www.tesev.org.tr>,

91 Tiryaki, Sylvia, 'All for One and One for All!' in EU Watch, December 2006, No. 2, Istanbul: TESEV

There was also a perception that the principle of conditionality has been applied unfairly to Turkey in comparison with other countries. While it is true to say that Turkey barely fulfilled the Copenhagen Criteria when negotiations were opened, critics claim that the EU has been more insistent on this point in the case of Turkey's accession than it had been during the 2004 enlargement.

Political Developments

2007 Elections

On 28 August 2007 former Foreign Minister Abdullah Gül became the 11th President of the Republic of Turkey. This followed a long controversy surrounding him, due to his previous association with the Islamist movement and because his wife wears a headscarf, which disturbed the Kemalist elite in Turkey. Following Gül's candidacy bid, the AKP government was accused by the military of insulting religious sentiment in society, in what has been described as an 'e-memorandum'⁹².

The first round of the elections was boycotted by the opposition parties, leading to a situation where Gül, as the only candidate, failed to get the required two-thirds majority. The main opposition party CHP (Republican People's Party) then applied to the Constitutional Court, which decided to invalidate the vote. A second vote was held, but the two-thirds majority was not achieved this time either, and Gül decided to withdraw his candidacy.⁹³ This triggered early elections which resulted in a landslide victory for the AKP. This strong mandate led to Gül's renomination and election by the Parliament as President in the third round of the presidential elections.⁹⁴

Due to the crises surrounding the presidential elections early parliamentary elections were held on 22 July 2007. Three parties crossed the 10% threshold; the AKP with 46.6%, the CHP with 20.9% and the MHP (National Action Party) with 14.3%. A number of political parties managed to circumvent the electoral threshold and thereby get representation in parliament through independent candidates. 26 independent candidates were elected, 22 of whom were from the DTP and who formed their own political group within parliament.⁹⁵ This was the first time since 1994 that pro-Kurdish politicians had been elected to parliament. Kurds supported AKP on the basis of its promises to deal with Kurdish issues.

92 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession*, (London: Pluto Press, 2008), p.120

93 EU Commission Turkey Progress Report 2007, p. 7

94 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession*, (London: Pluto Press, 2008), p.120

95 EU Commission Turkey Progress report 2007, p. 6

Constitutional Reforms

On 21 October 2007 a referendum was held which endorsed a package of Constitutional reforms proposed by the AKP. The package included the election of the President by popular vote and the shortening of the government's term of office from five to four years.⁹⁶ Some changes were also proposed in the areas of language rights, the notion of Turkishness, freedom of religion and the headscarf issue.

However, the process of drafting these reforms was criticised as it neither included other political parties nor the involvement of civil society. The attempt to replace the old 1982 Constitution, which was prepared during military rule, by a 'civilian constitution', was thus considered questionable. Moreover, it failed to address the Kurdish issue.⁹⁷

Concerns mounted as the perception grew that the constitutional reform project had been put on hold indefinitely. Instead of pursuing broad constitutional reforms the AKP government instead controversially chose to focus its efforts on just those constitutional reforms needed to remove the ban on women wearing the Islamic headscarf in universities⁹⁸.

The focus on this divisive issue worried outside observers who feared that pursuing this one reform exclusively might alienate many in Turkey who would have been more willing to accept it as part of a package of human rights reforms. It was also feared that it might raise tensions within the country and contribute to a climate within which more important human rights reforms would not get the attention they needed.

The AKP government gained parliamentary assent for the constitutional amendment needed to relax the headscarf ban in February 2008, but almost immediately faced a judicial challenge. This culminated in the Constitutional Court decision of June 2008, in which it ruled against the advice of the rapporteur it had appointed⁹⁹, that the constitutional amendment was itself unconstitutional¹⁰⁰ and therefore headscarves could not be worn in universities. It can be argued that the AKP government had focussed too narrowly, putting all of their energies into this one issue, to the cost of the pursuit of more wide ranging constitutional reforms still needed to bring Turkey up to EU human rights standards.

96 EU Commission Turkey Progress report 2007, p. 6

97 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession*, (London: Pluto Press, 2008), p.124

98 *Turkey: Constitutional Court Ruling Upholds Headscarf Ban* – International Human Rights Eurasia Federation (<http://www.uihaf.org>)

99 *Rapporteur favours rejecting Turk headscarf case* – Reuters (www.reuters.com)

100 *Court annuls Turkish headscarf bill in blow to government* – Reuters (www.reuters.com)

AK Party Closure Case

In March 2008 the Chief Prosecutor of the Supreme Court of Appeals launched a closure case against the governing AK party. The charges claimed that the party had become the focus of 'anti-secular activities,' and hence was in violation of the constitution. These charges were closely related to the attempts of the party to relax the ban on the headscarf in universities.

In July the party was found by the judges of the Constitutional Court to be a 'focus of anti-secular activities.' The majority of justices favoured closure, however, not quite enough to achieve the qualified majority needed to close the party. Instead, the party's state-funding was cut in half.

The implications of the closure case for the process of EU accession are hard to judge. It remains a worry that the legal system in Turkey facilitates such anti-democratic cases, and that Turkey could have come so close to banning a party with such a strong public mandate. However, the EU will be relieved that the Constitutional Court eventually acted with restraint, and that the checks that the AKP government introduced in 2003, which mandate that a supermajority amongst Constitutional Court judges is needed in order to close a political party¹⁰¹, were successful in preventing closure.

Democratic Society Party Closure Case

In November 2007 Public Prosecutor Abdurrahman Yalçinkaya lodged a formal application to the Turkish Constitutional Court to close the pro-Kurdish Democratic Society Party (DTP) on the grounds that it had become 'a centre of activities aimed at damaging the independence of the state and the indivisible integrity of its territory and nation.'¹⁰² Attempts have been made to expel 8 DTP MPs from Parliament on charges of separatism after the DTP called for autonomy in the south-east in mid-November. The Public Prosecutor asserted that all of the 221 DTP members should be banned from political activity for a minimum of five years.

The closure case has been widely condemned by observers who noted that the evidence presented in the indictment against the DTP consisted of mainly non-violent speeches and statements by party officials and deputies. Even the ruling AKP government condemned the closure case against the DTP; Prime Minister Recep Tayyip Erdoğan warned that Kurds would be more likely to join the PKK if they were excluded from the political process, and said that 'we should not choose anti-demo-

101 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession* (London: Pluto Press, 2008) p. 69.

102 The Jamestown Foundation MMIV, 'AKP Condemns Judicial Attempts to Close Kurdish Party', Gareth Jenkins, Monday 19th November 2007

cratic means against those who have entered Parliament with the votes of hundreds of thousands of our citizens'.¹⁰³

The case has been very drawn out, with some claiming that the verdict is being purposefully delayed until after the spring 2009 local elections in order to avoid a situation in which public sympathy for the DTP, as a result of the perception that it was closed unfairly, gives pro-Kurdish candidates an electoral boost.

The result of the case still seems in doubt. Some commentators have implied that the escalation of violence in the south-east in the final months of 2008 makes closure much more likely, whereas others have pointed to the AKP verdict as indicative that the DTP can expect comparative leniency. DTP members appear to have taken the precaution of creating a new party, the Peace and Democracy Party (BDP), which could rapidly become a successor to the DTP should it be banned¹⁰⁴.

Military Interference

The army e-memorandum which was published during the 2007 political crisis is an example of the continued tendency of the military during the post-2004 period to try and interfere in the political process through public statements that address issues that do not fall within the scope of military affairs, as understood in most western democracies.

Such comments often concerned secularism and the Kurdish issue. There were several attempts to restrict academic research and public debate, especially on security and minority issues. There was no progress in strengthening civilian control over the military and no parliamentary oversight of defence expenditure.¹⁰⁵ Possibly the best indication of how far the military was from adopting liberal democratic standards of behaviour is the fact that it seldom made any attempt to deny that it was interfering in politics; one example of this is General İlker Başbuğ's statement in 2006 that it was acceptable for him to make statements criticising rising Islamic influence in Turkey because defending 'the nation state, the unitary state and the lay state' was part of the army's role in Turkey.¹⁰⁶

The re-election of the AKP with a strong majority in 2007, along with the confirmation of Gül as president, was seen by many as a clear message to the military that the public would not tolerate intimidation. Therefore, there were many who hoped that

103 The Jamestown Foundation MMIV, 'AKP Condemns Judicial Attempts to Close Kurdish Party', Gareth Jenkins, Monday 19th November 2007

104 *Pro-Kurdish DTP at crossroads ahead of local elections* – www.sundayszaman.com – 2/11/2008

105 EU Commission Turkey Progress report 2007, p. 9

106 *Turkish military commander warns against Islamization of society* - www.asianews.it

there might be a weakening of the military's influence. However, the evidence seems to be that the military is maintaining its position of power.

The European Commission's 2008 Turkey Progress Report notes that 'senior members of the armed forces have expressed their opinion on domestic and foreign policy issues going beyond their remit'¹⁰⁷, showing that there has been no break with the military's traditional tendency to interfere in civilian affairs. Thus, for instance, in August 2008 General Isik Kosaner warned in a speech given in front of the Prime Minister and President, that there would be a military backlash if the country's secular status was eroded.¹⁰⁸

The Commission's report also implies that such attempts by the military to influence domestic and foreign policy are successful. It notes that 'the armed forces have continued to exercise significant political influence via formal and informal mechanisms', and notes that there has been 'no progress' towards achieving civilian supervision of the military or towards achieving civilian oversight of the military budget¹⁰⁹.

The military appears to have been given a wide degree of discretion in the past year in terms of its handling of the conflict with the PKK in the south-east of Turkey and Kurdistan, Iraq. This has led to allegations that the government has struck a deal with the military in which the military will not attempt to undermine the AKP government, and in return will be given a free hand to deal with security in the south-east as it sees fit.

Ergenekon

2008 has seen the launch of judicial proceedings against an alleged 'deep state' organisation known as Ergenekon. In Turkey the 'deep state' refers to groups within the military, security and civil services and the judiciary, who have close links to the State and use criminal activities to pursue a political agenda. Investigations into Ergenekon began in the summer of 2006 following the discovery of an arms cache at the house of a former army officer¹¹⁰. The investigation has grown to incorporate a very large number of suspects. The allegations against the group include that members organised the murder of a secularist judge in 2006 in a false flag operation designed to look like it was the work of an Islamist group in order to stoke up tensions, and that they were planning to assassinate Nobel Laureate Orhan Pamuk and PM Recep Tayip

107 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 9

108 *Turkish military will defend secular state, government warned* – 29/08/2008 – www.guardian.co.uk

109 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 9

110 *'Deep state' trial polarises Turkey* – www.bbcnews.com

Erdogan.¹¹¹ In October 86 people were put on trial for alleged involvement with the group.¹¹²

Opinions on the implications and impact of the trial are mixed. Some have seen the trial as evidence that transparency is beginning to take root in the Turkish state and that it may be a step in the right direction for reducing the influence of the army and security services and unearthing the whole of the 'deep state'.¹¹³ However, some secularists have alleged that the trial is a 'witch-hunt' launched to take revenge on those who had supported the failed closure case against the AKP.¹¹⁴ The case is relevant to EU accession because it raises further questions about civilian control of the security services and military, and the extent to which Turkey enjoys the rule of law. It also brings up the subject of the human rights implications of trials of those allegedly involved in the Ergenekon affair.

