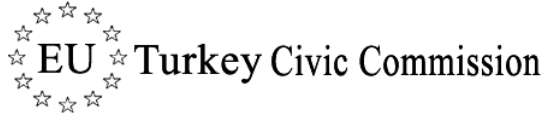


FOURTH INTERNATIONAL CONFERENCE ON THE EU, TURKEY AND THE KURDS

EUROPEAN PARLIAMENT, BRUSSELS
3RD – 4TH DECEMBER 2007



FOURTH INTERNATIONAL CONFERENCE
ON
THE EU, TURKEY AND THE KURDS

In memory of the Kurdish writer Mehmed Uzun

European Parliament,
Brussels
3rd – 4th December 2007

Acknowledgments

The EUTCC would like to extend their sincere thanks to those at the European Parliament who kindly allowed the conference to be hosted there. In particular thanks are due to Stefano Squarcina, Secretary General of the United Left (GUE/NGL) in the European Parliament, for his assistance in making the conference possible. The EUTCC would also like to thank Hüsniye Akdoğan and George Herbert for their assistance in compiling and editing this report.

Layout & Design: Visualize, London www.visualizeprint.co.uk

Keywords: Turkey, minorities, accession, EU

Printed in Great Britain

January 2009

ISBN:978-1-905592-22-7

Published by the Kurdish Human Rights Project (London)

All rights reserved

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.



medico international was founded in 1968 in the context of the Biafra and Vietnam wars. It is registered as a non-profit welfare organisation, independent of political or religious affiliations, 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 economic, social and cultural conditions which 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.



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	10
Editor’s Note	11
Introduction	13
Opening Speeches	17
Session 1. Democratisation in Turkey and the EU Reform Process: <i>Political Participation and the Kurds</i>	27
1.1 EU-Turkey Accession talks and Turkish membership of the EU – developments and future prospects	27
Speaker: <i>Kerim Yıldız</i> <i>Joost Lagendijk</i>	
1.2 Democratic transformation – the implementation of legal and constitutional reforms	36
Speaker: <i>Akin Özçer</i>	
1.3 Can Turkey become a full member of the EU before a resolution of the Kurdish Issue?	40
Speakers: <i>Ahmet Türk</i> <i>Vittorio Agnoletto</i>	
Session 2. Human Rights, Fundamental Freedoms and Recent Developments in the Turkish Accession to the EU	47
2.1 The Ilısu Dam project: Environmental, social and political impact. Building support for the Save Hasankeyf Campaign	47
Speaker: <i>Emilio Molinari</i>	

2.2	Human Rights – commitment and implementation	50
	Speaker: <i>İbrahim Bilmez</i>	
2.3	Democratic decentralisation and local governance	53
	Speaker: <i>Nurettin Demirtaş</i>	
2.4	The role of women in the struggle for democracy and peace	56
	Speakers: <i>Pelgüzar Kaygusuz</i> <i>Margaret Owen</i>	
Session 3.	Ongoing Conflict and the Accession Process	67
3.1	The Need for dialogue: Democratic participation, political representation and civil actors	67
	Speakers: <i>Cengiz Güleç</i> <i>Abdullah Demirbaş</i>	
3.2	Peace-making efforts and the armed conflict	73
	Speaker: <i>Mark Muller</i>	
3.3	The Applicability of Humanitarian Law to the Current Conflict in Turkey	77
	Speaker: <i>Susan Breau</i>	
3.4	Improving support for the peace process: The role of the EU, European governments and NGOs	91
	Speaker: <i>Hugh Pope</i>	
3.5	Prospects for Peace and Democratic Reconciliation in Turkey: Old mistakes and new opportunities	96
	Speaker: <i>Doğu Ergil</i>	

Session 4. Conflict Resolution and a Democratic Future for Turkey and the Kurds	103
4.1 Lessons from international peace processes	103
Speaker: <i>Clem McCartney</i>	
4.2 Choosing to engage: The Kurdish project	109
Speaker: <i>Ali Yiğit</i>	
4.3 Government policy on the Kurds in Turkey	113
Speaker: <i>Baskın Oran</i>	
4.4 How the resolution of the Kurdish question can open the road for democracy in Turkey and the Middle East	118
Speaker: <i>Michael Gunter</i>	
Final Resolution from the Fourth International Conference on the EU, Turkey and the Kurds	125
Appendix I: Background Paper	131
About the Contributors	157

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
CRC	Convention on the Rights of the Child
DEP	Democratic Party
DTP	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
MEP	Member of the European Parliament
MDG	Millennium Development Goals
NGO	Non-governmental organisation
PKK	Kurdistan Workers' Party
SHP	Social Democratic People's Party
YNK (PUK)	Patriotic Union of Kurdistan

Editor's note

The fourth annual EU-Turkey Civic Commission (EUTCC) Conference was held on 3-4 December 2007 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 Kurdish writer Mehmed Uzun, the principle pioneer of modern Kurdish literature, who died on 10 October 2007.

This publication sets out the speeches and papers of the 2007 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 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 EU-Turkey Civic Commission (EUTCC) was established in November 2004 as the outcome of the first international conference on ‘The EU, Turkey and the Kurds’ held in the European Parliament in Brussels on 22-23 November 2004.

The EUTCC supports Turkey’s bid for EU accession, but only insofar 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.

The EUTCC 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 annual conference brings together contributors from all over the world including leading academics, writers, legal experts, human rights organisations, and prominent Turkish and Kurdish intellectuals. The goal of the conference is to exchange information and ideas, and to produce resolutions and recommendations to advance the EUTCC’s aims and activities.

The 2005 conference

Following the first conference in 2004, a second conference (2005) was called to evaluate the development of Turkey's EU accession process during the first year of accession negotiations. The speakers noted the escalating military conflict in south-east Turkey and the failure of various State institutions to adhere to their obligations under the European Convention on Human Rights. Also discussed was the slowing of the reform process in Turkey, just as EU accession was beginning to be viewed as a certainty.

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

Building on this, the 2006 Conference focused on implementing a solution to the Kurdish issue: the most problematic issue for Turkey in its bid to develop a democratic society. The conference also focused on the need for fundamental changes to the judiciary; on the situation of internally displaced people; on continued violations of human rights; and on suggestions for compliance with the Copenhagen Criteria, specifically the obligation to respect and promote the rights of minority groups. The Conference concluded with the adoption of new resolutions.

Since the 2006 conference

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 of 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 that 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 4th International Conference on the EU, Turkey and the Kurds was arranged for December 2007. It 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.

Opening Speeches

Leyla Zana

Firstly, I would like to thank everyone in the organising bodies for their contributions to this conference. As it is known, internal peace in Turkey is the greatest guarantee for peace in Europe, the Middle East and the world. I would like to reiterate how valuable I find events of this kind, where the Kurdish issue is analysed extensively and all the relevant parties are able to contribute original views and proposals.

My last visit to the European Parliament was on the occasion of the Sakharov Prize award ceremony. On that day, I started my speech in the brother language Turkish and continued in Kurdish, since I wanted to underscore, once again, the brotherhood of peoples, languages and cultures. Today I want to speak to you entirely in Kurdish. This is not because I do not want to emphasise brotherhood among peoples, but because I want to draw your attention once more to discrimination against the use of the Kurdish language; I find it a matter of embarrassment for Turkey that people are still being put on trial for speaking in their mother tongue. I hope that my emphasis on the Kurdish language at a time when a democratic and civil constitution is under debate will be evaluated by you not as an important detail but as a primary request.

During the intervening time period many conferences have been held both within the European Parliament and also in Turkey on the issues of the EU, Turkey and the Kurds. As these meetings on the themes of peace and solutions were held, various original initiatives were undertaken by intellectuals, signature campaigns were launched and press declarations were made. All these turned into a common agenda for all those whose hearts craved an honourable, just and lasting peace which would put an end to the killing. However, the honesty and sincerity needed to stop the bloodshed was not demonstrated.

The lock is there, the key is known but the door just won't open; it is high time that the door is opened. The important thing is to place the key in the lock properly. Everything hinges on an issue that I have already emphasised, an issue that I have frankly got tired of reminding everyone about: the key issue has to do with how the issue is defined. The issue does not stem from any problem of public order, security,

hunger or socio-economic backwardness. Rather the problem is that everything you try to strip of its identity is doomed to become more painful and complex. Unless we are able to debate the very name of the issue correctly, the multifaceted social and identity-based crisis will drown us all in an ocean of stalemates.

If the Kurdish issue were solely an issue of poverty and security, wouldn't the methods that have been tried for over half a century have brought decisive results? Haven't all methods including forcing people into exile, forced migrations, village evacuations, detentions, beatings, torture, executions, extra judicial killings, village guards, release based on confessions, and pardon based on apology been tried? These are only those methods that are publicly admitted by the authorities; we have not even begun to talk of those methods that are not known or disclosed? I do not think that my memory, which is writhing and reeling in pain, will allow me to remember and recount all of the ones that have been tried.

Despite all these denials, despite being debased and treated with contempt and even expelled from their land, the Kurds did not get angry. They were heartbroken but believed it was a virtue not to complain about it. They were beaten but instead of taking revenge by beating back they insisted on a country where all existing differences would survive. They did not hold one blood more supreme than the other, one language superior to the other, one colour better than the other. They were not on the side of those who thrived on conflict and bloodshed between peoples. On the contrary, when the ringleaders were yelling and shouting in an attempt to inflame people, they maintained their modesty by remaining silent. They yearned and are still yearning for a policy of sensitivity and stability where common values are embodied in an honourable, just and lasting solution. Destruction and denial must not be the only way.

Then, it is not possible to change the issue by taking its causes and effects separately and independently from each other. Instead of dividing, pulling into pieces or scattering it, we should set off primarily by defining it correctly. We should reach an agreement that we cannot solve the problem through clichés, a policy of condemnation and damnation, by closing political parties, by increasing the number of investigations and arrests, by preventing civil politics, through even more bans and prohibitions, or by regarding deaths as mere statistical data. To continue with such behaviour will only increase our losses, as the history of the Kurds in Turkey should demonstrate.

In addition to the Kurds, the EU and the Turkish Government also have responsibilities that cannot be underestimated.

During the process of finding a solution we should be realistic about what can be expected of Turkey given its existing inner dynamics. The aim should not be putting

pressure but creating synergies by offering a contribution. The EU should not automatically side with the Turkish government, but should be reminding Turkey of its responsibilities concerning the Kurdish issue and ensuring that this should not remain at the level of a reminder alone. It should be understood that if Turkey, having solved the Kurdish issue in a manner that is in congruence with contemporary civilised standards, becomes a member of the EU, it will not only remain a rising star but will also be transformed into a facilitating force in the realisation of world peace.

What are these responsibilities then? Despite adverse developments, I believe the historic opportunity that existed in 1999 for a democratic and peaceful solution to the Kurdish issue is still there. The world should stop avoiding the recognition of the political, social and cultural democratic rights of Kurds whose population is over 40 million. She should not still be using a definition of citizenship which defines everyone as Turkish, nor should be tolerate the existing phobia of placing under legal protection natural rights emanating from peoples' original characteristics. We should not be focusing on denigrating concepts such as "pardon based on apology", amnesty, pardon and the like. Instead, we should be speaking about substantive comprehensive projects. Enabling political detainees, intellectuals, writers and politicians who have been relegated to forced or voluntary exile to participate in the political life should be regarded as a step towards facilitating a solution. Radical reforms in Turkey's political and administrative structure will accelerate and strengthen the process of democratisation, and enhancement of local administrations will ease the process of developing solutions to problems.

Values that are central to Kurdish people's identities should never be ignored. This is because the primary duty of politicians and those who give direction to politics is not merely to listen to the values and requests of the people. Being able to be the tongue and voice of the people requires that the untouchable values of the people are expressed clearly and honestly. In this process, which is evolving towards a solution, the Kurdish people find the role of Mr Öcalan extremely important and effective within the framework of social peace and the togetherness of peoples. In fact, this is not expressed by Kurds alone. Prominent writers in Turkey draw attention to the fact that "the first radical step in seeking a solution would be a comprehensive agreement with Öcalan".

It is time we started talking about our problems by doing away with our taboos. Realising that the sensitivities of people are important makes a lasting peace possible. What is expected of the world is to respect this will and exclude it from bargaining issues in international relationships. Unless the issue is approached from a human perspective and from a perspective of conscience, it will continue to be a potential risk threatening regional and world peace. It is for this reason that the policy of 'good Kurds-bad Kurds' that has been tried for some time has gone bankrupt. What befits

a modern country is to hand over a tradition of tolerance that will strengthen diplomatic, cultural, economic and social relations for the future rather than escalating tensions between countries.

The ties of citizenship are not only established through laws. Those who are truly citizens, but who are treated as if they are only citizens in name, may end up being only citizens in a nominal sense tomorrow. In a world where borders have lost their meaning, real division and separation is that which happens in the hearts and minds. Bringing the heart and mind together necessitates patience, fortitude, stamina, experience and maturity. I believe we have gone over the threshold of endurance. Just as we cannot build tomorrow by nurturing the pains of yesterday, it is not possible to find a solution by multiplying the pains of today either.

As Emin Maalouf has said, “My identity is what makes me unique and unlike any other. Killing a person’s identity is a murder that is graver than killing him.” Every identity that is killed is in fact a loss for humanity. We should therefore capture the pluralism that will nurture those differences. It should be known that every identity that is murdered is our own murder regardless of what our language, religion or identity might be.

Bianca Jagger

I am here as a human rights advocate to speak to you about the plight of the Kurdish people in Turkey. I come before you to urge you to express your collective opposition to the involvement of Germany, Switzerland and Austria in the funding of the proposed Ilisu Dam project on the River Tigris in south-east Turkey. If this project is allowed to go ahead it will be a crime against the fundamental human rights of tens of thousands of Kurds who will be forcefully evicted from their homes. In addition to the human rights implications, this project is a crime against our common cultural heritage: the Ilisu Dam will bury under its reservoir the magnificent ancient city of Hasankeyf, not to mention hundreds of other unexplored archaeological sites. Furthermore, it will be an environmental disaster. Finally, by disrupting the flow of the Tigris to neighbouring countries Iraq and Syria, this controversial and ill-conceived project will exacerbate the threat of a future “water war” in an already troubled region.