Conflict in the South-East

In June 2004, six months before the historic decision of the Commission to recommend that negotiations begin on Turkish accession, the PKK officially ended the ceasefire that it had been engaged in since 1999. It claimed that ongoing military operations against its operatives were the reason for its policy change¹¹⁵. Following the end of the ceasefire there was an increase in the level of the armed conflict in Turkey. However, the PKK's behaviour during this period has been described as mainly 'defensive' in character, in contrast to their offensive tactics pre-1999. Unfortunately, the opportunity was missed by all parties involved for peaceful dialogue at this juncture.

Despite the PKK returning to ceasefire sporadically during 2005¹¹⁶ and 2006¹¹⁷, the conflict did not die away. Indeed, there was an increase in the intensity of the conflict during 2007¹¹⁸; total conflict deaths (on Turkish government estimates) were at 461 (27 civilian deaths; 139 armed forces deaths; 295 rebel deaths) up from an average of 185 per annum between 2003 and 2006¹¹⁹. 2007 also saw a depressing landmark being reached as Turkey was returned to the Ploughshares list of conflict zones, with conflict deaths (on Turkish government estimates) in the 'current phase of the con-

111 *'Deep state' trial polarises Turkey* – www.bbcnews.com

112 *'Turkish court starts hearing coup case'* – www.reuters.com

113 *'Turkish court starts hearing coup case'* – www.reuters.com

114 *'Q&A: Turkish court to hear high-profile coup case'* – www.reuters.com

115 Kongra-Gel is latest reincarnation of Turkey's Kurdish separatist PKK – AFP – 24/05/2004

116 PKK declares ceasefire after Erdogan offers olive-branch – www.guardian.co.uk – 20/08/2008

117 PKK Declares Cease-Fire - www.bianet.org - 02/10/2006

118 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession*, (London: Pluto Press, 2008) p.109-110

119 *Armed Conflicts Report: Turkey (2003-)* - www.ploughshares.ca

flict' passing the one thousand deaths point (by the end of 2007 more than 1200 lives had been claimed since 2003).¹²⁰

The Commission's 2008 Turkey Progress Report drew more positive conclusions than the previous year's report, which had stated that 'no steps ha[d] been taken to develop a comprehensive strategy to achieve economic and social development in the region'¹²¹. The 2008 report noted with apparent approval the government's May 2008 announcement that it would increase investment in the development project known as the South-east Anatolia Project by €10.2 billion between 2008 and 2012, in order to improve the economic situation in the predominately Kurdish south-east of Turkey¹²². However, it failed to mention allegations that key components of the project, such as the Ilisu Dam, will have negative social and environmental costs, potentially destroying important Kurdish cultural sites and leaving impoverished Kurds with inadequate compensation¹²³.

The Commission's report disappointingly failed to reiterate the important message it sent out in 2007 when it stated that the government of Turkey had failed 'to create the conditions required for the Kurdish population to enjoy full rights and freedoms'¹²⁴. This failure stems from both the inadequate protections in law and fact for human rights in Turkey, which have a particularly bad impact on the Kurdish people in the south-east, who often run foul of laws restricting freedom of expression and association just by attempting to foster and live according to their culture, as well as the failure of the government of Turkey to deal with the situation of insecurity in the south-east in a constructive manner.

The extent of the instability in the Kurdish region is not apparent in the Commission's 2008 Report, which merely states that PKK attacks 'continued'¹²⁵. This fails to draw attention to the fact that 2007 and 2008 have represented a re-escalation of the conflict in the south-east to a level unknown since the arrest of Abdullah Öcalan in 1999.

17 October 2007 the Turkish Parliament authorised a military intervention in Kurdistan, Iraq, with the justification that clashes between the PKK and the Turkish State security forces had led to an escalation in conflict. Air strikes by the Turkish military against PKK targets in South Kurdistan began in earnest in the winter of 2007 and have continued throughout 2008. There have been complaints that the air strikes have

120 Armed Conflicts Report: Turkey (2003-) - www.ploughshares.ca

121 EU Commission Turkey Progress Report, 2007, p. 23

122 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.27

123 Public Statement on 2008 Progress Report – KHRP (November 2008) – p.4

124 EU Commission Turkey Progress Report – page 23

125 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.27

led to civilian casualties ¹²⁶ and the destruction of private property, and also that they have been ineffective in damaging the PKK itself.

In February 2008 the Turkish military launched a ground operation against the PKK in Northern Iraq. The offensive lasted a week, and – according to the Turkish military – led to the deaths of at least 240 PKK militants and 27 Turkish soldiers ¹²⁷. However, this number has been denied by the PKK, indicated a level of psychological warfare as well. The incursion proved controversial for a number of reasons. There was concern at the possibility that the decision to launch the offensive stemmed not only from the need to fight terror, as was claimed, but from a desire by the Turkish military to undermine autonomy in Kurdistan, Iraq. Such claims are given credence by the words of the Turkish military's then Chief of Staff, General Büyükanit, who on several occasions made his hostility towards the Kurdistan Regional Government (KRG) clear.

Additionally, while the military insisted that the operation was successful and was terminated because it had achieved its objectives, concerns were voiced both by those who thought that the whole strategy of military engagement was a mistaken one and by those who worried that the operation had been ended prematurely due to pressure from the American and Iraqi governments for an early withdrawal

The military operations in Kurdistan Iraq have resulted in widespread destruction and two refugee camps have been created as a direct result of these actions. Military operations have also made it difficult to sustain dialogues with the Kurds and have hindered reforms in Kurdish regions of Turkey. Turkey has not implemented the Council of Europe's recommendations of establishing a 'discussion forum' which would objectively establish facts and ascertain the reasons for the conflict, and eventually serve as a 'reconciliation commission.' Turkey has also been unwilling to recognize PKK declared ceasefires or engage in any kind of negotiations.

The EU has also failed to consistently and clearly denounce these military operations and the lack of any significant reaction on its part can be perceived as tacit support for Turkey's invasion of South Kurdistan. Rather than voicing its opposition to such military measures, the EU has only claimed that Turkey has a right to self-defence and has failed to use its influence to discourage military operations in Kurdistan Iraq and pressure Turkey to find a political solution to what is a political problem.

A large number of civilians are continuing to be affected by this armed conflict. Turkish EU membership would bring an unresolved conflict situation with no immediate prospect of a diplomatic and democratic means of resolution into the EU.

126 Iraq: Turkish Bombs = Civilian Casualties - www.cpt.org – 20/04/2008

127 Turkish troops pull out of Iraq – www.bbcnews.com

Human Rights

The adverse effect of the 2006 anti-terror legislation on Turkey's reform process cannot be overstated. It has targeted fundamental rights and freedoms that had previously been bolstered by the amendments, and set the democratisation process back several years. The amendments were in many ways fundamentally flawed and have undone a lot of the good work that the reform process had already achieved in areas such as freedom of expression and the freedom of the press. In terms of the rule of law, the imprecise drafting of the legislation and the use of ambiguous terms has meant that it has been difficult for individuals to regulate their behaviour so as to avoid criminal liability. The perhaps intentional result has been that individuals have been prosecuted unfairly under anti-terrorist laws.

The enactment of draconian pieces of legislation that target the supporters rather than the perpetrators of violence, failed to achieve a resolution to the issues in the Kurdish regions. Extending the list of terrorist offences only served to criminalise innocent people, and increased the antipathy felt in the region towards the current Turkish administration. This resentment has proved to be a fertile breeding ground for extremists and made a democratic solution to the Kurdish question more remote.

The EU and Human Rights

The AK (Development) Party Government staked much on achieving EU accession. It maintained its broadly reformist and pro-EU stance in the years following the commencement of accession negotiations, and the human rights situation in Turkey improved as a result. Nonetheless, Turkey's record on human and minority rights continued to be a problem, despite the periodic passage of reforms aimed at meeting EU human rights standards in the years after 2004.

One problem was that the reform process has often merely been in the form of new statutes that haven't had enough tangible impact on the ground. As a result, human rights violations have continued to occur. The EU's response to Turkey's failings has, unfortunately, not always been as objective as it might be.

The Commission's 2005 Progress Report ¹²⁸, the first to be published during the new phase of negotiations, focused too strongly on formal legislative and administrative reforms and put forward little de facto analysis of the situation on the ground. From reading the report one might have got the impression that it was enough that Turkey pushed reforms through the legislature. In reality legal reforms often have little impact unless the government provides the commitment, financial resources, expertise and bureaucratic structures necessary to turn legal into practical change. The full scope of the nature and extent of the conflict in Kurdish regions is also not apparent.

128 European Commission 2005 Progress Report, 9 November 2005, SEC (2005) 1426

The 2005 Progress Report did refer to a large number of grave human rights problems in the realms of freedom of expression, minority rights, torture and ill treatment, and the freedom of association and peaceful assembly. In the light of this, its tone, which was determinedly positive about the reform process, seemed somewhat contradictory. Its wordings and emphasis failed to reflect the depth and severity of the continued human rights violations in Turkey, at times skimming over significant shortcomings in the reform process and presenting ongoing violations as mere qualifications to generally encouraging progress.

The progress in the east and south-east of the country was described as 'slow and uneven' and mentioned only in passing that '[i]n some cases, the situation has even deteriorated'. However, the report failed to comprehensively recognise that the east and south-east of Turkey is overwhelmingly inhabited by Kurds; it therefore failed to recognise the myriad injustices and the discrimination faced by Turkey's Kurdish population as an unrecognised minority group.

In a number of sections, a positive 'spin' was put on Turkey's failings even where serious and ongoing abuses of key human rights were detailed at length, sometimes by emphasising Turkey's efforts at compliance rather than the results achieved. Other important factors central to any assessment of the situation in Turkey were substantially overlooked, notably the Kurdish issue.

The 2006 and, to an either greater extent, the 2007 European Commission Progress Report, did become more forthright in their criticisms of the human rights situation in Turkey. Increasingly the gap between reforms on the statute book and in practice is being acknowledged. The 2007 Report stated that there had been limited progress in legislation and practice when it came to fundamental rights, and notably acknowledges that major problems had not been remedied. It was noted that the total number of new applications to the ECtHR from 1 September 2006 to 31 August 2007 was higher than the same period in the previous year, and that there were delays in enforcing ECtHR judgements¹²⁹. However, the progress reports arguably remained at the charitable end of the spectrum in their analysis of Turkey's performance, and continued to underplay the importance of the Kurdish issue for the prospects for reform.

Torture and Ill-treatment

The Commission's 2005 Progress Report recognised that reports of torture and ill treatment were still 'frequent'. However, it then submitted that 'incidences were diminishing' and no longer systematic¹³⁰. The founding members of the EUTCC and

129 EU Commission Turkey Progress Report 2007, p. 12

130 EU Commission Turkey Progress Report 2007, p. 12

several other human rights organisations¹³¹ have vehemently contested this conclusion, and have continued to do so. Torture continues to be used as a systematic practice of the state rather than in isolated cases.

Turkey's efforts to combat torture, which have included reducing pre-trial detention periods and providing detainees access to medical examinations and legal counsel, were certainly welcomed. However, torture continued to reach levels unheard of in western democracies. In June 2006 alone, 34 investigations were launched against police officers in Diyarbakır alleging torture during and after the disturbances at the end of March 2006.

Human rights groups continued to report large numbers of human rights breaches, in some parts of the Kurdish region a rise in violations was reported. In 2005, 193 of the 675 people who applied to the Human Rights Associations of Turkey (TİHV) had valid claims of torture. By contrast, in the first five months of 2006, TİHV had already dealt with 113 new confirmed torture survivors. In addition, five people have died in police custody and at least seven in prison under suspicious circumstances.¹³²

Human rights advocates claimed that 'only a small percentage of detainees reported torture and ill treatment because they feared retaliation or believed that complaining was futile.'¹³³ Authorities were deliberately using less detectable methods and adopting more devious practices including forms of psychological torture such as sexual harassment and humiliation, mock executions and sleep deprivation¹³⁴.

Another alarming development was that whilst torture and ill-treatment in detention were thought to have decreased, cases of torture and ill treatment outside detention and were still common. The number of reports of such cases actually increased in 2005. The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following a December 2005 visit to Turkey described an increase in instances of ill-treatment inflicted outside of law enforcement establishments, in isolated areas such as forests.¹³⁵ Often people suspected of being involved in 'terrorist activities' were taken into unofficial detention, no records were kept and suspects were generally kept until the authorities had obtained the desired information.

131 Including the Human Rights Association (IHD) and the Human Rights Foundation of Turkey (HRFT)

132 'Önen Speaks Out: Why Torture is Systematic' BIA News Centre, 28 June 2006, at http://www.bianet.org/2006/07/01_eng/news81316.htm (last accessed 12 October 2006).

133 Turkey: Country Reports on Human Rights Practices - US Department of State – 28 February 2005.

134 Home Office Country Information & Policy Unit, 'Turkey Country Report, April 2005', para 6.36

135 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report, 6 September 2006

Opening accession negotiations with a country which had sanctioned internationally prohibited practices, from the highest levels of government, could not be tolerated. It was thus imperative that no systematic torture was found in Turkey before formal talks began. Encouragingly, during 2005, courts investigated numerous allegations of torture by state security forces, although perpetrators were rarely adequately punished. In 2005, there were 232 convictions out of the 531 cases that actually went to full verdict. Meanwhile a staggering 1005 were acquitted. Of the convictions, only 37 carried jail sentences, and the rest received fines or other reprimands.

One of the issues that must be addressed is the persistence of torture and ill treatment within the country.

Inadequate implementation of legislation, legislative loop-holes and a surviving mentality conducive to the practice of torture has seen the systematic torture of detainees persist. The perpetrators are usually law enforcement officials and members of the security services; 'torture, ill-treatment and killings continue to be met with persistent impunity for the security forces in Turkey'.¹³⁶

Turkey's efforts to impress the EU have led to a shift from flagrant to more subtle forms of ill-treatment. Nonetheless the Commission noted that incidents of torture and ill-treatment were still being reported, particularly during arrest and outside detention centres. This in turn betrays the progress reflected by official figures purporting to show that torture is being reduced. Victims of such torture also continue to face severe obstacles if they attempt to bring their complaints to court. Moreover Turkey's failure to adopt the Optional Protocol to the UN Convention against Torture has meant that Turkey has felt no obligation to allow independent monitoring bodies in its places of detention by independent national bodies.

Turkey has also failed to implement much needed independent inspections of detention facilities in spite of a recommendation to this effect by the Council of Europe's anti-torture committee.¹³⁷ In such circumstances, and given the increase in more sophisticated, less visible torture methods in recent years, effective medical examinations of detainees become crucially important. However, the current system is inadequate, since:

1. Medical examinations are usually brief and informal
2. Detainees are often refused access to a second examination by the authorities.

¹³⁶ Amnesty International Report; Turkey: The entrenched culture of impunity must end; EUR 44/013/2007; 5 July 2007

¹³⁷ 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 15 September 2003'; Strasbourg, 18 June 2004, § 40.

3. Only 300 out of the 80,000 doctors in Turkey have the forensic skills to diagnose instances of torture.
4. Law enforcement officers continue to be present during medical examinations
5. Courts refuse to recognize independent medical evidence in torture cases; only evidence provided by the Forensic Medical Institute, which is institutionally bound to the Ministry of Justice, is usually accepted.¹³⁸

Furthermore Turkey failed to promptly investigate allegations of human rights violations by members of the security forces, and such investigations failed to be independent and impartial.¹³⁹ There also remains a lack of accessible state-sponsored services for victims of torture and ill-treatment.¹⁴⁰

By abolishing ‘incommunicado’ detention and guaranteeing detainees immediate access to a lawyer, Turkey had sent a strong signal that it would attempt to eradicate the practice of torture. Unfortunately, in 2006 Turkey enacted a new Anti-Terror law to amend the 1991 Law on the Fight against Terrorism (Act 3713). This new law removed the detainees’ automatic right to access a lawyer. Article 9 of the law provides that during detention the detainee’s right to see a lawyer can be restricted for a period of up to 24 hours, which is when the detainee is at the greatest risk of being tortured.

The issue of ill treatment of prisoners came to prominence in 2008 following allegations that the PKK founder Abdullah Öcalan, who has been imprisoned on İmralı Island since 1999, was suffering from ill treatment. The allegations, which were made by Öcalan’s lawyers in October, included claims that his room was ‘messed up’, that he was ‘manhandled’, and that guards made a ‘threat on his life’¹⁴¹. The allegations sparked violent protests throughout the south-east of the country, particularly in areas where Prime Minister Erdoğan was visiting as part of a tour of the region¹⁴².

While the allegations remain controversial, with the Justice Minister claiming that he commissioned an investigation which found that the allegations were ‘entirely baseless’¹⁴³, they have refocused attention on the unusual conditions in which Öcalan is being held. The Council of Europe’s Committee for the Prevention of Torture (CPT)

138 Amnesty international Report: Turkey: The entrenched culture of impunity must end, EUR 44/013/2007; 5 July 2007

139 EU Commission Turkey Progress Report 2007, p 60

140 EU Commission Turkey Progress Report 2007, p. 13

141 Lawyers Of PKK’s Imprisoned Leader Demand Investigation – www.bianet.org – 20/10/2008

142 Lawyers Of PKK’s Imprisoned Leader Demand Investigation – www.bianet.org – 20/10/2008

143 Minister Of Justice Denies Any Torture Against The Imprisoned PKK Leader – www.bianet.org - 17/11/2008 Turkey must end confinement of rebel chief Öcalan rights watchdog- www.institutkurde.org

has claimed that Öcalan's mental health 'has noticeably deteriorated'¹⁴⁴, and the government of Turkey claims it is now considering putting other prisoners on the island to relieve Öcalan's solitude¹⁴⁵.

Turkey has continually failed to fully implement CPT's recommendations with regards to the conditions of detention of Mr. Öcalan, specifically with regards to his health, or to close İmralı Island prison.

The Commission's 2008 Progress Report was unable to announce any net progress in the fight against torture in Turkey since 2007. While it was stated that there had been a decline in charges related to torture whilst under detention at police stations, there appears to have been an increase in torture in other places¹⁴⁶. The implication is that rather than giving up on the use of torture the police have simply changed the way in which they commit torture in order to avoid prosecution. This would seem to throw cold water on the EU's claims that torture has ceased to be 'systematic' in Turkey; if police have responded to legal measures designed to eliminate torture by purposefully changing the manner in which they go about torture in order to escape detection, it seems clear that the use of torture remains firmly part of police culture. The Turkish government has made negligible progress in its fight against torture perpetrated outside detention centres and against the impunity of law enforcement officials.

Turkey signed the Optional Protocol to the UN Convention against Torture in 2005, but has yet to ratify it. Ratification would provide for the prevention of systematic torture and for independent monitoring of detention centres and be an important step in ensuring the eradication of torture within places of detention (though it would do little to prevent torture in transit and elsewhere), since it would establish an inspection regime of detention centres along European lines.

Freedom of Expression

Rather than seeing progress within the area of freedom of expression, the period from 2005 to 2008 has seen a large increase in the number of persons prosecuted for expressing non-violent opinions, with the number almost doubling between 2005 and 2006.¹⁴⁷

The 2006 anti-terror legislation was partially responsible for the deterioration in the position of freedom of expression in Turkey during this period. Disastrously, it made publishing the statements of terrorist organisations an offence for which one could be imprisoned. The amendments also introduced heavy fines for owners and editors of

144 Turkey must end confinement of rebel chief öcalan: rights watchdog- www.institutkurde.org

145 Turkey might end öcalan's isolation - www.presstv.ir - 22/11/2008

146 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.69

147 EU Commission Turkey Progress Report 2007, p. 15

media outlets that commit offences, and allowed judges and prosecutors to suspend publications which they considered to be glorifying terrorist acts for up to 30 days. Freedom of the Press 2007 reported that ‘constitutional provisions for freedom of the press and of expression exist, but are only partially upheld in practice and have been increasingly undermined by the more restrictive measures of the new Turkish Penal Code.’ The provisions referred to were Articles 216 (incitement to hatred), 220 (propaganda made through media, about the goals of an organisation which has been established in order to commit crimes) and Articles 301 (denigration of Turkishness – amended to ‘Turkish Nation’).

However, it was Article 301 (which in the form in which it existed before being amended in April 2008 made insulting ‘Turkishness’ a crime punishable by up to three years imprisonment ¹⁴⁸), that gained international attention during this period, when Nobel laureate Orhan Pamuk and Turkish-Armenian journalist Hrant Dink were, in separate cases, charged under the act for speaking out about Turkey’s role in the Armenian genocide. Hrant Dink’s later assassination in January 2007 showed how restraints over freedom of expression can contribute to creating an atmosphere of intolerance and hatred. ¹⁴⁹

Even where no conviction resulted from a prosecution, anti-freedom of speech legislation had a pernicious effect, suppressing debate by creating a climate of self-censorship, as identified by the Commission in its 2007 report ¹⁵⁰. Self-censorship resulted both from judicial proceedings and the extra-judicial threats that frequently went with prosecution.

Anti-freedom of expression laws had a particularly pernicious effect on Kurdish activists who often found themselves repeatedly facing prosecution for ‘expressing non-violent opinions’. In 2007 in Diyarbakır alone there were six times more people on trial under Article 220 than under Article 301 in the whole of the rest of Turkey. ¹⁵¹

Human rights defenders were another group vulnerable to restrictions on their freedom of expression during this period. They were perceived to be acting against the state, rather than as a constructive force for change ¹⁵². The Turkish administration reacted by instigating a new strategy of investigations and prosecutions against human rights defenders as a means of harassing and intimidating them.