The dam is being built by the Turkish Government’s Ministry of Energy and Resources, and its sub-division, State Hydraulic Works. The project was resurrected with a new group of contractors in 2005 after we thought we had defeated it in 2002. The consortium is lead by Austria’s VA Tech. It includes Alstom, Stucky and Maggia from Switzerland, Züblin from Germany, and Nurol, Cengiz, Çelikler and Temelsu

from Turkey. The Austrian, German and Swiss Export Credit Agencies have agreed to underwrite the risks of the project by guaranteeing export credit support to the consortium.

The city of Hasankeyf is a site of international archaeological importance. I visited it in March of this year: it is a site of outstanding cultural significance; a symbol of Kurdish culture and heritage. I was speechless when I saw its breathtaking beauty. I could not understand then, as I cannot now, how a country with such an extraordinarily rich heritage could even contemplate the wanton destruction of something so precious. During my time in Hasankeyf, I met with the Mayor and I heard stories from countless people whose lives and interests will be destroyed by the dam. The dam will affect approximately 78,000 people in almost 200 settlements. Thousands have been issued eviction orders already.

Although the dam has been in planning for over 50 years, the project still has no environmental impact assessment or resettlement plan that meets international standards. The government's plans to "move" the city's monuments to a new location make a mockery of their importance to world heritage: attempting to relocate the buildings and relics of Hasankeyf would destroy much of what makes them unique. But it is most likely that the city's rich heritage of Assyrian, Christian, Abassidian-Islamic and Osmanian remains will be lost forever under the dam's reservoir.

One of the most disturbing, but sometimes overlooked, effects of the dam would be its impact on countries further downstream. In conjunction with another planned dam at Cizre, the Ilisu dam will severely reduce the flow of the Tigris to Iraq and Syria, fuelling potential conflict in the Middle East. ECA finance was agreed despite Turkey having failed to fulfil its obligations under international law to consult and negotiate with its neighbours. Iraq's Minister of Water has publicly expressed his concerns over the dam's downstream impact. No agreement on downstream flows has yet been reached between all the riparian states.

But political tensions between Turkey and the countries of the Middle East concerning these and other matters are forming a convenient smokescreen under which the Turkish government is attempting to force through the legislation required to begin construction, despite legal opposition from displaced residents. Tensions between the two regions have enabled politicians to operate under the table. They are trying to circumvent the proper processes and silence the voices of the oppressed Kurdish minority, whose attempts to fight back are doomed without support from the international community. This must not be allowed to continue.

It is the responsibility of the European community to do more than simply wag their collective fingers. It will take firm policy decisions from the EU, by which Turkey must abide if it wishes to join the union, to prevent this tragedy from unfolding

before us. We must have something more concrete than mere disapproval. Although Turkey is not yet a member of the EU, Turkey should be forced to implement the commitments it made in its accession agreement with the EU.

The governments of Germany, Austria and Switzerland, to their shame, have given public export credit guarantees to the Ilisu dam, notwithstanding massive opposition to the project in Turkey and worldwide. This effectively makes taxpayers in those countries unwitting and unwilling financiers of the project. Many will be surprised and dismayed at their decision to lend support to a project that has already been turned down by the World Bank and numerous private banks, including Germany's Hypovereinsbank, Switzerland's Zurcher Kantonalbank (ZKB) and UBS. All of these institutions refused to provide finance. This project would have never have been sanctioned in the European Union, so one may legitimately ask: why is it being allowed in Turkey?

Is the project slithering toward legitimacy under the table because the world has greater current concerns? Has protecting the world's archaeological heritage been put on hold while we deal with supposedly more urgent concerns in the Middle East?

How can we justify a project that, if allowed to reach its devastating conclusion, will effectively wipe out a central element of Kurdish cultural heritage? That will erase any evidence of ancient Kurdish civilisation? That will cover up the area international scholars recognise as the site of the Armenian genocide? No energy shortage can justify such flagrant human rights violations.

The companies, banks and Export Credit Agencies of Germany, Austria and Switzerland acknowledge the problems but argue that the concerns have been met by 150 conditions which the ECAs have attached to their involvement in the project. These conditions cover environment, resettlement, cultural assets and consultation with neighbouring states. The companies and financiers, along with Turkey, have also appointed a committee of "independent and internationally renowned experts on environmental, social and cultural issues who are responsible for the project's compliance with World Bank standards".

This all sounds very reassuring. But the reality on the ground is that Turkey has already broken many of the conditions it is supposed to have met. In any case, many of the conditions themselves are insufficient to bring the project into line with international standards. For example:

- Conditions relating to cultural heritage are wholly inadequate to save Hasankeyf and its surroundings.
- The project still lacks a Resettlement Plan that conforms to international

standards, in violation of World Bank policy. Nonetheless Turkey has already started expropriating land in the five villages nearest to the dam site. Villagers have not been informed of their rights and levels of compensation on offer are very low.

- Although the conditions imposed by the ECAs require that World Bank standards are applied for resettlement, Turkey has been carrying out the expropriation under existing Turkish law, which does not recognise many of the rights that the World Bank insists upon to protect affected communities.
- Despite an undertaking that a specific budget would be set aside within the Turkish national budget for resettlement, no such budget is yet in place.
- Many of the conditions have already been broken by Turkey – the authorities have started to expropriate the land of villagers nearest to the proposed dam site, but without following the terms that have been laid down. Villagers report that they have been offered minimal compensation.
- No Environmental Impact Assessment that can be regarded as being in line with international standards exists for the Ilisu Dam project. The ECAs themselves acknowledge that even the fundamental baseline data needed to draw up an EIA is still missing.

The truth is that the ECAs should have insisted on their conditions being met before they agreed to appraise, let alone finance, the project. This is what the World Bank requires – and with good reason: tacking conditions on after the event is a recipe for them being broken, watered down or ignored.

If the governments of Germany, Switzerland and Austria go ahead and sign the final contracts for export credit contracts for the dam, more than just a unique historical city will be lost. Within the ruins of Hasankeyf will be buried what the ECAs have been prepared to set aside: our environmental standards, the fundamental human rights of the people who will be affected by the Ilisu Dam project, and our common cultural heritage. In effect, the granting of export credits would mean compromising the cornerstones of our free society: respect for due process, civil liberties, human rights, and the rule of law.

Turkey's assurances over the dam have consistently proved to be paper-thin - as have those of the banks and the ECAs. I urge you to condemn the project.

I 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 idly by while one of the world's most precious archaeological treasures is destroyed, for a few extra gigawatts of electricity. We must use all measures necessary to put a swift end to this crime.

Francis Wurtz

This fourth conference takes place in a very contradictory context. On the one hand general elections in Turkey have led to a new situation. I'm thinking in particular of a political event that we've been expecting for a long time, ever since the beginning of the repression that put comrades such as Leyla Zana into difficulties. That is, in spite of the barriers erected by the Turkish electoral law, our Kurdish friends and others of our progressive friends in Turkey have been elected to parliament and have created a parliamentary group of 20 MPs. This is a great success that many of us here welcome.

This general elections and the presidential election which followed have created hopes in Europe. On 31st October 2007 the European Parliament adopted a resolution on recent developments in Turkey in which it:

- congratulated Turkey on having organised "free and fair elections"
- welcomed the fact that all of the regions were represented in the national assembly
- welcomed president Gül's visit to the south-east of Turkey
- applauded the Turkish government's statement of intent to adopt a new secular constitution that would protect fundamental the rights and liberties of individuals
- called on the Turkish government to finally develop an overall political plan to solve the Kurdish question
- urged the government to work constructively with Kurdish national assembly members, mayors, and representatives of Kurdish civil society groups in the south-east of the country, so as to involve all of them in the process of improving the cultural and social situation in the region

But unfortunately since then things have not moved in that direction. On the contrary, there are increasingly many causes for concern. The re-launching of military operations by the Turkish government and the decision by the Turkish

parliament in the middle of October to give a green light to the principle of military intervention in Iraqi Kurdistan has led to real disappointment and real worry.

When we at the GUE/NGL Group hear of this dangerous and ineffective strategy, we express our total disapproval. Our group is against armed conflict; we want negotiated peace. However, we see that the Turkish army and the Turkish authorities have not taken the opportunities that were given to them thanks to the successive ceasefires that were declared by the PKK. Worse, there was only one party, the DTP, looking for a political solution, and they were threatened with dissolution. We also know that many of the people responsible regionally, including about 50 mayors, were prosecuted.

So the context is contradictory, and in this context our group will stand by anybody who wants a constructive and responsible approach to relations between Turkey and Europe. We will stand by anybody who wants to promote a solution, and we feel that the EU can help to achieve this, but we feel it has to be a fair and democratic solution. We stress in particular the following issues:

1. The EU should warn Ankara that there will be serious consequences for Turkey-Europe relations if there is a military intervention in Northern Iraq.
2. We must launch an appeal which is as broad as possible, for an immediate reciprocal ceasefire between the Turkish army and the PKK fighters. We must call for a pluralistic approach; a military approach is not an option.
3. The EU must solemnly call on all parties to avoid any action which might make a political process towards a fair solution more difficult. This means avoiding any ban on the DTP, because that would mean moving backwards, moving away from the democratisation of the country. In our view that's a red line in any negotiations about accession.
4. In the same spirit we should welcome any initiative which would reduce the tension and make it easier to achieve a political solution to the Kurdish problem in Turkey. I'm thinking now of the efforts of many DTP MPs who tried to help to free the 8 Turkish soldiers who are held prisoner in the Northern Iraq.
5. We should also call for a calm debate in Turkey about the major outstanding issues. A recent article in Milliyet, a Turkish newspaper, provides an example of the correct attitude. The article describes cultural diversity as a wealth, and argues that you shouldn't look at people in the south-east of Turkey as if they are potentially guilty. Everybody should have a place at the negotiating table between the EU and Turkey, because what is at stake is democracy.

The resolution adopted by the European Parliament sums up what Turkey needs to do as follows:

- Adopt a secular constitution protecting fundamental rights
- Introduce electoral reforms
- Reform Article 301 of the penal code
- Stop the army's interference in political activities
- Improve the functioning of the judiciary
- Combat corruption
- Respect individual liberties
- Put in place a zero tolerance policy to torture
- Protect women's rights, fight gender discrimination and eradicate violence against women
- Ensure that minority, cultural and religious rights are respected according to EU standards
- Ensure that trades union rights are respected as per EU and ILO standards
- Introduce measures to increase the social and economic development of the south-east of Turkey
- Draw up an overall political plan to resolve the Kurdish problem, involving the recently elected Kurdish MPs, mayors and civil society in the south-east of Turkey
- End blockades and border closures
- Discontinue any threats or military actions against neighbouring countries
- Commit to a frank and open discussion about the events of the past, including a process of reconciliation between Turkey and Armenia
- Recognise all the member states of the European Union (which means resolving the Cypriot Question, which in turn would facilitate the removal of the Turkish military presence from the north of Cyprus)

All this is contained in the resolution of the European parliament, and it doesn't even cover all of the outstanding problems. In the meantime I've taken note of Bianca Jagger's speech on the implications of the Ilisu Dam project; Ms. Jagger your demands seem legitimate and we will take them into account.

In the European parliament many members wish to support and contribute to the success of this reform and democratisation process in Turkey; we want to show real solidarity with the progressive movements among the Turks and the Kurds, and we will do everything we can to help end the deadlock now.

Session 1. Democratisation in Turkey and the EU Reform Process: Political Participation and the Kurds

1.1 EU-Turkey Accession talks and Turkish membership of the EU – developments and future prospects

Kerim Yıldız

Introduction

Turkey and the EU are at this moment at a critical juncture. The accession process is widely regarded as having stalled, or at the very least, significantly slowed down. Reforms implemented in the first stages of accession are now a distant memory, and there appears to be regression in progress. Geopolitical pressures on Turkey over incursions into Iraq are growing, while Turkey's domestic politics are becoming more polarised.

How Turkey and the EU respond to the turbulence of the past year will be of crucial importance for the future of the accession process, and the stability of the entire region. It is time for us here to have a real debate; time for every speaker and participant to honestly confront these issues, however uncomfortable they may be.

The European Commission's annual progress report on Turkish accession, which was issued last month, describes 'limited progress' by Turkey in the past year. The EUTCC expresses concern that Turkey continues to significantly fall short of compliance with the political criteria to accession. The EUTCC support for Turkish accession to the EU is wholly dependent upon total commitment, and full implementation, of these criteria by Turkey.

The continuing failure to address the situation of the Kurds in Turkey looms large over the accession process. There is still an ingrained, outdated, and often dangerous concept of ethnic nationalism in Turkey. Kurds remain bereft of many cultural, linguistic, civil and political rights. It is no longer possible for Turkey to turn a blind eye to the position of the Kurds, or resort to strategies of virulence and aggression. The result is this: armed conflict, civic instability, and many, many transgressions of international law, which threaten to destabilise the country, and the wider region.

Now is the time to give the accession process a new lease of life, to invigorate the spirit of reform in Turkey and create an atmosphere of support for the value of accession among European governments. Superficial reforms are just not enough. The millions in Turkey still facing ingrained prejudice, and a systematic transgression of human rights deserve more.

Accession

Looking at the past year, there have been many challenges for the relationship between Turkey and Europe.

The accession process came to a standstill in December 2006, after the EU decided to close eight chapters of negotiations following the refusal by Turkey to open its ports to Greek Cypriot traffic. The chapters were re-opened in March 2007, but the atmosphere had changed. Former British Prime Minister Tony Blair warned at the time of long-term damage. However for other European countries, such as Germany and France, it confirmed their view that Turkey was not suitable for full membership.