148 Freedom House, November 7, 2007

149 European Parliament Debate 24-10-2007

150 Publishers on Trial: Freedom of Expression in Turkey in the Context of EU Accession; Trial Observation Report; KHRP and BHRC May 2007, p. 9

151 Freedom of the Media in Turkey and the Murder of Hrant Dink; Trial Observation Report; KHRP/BHRC/INDEX/A19; September 2007, p. 16

152 See: ‘Human Rights Defenders in Turkey’, KHRP, October 2006.

Recent developments indicate superficial progress, but substantial changes with regards to the protection of The Right to Freedom of Expression have yet to be seen. In April 2008, after years of criticism from human rights organisations and foreign governments, Article 301 of the Turkish Penal Code was amended. However, the amendments were largely cosmetic, and could in fact further politicise the judicial process¹⁵³ and therefore worsen the human rights situation in Turkey.

Until April the article had criminalised ‘public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey’ as well as of ‘the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures’¹⁵⁴. The amendment to the article substituted the phrase ‘Turkish nation’ for the word ‘Turkishness’. The practical import of this change seems unclear, however, given Article 301 convictions such as that of Ragıp Zarakolu in June 2008 for publishing *The Truth Will Set Us Free*, a book that ‘tells the story of the slaughter of 1.5 million Armenians by Ottoman forces during the first world war through the eyes of ... [the author’s] Armenian grandmother’¹⁵⁵.

The amendment has reduced the maximum prison term that can be given for an Article 301 offensive from three to two years, but given the fact that no one has ever been sent to prison for violating the article this has little practical import¹⁵⁶.

Potentially the most important change introduced by the amendment is that it requires that in future prosecutors attain the permission of the Justice Minister in order to bring a case to trial. This amendment led experienced Turkey observers such as Joost Lagendijk to express the belief that, while the amendment would not be a legal reform ‘beauty contest’ winner, it would mean that ‘there won’t be any more cases opened on the basis of 301’¹⁵⁷.

However, this optimism has not proved well-founded. Bianet’s Quarterly Freedom of Expression Monitoring Report, published in November 2008, stated that during July, August and September ‘15 journalists and 36 individuals ... [were] prosecuted under Article 301 in 18 cases’¹⁵⁸. This means that, despite the amendments, there have actu-

153 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. –15-16

154 Turkey: Article 301 is the real insult - www.amnesty.org.uk

155 Turkish publisher convicted over Armenian genocide claims – www.guardian.co.uk – 19/06/2008

156 Turkey: Murder of Hrant Dink Leads to Renewed Calls for Repeal Article 301 of the Penal Code – www.greekhelsinki.gr – The Balkan Human Rights Web Pages

157 EU welcomes 301 amendment but calls for more – www.todayzaman.com

158 BIA Quarterly Report Released: State’s Security Hijacks The Freedom Of Expression – www.bianet.org – 2/11/2008

ally been more Article 301 cases than there were in the same quarter of 2007, when there were just 22 individuals facing prosecution¹⁵⁹.

The Justice Minister has refused permission for trials to go ahead in some cases, such as in June in the case of İbrahim Tığ, editor of the newspaper *Devrek Bölge Haber* (Devrek Regional News), who prosecutors claimed had ‘openly denigrated the government’¹⁶⁰. However, in other cases the Minister showed a willingness to grant permission for trials under Article 301. This includes cases where the relevant speech-act could only be taken to indirectly fulfil the criteria of the amended article, such as when the Justice Minister gave permission for the trial of Temel Demirer, who was being prosecuted for stating that Hrant Dink was killed not only ‘for being an Armenian, but for recognizing the genocide as well’¹⁶¹.

Between the passage of the amendment in April and the beginning of December, 462 Article 301 cases have been referred to the Justice Ministry for approval. Of these the Minister has accepted 58 and refused around 260, leaving over 120 cases still pending¹⁶².

It is easy to agree that it would be a good thing per se if, as seems likely, the requirement that the Justice Minister grant permission for a trial to take place leads to a reduction in trials and convictions under Article 301. However, one must also be aware that the involvement of the government could also have a negative effect on freedom of expression and human rights more generally if it leads to the politicisation of the judicial process¹⁶³, or if the fact that the Justice Minister has granted approval for a trial ends up prejudicing its result.

The figures referred to above should serve to focus attention on two further serious problems with any claim that the April amendment to Article 301 is sufficient to remove the need for full repeal of the law. Firstly, a large number of cases have been accepted by the Minister of Justice of a party that is supposedly reformist and has an interest in complying sufficiently with human rights standards to gain admission to the EU. These moderating factors would not apply to the same extent once Turkey has achieved EU membership or if a government is elected which is less concerned with

159 BIA Quarterly Report Released: State’s Security Hijacks The Freedom Of Expression – www.bianet.org – 2/11/2008

160 BIA Media Monitoring Report For The Third Quarter of 2008 - www.bianet.org – 1/12/2008

161 Writer Defends Himself Against Minister’s Accusations In A Freedom Of Expression Case – www.bianet.org – 11/12/2008

162 Writer Defends Himself Against Minister’s Accusations In A Freedom Of Expression Case – www.bianet.org – 11/12/2008. See also European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699: ‘Of 163 cases subsequently reviewed by the ministry, 126 were rejected and 37 approved for prosecution.’ (p.15-16)

163 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p. 15-16

freedom of expression, as might well be the case if one of the Kemalist or nationalist opposition parties was voted into power in a few years time.

Additionally, the long periods that it typically takes for the Justice Minister to officially decide whether to allow the case to progress means that the whole judicial process, from initial charges to final verdict, is more drawn out than before. This is a very serious issue in Turkey, which already has a very bad record when it comes to overly lengthy trials. It is arguably even more serious when it comes to Article 301 cases in particular, since – given the relatively minor official punishments that tend to result from conviction – the uncertainty caused by a lengthy trial seems likely to have a powerful effect in promoting self-censorship.

Even if it were accepted that the reform represents, on balance, a positive step, it must be remembered that, while Article 301 is the highest profile of the restrictions on freedom of expression in Turkey, it is by no means the only significant one. Other restrictions on freedom of expression remain and have been used frequently during 2008 to punish those who make statements publicly that are not approved of by the establishment.

Prosecutions have occurred under laws banning ‘targeting public officials who are part of anti-terror activities’; ‘provoking people to hatred and hostility, or denigration’; ‘alienating people from military service’; ‘provoking [people] not to abide by the laws’; ‘praising crime and the criminal’; ‘doing propaganda for an illegal organisation through the media’; and ‘publishing the comments of a terrorist organisation’.¹⁶⁴

Aside from the problem of the existence of laws that should not exist and restrict freedom of expression, there is the problem of the undesirable interpretation of legislation that may provide a legitimate check on freedom of expression in some cases. An example of this would be Article 285 of the Penal Code, which prohibits ‘violating the confidentiality of an investigation’ – and seems a measure that would in some circumstances be reasonable – but which has been used to stifle journalistic freedoms, and the provisions relating to ‘misconduct in office’, which have been used to undermine pro-Kurdish officials.

Another example is provided by Leyla Zana’s case. Zana was sentenced to ten years in jail in December 2008 under Article 314/2 of the Turkish Penal Code, which criminalizes being a member of a terrorist organisation. While there are some who might argue that being a member of a terrorist organisation should not be a criminal offence so long as that individual does not actually commit any acts of violence, many would argue that such restrictions are legitimate, and on most readings of the law it would not seem like it should restrict freedom of expression. However, Zana was convicted

164 BIA Quarterly Report Released: State’s Security Hijacks The Freedom Of Expression – www.bianet.org – 02/11/2008

of this offence on the basis of speeches in which she simply referred to Abdullah Öcalan as a leader of the Kurds and claimed that the PKK was not a terrorist organisation, thus clearly violating her freedom of expression.

The example of the Zana case demonstrates the fact that resolving the problem of restrictions on free expression in Turkey is not simply a matter of legislative change; it is also a matter of changing the jurisprudence of the judiciary. However, changes in judicial attitudes do not appear to have been keeping pace with reforms.

Freedom of Association and Assembly

The right of freedom of association and assembly remained heavily restricted, even after the reforms leading up to the start of accession negotiations in 2004. Open criticism of the government or peaceful activities which touched on taboo subjects such as the military, the Kurdish question or the Armenian genocide met with reprisals. Anti-democratic legislative provisions were used to harass and prosecute dissent; administrative restrictions on the formation of associations resembled those of a police state; and assemblies and public meetings regularly met with police harassment, violence and detention.

Scenes of non-violent women demonstrators being beaten with truncheons and dispersed with tear gas in March 2005 were reportedly greeted by the EU with shock and concern at the use of 'disproportionate force'.¹⁶⁵ However, the EU's response was insufficient to prevent further human rights violations, and the EU has not assumed the level of responsibility required to pressure Turkey into ensuring that such practices no longer occur. A fact-finding mission sent to the Kurdish region in the south-east in April 2006¹⁶⁶ found that the rule of law was clearly put aside during the security forces' handling of the violence that erupted following the funerals of PKK armed combatants at the end of March 2006. Police used indiscriminate, disproportionate and lethal force, clearly condoned by their superiors, chillingly reminiscent of the security force's behaviour under the state of emergency during the 1990s. Ten civilians lost their lives, including three children. Hundreds of civilians were detained, many of whom alleged that they had been tortured during their detention.

Minority Rights

Limited progress was achieved within the sphere of minority rights between 2004 and 2007. Language rights continued to be hindered; in June 2007 the Council of State dismissed the mayor from office in the Sur municipality and dissolved the Municipal

165 BBC, 'Turkish police beatings shock EU', 7 March 2005, at <http://news.bbc.co.uk/1/hi/world/europe/4325347.stm> (last accessed 11 October 2006).

166 See 'Indiscriminate Use of Force: Violence in South-east Turkey' KHRP Fact Finding Mission Report, October 2006.

Council for providing multilingual services despite it being an area in which many people speak no Turkish.¹⁶⁷

Following legalisation the first private Kurdish language schools were opened in 2004, but by 2005 they had all closed down, allegedly due to a lack of demand¹⁶⁸; Kurdish children continued to be prevented from learning their mother tongue in the public school system.

A big step in the right direction was taken in terms of education when the European Court of Human Rights held that Turkey should bring its educational system and domestic legislation into conformity with the ECHR in October 2007.¹⁶⁹ This case was in relation to an Alevi child unable to study her religion in school, which infringed her right to education under Article 2 of Protocol No. 1. It was held that where Contracting States include the study of religion in the curricula pupils' parents may expect that the subject will be taught in such a way as to meet the criteria of objectivity and pluralism, and with respect for their religious convictions.

Elsewhere, there appeared to be regression. State run human rights bodies were sidelined and relieved of any real influence. In March 2005, the Chairman of the Human Rights Advisory Board of the Prime Ministry (BİHDK), felt compelled to resign from his post after he and his colleagues were severely criticised over a government-commissioned report, subsequently known as 'the Minority Report', calling for improvements in Turkey's record on minority rights. The Chairman bitterly criticised the government's 'insincere attitude' towards human rights and its lack of consultation with BİHDK.¹⁷⁰

In February 2006, two members of BİHDK, Professor Baskın Oran and Professor İbrahim Kaboğlu, were charged under Articles 301 and 216 of the revised Penal Code on the basis that the report argued that 'Turk' is an identity of only one ethnic group and that Turkey also includes other ethnic groups such as 'Kurds' and 'Arabs'. These comments were considered to be sufficient 'denigration' of the Turkish state to warrant criminal proceedings.¹⁷¹

This case typified the mistrust which has been shown to the work of human rights defenders by the criminal justice system, which the state's programme of human rights training seems to have done little to shift. The irony is that the Human Rights Advi-

167 EU Commission Turkey Progress Report 2007, p. 22

168 Opened with a flourish, Turkey's Kurdish-language schools fold - www.csmonitor.com

169 Hasan and Eylem Zengin v Turkey (App No. 1448/04)

170 Yavuz Önen, 'Turkey PM rights adviser resigns', BBC, 25 March 2005, at <http://news.bbc.co.uk/2/hi/europe/4383075.stm> (last accessed 5 October 2005).

171 See: 'Suppressing Academic Debate: The Turkish Penal Code, a Trial Observation Report' KHRP, June 2006.

sory Board was set up, by the state itself, for viewpoints such as this to be aired and debated. The defendants were first acquitted by the General Criminal Court in Ankara in February 2006. However, years of legal wrangling meant that the acquittal was not finally confirmed until April 2008, and even since then the authors of the report remain in danger following death threats. BİHDK itself has ceased to operate.

2008 has seen the implementation of some progressive measures upholding the rights of minorities. One substantial step forward would appear to have been achieved in the area of broadcasting. Following an amendment to the broadcasting law in June 2008¹⁷² the government began discussing the creation of a state-controlled TV channel broadcasting entirely in Kurdish. The state-run Turkish Radio and Television's (TRT) new Kurdish-language channel, TRT-6, went on the air on January 1, 2009.¹⁷³ This must be considered a major step forward, given the emphasis that has been attached to the restrictions on broadcasting by pro-Kurdish groups. However, some restrictions and doubts remain, and the legal basis allowing the station to broadcast had been questioned by some¹⁷⁴. For instance, the laws that are currently in place mean that it would appear that the station will legally not be allowed to broadcast educational or children's programming¹⁷⁵. It also appears that the station will not be using Turkish subtitles despite the fact that this is required of private stations broadcasting in Kurdish.

Another concern is that the station may simply be being used as a tool to broadcast government propaganda. This stems from controversy over the selection of some of its senior employees, as well as from its mandate, which stipulates that it tell 'the just cause of the fight against terrorism'¹⁷⁶. Such concerns are heightened by the fact that privately operated Kurdish language broadcasting is currently very limited: while private stations are already broadcasting in Kurdish (for a total of less than 5 hours a week, in accordance with the old regulations), they have often been faced with complex regulations that have limited their ability to operate a Kurdish language service, while the transmissions of stations labelled 'pro-PKK', like Roj-TV, have been blocked by the Turkish government¹⁷⁷. The June 2008 reform has not changed the status of private broadcasting in the Kurdish language¹⁷⁸. Thus, it seems possible that a Turkish government run station with a political agenda will have near monopoly control over Kurdish language broadcasting. Many are of the opinion that the chan-

172 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.25

173 http://www.rferl.org/Content/Turkeys_Kurdish_TV_Hopes_To_Win_Hearts_And_Minds/1365884.html

174 Broadcasting in Kurdish Allowed To The State, But Banned To The Kurds – www.bianet.org – 26/12/2008

175 Turkish State TV To Broadcast In Kurdish – www.bianet.org – 18/11/2008

176 Turkish State TV To Broadcast In Kurdish – www.bianet.org – 18/11/2008

177 Turkish Government blocks viewers from watching ROJ TV – www.thecaravan.org

178 Kurds welcome Kurdish broadcast bill – www.todayszaman.com – 13/06/2008

nel is intended to engender good-will in the run up to local elections in March 2009.¹⁷⁹ According to public opinion, in particular in the Kurdish region, most Kurds are suspicious that the AKP government has initiated the TRT Channel 6 just before the local elections in March 2009.

In the area of mother tongue schooling, no progress appears to have been made. Despite being legal, apparently no private Kurdish language schools are currently in existence. Public Kurdish language schooling remains illegal¹⁸⁰. However, there have been suggestions that a Kurdish Institute may be opened at one of the Turkish universities for the first time¹⁸¹. There has also been no progress in terms of providing access to public services in languages other than Turkish¹⁸².

Women's Rights

Combating violence against women was another key area in which government efforts to bring reform dwindled after 2004. Domestic violence, estimated by women's groups to affect up to a half of all Turkish women, remains rooted in traditional patriarchal conceptions of femininity and the proper role of women.

Professor Yakın Ertürk, the Special Rapporteur of the United Nations Commission on Human Rights on violence against women visited Turkey in May 2006 to investigate suicides of women. Senior justice and law enforcement officials in provinces informed the Special Rapporteur about cases in which 'there were reasonable grounds to believe that the suicide was instigated or that a so-called honour killing was disguised as a suicide or an accident.'¹⁸³

While the legal system provided for equality, the Special Rapporteur found that in practice 'authorities too often lack[ed] the willingness to implement these laws and protect women from violence.'¹⁸⁴ Importantly, Turkey had failed to respond to the well-evidenced calls from women's groups for the establishment of more shelters for women fleeing abuse. In 2006, there were only 8 shelters to cater for Turkey's population of 70 million.

For citizens in the Kurdish regions, the situation appeared even bleaker. Violence against women has been a pronounced problem in the Kurdish regions, and it was reported that in the first half of 2005, following the 17 December 2004 decision to

179 http://www.economist.com/displaystory.cfm?story_id=12856373

180 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.26

181 Turkey and Europe: The Decisive Year Ahead (Europe Report N°197) – International Crisis Group (ICG) – December 2008 - p.19

182 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.26

183 UN Press Release, 31 May 2006.

184 *Ibid.*

open accession negotiations, there was a marked increase in human rights violations in Diyarbakır and the surrounding provinces.¹⁸⁵

Honour killings where the woman was seen to have transgressed her customary, socially defined role continue to occur with a culture of impunity protecting the murderers. In June 2006, the Diyarbakır Bar Association's Women's Rights Centre stated that honour killings had claimed the lives of 50 women in the past six years in the south-east region of Turkey.

In the sphere of women's rights the 2006 Penal Code contained some more positive developments, particularly given the deeply chauvinistic nature of the 2003 draft which criminalised adultery and did not adequately punish honour killings. Characterisations of offences committed against women based on patriarchal notions of chastity, 'honour' and shame have been replaced with definitions based on international human rights norms and recognition of women's bodily integrity and sexual rights. Sexual crimes were denoted as crimes against the individual rather than crimes against society, marital rape was criminalised and rape was no longer legitimised where the perpetrator married the victim. These changes came about following a constructive and sustained campaign by women's rights groups in Turkey to incorporate a gender perspective into criminal law, which was much to the credit of the burgeoning Turkish women's movement.

However, the 2006 code continued to refer to 'custom killings' rather than honour killings. It remains unclear whether this term covers all murders committed according to 'honour' codes and still allows the potential for legal justification for those committed in the name of honour. In addition, 'genital examinations' could be carried out if necessary for public health or, at the behest of a court, if required for the investigation of a crime. No requirement that the woman's consent must first be attained had been stipulated. These highly invasive and discriminatory examinations have been used as a means of controlling female sexual relations, because pre-marital virginity is customarily seen as critical to a woman's 'honour'.

The Commission's 2008 Turkey Progress Report notes that the 'legal framework guaranteeing women's rights and gender equality is broadly in place'¹⁸⁶. However, the implication of the report is that this is yet to have a transformative impact on the position of women within Turkish society.

The government of Turkey does appear to have been trying to address the problem of the implementation gap between the legal status of women and their actual position.

185 Diyarbakır branch of the Human Rights Association (İHD) Report, 2005.

186 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.21

Examples of such efforts include ‘gender sensitivity training’ for law enforcement and health workers¹⁸⁷. However, much more still needs to be done.

The 2008 Progress Report notes that ‘domestic violence, honour killings, and early and forced marriages are still a serious problem.’¹⁸⁸ Given this the report’s passing reference to the fact that the number of shelters for women had increased only ‘marginally’¹⁸⁹, this appears rather worrying. More generally, (despite some progress in reducing the gender gap in primary education)¹⁹⁰ women in Turkey, particularly Kurdish women, lag far behind their male counterparts in areas such as education, access to meaningful employment, political representation and access to justice¹⁹¹.

Women also tend to be more vulnerable than men to non-gender specific forms of discrimination. For instance, the poor level of women’s education in many deprived areas of Turkey means that women from minority groups are less likely than their male relatives to be literate in Turkish¹⁹². This means that the ban on the provision of public services in languages other than Turkish, such as the Kurdish dialects, particularly disenfranchises women.

Internally Displaced Persons

In the period after 2004 the Turkish government made considerable strides to address the internal displacement situation. It undertook a national survey on the number and conditions of IDPs; drafted a national IDP strategy; adopted a law on compensation for property damages; and put together a comprehensive pilot plan of action for IDPs at the provincial level¹⁹³. The improvement in the security situation in the south-east (at least until 2007) also provided better conditions for the return of IDPs to their homes. However, the implementation of the compensation law came in for criticism, due to reports that difference in implementation between provinces made the scheme inequitable¹⁹⁴.

187 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.20

188 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.20

189 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.20

190 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.20

191 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p.20

192 *European Parliament Project: The Increase in Kurdish Women Committing Suicide – Kurdish Human Rights Project* - p.11-12

193 Progress on national IDP policy paves way for further reforms – IDMC: www.internal-displacement.org 26/07/2007

194 EU Commission Turkey Progress Report 2007, p.24

In December 2006 the Hacettepe University's Institute of Population Studies reported that the number of IDPs was substantially higher than previous estimates – in fact between 950,000 and 1,200,000¹⁹⁵.

The 2008 EU Commission Progress Report on Turkey stated, as it had in 2007, that Turkey lacked an 'overall national strategy to address the situation of IDPs.'¹⁹⁶ It notes that there remain 'shortcomings' in the implementation of the Law on Compensation, particularly regarding the 'uneven and inequitable calculation of compensation between provinces' and the pace at which applications for compensation are processed.¹⁹⁷ The report also states that IDPs continue to suffer from 'economic and social marginalisation'¹⁹⁸

The Report underlines that the security situation, as well as a lack of basic infrastructure, lack of capital, and limited employment opportunities continue to prevent the return of many IDPs to their homes¹⁹⁹. The threat posed by the village guard system is identified as an additional problem, and it is noted that no progress has been made to abolish the village guard system²⁰⁰. The recent escalation of the conflict in the Kurdish region, particularly near the border with Iraq, seems likely to slow progress in the IDP situation in Turkey. The conflict has had a devastating effect on civilian lives and is unlikely to result in any concrete gains for Turkey.