The resulting anti-EU backlash in Turkey highlighted the difficulties that lie ahead. Certain institutions of the state have long regarded the AKP's pro-EU reform as a betrayal of the founding principles of the Turkish republic. It is suggested that public support for EU membership has further declined.

I believe that all European governments should lend their full support to the EU accession process. The tentative reforms to date, and the impetus to fully implement international human rights standards, may otherwise be irreparably harmed.

It is not issues of size, culture or predominant religion that should fill the debate on Turkey's accession to the EU. Instead the question everyone should ask is 'do all people in Turkey enjoy the standard of fundamental human rights and freedoms which were set out in the Copenhagen criteria?'

Turkey should not enjoy any special dispensation nor face any particular prejudice. The same criteria must apply across all EU members for the organisation to maintain its credibility and potency.

Because of our present situation it is easy to think that EU accession can do nothing, and has changed no one. But I would like to remind those present that without it we would not be sitting in the European Parliament in Brussels today, or be monitoring a process that has kept Turkey's compliance with human rights standards prominent on the international agenda.

Human rights and legal reform

The latest progress report openly acknowledges the failure of reform. It says: “no major issue has been addressed and significant problems persist”.

These problems are very grave indeed. It is despicable that torture continues to take place in Turkey. Despite legal measures prohibiting it, Turkey has failed to put the required mechanisms in place, and reports suggest that the practice is as widespread as ever. Turkey’s continued refusal to ratify the Optional Protocol to the UN Convention against Torture indicates political intransigence over the issue, which is wholly unacceptable.

Recently European Enlargement Commissioner Olli Rehn stated that “freedom of expression is the first and foremost priority, since it underpins the functioning of an open, democratic and self-confident society.” These remarks show that Turkey must urgently address the harassment and persecution faced by human rights defenders, writers, publishers, intellectuals, politicians and others expressing dissenting opinions.

It is of great concern that the legal curtailment of freedom of expression in Turkey is based on much more than one isolated article. Article 301 of the Turkish penal code, which criminalizes ‘insulting Turkishness’, has been the justification for many arrests, and the murder of Hrant Dink in January of this year has been linked to his numerous prosecutions, under this article. However, lesser-known articles are also frequently used in prosecutions, such as Article 216 of the anti-terror law on ‘inflaming hatred and hostility among the peoples’ and law 5816, which criminalizes ‘insulting the memory of Atatürk’.

I believe that legal reform must be holistic to be sincere. It is deeply troubling that in the 2005 penal code reform, amendments that were meant to be progressive steps became irrelevant, because they removed pernicious articles only to introduce confusing or equivalent replacements.

Conflict and the Military

I believe that it is essential that the EU and Turkey address the lengthy armed conflict in south-east Turkey as a matter of urgency. The PKK and the Turkish state have been in conflict for 30 years now. A positive and constructive approach is necessary on all sides.

It is now clear to everyone, including Turkey and the Turkish army and the whole of

the international community, that there is no military solution. Despite this, certain hardliners are still pursuing military action, to disastrous effect.

Let me tell you I have just returned from Iraq two days ago. I was there to look at the human rights situation in Kurdistan, Iraq, but I had the opportunity to investigate the recent situation of villagers on the Turkish and Iranian border. What I saw was Turkish and Iranian bombardments, taking the lives of totally innocent people, burning villages and forests and destroying the livelihood of whole villages.

How many times does the Turkish military have to make rash incursions into Northern Iraq, which result in civilian casualties, but achieve no political objectives? How many need to be killed before it is realised to be self-defeating? Twelve years ago I was investigating the effects of the last military incursion, which was meant to end the problems once and for all. Instead I came across mutilated shepherds whose only crime was to tend their sheep. We documented them and took them to the European court in the case of *Issa vs. Turkey*. It is too painful to see history unthinkingly repeat itself.

Peace and democratic rule. Without this, there is no future to EU accession. At the moment it is vital that political reform in Turkey takes place democratically. The government must undertake a wide consultative discussion across all sectors of Turkish society on the proposed constitutional reform package.

The European Commission recently highlighted that the powerful influence retained by the military in Turkey is inappropriate for a democratic society. The same criticism was voiced by several European governments this May after the military's overbearing response to Abdullah Gül's presidential nomination.

The Kurds in Turkey must be able to participate in a democratic platform for dialogue in order to bring peace and democracy to Turkey, which is essential for accession. The EUTCC therefore deeply regrets legal measures currently being targeted against several DTP MPs, including the controversial attempt to remove their parliamentary immunity.

Conclusion

Today, the EUTCC calls on Turkey to whole-heartedly commit to an end to the discrimination, persecution, and the culture of impunity in Turkey's relations with all its minority groups, including the Kurds.

We also call for a wider political commitment from the governments of Europe and

of Turkey to address these issues. It is absolutely crucial that the EU use its influence right now to stop Turkey violating the rights of people both in Turkey and Kurdistan, Iraq through the indiscriminate killing of civilians. All sides must openly admit that problems cannot be solved without having dialogue between Turkey and the Kurdish side.

The success of this conference depends on its ability to live up to the EUTCC's mandate, to provide a platform for open and free discussion of Turkey's bid for EU accession. This is not always easy when the stakes are so high, and tensions can obscure our consideration of the other point of view. We must be able to speak freely, and yet still find ways of working together to ensure Turkey's compliance with human and minority rights standards, and a peaceful and lasting solution to the Kurdish situation.

Let each and every one of us have the courage, the imagination, and the commitment to use these two days as an opportunity to honestly reflect on the vital issues at hand.

Joost Lagendijk

In both the report of the European Commission and the resolution by the European Parliament there is an expressed willingness to give the new government of Turkey a chance to show that it is still committed to reform. This commitment is in doubt because I think it must be clear to all of us that over the last few years there has been a clear slowdown in the pace of the reform process.

The promises of the AK party before the elections and their statements after the elections give hope that they are still committed, and for this reasons there is a willingness in the European Parliament and European Commission to give them a chance to demonstrate that this hope is well founded.

This also has to do with what happened in April and May in turkey. I know that a lot of you were there and witnessed what happened on 27 April, the demonstrations, the pressure on the government to call elections, and he military intervention into politics. I think that after all that, with the AK party, which was the only party that came out strongly in favour of pro-European reforms, gaining a clear mandate in the elections, there was a sigh of relief within Europe that the crisis had been overcome. For this reason there was a willingness to wait to see what the government would propose.

Does that same willingness exist amongst the member states? One doesn't know. Of course the majority of member states are still in favour, but the star of the show is Mr

Sarkozy, and with him you never know. One day he says that he is quite willing to open up and keep the negotiations going, for him there are only five chapters ruled-out, there are 30 chapters that can be negotiated so the negotiations can go on and on for another five to six years. Another day he says he is still strongly committed to opposing Turkish membership. I think that for him it really depends on whether the other EU states give him enough room to manoeuvre to allow him to determine the European council in two weeks time. Personally, I think that he will get his so-called 'committee of wise men', which will look into the future of the EU, and that will mean that in a few weeks time two new chapters will be opened in negotiations between Turkey and the EU.

So the EU's stance on Turkey's membership prospects is not set in stone for the time being; it's a case of wait and see for the moment, but that patience will not last forever. What I want to do is to go into the hot issues internally. I will skip the whole Cyprus issues where I think nothing will move until after the February 2008 presidential elections: not in Turkey, not in Cyprus, not in Europe. Much could be said on the Armenia issue, but I think for this conference that can be left aside. So what are still the hot issues?

One hot issue, of course, is freedom of speech. I've talked so much about Article 301 that I can hardly bring myself to mention it, but I need to do so. Be aware, Article 301 isn't the only article in the penal code that limits freedom of speech. However, it has become such a symbol of the lack of freedom of speech in Turkey that when I talk about Article 301 I mean 'Article 301 and all the other related articles.'

Here I have to be clear, and I was clear 2 weeks ago when I spoke to representatives of the Turkish government, that our patience is running out. We in the European Parliament, and also officials from the European Commission, have been talking about the need to abolish Article 301 for at least two years now; we cannot keep on talking and keep on getting promises from the Turkish government only to discover that nothing changes.

Now the latest commitment has been made by the Minister of Foreign Affairs and Chief Negotiator for Accession, Ali Babacan, that after the budget is passed the Turkish government will come up with a proposal. I sincerely hope so because it has great symbolic importance for the EU. Also because on this issue Turkey can act on its own: there's no Cypriot President, there's no Armenia, there's nobody to wait for. Turkey can and should act on article 301; there's no excuse any more for delaying the reform of article 301.

More or less in the same basket is the issue of religious minorities. There as well Europe has been asking, Turkey has been promising, and nothing has been happening. Again it is an issue where Turkey doesn't need any foreign approval, it can

act and it should act on its own. Again, it has a high symbolic importance, as the Turkish government knows. There were efforts in the past, blocked by the former president, to alter the Law on Foundations. This would have represented a partial solution to this issue and, in fact, together with Article 301, the Law on Foundations is one of the key issues that should be tackled by the Turkish government.

My third hot issue is the role of the army. I think all of us are extremely concerned by what happened on 27 April, and have spoken out strongly against it. It was an intervention in politics by the military for which there was no excuse. Having said that I think it was encouraging to see that despite this intervention, or perhaps because of this intervention, the army didn't get its way. If you remember on 27 April the army said that they didn't want Mr Gül to be president and they didn't want the AK party to win the elections. Yet what actually happened? The AK party won the elections and Mr Gül became the president. If the people I spoke to are anything to go by, the AK party partly got so many votes because people didn't like the way the army treated the AK party, and said "ok, if the army is against the AK party I will vote for the AK party". So I'm pleased to see that the army's tactics seem to have backfired.

Has this changed the position of the army in Turkish society? I'm afraid it has not. This is a very long term process, and I don't have any elusions that from one day to the other the army will say "we've understood now that we must act in the way the Spanish or German army does". Additionally, the present situation in the south-east doesn't help achieve progress. The army is quite happy that there are these violent clashes in the south-east because it will make it very difficult for the government to reduce its role in politics.

This relates to the last hot issue, the whole project of the new constitution. Let me be clear, I think it's a great idea to get rid of the 1982 constitution and to try to have a democratic civilian constitution. It could solve a lot of ideological problems where my European colleagues and I have been exchanging points of view with Turkish officials: the role of minorities, cultural diversity and the role of the army, these issues.

My worry, however, and that of the European Parliament, is that this whole process is happening in a rather opaque manner. I think it's important to call on colleagues in the Turkish parliament, but also on the Turkish government to make the process a transparent one: to involve NGOs, including those that don't agree with them, in drafting this highly important document.

I now want to turn to the most difficult problem, that is to the Kurdish problem and the issue of the PKK. By a large majority, let nobody tell you otherwise, the European Parliament condemns the actions of the PKK. Why? Because we think that the situation in the south-east after 2004 has definitely changed, because of the reforms

implemented. Is it enough? No, it's not enough, but it's something. In the reports of the parliament and in our speeches you can see that we continue to push the Turkish government to continue with the reforms, for instance on the issue of Kurdish media and Kurdish language rights. Also, we are monitoring all the court cases against elected DTP politicians; sitting here is one of them, Abdullah Demirbaş, who used Kurdish in his communication with the population.

For these reasons, I'm not saying that the reforms are perfect or that they are fulfilled, but they have been there and anybody who says that the situation in the south-east is the same as five or ten years ago is wrong. That's one reason why we think there's a golden opportunity for the AK party and the DTP to make progress and why we think the upsurge in PKK attacks are so unfortunate.

One of the reasons that the situation is different is precisely the fact that the DTP is now in parliament. Everyone in Brussels was happy to see the entrance of the DTP into parliament after the July elections. Many of us believe that there is real potential for the DTP and the AK party, which is after all the biggest party amongst the Kurds, to work together to make progress on the Kurdish issue. Given the potential for progress on the Kurdish issue created by the presence of the DTP in parliament it is extremely unfortunate that the PKK continues to make attacks. In fact it doesn't make sense at all for them to be doing this: why destroy the opportunities of your own elected parliamentarians?

I would like to make clear that I agree with the previous speaker that we are not talking about a process that will continue and continue; we are at the crucial juncture. We are at the critical moment when progress can be made if political actors get some space for manoeuvre. However, the PKK attacks of the last couple of months compromise this possibility. That's why I've spoken out so strongly against the PKK, and I will keep on doing that, and why I have spoken out so strongly in favour of the DTP.

Let there be no misunderstanding, the DTP, together with the AK party, has a key role to play in finding a political solution. Forget about CHP and MHP, these parties won't help create a solution; the DTP have to do it with the AK party. I think DTP wants to find a solution and that the AK party wants that too, so that's the way forward.

Therefore, closing down the DTP is the wrong option for Turkey, and I'm very happy that PM Erdoğan spoke out against it. If the DTP is closed down it will strengthen the hardliners, amongst the Kurds and amongst the Turks.

So in order to get a solution I think that we need three things, which form part of a package:

1. The PKK should stop its actions immediately without any conditions. There are no excuses for the use of violence any more. To continue now with the violence would destroy the potential possibilities for Kurdish politicians to make progress; the main victim of ongoing PKK attacks is the DTP.
2. The Turkish government should not let itself be hijacked by the PKK, and it should continue with its reforms. I have spoken with Economy Minister Mehmet Şimşek, and he acknowledges that there has to be an overall package including both socio-economic and cultural reforms.

However, the project is not being presented, so I think what we should do, and we are doing it, is to put pressure on the Turkish government to come up with such a project, including fundamental changes in the constitution which would recognise minority rights and cultural diversity.

I would also urge the Turkish government to do their utmost, and despite the limits imposed by the separation of powers they could do more, to stop the harassment of Kurdish politicians. Kurdish politicians are part of the solution; they should not be harassed: if they are sidelined it will be the hardliners who take the lead, and that will make a political solution impossible.