The Future: Achieving Full Compliance with the Copenhagen Criteria

One key question for Europeans and reform-minded groups in Turkey is how they can help ensure that Turkey's EU accession process has the biggest possible impact in terms of improving the human rights situation in Turkey. Mistakes could be made in one of two directions.

Firstly, the EU might fail to make the best use it can of the unusual leverage it enjoys during negotiations by accepting Turkey even though it had not improved its human rights standards to the extent that it was able. This has been an implicit criticism levelled by those who claim that Turkey had not met the requisite Copenhagen Criteria standards for beginning negotiations, and by those who have claimed that the Commission's Turkey Progress Reports have at times put a gloss on the true situations in Turkey.

195 EU Commission Turkey Progress Report 2007, p.23

196 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 28

197 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p. 28

198 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699 p.28

199 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 28

200 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 28

Alternatively, an excessively rigorous application of human rights standards, or rhetoric from Europe that is too condemnatory or pessimistic about Turkey's efforts might have the effect of demoralising reformers, alienating mildly pro-reformist constituencies in Turkey, and lending credence to those who claim that the EU is not really serious about letting Turkey join the Union. All of this could seriously undermine the prospects for lasting, deep reform in Turkey, and might even turn the country away from Europe and its values altogether. This danger is especially acute given the fact that, as mentioned previously, increasingly influential EU member states have been voicing reservations about Turkey ever enjoying full membership.

In order to avoid falling into either of these traps it seems sensible that the EU concentrates on identifying and promoting a complete but finite set of legislative changes and judicial and administrative targets necessary for Turkey to put itself in compliance with the political and human rights components of the accession criteria, as identified by the Helsinki Criteria. It must be made clear that meeting these targets is both necessary for Turkey if it is to become an EU member, but also that it is as much as is strictly necessary within the field of human rights and institutional change. In other words, once these targets are met Turkey should understand that it must merely comply with the economic requirements of accession in order to become a member.

Obviously, it is not within the scope of this report to identify such a complete set of targets. However, it does seem productive to highlight some of the key changes that need to be made in order for Turkey to progress speedily towards full compliance with the Helsinki Criteria.

1. It is vital that civilian control of the Turkish military be deepened and cemented. It is unthinkable to have a member state of the EU in which the military exercises the level of influence on politics that it does in Turkey. The military can currently operate with a wide degree of discretion because the *Turkish Armed Forces Internal Service Law* and the *Law on the National Security Council*, which determine the operational parameters of the military, define national security extremely loosely.²⁰¹

In order to achieve compliance with the Copenhagen Criteria it seems clear that these loose descriptions of the military's responsibilities must be replaced with a restricted and unambiguous statement of its position, which confirms its subordinate position to the democratic civilian government and Turkish constitution. Additionally it is vital that civilian auditing of the military budget, which is currently unable to ensure full accountability due to caveats such as that excluding extremely important 'extra-budgetary funds', is freed from restrictions.

201 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 9

2. 2008 has shown how important it is to alter the constitutional and legislative provisions that criminalise the activities of political parties. Constitutional reform is necessary in order to ensure that closure cases of the kind that were launched against the AKP and DTP, should not be allowed to disrupt Turkish democracy again. Fundamentally, this means that parties should not be banned unless they can be proven to have actively engaged in violent criminal activities or to have explicitly incited people to violence.

Additionally, restrictions under the Law on Political Parties, such as law number 2820 making it illegal for a party to attempt to protect or develop 'non-Turkish cultures and languages'²⁰², should be removed in order to allow full democratic representation for all people within Turkey.

Such changes should go hand-in-hand with a lowering of the electoral threshold, which – at 10% - currently seriously disenfranchises minority groups. While the European Court of Human Rights (ECtHR) has ruled, in January 2007, that the 10% threshold did not violate Article 3 of Protocol No. 1 to the European Convention on Human Rights (right to free elections), it did note that it would be desirable if the threshold could be lowered to ensure better representation.²⁰³ In fact, such a change seems necessary in order to give minorities in Turkey the kind of voice in Turkish politics necessary in order to ensure full respect for their rights as required by the Copenhagen Criteria.

3. Point 8 of the Final Resolutions adopted by the *4th Annual Conference on the EU, Turkey and the Kurds* urges Turkey to completely overhaul its justice system, something that has not been done in the past year. This remains a very high priority given the frequency with which human rights abuses in Turkey occur through, or are legitimised by, the judicial branch.

Until it is ensured that the judicial branch in Turkey is independent and unbiased there is a considerable danger that legislative reforms will be eroded through misinterpretation in the courts and that compliance with reforms will not be achieved. In order to ensure a well-functioning and fair judicial system it is vital that the system by which judges and prosecutors are appointed and trained is reformed. In particular this will mean the reform of the *Supreme Council of Judges and Public Prosecutors*, which is currently influenced to an undesirable degree by the government, the military and the state bureaucracy.

202 Yildiz, Kerim and Mark Muller, *The European Union and Turkish Accession*, (London: Pluto Press, 2008), p. 68

203 KHRP Press Release: ECtHR Grand Chamber in Hearing Today on Turkey's Election Threshold, 21 November 2007

4. Point 15 of the Final Resolutions adopted by the *4th Annual Conference on the EU, Turkey and the Kurds*, states that it is imperative that the Turkish government ‘remove restrictions on freedom of expression...entirely’ from the legal framework of Turkey.

It is vital that restrictions on the peaceful exercise of freedom of expression are removed; freedom of expression is not only extremely valuable in its own right, it also underpins and helps guarantee many of the other rights that are integral to the European conception of a free and democratic state. The past year has led to no significant improvements in this area, and considerable legislative reform will be required before Turkey meets European standards on freedom of expression.

Articles 125 (defamation), 215 (praising a criminal act or a person for committing a criminal act), 217 (inciting the population to disobey the law), 220 [paragraph 8] (making propaganda for an illegal organisation), 301 (denigration of the Turkish nation and state institutions) and 318 [paragraphs 1 and 2] (alienating people from military service) must be removed from the penal code. Article 6 [paragraph 2] of the Anti-Terror Law (publishing statements of a terrorist organisation), also needs to be repealed.

Articles 216 (inciting hatred based on social class, race, religion, sect or regional differences in a manner which might constitute a clear and imminent danger to public order), 285 (violating the confidentiality of an investigation), 288 (attempting to influence a fair trial) and 314 [paragraph 2] (membership of a terrorist organisation) of the Penal Code have parallels in liberal democracies around the world and may arguably serve a legitimate purpose, but have frequently been used illegitimately to restrict free expression and should be altered or repealed to safeguard against further abuse.

5. Torture remains a serious problem in Turkey, and is clearly something that will need to be eradicated before Turkey can hope to join the EU. Turkey must end the use of torture as a tool of the state and should act with deliberate haste in order to make the necessary legislative and administrative changes. In particular it should adopt the *Optional Protocol to the [UN] Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, and establish a systematic inspection regime for detention centres and police stations in order to root out the practice. Additionally, Turkey needs to invest more in providing medical practitioners with forensic skills and in providing the bureaucratic network necessary to ensure that cases of torture are correctly diagnosed and that such diagnoses are acted upon²⁰⁴. It should also be ensured that law enforcement officers are never present at medical examina-

204 European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 14

tions of prisoners without this being explicitly requested by medical staff on the grounds of their personal safety²⁰⁵.

6. Turkey needs to ensure that speakers of non-Turkish languages are able to participate fully in society. Article 81(c) of the Law on Political Parties, making it illegal for parties to electioneer or campaign in non-Turkish languages, needs to be repealed to avoid disenfranchising non-Turkish speaking Kurds and other minority groups. Kurdish electives should be allowed to be taught in the public school system and public services should be available, at least in the south-east, in the Kurdish languages. Regulations on broadcasting in languages other than Turkish should be simplified in order to allow private stations to take advantage of the new law allowing stations to broadcast in Kurdish and other minority languages 24 hours a day.
7. State practices, laws and policies discriminating against minority religions or sects, such as Christians or Muslim Alevis should be ended. In particular restrictions on the training of Christian clergy, bias in the teaching of religious education in schools, and unequal terms in the funding of religious groups by the state urgently needs to end

Conclusion

While there has been progress over the last year towards transforming Turkey into the kind of country fit for EU membership. Change has not been as purposeful or as quick as many observers would have hoped for or expected at the time that accession negotiations began in 2004, and in some areas there even appears to have been some backsliding.

The EU accession process in Turkey has shown that the 'carrot' of EU membership can be an effective tool in terms of stimulating reform, but it has also shown that just being an EU candidate is not enough to ensure that reform will be pursued with vigour. Thus it is important that the EU maximises its impact by creating the right incentives and sending out appropriate signals.

There is thus a need for a new approach in EU-Turkey relations, one grounded in the stated principles of the EU accession process which include democracy and human rights. The EUTCC opposes those strands of thinking which exist within some national governments and political parties, which suggest that Turkey is somehow too large, too poor, too geographically distant or too Muslim to join the EU as a full member. It therefore regrets the growing number of member states that invoke these factors to oppose Turkish membership. The EU should condemn such views, par-

²⁰⁵ European Commission 2008 Progress Report, 5 November 2008, SEC (2008) 2699, p. 14

ticularly since the perception that the EU is not committed to accession is likely to be responded to by declining Turkish commitment to reform.

Both the EU and Turkey must be more forthright in identifying areas where there has been a failure to meet the Copenhagen Criteria, and be direct and transparent in the language used when discussing these issues. Rather than relying on the opaque and general terms that allow both sides to circumvent the problem, it is essential that the link is overtly made between Turkey's lack of compliance with the Copenhagen Criteria and the treatment of the Kurdish population in Turkey.

With the focus squarely on military operations against the PKK in northern Iraq and south-east Turkey over the past year, little attention has been given to the possibility of a negotiated solution to the armed conflict with the PKK. Evidence drawn from over 30 years of ongoing conflict demonstrates that a military approach will only serve to raise nationalistic tensions in Turkey.

Much more attention needs to be given by the EU to resolving the conflict. To date, the EU have neither adequately supported dialogue on the Kurdish issue and the situation of minorities in Turkey, nor insisted on an immediate end to the conflict through diplomacy and dialogue. It has thus implicitly accepted Turkey's myopic security-centred perspective on the Kurdish issue. The EU must, as a matter of priority, denounce Turkish military operations and use its political clout to ensure that the conflict is resolved through democratic channels.

Continuation of the EU accession process without tackling the security situation in the Kurdish regions is highly contentious. It is true that armed violence is found in existing EU member states, but this happens against a background of democratic, consensual government structures, and in most cases multi-party negotiations have been established giving voice to both sides through peaceful channels. Turkey has continually refused even to concede that the armed conflict is symptomatic of the broader issue of its subjugation of the Kurds, defining the situation solely in terms of security and terrorism and refusing to become involved in bilateral negotiations with the Kurds. The EU must be firm in its stance against Turkish military action and insist upon a political approach. While reforms in Turkey are underway, many of them are superficial in nature. Turkey must cease to deny the existence of the 'Kurdish issue,' a central political challenge that needs to be addressed with a sustainable political solution. Turkey is unlikely to recognize the rights of Kurds without international pressure, and the EU should use accession negotiations as an avenue to exert pressure on Turkey to engage in substantive reforms and dialogue. The EU has thus far been limited in utilizing its unique position, and must use its leverage to encourage Turkey to achieve a lasting solution to the conflict.