3. The DTP should make it 100 per cent clear that they do not agree with the strategy, tactics or actions of the PKK. The DTP is under pressure from two sides: from the Turkish authorities (this is clear and we strongly condemn it) and from the PKK and other Kurdish hardliners. The DTP should be clear and courageous in resisting both. This is of the utmost importance, since such resistance is necessary in order to show that this struggle is not between the Turks and the Kurds. Rather it is between those Turks and Kurds who are willing to look for a political solution on the one hand, and the others within both communities who still think that violence is a suitable means for achieving their ends.

It is our tasks, as members of the European Parliament, to speak out strongly against those who still think that violence can play a role. At the same time we must strongly support those who have left that path, and who are convinced that only a political solution can resolve this situation.

1.2 Democratic Transformation – The Implementation of Legal and Constitutional Reforms

Akın Özçer

I'm delighted to be speaking on a topic that gets right to the heart of future Turkish accession to the EU. It's a matter which is widely used for political ends in certain capitals. Having represented Turkey abroad for many years, recently in Lyon as Consul General, I've had to note with disappointment some of the arguments deployed against accession for geographical, cultural or other reasons. The nub of the matter is the political system in Turkey which was originally based on the French system, but which has remained the same since then as if the world has stopped on its axis. This resistance to change and mediocrity in politics bothers one if one represents Turkey.

We are one of the founding members of the Charter of Europe and have signed the Charter so we are definitely European from that point of view. You cannot accuse it of not fulfilling certain democratic criteria, involving freedom of expression. On the eve of the Helsinki summit I was on a special committee which was supposed to be doing the basic reforms necessary in order to fulfil the Copenhagen Criteria. The report which the committee produced is known by the European Parliament, which has greeted it. If one looks at the First National Programme of Turkey published 19 March 2001 you'll see the reforms the committee had recommended on the list of reforms the government had enacted. We made the mistake as a committee of putting up a list that was a full one, it would seem that it should have been the shortest list possible.

However, you can't get onto the road to democracy without getting rid of the oriental mentality which suppresses reform and promotes mediocrity. When the regular commission reports mention problems here, they're considered to be inadmissible requests from the EU which aim to dismantle the unified state. Anyway, you must understand how difficult it is to transform Turkey into a state ruled by law, to turn it into what certain people would like in terms of standards at this point in time.

Yet the political process of democracy is going on in Turkey and it is being looked at as a magic potion. As in Spain during their democratic transition, the idea of drafting a new constitution is not new to Turkey. After the AKP came to power that idea was resurrected, and that was one of its priorities during the election campaign. However, the first text, which was prepared by a team of academics and then disseminated to the media, was not satisfactory and neither were the attempts by the parties in power to move things forward. While our problems with PKK terrorist acts haven't stopped democratic transition, I think that Turkey needs a new democratic constitution as soon as possible, which would allow us to fight terrorism

democratically and resolve the Kurdish problem. This would be a sort of solution *à la Espagnole*.

I would be delighted to give you a few thoughts that I have on the potential for a new Turkish constitution and a new policy for fighting terrorism. I think that the proper functioning of a state ruled by law depends on freedom of expression and association in conformity with universal standards. This basically means that the only exception to freedom is any expression which is defamatory, promotes a terrorist organisation, or encourages violence, terrorism, or the ideology of terrorism. In a democracy you've got to allow people who want to organise the state differently, including separatists to the extent that there is not an imminent danger of a separatist revolt. It is not acceptable that a founding member of the Council of Europe should oppress academics and journalists and declare parties illegal just because they are dubbed separatists or because they declare their support for programs judged to be against the fundamental principles of a unitary state.

I will just tell you as an aside that there is a legal grey area involved in this, since what comprises a unitary state is not clearly defined. The 1978 Spanish constitution, its Article 2, says that the constitution is based on the indissoluble unity of the Spanish nation, a common indivisible fatherland for all Spaniards which recognises and guarantees the right to autonomy and nationality of the regions that make it up and solidarity amongst them. Possibly the term nationality breaches the symmetry of that article, but it is not a separatist article. So why could Turkey not attempt something similar to the Spanish route?

The DTP, a Kurdish political party, last month proposed a political administrative system, apparently drawing inspiration from the Spanish constitution. Not really understanding the distinction made in Article 2 between region and nationality has led to the proposal being called separatist in Turkey. However, just dubbing them separatist is tragicomic for a state which says it wants to be democratic. However, I do criticise these parties, including the DTP, not for their proposals, which are legitimate, but for their apology for the PKK terrorists.

Another thing in the Turkish constitution is respect for citizens that have cultural differences, such as the Kurds. I'd like to refer to the French model when it comes to national minorities¹. France does not recognise the existence of minorities in their territory, and Turkey, which has a republican government based on the French system, has followed this example in not recognising the existence of national minorities apart from the non-Muslim community recognised in the Treaty of Lausanne.

¹ *Genevieve Cubris* produced an excellent study on the position of minorities in France entitled *Rights of Minorities in the French Republic*.

Therefore the question of national minorities could be settled in Turkey in the same way as in France, which, unfortunately, is the minimum needed to meet the Strasbourg and Copenhagen criteria. I think in deleting all restrictions on freedom of expression and association, and those which might impede the usage of cultural rights, as in France, it would be possible to change the Turkish Republic into a democratic state, ruled by law. We don't have to recognise the existence of other minorities on Turkish territory in order to assure that Turkish citizens who have differences such as the Kurds can develop their language and culture.

Article 21 of the Convention would be sufficient to guarantee the unitary Turkish state, because none of the provisions of the current framework would be interpreted as meaningful individuals. Nor would any right be established to carry out activities or acts going against the fundamental principles of international law, particularly sovereignty, territorial integrity and the political independence of states.

If the French constitution does not cover minorities, case law recognises French citizens who have ethnic, religious, gender or other differences, and have a right to that difference. The rationale is simple: if you deny a French citizen who has differences the right to express or use these differences he will not be equal to the majority of French people who do not have these differences. This would violate the article of the constitution which covers equality before the law and the principle of non-discrimination. Therefore there is a right to difference, though it is not explicitly recognised by the constitution.

So its not a question of having to create an article expressing the rights of minorities, you've just got to make effective the equality, in particular by deleting all restrictions which apply to differences between citizens. It seems that the mentality of Turkish officials has not progressed at all since Helsinki; they doggedly use the same old simplistic arguments which are no longer valid on the European chessboard of arguments. I would like to remind people that the new constitution must not only be in conformity with minimum universal democratic standards, it must also be based on a wide consensus. This means ensuring the participation of all political forces in the drafting of the constitutional text, and the consideration of all proposals to the extent that they're in conformity with democratic standards.

Spain during the democratic transition is an example for us to follow in Turkey, because the constitution of 1978 in Spain is a constitution of consensus drafted and adopted in the very difficult circumstances of the post-Franco era. All that is needed to achieve such a change is a solid political will. Now, if it's necessary to give Turkey a new constitution to turn it into a democratic state ruled by law, you've got to resolve the Kurdish problem at the same time. This in turn means that you need a new anti-terror policy to defend the democratic rule of law against the attacks of the PKK, but also to persuade terrorist organisations to abandon definitively their acts. An anti-

terrorist policy is not just a fight against terrorists; you need international cooperation, as well as other measures within the economic, legal, and military spheres.

Spain as a democratic state has been fighting against the Basque separatist group ETA for a long time. The fight was very often carried out in a dirty anti-democratic way right up to accession to the EU. However, I want to highlight one of the most important elements of the democratic fight against terrorism which was the 12 January 1998 pact between the political parties of the Basque region firmly condemning terrorism. The Basque parties and the two main Spanish political parties were signatories to this. And one of the main elements of the pact was Article 9, the right to engage openly in politics if you definitively drop terrorism, and seek reintegration into civil life. This was a real turning point as it gave a route out to terrorists who were prepared to renounce their anti-democratic terrorist acts.

I think we need a democratic anti-terrorism policy which incorporates a pact of this sort. This should include allowing people to defend themselves legally and politically and a reduction of sentences for those who say that they will definitively abandon terrorism. I know in Spain that the ETA of the 1970s decided in 1982 to dissolve itself, and that the amnesty laws were introduced so that people could carry out politics in the Basque political parties.

So I think these kinds of tactics might well lead to the PKK being sidelined. I think that if we have a democratic fight against terrorism based on the Spanish approach it would be an inspiration in our fight against the PKK, and it might also allow us to probe and test their organisation which for some time has been broadcasting some more or less moderate measures via the DTP. So let's see if they will take the path which ETA started off 25 years ago by becoming political in Spain.

Will the PKK do the same in Turkey now? Will there be a democratic turning point? At the moment some people within the government have been saying that we need a clearer formulation and more solid constitutional basis for anti-terror policy. However, the question is how and when this will be made more specific. Let's hope that words are turned into action.

1.3. Can Turkey Become a Full Member of the EU Before a Resolution of the Kurdish Issue?

Ahmet Türk

Turkey, since the beginning of reform and modernisation, has diverted its efforts towards a new democratic structure with the aim of EU accession. I believe that Turkey's attempt to accede to the EU is the fourth extremely important strategic decision in the history of the republic.

The first decision was the strategic cooperation of the Turks and Kurds in creating the republic. This was certainly a historic period, since it represented the joint determination of Turks and Kurds to create a country which upholds the equality and freedom of each citizen.

The post-republic strategic cooperation between the Kurds and Turks is the second strategically significant decision. This is the period of 1921-1924 and at this present time this period is looked at as the 'golden age'. The first parliament was deemed to be a joint parliament of Kurds and Turks. Representation was according to identity and region. In fact Mustafa Kemal himself believed that the Kurds should be allowed a special status and even made a statement supporting the creation of a system utilising 'a type of village headmanship' (the most local type of government). This is a most notable period we can refer to, to tackle current problems and debates.

The third significant strategic decision was that to abandon strategic cooperation with the Kurds, instead of building on the atmosphere of cooperation in order to further the republic democratically. This began a period of conflict. The decision to create an oligarchic republic was an unfortunate decision that has yet to be rectified despite the passage of 80 years. Indeed, we have not even tried sufficiently hard to rectify it.

I cannot continue without stressing the role of the responsibilities of certain influential international powers of the time, powers who are in fact now members of the EU. The Kurdish problem was left right in the middle like a corpse, and was sacrificed in the pursuit of international interests.

What I am about to talk about is the fourth significant strategic decision: which offers the chance for redemption from the mistakes of the past. European countries must be able to redeem themselves for the mistakes they have made in the past against not only the Kurdish people, but also against the Turkish people as well. For the first time in the history of the republic, Turkey made the strategic decision to aim towards democracy by seeking membership to the EU.

This is the most important decision in turning away from the chaos of the Middle East and making a move towards western civilisation. Since the day of its creation our country has not been able to solve its social and structural problems, and has not been able to solve the conflicts arising from these problems within a democratic framework. However, Turkey's decision to pursue EU membership means that, at long last, the reform process has begun. This process must continue. However, we know that the efforts of external dynamics will not be enough on its own to implement the fourth strategic decision to institutionalise a diverse democracy. At this point I would like to discuss the fifth significant decision that Turkey now has to make. The makers of this decision are our peoples.

This is the question: will a thousand years of togetherness and 500 years of strategic cooperation be revitalised within a framework of modern values? Or, instead, will there be a split as a result of deepened conflict? This strategic decision will be taken by our peoples: will there be unity through cooperation, or, complete separation?

The Prime Minister asks us "form your preference, make your decision", it is not as easy as this. We are talking about the time for the Kurds and Turks to make a strategic decision, while the Prime Minister is still pursuing basic daily political interests.

Us Kurds believe in a solution within democratic unity and making policies to this end. If a meaning is given to our presence in the parliament, then it should be within the framework of our passion for unity. DTP should be recognised as the strongest legal representatives of the Kurds who have had a problem defining themselves within the republic that has had trouble with democratization. Our ideology has a single aim and that is to democratise this republic that we created together and to reignite a Kurdish-Turkish unity grounded on modern values. Within parliamentary politics we should take on board our joint history and values, while not using our sensitivities as mere tools for political gain but rather approaching them with care so that we can achieve veracity in parliament. Our hope is for others to approach us in this way.

Unfortunately, since the very beginning, primarily through the Prime Minister, we have been bombarded with calls to condemn terrorism in order to prevent us from producing policies. Actually, our view on violence is extremely clear; once again I do not hesitate to declare that we are against political violence of all means, whoever or wherever it comes from. We do not accept violence as a means to political progress. We do acknowledge that there is a social problem that causes violence, namely the Kurdish problem, but we believe that it should reach a democratic solution. If we do not offer politics as a route to a solution for our people then we cannot prevent violence.

The DTP's role cannot be overlooked. We offer the Kurdish people a route to solve

their problems, which range from the cultural to the economic, through legal means. It is evident that if we did not exist then our people would find an alternative way to express themselves.

We entered the elections to offer civil advice for the solution to Turkey's basic problems. We were chosen and therefore took up a very important and responsible role. We possess the will and the will power to solve the Kurdish problem within the framework of democracy and compromise. However, we are yet to find an appropriate addressee. DTP is principled enough and confident enough to not accept any preconditions. Pressure seeking to turn the DTP into something it is not is unacceptable. We have to play our role within our political identity.

Our projects for a solution are awaiting their addressees. The foundations for a civil and democratic solution have been created through the admission talks on accession into the EU. The definition of citizenship without the use of ethnicity is a big step towards success. Alongside Turkish as the official and education language, Kurdish must also be constitutionally guaranteed as a language of education. Laws governing freedom of expression and association, political parties and elections should be rearranged in accordance with EU norms. Local government reforms should immediately be introduced in accordance with EU norms of local government and a transfer of certain central government powers to local governments should be ensured. The EU should play its responsible role by supporting this process and lobbying for the requisite changes.

It has been speculated that the DTP's proposal for democratic and cultural autonomy is not adaptable to Turkey's democracy. However, if democratic reforms and social change continue, our proposal will become better understood and increasingly appropriate. We believe in democratic unity and it is our belief that our proposal for democratic autonomy is a unifying project. The democratic autonomy project bears comparison to the practice of the EU and to that of certain EU countries.

I need to put forward one final thing. If politics is a rational phenomenon then we need to adapt our proposals in this light. If the PKK and Abdullah Öcalan are not seen as part of the problem and are not included in the formulation of a solution, then no solution will be possible. We have to take note of someone that has the sympathy of millions and an organisation with the manpower of 6-7 thousand armed fighters.

For years the authorities have attempted to find a solution without Öcalan and the PKK, without the slightest success. However much we term them as "terrorists", we cannot deny that they have important political and military significance. Thus, we must find a way in which the armed fighters can be included in this democratic process. This will help achieve the unity of Kurds and Turks, as the rationalisation

of the past takes place. We must put trust in the path of intellect and knowledge.

We may not be of the same religion, or speak the same language, but we share the same world and the same philosophy of peace. You should have no concern regarding our passion to modernise the values of the humanist philosophy for which Jesus Christ sacrificed himself. If we want to be judged by God with lesser sins, then we must be as passionate as Jesus in working hard to ensure honourable peace between our peoples.

Vittorio Agnoletto

When we began thinking about this conference and organising it we didn't imagine it would turn out in the way that it has. We didn't think it would be possible to have a dialogue between representatives of the Kurdish people, such as the DTP, and the new Turkish government. Everywhere in Europe people had hoped there would be such a dialogue, but we've opened this conference after another event, an incursion by the Turkish army into the Kurdish area in Iraq.

We shouldn't mince our words, we should tell our Turkish friends that this is an illegal act, that it runs against international law, that it doesn't even respect the internal affairs of the Iraqi state, and it runs counter to the resolution adopted by the European Parliament. We in our group worked a lot on this and we adopted this resolution on 24 October this year; paragraph 22 says that the EP is very worried about the consequences of possible military action across the border by Turkish forces into Iraq. However, they ignored our concerns, and now they have crossed that line.

Unfortunately I get the impression that today, no political exchange is taking place. The military, who have huge power in Turkey, have accepted the election of Abdullah Gül to president of the republic, but only in exchange for a blank cheque to the generals when it comes to the Kurdish question. That's not what we'd expected.

To anyone in this room who blames the DTP, let me point out that often the DTP has been more royalist than the king. Indeed, although they didn't vote for President Gül they attended the session in order to allow him to be elected.

We also know that the question of autonomy for the legislature, the judiciary, and so on is very complicated in Turkey. The high court ruled to dissolve the DTP, and that's very serious because experience from elsewhere suggests that in order to resolve a conflict the minimum necessary condition is that politicians are able to talk to each other. It's a miracle that the DTP has managed to form a parliamentary group at all,

since Turkey hasn't acted on Europe's calls for it to change its electoral law in order to reduce the 10 per cent threshold which is designed to prevent political representation for the Kurds in parliament.

The fact that there was political representation for the Kurds in parliament was a good thing, which provided fertile ground to try and find a solution. To pass up on the opportunity afforded by the DTP's presence in parliament by dissolving the party represents a refusal to recognise a political organisation which wants a certain amount of autonomy for certain regions within Turkey.

I say this because we in the GUE group have followed events, and we want to raise the issue of the dissolution of the DTP in the Human Rights committee of the European Parliament. I would also add that we've had meetings with DTP people in Brussels and Turkey, and I can tell you that the DTP was the hope for a solution. Europe often calls on the DTP to distance itself from the PKK, and we don't think that an armed conflict is the solution. However, we have to be extremely realistic, and we say that when villages are attacked and when mayors are imprisoned simply for speaking Kurdish, then it becomes difficult to call on people to distance themselves in this way. Indeed, I think it's a political mistake to do that at this point in time, since we need to allow breathing time for diplomacy.

I believe that the war in the north of Iraq has a political objective, I think it is to oblige the DTP to lie down, to reduce its margin of manoeuvre and to leave it to the PKK; since I don't believe that a military solution is the right one, I believe this is the opposite of what should be done. I think that we Europeans should let this be known.

I'm less optimistic about Turkey than are my colleagues, and I'm less optimistic than the 24 October resolution. In order to get around Article 301 it's not enough to free the most famous writer in Turkey; let's not forget that there are many others on trial. When it comes to freedom of speech and information, claiming that there is a TV channel which can broadcast in Kurdish is a lie unless we're talking about broadcasts late at night with a voiceover that makes the thing incomprehensible.

So there is a problem. We have a Turkish establishment, which wants to deny the existence of a Kurdish problem. They keep talking about Anatolia and the south-east of the country, and when we adopt a resolution in the European Parliament we have a delegation from the Turkish parliament which lobbies our MEPs to use a different phrase. The Turkish delegation which contacted me said what I've been hearing in this room this afternoon: that until the DTP condemns the PKK it won't get anywhere. However, my reply is that if you are going to resolve anything you have to talk to people and you mustn't force your counterparts to make concessions in order to achieve dialogue. What we have to do is call on the Turkish government to think of the hopes that Europe had; there was an electoral victory, for once people

had refused to be dictated to by the army. So let's use that and let's get a joint ceasefire.

In April we came up with a resolution in the European Parliament, after the DTP had called for a ceasefire, in which two amendments from the GUE were adopted by the whole of the parliament calling for:

1. The PKK to accept a ceasefire called for by the DTP.
2. The Turkish government to start meetings with the DTP should the PKK accept a ceasefire.

48 hours later the PKK did accept the ceasefire but the Turkish government never responded to the European Parliament. It takes two to fight. If you want a ceasefire both sides have to make concessions; you shouldn't look at only one side. So there are calls for a bilateral ceasefire and if this bilateral ceasefire does not transpire then we will call for a unilateral ceasefire by the PKK, and then we'll ask the Turkish government to prove that it intends to talk rather than using force.

As Europeans we have to continue to struggle to ensure that Turkey moves forwards toward membership of the EU. However, we cannot accept Turkey into the EU unless they meet the basic conditions, not just economically but also in terms of respect for democracy and human rights. We need a road map, which should include:

1. The recognition of the Kurdish identity by all parties.
2. The abolition of Article 131 of the criminal code.
3. Constitutional reforms to guarantee for everyone the fundamental right to expression.
4. Constitutional reforms to put the military in their place; the aim should be to ensure that, as in every western democracy, the army is subject to the legitimate government and not the other way around, and that the military is deprived of autonomous military and economic power
5. The DTP be allowed to continue and the threat of dissolution against it be dropped. If the attempt to dissolve the DTP continues I think we will undertake a specific initiative in Strasbourg and we'll invite the DTP. I can tell you now that if there is a court case to dissolve the DTP we will follow it very closely. We will even send a delegation to find out what's happening, because we know that when a European delegation goes everybody is much more circumspect; it means that they know that there are eyes watching who will speak out in public in Brussels and Strasbourg.

We've said a lot about Turkey and about the Kurds and the role of all the political parties, but the EU has a responsibility too, because if we want to play an active role, and if we continue to believe the Turkey should join the EU, then it has to be on basic conditions. Accession has to be through the front entrance and that means that we expect a community agreement on democracy and rights, and that includes the Kurdish question.

Session 2: Human Rights, Fundamental Freedoms and recent developments in the Turkish Accession to the EU

2.1 The Ilisu Dam Project: The Environmental, Social And Political Impact. Building Support For The Save Hasankeyf Campaign

Emilio Molinari

I speak on behalf of the World Water Contract and so, naturally, I shall speak of water, of the water of the Tigris and Euphrates basin.

The Bible says: *in the beginning there was water. And the Koran states: By means of water, we give life to everything.* Water is life. We are all born of the water of a woman's womb – that of our mother. And we should never forget that the waters of the Tigris and the Euphrates are the waters of our common mother's womb, from which our civilisations, our written history and our religions were born.

Yesterday, Francis Wurtz and Bianca Jagger powerfully illustrated the issue of the Ilisu dam and the city of Hasankeyf condemned to be submerged, where overlapping pages and millennia seem to unfold like in a history book: from the cavemen to the Sumerians, Assyrians, Greeks, Romans, Arabs, Kurds and Turks.

They told us of submerged villages and archaeological sites, of people being driven off their land with no regard for international laws or compensation, of European companies which are involved but say nothing, of European banks, including the Italian Unicredit, which are financing the project.

However, the Turkish project goes much further than just the Ilisu dam: it concerns 60 dams, 90 installations, 84 villages, and is resulting in the deportation of 200,000 people. It involves the River Munzur, 42,000 hectares of national park, one million square metres of forest and firms such as the US-owned Bechtel, in which the Italian firm Edison holds a 30% stake, and AEM, the former Milan municipal energy company which has a 50% stake in Edison. Three great lakes in the heart of Kurdish territory; major pipelines to take water to the Haran Plain; 2 million hectares to irrigate: 23% of all commercial farmland in Turkey.

The Turkish Government's project is huge. It will devastate the Tigris-Euphrates

basin and will alter the geopolitical situation in the entire Middle Eastern region. It is a strategic project which has been pursued for decades; the presence of Kurds is merely considered an obstacle to be removed. To ignore the existence of the Kurds and to militarise their territories allows the Turkish Government to ignore the participation of the community and its representatives when it comes to decision-making on major works which will have a great environmental impact: it means ignoring all forms of legality in decision-making processes, in transfers and in compensating thousands of people.

After what we heard yesterday on the breaches of human rights, censorship, torture, etc. can you imagine Turkey providing for the participation of Kurdish people, as laid down in European Framework Directive 2000/60 and initiating a democratic environmental impact assessment? But this also concerns the European firms involved and their respect for laws and rights.

In my view, to talk about water in a conference on Europe and the Kurdish-Turkish question – the present conflict, the risks of it spreading – does not mean that we are talking about something different. Rather we have to look at the entire issue from a different viewpoint: to talk about destiny and the rights of Kurds from the standpoint of the depletion of resources which are vital for everyone – such as water and energy. It means talking about the appropriation of that right and its withdrawal from others, it means talking about Europe and the fact that the major water multinationals are based there, about the building of dams and the management of reservoirs; it means talking, again from a different standpoint, about peace in the entire area.

There is by now not one single document, book or international study on water that does not cite the Mesopotamian basin as a source of possible conflict: from the World Bank, with Ismail Seralgedin, to Jaque Sireneau, to the recent Pentagon report on the 70 future ‘water wars’.

Allow me, therefore, to refer to the planetary context. The IPCC of the United Nations has been saying for some time that we are currently in the midst not only of a fossil fuel crisis but of a dramatic world water crisis. Projections suggest that in 40 years alone we will have consumed or made unfit for use more than half of all freshwater and that by 2050 48% of total water demand will not be met. In just a few decades, 240 million inhabitants of the Mediterranean area may well have to live in regions with less than 1000 cubic metres of water per year per person: that is, in areas defined by the UN as being areas of water conflict.

Given all this, I shall continue to tell everyone that this is a problem which concerns us all and that we have little time left in which to tackle it. There will not be water for everyone within the dominant water production and consumption models. We have only a few decades in which to frame a policy to defend and protect this resource,

in which to consider how to redistribute it and guarantee its availability for everyone.

The Turkish Government is thinking of seizing it, of taking it away from Syrians and Iraqis, by liquidating or reducing to silence the Kurds who live there; it is thinking of becoming the great water reservoir of the Middle East, armed and quoted on the Stock Exchange, the tap which measures out water at market costs; and at the same time it is thinking of becoming the great food producer. However, all this would mean war, throughout the region.

To conclude, I would like to bring the issue more up to date by telling you of an appointment. 10 December 2008 will be the 60th anniversary of the Declaration of Human Rights and in March 2009 the 4th World Water Forum will be held in Istanbul, to be attended by 150 governments, thousands of local authorities, international trade unions and NGOs from all over the world. Well, I believe that the issue of Ilisu, Munzur and Hasankeyf should be discussed within the Forum, through the voices of the citizens of the region, and through the Kurdish and Turkish social movements.

As in 2006 in Mexico City, all the world water movements will want to use Istanbul to launch an international forum in which to ask the UN to declare water a human right, a common asset which cannot become a commodity, and in the management of which the communities should participate. They will want to ask for the Forum to be promoted by the UN itself and they will want to be able to demonstrate hand-in-hand with Turkish and Kurdish civil society movements.

Will it be possible to carry out this simple demonstration of democracy?

Here we are measuring the process of democratisation in Turkey, but we are also measuring the will of the EU, the European Parliament, and the United Nations.

For Mexico City in 2006 the European Parliament adopted a resolution on water as a human right. For Istanbul 2009 MEPs will have another task – to make it possible to establish a Civil Society Forum in Istanbul, to monitor dates and meetings and to guarantee that the Turkish and Kurdish movements will be able to attend all events.

I believe that this is a great opportunity for us all to declare a policy rather than use force, it is a moment to be seized for human rights, a time to give back true meaning to politics – to address everyone's problems and consider how to improve this world.

2.2 Human Rights – Commitment and Implementation

İbrahim Bilmez

We can see very easily that Turkey has many problems with its accession to the EU. This has been reflected in public opinion in the EU member states, in the progress reports prepared by the EU and in the reports prepared by human rights organisations. The problems Turkey is experiencing is reflected in the last progress report of the EU where it was stated that Turkey had achieved no progress at all when it came to the protection of cultural diversity, religious freedoms, and minority rights. In the same report Article 301 of the penal code was criticised; it not only restricts freedom of expression, but also leads to the deaths of people like Hrant Dink and therefore violates the most important human right: the right to live.

It should be remembered that progress in Turkey can be reversed very easily. Turkey had made improvements to the press law over the last few years, and for a while newspapers could not be closed down, but then law 5532 was passed. This law created great pressure on the media which covers the Kurdish issue by introducing measures which led to newspapers such as *Gündem* being closed. Similarly, the authority and mandate given to security forces were restricted on the road to accession, but since then changes in the law have increased their authority extensively; we soon saw the problems arising because of this, including three incidents in which the police used disproportionate force and people lost their lives.