International pressure to move towards reconciliation is crucial to conflict resolution in the Kurdish region (south-east) of Turkey. It is time for Turkey to think about

reconciliation with regard to the Kurdish question after armed struggle has ended. Turkey persistently refuses to allow Kurds political or cultural rights; though the Kurdish issue is seen at root as a human rights problem, it is a fundamentally political issue and the right to self-determination is one of the fundamental principles of international law. Turkey must find political avenues to address the current situation of Kurds in Turkey, which, left un-tackled, will continue to serve as a spring well of instability for Turkey.

It is of vital importance that both the EU and Turkey stay committed to the accession process. The last year has been hesitant, and there must be renewed confidence in accession for progress to be achieved. This can only come about if all parties involved take responsibility. The EU must ensure that Turkey's accession is dealt with fairly and genuinely. Turkey, represented by the AKP government, must push forward determinedly with reform at a fundamental level, and encourage increased and free political dialogue.

ABOUT THE CONTRIBUTORS

Shirin Ebadi

Was born in the city of Hamedan [north-western Iran] in 1947. She lives in Tehran since her childhood. She received law degree at the Faculty of Law of the Tehran University in 1968. She began to serve officially as a judge in 1969: she has been the first woman in the history of Iranian justice to have served as a judge. Following the victory of the Islamic Revolution in February 1979, since the belief was that Islam forbids women to serve as judges, she was dismissed from the post; every protest was useless: all former female judges were moved to the position of “experts” in the Justice Department. Not tolerating this, she requested early retirement, but only in 1992 she succeeded in obtaining a lawyer’s licence. Among the many cases she accepted to represent the families of serial murders victims; she took even on a large number of social cases about child abuses. She also taught human rights training courses at the Tehran University. In 1995 she co-founded the Association for Support of Children’s Rights. In 1993 her book “History and Documentation of Human Rights in Iran” was published; her further books especially deal with children’s and women’s law. She has delivered lectures to university and academic conferences and seminars on human rights in Iran, Europe and America. She received, among others, the Rafto Human Rights Foundation Prize in 2001 and the Nobel Peace Prize in 2003, for her human rights activities.

Bianca Jagger

Renowned worldwide as an ardent worker for human rights; on December 12th, 2003, she was nominated Council of Europe Goodwill Ambassador for the Fight against the Death Penalty. “The right to life as the foremost human right is enshrined in the European Convention on Human Rights, which constitutes the backbone of the Council of Europe. Bianca Jagger is a firm defender of this principle and deeply opposed to the death penalty. Her impressive struggle for the fundamental idea that a civilised state must not kill, was the determining factor in proposing Ms Jagger for the position of a Council of Europe Goodwill Ambassador;” Walter Schwimmer, the Secretary General of the COE, said while motivating the appointment. Through moratoria on executions, Europe is a de facto death-penalty-free area; she works to succeed in excluding capital punishment from the penal systems of all civilised democratic societies. Moreover, she is member of the International Board of Patrons of the Kurdish Human Rights Project.

Leyla Zana

Leyla Zana is a Turkish politician of Kurdish origin. She was the first Kurdish woman to win a seat in the Turkish parliament in 1991. She was imprisoned for speaking Kurdish in the Turkish Parliament after taking her parliamentary oath and for her political actions which were considered against the unity of Turkey.

Although her parliamentary immunity protected her, after she joined the Democracy Party, that party was banned and her immunity was stripped. In December 1994, along with four other Democracy Party MPs (Hatip Dicle, Selim Sadak and Orhan Dogan), she was arrested and charged with treason and membership in the armed Kurdistan Workers Party (PKK). The treason charges were not put before the court, and Zana denied PKK affiliation; but with the prosecution relying on witness statements allegedly obtained under torture, Zana and the others were sentenced to 15 years in prison. She was recognized as a “Prisoner of Conscience” by Amnesty International. In 1994 she was awarded the Rafto Prize, and in 1995, was awarded the Sakharov Prize by the European parliament. She also won the Bruno Kreisky Award. In 1998 her sentence was extended because of a letter she had written that was published in a Kurdish newspaper, which allegedly expressed banned pro-separatist views. While in prison she published a book titled *Writings from Prison*. She was released from prison in 2004. Zana is currently active in human rights issues and politics in Turkey.

Yasar Kemal

Yasar Kemal was born in 1923 in the village of Hemite belonging to the city of Osmaniye. After being forced to leave school towards the end of his secondary education he worked as a labourer, water boy on a rice field and other jobs including a librarian. His first poems were published in magazines such as *Ulke*, *Kovan*, *Millet* and *Bespinar*. He moves to Istanbul in the year of 1951. He started to write jokes and interviews for Cumhuriyet newspaper. His first novel, *Ince Memed*, was published in 1955. Between the years of 1955 to 1984 he has 33 published books consisting of novels, tales, interviews and compositions. He is seen worthy of the globally renown Del Duca award in 1982 and receives a diploma from France’s Legion D’Honneur. In 29 years he becomes well known for his work.

Luisa Morgantini

Studied industrial sociology and economics at Ruskin College, Oxford (1967-1968). Clerical worker (1954-1958); INCA-CGIL social worker (1958-1964); teacher of adults at la Società Umanitaria (1969-1970). Trade union leader of the FLM (mechanical engineering workers’ union) for Fim-Cisl. Official responsible for training (1971-1974); member of the secretariat in Milan dealing with the telecommunications and press sector (1974-1985). National official responsible for international re-

lations (1985-1998). Member of the FEM European trade union executive committee (1987-1988).

Member of the European Parliament (since 1999); Chairwoman of the Delegation for relations with the Palestinian Legislative Council (1999-2004). Electoral observer for the OSCE (1997-1998). Coordinator, Italy-Nicaragua Association (1979-1991). National spokesperson for the Association for Peace, a non-violent movement for peace and social justice (1994-1999); responsible for the 'Palestine' group (1994-1999). Co-founder of the 'Women in Black' anti-war movement and the international network 'Women for peace in conflict zones'. Israeli 'Women in Black' Peace Prize (1996); Colomba d'Oro Prize for peace (2002). Ms. Morgantini currently is Vice President of the EP.

Francis Wurtz

Parti Communiste Français, France. Wurtz has been Chairman of the Confederal Group of the European United Left - Nordic Green Left since 1999. He got his University Diploma in Literary Studies in 1968. In the European Parliament he is member of the Conference of Presidents, of the Committee on Foreign Affairs and of the Delegation to the ACP-EU Joint Parliamentary Assembly. Wurtz has been a full-time Communist Party official since 1973 and has worked in the Communist Party Secretariat since 1976. Wurtz is also member of the Communist Party national leadership, which he has been since 1979 in addition to sit on the Secretariat of the Committee for the Protection of Human Rights. He was Vice-Chairman of the Committee on Development from 1989 to 1999.

Kariane Westrheim

Kariane Westrheim is Associate professor at Department of Education and Health Promotion, University of Bergen. She is Board Member of the Rafto Foundation in Bergen, Norway which awarded Leyla Zana the Rafto Prize in 1994. Kariane Westrheim is Chair of the EU Turkey Civic Commission (EUTCC) that was formally established in 2004 following the First International Conference in Brussels on EU Turkey and the Kurds.

Kerim Yildiz

Kerim Yildiz is a writer and the founder and Executive Director of the Kurdish Human Rights Project (KHRP), the only independent non-political human rights organisation of its type dedicated to the promotion and protection of the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria, the Caucasus and elsewhere. KHRP's work has contributed to important reforms in Turkey, including the lifting of the state of Emergency and abolition of state security courts. Yildiz received an award from the Lawyers Committee for Human Rights for his services

to protect human rights and promote rule of law in 1996, and KHRP was short listed for the Liberty/Justice/Law Society Human Rights Awards in 2004. Yildiz has written extensively on human rights including numerous essays, articles and book chapters on freedom of expression, national security and minority rights published in English, Turkish and Russian.

Andrew Duff

Since July 1999 Andrew Duff has been the Liberal Democrat Member of the European Parliament for the East of England. Duff is spokesman on constitutional affairs for the Alliance of Liberals and Democrats for Europe (ALDE). He is Vice-President of the EU-Turkey Joint Parliamentary Committee, and a substitute member of the Parliament's Security and Defence Sub-Committee. He co-chairs the Parliament's Federalist Intergroup. In 2004 Duff became rapporteur on the appointment of the Barroso Commission. In 2005, following the results of the French and Dutch referendums on the Constitution, he became the Parliament's co-rapporteur on the Union's period of reflection on how to find a way forward.

Ahmet Turk

Born in 1942 in Mardin. Türk left Ankara Economy and Trade Science Academy in his final year. In 1973 he entered parliament as CHP's (People's Republic Party) Mardin representative. He was a parliamentarian for two periods. Due to the 1980 military coup he was arrested and imprisoned for 22 months and he was barred from politics until 1986. He entered parliament in 1987 for SHP (Social Democrat People's Party) as a Mardin representative. Due to participating in a Kurdish conference in Paris he and 6 parliamentarian friends were expelled from SHP. He was among the founders of HEP (People's Labour Party) and for one period he was the president.

Türk was also the founding member and Vice-President of DEP (Democracy Party) and HADEP (People's Democracy Party). He entered parliament with an alliance of DEP and SHP in 1991 under the list of SHP. His immunity was lifted and he was imprisoned once again in 1994. After staying in prison for 22 months he was released. He is the founder and co-president of the Democratic Society Party (DTP).

Amed Dicle

Amed Dicle is a Kurd who was born in 1980 in Diyarbakır, Turkey. Already in High School, he was faced with problems relating to the Kurdish question, when he was dismissed from school after defending the right to speak his mother tongue. Dicle has worked in various Kurdish institutions, and after being subject to several investigations as well as detentions, he was forced to leave Turkey. Since, he has worked as a reporter, newspaper and magazine columnist in various European countries. Addi-

tionally he has produced Kurdish radio programs. Currently he is a director in broadcasting Roj TV committee and announcer in Kurdish political program “Rojev”.

Baroness Sarah Ludford

Ludford is a Liberal Democrat member of the House of Lords, and Member of the European Parliament. She was elected as a MEP in 1999, and re-elected in 2004, representing London. She is a spokeswoman for the British Liberal Democrats in the European Parliament on the Civil Liberties, Justice & Home Affairs committee. She is also a Vice-Chairwoman of the European Parliament’s Human Rights Sub-Committee. Additionally, Baroness Ludford is a member of the Economic & Monetary Affairs committee and the European Parliament delegation for US relations. She takes a strong interest in the Balkans, Cyprus and Turkey, (incl. Kurdish issues).