Turkey has a very bad record when it comes to extra-judicial killings, especially in the 1990s when thousands of people were killed. Many people were lost without a trace, and the families of these people still carry the bitter memories of these incidents. Therefore, moves increasing the powers of the police are a very serious issue: it should be calibrated in accordance with human rights, but, unfortunately, Turkey doesn't pay much attention to this issue. This shows that Turkey does not exhibit a strong will to modernise and improve its human rights standards.

Why doesn't Turkey express this will? The answer is known by everyone concerned, but it isn't voiced in public. Turkey's Kurdish issue, and other structural problems, are left without a solution because, while the absence of a solution leads to violence, violence is still seen as legitimate. According to recent figures Turkey lost more than 30,000 people in the recent conflict period. Unfortunately no lessons were drawn from this.

At this point the greatest problem in front of Turkey en route to democratisation is the Kurdish issue, everybody accepts this. This issue has become like gangrene; we must find a solution to it. If Turkey finds a solution to this the Kurds who were called 'so-called citizens' may actually be happy to be citizens of Turkey and may make

their peace with the state. A Turkey with internal peace could enjoy greater economic growth and improvements in living conditions. Also, in such an environment, in which there is lasting peace, human rights violations will be reduced and Turkey will be able to be a party to human rights conventions to which it is not a party yet.

In fact Turkey still does not honour the human rights conventions that it is a signatory of. There are thousands of applications to human rights courts and there are many decisions against Turkey. What is Turkey doing to overcome this? Unfortunately, it's not doing anything; there is no comprehensive project for a solution.

The new government came to power with some 47% of the vote, and it took the votes of Kurds as well. Yet the AKP government just like previous governments is choosing the military option, and it asks neighbouring countries such as Iran and Iraq to resort to military operations as well. During these operations civilian and military casualties are not important according to Turkey. A declaration made by the Ministry of Justice regarding the eight soldiers abducted by the PKK stated that the deaths of these soldiers would be better than their being taken hostage. This shows the importance Turkey places on the right to life; given this it is not surprising that an atmosphere exists in which human rights violations in Turkey are not taken seriously.

In Turkey's recent past, the periods in which human rights violations were most rampant were during periods of conflict in Turkey. The existence of the PKK is the result of Turkey's policy of creating a homogenous state. Only once we accept this can we find an acceptable and realistic solution. Turkey did not accept this fact, it couldn't analyse this problem correctly, or didn't want to, and therefore could not present sensible solutions.

The Turkish government and media take the cause of the problem to be the PKK and Öcalan. This is not a realistic approach, and so far acting on such assumptions has not solved the problem. The fact that a solution has not been found is because of this mentality. They've tried to ascribe all the adversities of the Kurds to Öcalan, despite the fact that Mr. Öcalan is living in a single cell in isolation on İmralı, and despite the fact that he has limited access to his lawyers.

The Turkish public is bombarded by misinformation from the state authorities against Öcalan, but in reality in 1993, 1995 and 1998 Öcalan declared ceasefires in order to create an atmosphere of peace. After February 1999 when he was placed in İmralı, he tried to continue his efforts for peace; on his initiative the armed guerrilla groups were taken out of the borders of Turkey. Unfortunately, the Turkish state's response was negative; military operations continued, and the peace groups that came to Turkey were placed in prison and they are still in prison. Finally, on 1 October 2006 the ceasefire declared by the PKK, in which Mr. Öcalan played a role, intensified the demands of the intelligentsia in Turkey.

Despite all this, the state's policies towards the Kurdish problem and towards Öcalan didn't change. The military operations in the mountainous areas continued and there were no initiatives for a political solution, while the responsibility for all the loss of life was ascribed to Öcalan and he was made a target in the media. Everyday there were unbelievable slanders made against him, and his positive initiatives were hidden from Turkish public opinion. When he wanted to use his right to respond to the accusations against him, he was given extra isolation time in his cell as punishment. But Öcalan still has faith that a peaceful solution can be found and he points to similar solutions in other European countries. He believes that if such a peaceful solution can be found then the democracy and peace culture which is missing in the Middle East will be emanated to the whole area. When we look at the picture of the Middle East as a whole, we can see that Turkey should put aside its historical phobia of being separated and broken up. Only in a democratic Turkey and Middle East can we have an atmosphere in which human rights violations do not take place anymore.

2.3 Democratic Decentralisation and Local Governance

Nurettin Demirtaş

As we converse on ways of resolving the problems of the largest stateless group of people in the world, the fighting continues and people are still dying. I believe that this conference can play an important part in ending the bloodshed and resolving the Kurdish problem democratically.

The Kurdish problem, a fiercely bleeding wound in Turkey, is the rejection of the Kurdish people's social, cultural, political and human rights. The problem has consequences affecting the whole of the Middle East. The region is full of conflicts and interventions, and it is becoming clear that resolving the Kurdish problem will bring calmness to the area, and that continued deadlock is deepening the problem.

The deadlock with the Kurdish problem is the cause of the war that has lasted 30 years. The result: tens of thousands of lives lost; thousands of villages evacuated or burnt down; millions of Kurds forced to flee or emigrate from their homeland; hundreds of billions of dollars poured into war; economic structures ruined. Which scientific, political, or humane reasoning could want this to continue? What we are proposing is a democratic solution to end all this.

The Kurdish problem, regardless of whether it is a national or ethnic problem, is not the first of its kind in our history. Just as these problems were resolved in other parts of the world what we want is a more democratic and even more humane solution to this problem. A solution in which separatism is not a part of the agenda; where enmity between peoples is not instigated; a solution that does not rely on an out of date nation-state model. I will briefly explain below our core views regarding the solution to the Kurdish problem.

The solution which we pre-envisage is a model that does not put pressure on the borders of the state, does not reject the official status of the Turkish language, and does not propose separatism or separation. The Democratic Society Congress held in Diyarbakir on 26-28 October 2007 in the name of the Kurdish people has determined to support Democratic Decentralization.

Our party has also determined this in our congress and we take strong ownership of this. This congress was attended by representatives from 50 cities, representatives of the STP Party, parliamentarians, Councillors and academics; these respected groups have clarified the demands of the Kurdish people and have unanimously decided on the idea of Democratic Decentralization. Always respectful towards the will of the people, this course of action is our priority.

Democratic Decentralization is our response to the way that the state system neglects to accommodate the diversity of peoples, most notably the Kurds, living in Turkey. It is a monist and uncompromising system, which adopts eradication through assimilation as its official ideology, and is the fundamental cause of societal clashes. Our proposition is an alternative to the current State system.

Democratic Decentralization is a model at the core of which lies a determination to attain a level where the people have a right to speak and make decisions locally within a united country where every form of diversity is expressed freely.

The essence of Democratic De-centralization is not the building of a separate state, but freedom. We are not advocating autonomy based on ethnicity or land. We are advocating regional and local construction where cultural diversities are expressed freely. Atatürk himself, in 1923, said that Kurds should be acknowledged with a form of decentralized governance, but this was never implemented.

In accordance with our model each area and city, instead of being governed completely from Ankara, should govern themselves based on decentralization. Foreign affairs, the treasury and defence should be run by central government. The justice and security departments should be co-run by central and local governments. Education, health, culture, agriculture, industry, public development, environment, tourism, telecommunications, social security, women, youth and areas such as sport should be run by regional and local government. Furthermore, regional and local governments, depending on their population and level of development should receive a share of local revenue as well as the budget provided to them by central government to manage their services.

In order for this model to materialize, a new, civil and democratic constitution needs to be drawn up; a constitution that allows for the expression of different cultures and of the self as opposed to a monist one that rejects diversity.

Within a system of Democratic Decentralization identity and cultural issues can be resolved peacefully. Kurds will be able to receive education in their own languages and open schools wherever they live. I ask the Conference union: could there be anything more natural than a people receiving education in their own mother tongue? Moreover, isn't the fact that Kurdish is prohibited from use as a second language in the public domain one of the greatest disgraces in our time? In Belgium where the Conference is now being held there are two official languages being used. Is the Belgian community not happy with this reality?

Where in the World would you see people being accused of separatism simply for wanting their culture to be free? Look at Europe: is what is being demanded anything more than this? If I'm not mistaken, Europe is implementing such a system and

thereby increasing its happiness. How could we see this as a mistake? The time of empires and uncompromising centralized States has past. We perceive decentralization as a modern model for resolution and believe that our people deserve this.

Our party is determined and steadfast in its desire for a democratic resolution. We may sacrifice our lives; be subjected to oppression by those with a chauvinistic mentality; be threatened with closure and attacked, but we will not divert from our belief in a democratic resolution and we will play our part. We are pursuing an honourable struggle for the future of our peoples and iterate our readiness to assume our role for a democratic resolution at every opportunity.

I believe that if the State took steps towards comforting the Kurdish people and ceasing military operations, and if the PKK adopted an attitude strengthening the atmosphere of non-violence, the way would be open for a democratic and diplomatic resolution. I would like to reiterate our readiness to undertake any role or duty necessary to help bring this about.

In conclusion, attempting to close down our party and consistently subjecting us to abuse and discrimination will not prevent our democratic struggle and Turkey will gain nothing by this. The Kurds demand their most basic rights; they wish to live freely in Turkey. The most democratic and modern method of providing this is within the scope of Democratic Decentralization. It is my belief that the Kurds will be successful in this honourable struggle and will gift our peoples with the peace of a century. We hope that the EU uses its democratic power towards facilitating a resolution as opposed to intensifying the problem.

2.4 The Role of Women in The Struggle For Democracy And Peace

Pergüzar Kaygusuz

The Turkish Republic having retained its authoritarian, totalitarian and oligarchic character does not have a democratic structure. Against this backdrop, the peoples of Turkey, workers and women carry out their struggle for democracy and peace.

The democratization of a country is possible with the participation of women in the social and political domains. The enquiries conducted in Turkey about the situation of women show that previous critiques were reasonable. Although women were accorded the right to vote in the beginning of the 20th century, for many years women only made up 4% of the Turkish Parliament. Furthermore, cultural differences between women and men persist.

For Kurdish women the situation is the worst. First of all, Kurdish identity is not recognized. Secondly, education in the Kurdish language is forbidden. The Kurdish people face only violence and denial of their rights.

Also, religious and feudal mentalities which are predominant in Kurdish culture determine the lives of Kurdish women. This is why the struggle of Kurdish women is two-pronged. It aims towards changes in Kurdish society which push Turkey towards democratization. A conscious woman is one who deeply analyzes 'state, society and family realities' and accordingly, who once free is able to force the State to make real changes.

The political parties and their constitutions forbid the use of languages except Turkish in the electoral and political domains. It means that non-Turkish speaking people cannot be informed about political events. Essentially, Kurdish women who do not speak Turkish do not have the opportunity to become Parliamentary candidates.

The majority of the Kurdish population living in the east and south-eastern regions of Turkey have witnessed Kurdish rebellions, bloody repressions and many interdictions throughout the history of the Republic. The history of Turkey is a history of military coups. Every ten years, there have been three military coups, which prevented the democratization of the Turkish Republic.

All the repression, the torture, the denial policies and the 'official ideologies' finally led women to take important roles in the struggle for democracy. The oppression actually reinforced the desire for liberty. Some Kurdish women even decided to fight and took up arms.

Many Kurdish women are tortured, sexually harassed and have their human rights violated by the Turkish security forces for defending the causes of liberty and equality. But only a few of them have found the courage to use the legal process.

The cases of Şükran Aydın and Remziye Dinç were dealt with in the European Human Rights Court. Their lawyer Eren Keskin was prosecuted and condemned to prison because she made public the details about her clients who faced torture and human rights violations while detained by the Turkish Security Forces. Eren Keskin is still threatened with death.

Women have always been active in politics in carrying out the struggle for democracy. The resolution of the Kurdish problem and the recognition of Kurdish identity are very important for Kurdish women. From the beginning of the 1990s women were active in Kurdish political parties, and it can be said that Kurdish women became fighters for democracy and peace in several domains. We all know Leyla Zana very well. She was sentenced to a term of imprisonment while she was carrying out a democratic struggle and spent a large part of her life in prison. She is still prohibited from taking part in political activities. Her only fault was to reclaim democracy and equality.

A lot of women from the HEP (People's Party) period up until the DTP (Democratic Society Party) period had presented themselves as candidates for general elections as well as municipal elections. People supported those women. Hence in Turkey half of the local women administrators are from the DTP. Because of the anti democratic election system in Turkey, the DTP has had to gain representation through the use of independent candidates, and out of 22 MPs nearly half of them are women. Considering the low profile that Kurdish women face in the educational and social domains in Turkey, their political participation is remarkable.

The women's struggle began with a 'commission system' during the HADEP (People's Democracy Party) phase, then with the DTP a 'women's assembly', a 'quota of 40%' and a "system of two co-chairs" was introduced.

Women have also created their own institutions where they can struggle for their rights. For instance, Kurdish women in 1990 founded the Patriotic Women Association. Between 1990 and 2007, numerous associations, cooperatives, platforms and initiatives were held by Kurdish women across the region. In DTP municipalities, many projects are organised for women rights. In those institutions, women carry out both their struggle for democracy and for their own rights.

Every Saturday, the families of disappeared people come together in a demonstration in front of Galatasaray High School in Istanbul. A group called 'Mothers for Peace' made up of women aged from 60 to 70 participate in this demonstration. These

demonstrations are important because ‘Mothers for Peace’ support the democratic solution of the Kurdish problem and may facilitate the reintegration of their children.

‘The society is free when women are free’: this is the slogan of Kurdish women who believe that the democratic struggle is undertaken not only against the existing political system but also against the feudal and religious influences which exist in society.

The struggle of Kurdish women has also influenced Turkish women so that many women from various groups such as feminist parties, the political left, and trade unions have formed different platforms. These associations have organised diverse demonstrations which were held on 8 March 2007 and 25 November 2007. During these demonstrations, special meetings were held and a delegation was sent to a war zone called ‘Silopi’ in order to transmit peace messages. It is not only women’s issues but the question of democratization and the significance of the Kurdish problem that keeps women together. The obstacle to this union is the anti-Kurdish atmosphere created by militarist policies. If there hadn’t been any prejudice against Kurds and Kurdish women, surely the movement of the Kurdish women would have been more developed today.

Kurdish women face oppression in their struggle. I would like to give you some examples:

- ‘Mothers for Peace’, while protesting against the military operations by the Turkish army in February 2005 in Diyarbakır, were beaten by the police and detained. They were accused of terrorism and their cases are still being examined.
- Women organized a march on 8 March 2007 to celebrate International Women’s Day in Şırnak’s Cizre district. 32 of them were arrested and only released after being detained for a considerable period. Their cases are still ongoing.
- After being released, women who were members of DTP foundation were not allowed to conduct political activities. There is no legal justification for that. Their membership is under threat.
- The ‘lynch campaign’ against DTP and the group of DTP in the Turkish Parliament is aimed at women. All the female MPs, and in particular Fatma Kurtulan, Sabahat Tuncel, Aysel Tuğluk, Ayla Akat Ata, are closely observed by Turkish media and their private lives are violated. Recently, two of them were attacked by the Turkish media and the Turkish government just because they took responsibility for the release of eight Turkish soldiers

(who were handed over to Iraqi officials). These women MPs ethnically, politically, and physically face the risk of elimination.

Please consider these examples which demonstrate that the struggle for democracy and peace is undertaken under very difficult circumstances. Nevertheless, the desire for democracy and peace is both historical and represents the power of women. In a world dominated by men, we are determined to fight for democracy and peace.

A life without war is possible!

Human Rights, Fundamental Freedoms and Developments in Accession: The role of Kurdish women in dialogue, conflict resolution, reconstruction, and the struggle for democracy and peace - Margaret Owen

Introduction

Kurdish women have suffered for decades from human rights abuses perpetrated by both the Turkish State and by non-state actors.

All Kurdish people in Turkey (men and boys as well as women and girls) have suffered discrimination and violence because they are Kurds. However, women and girls suffer in specific ways that are never sufficiently documented or acknowledged and must be addressed. They are vulnerable to oppression on three counts: as women in a patriarchal society, as Kurds, and because they are regarded as the 'enemy' in the conflict.

Violence, insecurity, displacement, poverty, discrimination and the lack of protection in the justice system has ravaged their lives. The issue of women's rights is not an exclusive 'women's question', on the contrary, it is one that must concern everyone, for failure to address and remedy the status of women damages the very fabric of society, leaving it unable to recover and rebuild in the aftermath of conflict.

Hopes that law reforms, to comply with the Copenhagen Criteria, would finally bring justice to Kurdish women have been dashed. They continue to be vulnerable to human rights violations such as gender-based violence, sexual abuse, rape, and torture at the hands of state authorities. They are not protected by the justice system. They continue to be deprived of their 'mother tongue' language rights, education, training, and employment. Additionally, they are denied adequate resettlement packages and equality measures, in breach of international and European law, and they have very limited opportunities for freedom of speech, assembly and political participation.

New legislation has not been implemented on the ground; the reality is that it has been blatantly disregarded – take the language issue and freedom of speech and assembly – and the existence of laws on paper has merely led to the spread of misconceived, even complacent, assumptions that the reforms are working and Turkey is showing good-faith.

It is imperative that this Conference, in making its recommendations for a peace process, understands that there can be no democracy without the equality for

women, and that effective mechanisms must be in place to eliminate all forms of discrimination, violence and abuse against them.

It should heed the words of Sheikha Haya Rashed Al-Khalifa of Bahrain, when President of the UN General Assembly, who stated last March, on International Women's day that 'Gender Equality is essential to the well-being of all nations. It is not only the responsibility of women, it is the responsibility of us all...men as well as women.'

Kurdish women now outnumber men in the Kurdish population due to extra-judicial killings, deaths in armed conflict, detentions, disappearances, and emigrations. Yet, politically, (with some brave exceptions) their voices are not heard, there are too few Kurdish women MPs in parliament and local government. A peaceful solution to this conflict must accommodate fundamental changes of policy relating generally to all women in Turkey, but specifically addressing the dire situation of Kurdish women and girls.

In this context it is important to acknowledge that Kurdish women should not be viewed exclusively as 'victims.' Many have bravely risked detention, violence, even torture, by undertaking leadership roles in politics and civil society. Nor should we forget that many Kurdish young women, frustrated by the ineffectiveness of non-violent action, have gone to 'the mountains', to join the PKK. Their widowed mothers spoke to me yearningly of their longing for peace and the safe return of their daughters to civilian life. So demobilisation and rehabilitation of armed groups also requires a gender perspective.

We are all surely agreed that peace can only come through a political process, not a military one: through dialogue, not the gun. Peace negotiations, aiming towards building a true democracy, need to be based on proper consultations with civil society organisations – including women's NGOs.

The Exclusion of Kurdish women from their human rights as enshrined in international law

In spite of progress made in the last four decades to improve the status of women and girls and promote their equality across the globe, through such international conventions as the CEDAW²; the CRC³ the Declaration on the Elimination of Violence against Women; the UN Security Council Resolution 1325⁴; the Beijing Platform for Action and the consensus on the Millennium Development Declaration and Goals (MDGs), that of Kurdish women has flagged far behind their sisters in Europe and in many other countries. (Their literacy rates are far below those pertaining in countries like Algeria, and well below the national average for Turkey). They have been denied the enjoyment of the rights enshrined in these instruments intended for all women, everywhere.

Evidence from around the world shows that exclusionary decision-making during peace building reduces the chances of sustainable peace. I hope this Conference will address Kurdish women's needs and roles when it prepares its recommendations.

UN Security Council Resolution 1325 is less well known, I suspect, to this Conference, than the ECtHR, and the Copenhagen Criteria. However, it is of critical significance when peace and democracy building are the goals.

UN Security Council Resolution 1325: Its relevance to the status of Kurdish women

UN SCR 1325 recognizes the disproportionate effect of conflict on women and underlines the essential role of women in prevention of conflict and as full participants in post-conflict peace building and reconstruction efforts. It tasks the UN system and Member States – thus the EU – to ensure that all gender considerations are thoroughly integrated into all aspects of their work in this area. In 2004 the UN requested that Member States develop their own National Action Plans for implementation, in consultation with civil society groups including women's NGOs. So far only seven countries have done this.⁵ The EU should encourage Turkey to take this step.

² Convention for the Elimination of all Forms of Discrimination Against Women

³ UN Children's Convention

⁴ Passed by the UN Security Council in October 2000. The EU is committed to see it implemented. Turkey is bound by it.

⁵ The UK, Canada, Germany, the Netherlands, Norway, Austria and Liberia (the only conflict-afflicted country to do so)

Article 8 of the Resolution requires member states and all actors involved in peace building to inter alia:

- Identify women's needs in repatriation, resettlement, and post-conflict reconstruction
- Ensure the protection of and respect for human rights, referring particularly to the Constitution, the electoral system, the police, and the judiciary.

I will now outline just some of the issues affecting Kurdish women that must be addressed within this framework.

a) Women's needs in repatriation, resettlement, and post-conflict reconstruction

Some 3,500 towns and villages were destroyed during the 1980s and 1990s. Today, most of these villages are demolished and there are no plans for their reconstruction. Between 3 and 4 million villagers were forced from their homes and are still not allowed to return. In the meantime a whole generation of children have grown up in an urban setting causing intergenerational conflicts as older people wish to return to their rural life-styles and the younger ones have got used to city living, however harsh and hopeless. The refusal of the Turkish government to facilitate either the return to the villages⁶, or to compensate adequately those who do not wish to return and enable them to start a new life is one of the most pressing issues that must be peacefully resolved. The frictions caused in family life by the refusal of the government to implement their commitments in this regard, further increases the pressures on women who are mostly excluded from any decision-making that could determine their future well being.

This violent displacement and the driving of rural people to the shantytowns of the cities have caused extreme poverty, unemployment, appalling levels of multiple deprivation, and loss of dignity. It has impacted most disastrously on the lives of women and girls. It has led to an unprecedented increase in domestic violence, as men have lost their dignity with their livelihoods and women and girls are trapped in lives that have little meaning and no hope. Women driven from their homes and living in the overcrowded and sub-standard slums and shantytowns of cities are at

⁶ The Return to the Villages and Rehabilitation Project and the Law on Compensation for Damage arising from Terror (Law 5233) has been insufficient measures to solve the problem. See KHRP report on the Status of IDPs in Turkey. 2006

greater risk of violence from both state security forces and from family members. There is no protection for them, as many reports have made clear.⁷

Families, disorientated by being removed from their rural village lives and struggling to survive without secure employment, have turned inward to express their identity, using the exercise of extreme patriarchal power within the domestic domain. Traditions fast disappearing in the modern world, such as infant betrothals (*besik kertmesi*), bride exchanges (*berdel*), child marriage, polygamy, forced marriage, honour killings, are now often entrenched in communities where women and girls are secondary citizens in the service of their families, as wives and mothers only. Some NGOs in Hakkari, Batman and Diyarbakır have listed post-traumatic stress, caused by state violence in previous years, as a cause of suicide and attempted suicide among women in the region.⁸

There is also anecdotal evidence of forced prostitution, and vulnerability to trafficking. It is reported also that honour killings, formally criminalised in reforms of the penal code, may be often disguised as suicides.

b) Women's rights in the constitution, in law reform, and through the judiciary

Elizabeth Rehn, the Finnish Minister of State, formerly the UN Secretary-General's Special Representative in Bosnia and co-author of the UNIFEM report, 'Women, Peace and Security', describes the Rule of Law as 'women's best friend'. However, this depends on having a justice system which combines a properly independent judiciary, and with prosecutors, lawyers, court officials, police and prison staff adequately trained to be gender-sensitive and fully aware of women's human rights.

(i) Rape, sexual abuse and reporting domestic violence.

Women, across Turkey, are reluctant to report incidents of rape or sexual violence to the police due to shame and fear. This is so whether the abuse is domestic, from outside, or perpetrated by state agents. A study in 2006 revealed that 42% of women in Turkey face physical abuse in both childhood and marriage. The difference is that

⁷ See KRHP reports and the European Parliament Report on Increase of Suicide among Kurdish Women. Also Report of 2007, of the UN Special Rapporteur on Violence to Women.

⁸ The Increase of Kurdish Women committing Suicide. KHRP for the European Parliament. June 2007. PE 393.248

Kurdish women may be victims of sexual torture, including rape, at the hands of gendarmes and police. There is considerable documentation on how Kurdish women have been targeted by the state security services, through sexual violence, as a way of demoralizing their families and communities. Torture has not been abolished, in spite of the law reforms, and women are convenient targets, less likely to make formal complaints. Rarely are the perpetrators punished, and a culture of impunity exists regarding sexual violence against women. Protests from Turkish and Kurdish women's NGOs about the defects in the reformed penal code have gone unheeded.

(ii) Language rights, and access to education

There has been no commitment to implement the formal legal reforms on language rights. Kurdish children cannot benefit from schooling when they are unfamiliar with the Turkish language. Schools are over-crowded, and co-education is often culturally unacceptable to traditional families opposed to their daughters mixing freely with the opposite sex.

In addition, the opportunity costs of sending girls to school are often too high for poor, unemployed families to afford. The allowances paid by the state to the very poorest are considered derisory – in the region of \$6 a week. Besides, the bureaucratic process of proving eligibility is humiliating and this scheme has done little to improve school enrolment.

Education is the right of every child, and it is the means by which girls can free themselves from extreme dependency and achieve equality and dignity. Education can free them from the tyranny of patriarchy and male domination and could improve their health status, delay marriage, and improve girls' physical, mental and reproductive health, as well as their future economic status. The CEDAW response to Turkey's 2005 report on its implementation of the UN Women's Convention showed concern about the low level of school enrolment among Kurdish girls and requested further actions to be taken.

It is understandable that depression, mental ill health, attempted and actual suicide are no longer rare occurrences. Unable to access education, illiterate, what hope can these women have? There must be much more investment in schools in the south-east; they must be made acceptable to the Kurdish population, and teachers should be recruited who are familiar with the culture and language of their pupils, and have respect for it. Such policies must form part of Turkey's commitment to achieve the Millennium Development Goals on school-enrolment by 2015.

(iii) Political Participation and Freedom of Assembly

A Kurdish woman M.P recently suggested to the Prime Minister that there should be a quota to enable more women to become parliamentarians. She cited the Rwandan parliament, where, due to the quota written into the new constitution developed after the genocide, 50% are woman. He replied “Well then, go and live in Rwanda”. I quote this to demonstrate how far behind Turkey is in the matter of women’s rights.

Kurdish women’s NGOs routinely experience harassment by the police during peaceful protests against male violence, or non-implementation of national and international laws. In 2006, the Mothers of Peace in Diyarbakır – Kurdish mothers and wives of the killed, disappeared and imprisoned – were beaten with truncheons and some were detained after a peaceful assembly in the city.

To see UN SCR 1325 implemented in the process of peace negotiations, it is vital that the European Parliament encourage Turkey to establish mechanisms through which it can closely consult and collaborate with Kurdish women’s NGOs. They must be allowed to go about their activities without fear of harassment, so as to be full partners at the peace table representing the needs of women, and getting due recognition for their actual and potential roles in the restoration of democracy, good governance and the Rule of Law.