Pasqualina Napoletano

Napoletano is an Italian politician and MEP for the Central region (“Democratici di Sinistra”). She is also a Vice-Chairwoman of the Socialist Group, and a member of the European Parliament’s Committee on International Trade. Mrs Napoletano is a substitute for the Committee on Foreign Affairs, and acted as a Chairwoman of the Italian delegation and Vice-Chairwoman of the PSE Group between 1999 and 2004. She has been a reporter on Wider Europe for the Committee on Foreign Affairs. As a member of the European Parliament’s delegation, she was involved in activities relating to the creation of the Euro-Mediterranean Parliamentary Assembly. Currently, Napoletano is responsible for foreign policy in the Socialist Group in the European Parliament. From 1994 to 1996, she returned to teaching, and subsequently took up the post of head of the Deputy Prime Minister’s secretariat.

Professor Michael M. Gunter

Michael M. Gunter is a professor of political science at Tennessee Technological University in Cookeville, Tennessee and teaches during the summer at the International University in Vienna, Austria. He is the author of five critically praised scholarly books on the Kurdish question, the most recent being *Kurdish Historical Dictionary*, 2004; *The Kurdish Predicament in Iraq: A Political Analysis*, 1999; and *The Kurds and the Future of Turkey*, 1997. In addition, he is the co-editor (with Mohammed M. A. Ahmed) of *The Kurdish Question and the 2003 Iraqi War*, 2005; and *The Evolution of Kurdish Nationalism*, forthcoming. He has also published numerous scholarly articles on the Kurds in such leading periodicals as the *Middle East Journal*, *Middle East Quarterly*, *Middle East Policy*, *Current History*, *Journal of Muslim Minority Affairs*, and *Orient*, among others, and was a former Senior Fulbright Lecturer in International Relations in Turkey and Israel. He has been interviewed about the Kurdish question on numerous occasions by the international and national press.

Ibrahim Bilmez

Bilmez is a Law Faculty of Marmara University graduate. Between 2000 and 2002 he worked as a civil servant at Izmit City Municipal as an Environmental Control Office Headquarters. In 2002 he worked as a lawyer intern at Istanbul Bar and from 2003 as an independent lawyer. He has been Mr Abdullah Ocalan's lawyer since 2002 and works at the Century's Law Office. He represents Mr. Ocalan in front of Turkish courts and at the European Court of Human Rights.

Ozturk Turkdogan

Mr. Turkdogan was born in 1970 in Kars, Turkey. He graduated from Ankara faculty of law, and has been working as a lawyer since 1998. He has worked as a legal adviser for Union of Health and Social Service Workers (SES), and currently works as a legal adviser for Confederation of Public Employees Trade Unions (KESK). Additionally, Mr. Turkdogan is a member of the constitutive board in Turkish Human Rights Foundation (TIHV), a spokesman for Coalition of the International Criminal Court (UCMK). He is also a board member of the Human Rights joint Platform (IHOP) and Chairman of the Human Rights Association.

Omer Faruk Gergerloglu

Mr. Gergerloglu was born in 1965 in Karagac, Turkey. He graduated from vocational religious high school in 1984 and from Anatolia University Faculty of Medicine in 1994. After practicing medicine as a part of compulsory service and working in various government institutions, he became a specialist on chest illnesses in 2000 at Izmit Government Hospital where he still works. Since 2003 he has been a chairman of the MAZLUMDER Kocaeli branch. Today he is married and the father of three children.

Sara Aktas

Sara Aktas, a Philosophy graduate, was born in Igdir, Turkey in 1976. She is a member of a Kurdish separatist party, and was imprisoned for 11 years due to her political contributions to the Kurdish struggle. Since being released from prison in 2004, she has taken an active part in women's freedom struggle in regards to the Kurdish question. A founding member of DTP (Democratic Social Party) she is a part of the women's committee. Currently Aktas is active within the area of promoting of women's political participation, and working against the violence towards women in the social sphere. Sara Aktas is also a spokeswoman of DOKH which is an umbrella organization made up of various types of women's associations.

Frieda Brepoels

Frederika Marie Joseph “Frieda” Brepoels (born on 7 May 1955 in Mopertingen) is a Belgian politician and Member of the European Parliament for Flanders with the CD&V/N-VA, part of the European People’s Party and sits on the European Parliament’s Committee on the Environment, Public Health and Food Safety.

She is a substitute for the Committee on Civil Liberties, Justice and Home Affairs, a member of the Delegation to the EU-Armenia, EU-Azerbaijan and EU-Georgia Parliamentary Cooperation Committees and a substitute for the Delegation for relations with the countries of the Andean Community.

Osman Baydemir

Baydemir graduated from the Dicle University’s Law faculty in 1994. He was assigned as the Head of the Human Right Association’s Diyarbakır branch in 1994, and was deputy president of the association of the HRA in Turkey. He was chosen as an MP candidate for DEHAP in the national elections in 2002 and was elected Mayor of Diyarbakır with overwhelming support in 2004. Presently Baydemir is both the Mayor of Diyarbakır Metropolitan Municipality and President of the GAP (South Eastern Anatolian Region) municipalities.

Cengiz Çandar

A syndicated columnist at Turkey’s main dailies, including Radikal, an opinion paper and the English language daily Turkish Daily News, as well as being the Chief Columnist in economy daily Referans. Lecturer on Middle East History and Politics at the Istanbul Kültür University.

Special Advisor to President Turgut Özal on foreign policy issues during which he played the main role in the establishment of relations first time ever between Turkey’s presidency and the Iraqi Kurdish leadership (1991-1993). Public Policy Scholar at the Wilson Center and Senior Fellow at the United States Institute of Peace (1999-2000). Author of seven books in Turkish, mainly on the Middle East issues and contributor to three books in English on Turkish-American relations and Turkish foreign policy. Currently working on a book on Iraq, Kurds and Turkey’s Middle East strategy.

Dr. Susan Breau

Dr. Susan Breau is a Reader in Law at the University of Surrey. Dr. Breau’s research interests are concentrated in public international law and the international protection of human rights, particularly those issues relating to the use of force.

She was awarded her Ph.D. in 2003 at LSE for her research into Humanitarian Intervention under the supervision of Professor Christopher Greenwood. She was the

Dorset Fellow in Public International Law at the British Institute of International and Comparative Law for three years. Prior to that appointment she was a lecturer in international law and human rights at Queen's University Belfast where she assisted in the administration of their LLM in Human Rights Programs and she has also lectured on the law of armed conflict in the LLM program at the London School of Economics.

Prior to embarking on an academic career, Dr. Breau was a Barrister and Solicitor in Kingston, Ontario for 18 years specializing in family and children's law.

Jonathan Fryer

Jonathan Fryer (born 5 June 1950), is a British writer, lecturer and broadcaster as well as a Liberal Democrat politician. He is currently Chairman of Liberal International British Group and the No. 2 candidate on the LibDem London list for the European parliamentary elections (June 2009).

Eurig Wyn

Eurig Wyn is a Welsh politician. He was a Plaid Cymru member of the European Parliament for Wales from 1999 to 2004, when he lost his seat in part due to a reduction of the number of seats that Wales had.

He had previously been a journalist for the BBC. During 2005, Eurig Wyn was selected as Plaid Cymru's parliamentary candidate for the Ynys Môn constituency. Prior to his selection, Eurig Wyn had spent about a year building up a profile in Ynys Môn with a view to eventually taking the seat back from the Labour Party, following Plaid Cymru's loss in 2001. The seat was the party's key target seat in the 2005 General Election; however, Plaid had their proportion of the vote reduced and the Labour Party held on to it, all main parties saw their vote fall due to independent candidate, Peter Rogers, who came 3rd and took a large share of the vote.

Mark Muller QC

Mark Muller is a barrister, currently with Garden Court Chambers. Muller was Head of Chambers at 10-11 Gray's Inn Square from 1998 -2006. He is also a Vice-president of the Bar Human rights Committee (BHRC) and Chair of the Kurdish Human Rights Project (KHRP). He mainly specialises in international human rights and criminal related litigation. Mark Muller has conducted a multitude of cases before the European court of human rights, including Abdulla Öcalan v. Turkey and Issa & Others v. Turkey. He has also provided advice and representation in human rights related actions brought before the European Court of Justice of the European Union. Mark Muller has been instrumental in devising and providing ECHR training to lawyers throughout Europe, including Turkey, Armenia and Azerbaijan, and has published

fact finding and trial observations reports detailing the systematic abuse of human rights in the Kurdish areas of Turkey, as well as numerous legal reports and a book entitled 'The Kurdish Nationalist Movement in the 1990's.

Adem Uzun

Adem Uzun graduated from University of Cologne as an Electronic Engineer in 1991. During his student years he became active in the Kurdish social and political struggle. For the democratic resolution of the Kurdish question, he took part in many activities, conferences and organisations. He is currently member of the Executive Council of Kurdistan National Congress (KNK), founded in 1999.

Dirk Rochtus

Dirk Rochtus (°1961, Bornem/Belgium) studied Germanic Philology and International Relations at the universities of Bonn (Germany) and Antwerpen (Belgium). In 1996 he wrote his doctoral dissertation on "The Third Way in the German Democratic Republic 1989/90". He teaches International Relations and German history at the Lessius University College in Antwerpen (Belgium), a college associated to the KU Leuven University (www.lessius.eu). In 2002 Rochtus taught as guest professor a summer course European history at METU University Ankara. He publishes about the foreign policy of Germany and Turkey, Belgian federalism and issues related to nationalism. He regularly writes op-eds for Flemish daily newspapers. From 2005 until 2007 he was deputy chief of cabinet foreign policy of the Flemish minister of Foreign Policy. His main book publications are: "Zicht op Duitsland" (Leuven/Apeldoorn 1994) (co-editor with Jan De Piere, "Das Konzept des 'dritten Weges' in der DDR 1989/90" (Leipzig 1999), "Turkije: Springstof voor de Europese Unie?" (Antwerpen/Apeldoorn 2002) (co-editor with Gerrit De Vylder and Veli Yüksel), "European and Turkish Voices in Favour and Against Turkish Accession to the European Union" (P.I.E. Peter Lang, Brussels 2007) (co-editor with Christiane Timmerman and Sara Mels)

Hans Branscheidt

Hans Branscheidt is Head of the German based NGO medico international, an organisation that struggles for the human right to the best possible access to good health. In doing so it supports local partners, primarily in Africa, Asia and Latin America in their endeavours to create the economic, social and cultural conditions that allow each person to attain the highest health standard possible. In particular medico stands by those who are in situations of emergency and in poverty, including refugees and the victims of war. Hans Branscheidt is also a member of the Coalition for a Democratic Iraq (KDI).

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Brian Currin born 20 September 1950, practiced law in Pretoria from 1977 to 1987, specializing in labour law and civil and human rights. He is qualified as an attorney in South Africa and now works in mediation and institutional transformation. In 1994 he was appointed by South Africa President Nelson Mandela to chair a Prison Audit Committee and was subsequently involved in the creation of the Truth and Reconciliation Commission. In 1987 he founded the National Directorate of Lawyers for Human Rights, which he headed for eight years. He has worked in Sri Lanka, Rwanda and the Middle East on political transformation. Mr Currin co-chairs the Sentence Review Commission in Northern Ireland.

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