Conclusions

1. It is recommended that the European Parliament, the International Community and the Turkish Government take measures to implement in full UN SCR 1325. In any peace negotiations the impact of the conflict on Kurdish women and girls must be analysed so that justice for women is delivered in compliance with International, European and national laws and obligations.
2. The European Parliament should recommend to Turkey that it develops its own National Action Plan on implementing 1325, in consultation with Kurdish women’s organizations.
3. The creation of a democratic platform for resolving the ongoing conflict, and the amendment of the Turkish Constitution to recognize the rights of the Kurdish minority will augment the situation of not just Kurdish women, but all the women of Turkey.

Session 3: Ongoing Conflict and the Accession Process

3.1 The Need for Dialogue: Democratic Participation, Political Representation and Civil Actors

The Turkey Peace Council's mission and vision: Sustainable Social Peace - Cengiz Güleç

Dear guests, I am here as the spokesperson for the Turkey Peace Council. My speech consists of two parts. The first; a personal account about the details of my participation in activities regarding the solution to the 'Kurdish Issue', the second part is the chronicle of how the Turkey Peace Council formed. After briefly touching upon the events which influenced my taking responsibility towards the advocating of human rights and peace efforts, I will try to present to you the fundamental ethics of the civil organisation of which I am spokes-person for.

I am a psychiatric physician of nearly forty years. I worked for many years as a teaching member of the psychiatry department at Hacettepe University in Ankara. Towards the year 1999, as a psychiatry professor and at the same time the Head of Psychiatry, I treated patients and provided academic guidance to my students. I published many articles and books on trans-cultural psychiatry and therapies. In short, I made the best effort I could to stay productive within academia and attained a feeling of content with regards to being someone whose opinion is respected.

Flirting with fate towards the end of 1999, I accepted an invitation into politics from Mr. Bülent Ecevit, the leader of the Democratic Left Party and a respected Turkish politician and statesman, and was elected as the MP for my hometown of Sivas in the 21st regional elections. Although this marked the beginning of my career as a parliamentarian I had been politically active throughout my adult life as a Leftist from the 1968 generation.

As an intellectual from the 1968 generation I have had close involvement with leftist environments for forty years and have thus had the opportunity to observe different politics of the 'left' from the most radical to more softer strategies. Two years ago we met up with two spokespeople for the 'Democratic Peace Group' who requested to meet with me. This group was formed of former guerrillas who, approximately ten years ago, left behind their identities as fighters in the mountains to surrender to the

Turkish authorities and who, despite their intentions to be ambassadors for peace, were imprisoned and released only after six years.

The two spokespeople, who worked as peace volunteers for a civil–democratic solution to the Kurdish Issue, arrived at my home at the pre-arranged time; not a minute earlier, nor a minute later. I saw this sharpness as the first sign of a disciplined work ethic. Despite the suit and tie appearance of the two friends one could still sense that they had experienced close warfare.

The politico-ideological leftist jargon they used was similar to the standardised language pattern of the Turkish left and I had always carried distaste for this. This type of terminology, which I found to be pseudo intellectual, is used more as a means for group solidarity than for analysing social issues. However, this leftist jargon spoken by these two people with broken Turkish and heavy Kurdish accents did not discomfort me, because, so long as we didn't dwell on the words and concepts they used, it was possible to realise the true heartache and fire in their souls that derived from their coming out of the heart of war. They spoke of the war, and the pain they experienced, with such naturalness I felt my conscience quiver.

In their natural, measured respectfulness and bashful yet strong self-confidence I sensed the determination that stems from loyalty to a cause. I was left surprised again when they left exactly at the time we had agreed to. This meeting differed very much from other meetings with left groups where when a discussion begins it doesn't know when and where to end, with most of the content discussed being at braggadocio level. The political lives which these people had led from their youth until middle age, most of it probably under clandestine conditions, distinguished them from us. The character that these friends, and others I met thus forth, portrayed strongly influenced my participation in the peace movement. They wanted me to play a more active part in the activities for peace but at the same time I understood that they felt a veiled responsibility for the possibility of placing a 'dried up' 60-year-old man in danger. The shared peculiarity of this group separated them from the intellectuals I knew in other left-wing groups.

Unlike the members of the tired Turkish left-wing who are divided, increasingly closing in on themselves, and who seem to have almost given up hope for their people; these people demonstrated a sincere hope, will to struggle, and ability to work in an inspiring collective manner void of any individualism. Such qualities quietly and softly drew me into the movement. To find out that the two peace group members who came to the first visit at my home were from an Alevi – Bektaşî belief and culture I almost had to drag it out from them. Admittedly this was an additional factor in my warming to this cause.

In the following years the gratitude and kind mannered approach that the peace

group members showed in my home came to be very influential in bringing me closer to this cause.

As I participated more often in the peace meetings I met other honourable representatives of the Turkish Left and contrary to my expectations, we developed a warm friendship with each other. At first they kept a measured distance from each other. However, I believe they finally embraced the vitality and strong hope demonstrated by the Peace group. The spirit of devotion to peace, which sternly did not allow for slacking or hesitation, was very effective in bringing the whole group together and leaving aside past feudal notions. In such an atmosphere the relationships within the group were warm and of a high calibre.

The one-sided ceasefire that developed during this 'period' added more tempo to our work. However, the continuation of (Turkish) military operations and the news of deaths quite obviously didn't 'burn' the hearts of us, the Turkish Left members, and 'them' in the same way.

The peace activities which I had begun with such emotions reached its peak in April of last year with the occurrence of the 'Turkey Peace Conference'. It generated great interest throughout Turkey and raised ears in different environments. The opening speech was made by one of our valuable intellectuals, the well known writer in world literature Mr. Yaşar Kemal. This speech was widely publicised in Turkish media and was a driving force for important discussions. An unequalled master in Kurdish literature and an honorary guest of the conference, the late writer Mehmed Uzun also contributed by sending a speech.

Six months later, with September 1st 2006 World Peace Day in consideration, the meeting for the foundation of the 'Turkey Peace Council' happened. Bringing together local peace councils (eight regions for now) and other peace initiatives under one roof; the Turkey Peace Council was founded. The Peace council opens its arms, regardless of political or traditional views, to all individuals and foundations whose fundamental choice is peace; with the aim of working towards establishing a 'Peace Initiative'. The Peace Council continues its efforts and activities towards attaining peace in Turkey.

The Peace Council's first priority is to end the civil war which has been happening for nearly 30 years. We believe that it is wrong for the peoples to attach blame on each other for years of social suffering. We must accept that the republic, founded through fighting shoulder to shoulder in a national struggle, is our shared fate. Standardisation and factionalising in the name of establishing a nation state is not acceptable. Turkey is home to all of us; only by respecting the rights of the peoples of this land to decide their own future and by approaching each other's beliefs and values with empathy can we succeed in living together.

Official strategies aimed at separating peoples, and at denying or destroying religious and cultural identities, cannot possibly be accepted by the suppressed Kurds and other ethnic minorities of this country. The State; carrier of the official ideology, which has at times bordered on racism and chauvinistic nationalism, must be understanding, forgiving, embracing and merciful towards its citizens.

Nowhere in the world can State pressure be prevented without the organisation of a society which is aware of the rights of human beings and respectful of the sovereignty of the law. While our Kurdish brothers are not happy; their cultural and identity rights being dragged so low to the ground we Turks cannot be happy rejoicing in our liberties.

The Kurdish people have for years have been threatened, have been the victims of incidents in which people were forced to eat excrement, children were killed in extra-judicial executions in primary schools and pregnant women forced to jump off walls so that they'd lose their babies. To expect these people to give up their basic rights after all that have happened to them would be nothing less than negligence.

We aim to reach out to all people with a conscience, who do not want to live in a country where riots and battles are increasingly frequent; ethnic nationalism is provoked; tolerance of differences is withering and where militarist state politics tapers civilian life. We aim to create a strong social peace initiative.

Our Council realises that peace is not a passive concept but a difficult process that needs to be structured with commitment and passion. Taking the position that inter-society issues need to be solved through dialogue and compromise as our starting point we want to create a new statement of values. These values are: empathy, tolerance, dialogue and democracy.

Just as we know the people are accustomed to living together as brothers in this gift of a land, which is a mosaic of peoples and cultures, we also realise that it will not be an easy struggle to end the atmosphere of war created by those who provoke fighting between brothers and who benefit from the 'Kurdish Issue' remaining unresolved. In light of this, it is clear that the contribution of effective international support and the democratisation steps being taken in the European Union accession process are very important. We are therefore interestedly observing this conference.

And just as we are aware that diplomacy is a necessary means for resolving social issues the reality is also evident that it is insufficient for creating an atmosphere of peace. Peace is a subject too grave and social a matter to be left to politicians, void of a diplomatic ethic, or to the military and the 'fat cat' bosses of war industries.

There are no other possible concrete foundations for establishing sustainable peace

in our society other than social conscience and a peace initiative. We must strive to develop the idea and the language of a peace based on justice for the society we live in. Our addressees cannot be just the State and the Government. Trust within society is possible only through impartiality and a peace initiative which doesn't attain credibility cannot be successful.

The State's right of sovereignty pervades through it being in control and just. The self-confidence of a State which disregards the humane honour of minorities and victimised people; which is ignorant of basic human rights, cannot go any further than brute force.

We are searching for the peaceful and democratic solution to the Kurdish Issue within the dynamics of our country. We see the pain and suffering created by war as the shared pain and suffering of everyone. Therefore we reject all kinds of violence and discrimination. We, the advocates of peace who do not differentiate social peace with social justice, have accepted a historical responsibility to unite all forces for social compromise and dialogue.

It is ours and our children's right to live in a multi-coloured country where people can express themselves through their mother tongue and culture. Hundreds of intellectuals have been killed and thousands imprisoned for struggling to achieve this right. We know very well from human history that the price for freedom is heavy. Furthermore, we know also that you, dear guests and parliamentarians, know that a cry from a little part of the world does not stay there; it grows as it echoes. And thus I congratulate you for your votes for peace.

Abdullah Demirbaş

I used to be a mayor and I was removed from my position. Actually the project that we submitted, if it were to be evaluated by the central government, would help with the democratisation of Turkey and would have helped solve Turkey's problems. Unfortunately, although I was elected, I was removed from my position and our assembly was annulled; the decision was made by the appointed people who rule instead of those who are democratically elected.

Now what did we want to do? The world is globalising and local cultures should live together with the global cultures, this is the approach around the world. Nation states are no longer strong, international cultures are mingled with local cultures. However, the present structure in Turkey is based on the single culture, single ideology, single language. As an elected official who was very close to his people, I observed that within Turkey there are people who speak in different languages and because they

cannot express themselves in their own mother tongue they cannot participate in the democratic process. If we cannot develop multiculturalism then these people cannot participate in the administration.

We, of course, wanted to give better services to our people, this is why we decided in our local assembly that all the ethnic languages: Chaldean, Kurdish and all the other languages which are present in the region should be able to be freely expressed by the people. Just because of this decision I was removed from my position without our case even being referred to the judiciary. However, after I was removed we applied to the local judiciary and the case has been going on for the last five months. There should have been elections after they stripped me of my office; instead people have simply been appointed.

We carried on a questionnaire in which asked more than 8,000 people were asked, of whom more than 4,000 were living in our region, which language they spoke in their homes: 72% of these people spoke Kurdish in their homes, 24% spoke Turkish, 1% Arabic and the rest spoke Chaldean, Zazaki and other languages. In order to allow local people to participate in the local administration we provided certain services, such as medical care, organ donations, and cleaning services in Armenian, Kurdish, Chaldean, and other languages spoken in our region.

The land that we live on has a rich history. More than 33 civilisations lived in the region. However, the region's history has been eradicated. We need to develop a multicultural, multilingual approach, and we are working on different projects to develop this. The city that we live in is an open-air museum, with Muslims, Christians, Jews, and Yazidi people all living together in the region. These cultures and beliefs coexisted for centuries, and we presented a project to sustain this. We wanted the city of Diyarbakır to be a city of peace and brotherhood. However, our project led to us facing sanctions.

It was not just me who has been sanctioned; 54 more mayors from the DTP are being investigated now. In the end maybe we shall receive sentences: this is a tragedy. The Council of Europe took a decision about us ten days ago, the European Parliament and the rest of the EU institutions are involved with us; yet two more court cases have been filed against us.

There are more things to be expressed here but we have very limited time. All cultures and beliefs must learn to live together. We have to achieve this because pluralism is necessary in democracy. Participation and multiculturalism are essential in democracy. The world is like a garden of flowers, and human beings are the beauties of this garden; all the flowers have a different odour, different colour, different shape; they exist together; if you destroy these flowers you destroy humanity. What we want in the end is to live together in this rose garden.

3.2 Peace-Making Efforts and the Armed Conflict

Mark Muller

There can be little doubt that we come together at a critical juncture for both Turkey, the EU and the Kurds. I thought both what Kerim Yıldız and Joost Lagendijk said yesterday about our being at a ‘critical juncture’ is absolutely correct in identifying what the EU and the other major actors have to do in the next five months and how important it is that they do act.

It was only three years ago that we stood in this hall and heralded the new process of EU accession for Turkey. Many believed that the lives of Kurds and Turks alike would be radically changed; we thought that Europe had finally answered the question about whether it wanted to be a multicultural union or an exclusive Christian club. However, today the political landscape is radically different. Where there was confidence there is now division and doubt, and that doubt brings political danger, not just for the Turkish European project and the AKP internal reform process, but also for democratic Kurdish aspirations and for the geopolitical stability of the region.

The optimism of three years ago has been replaced by increasing tensions, the Turkish secular nationalist elite have tried everything in its power to clip the wings of the AKP and regain power. We are witnessing not just the battle between secularism and Islam, but also between old and new elites in Turkey. There is also a wider struggle, which Joost Lagendijk referred to, between on the one hand Kurdish and Turkish democrats who have a new vision for a Turkey wedded to the EU and European values, and on the other the deep state institutions who operate according to an outdated nationalist ideology that is fearful of any foreign interference and incapable of dealing with the problems of Turkey in the 21st Century.

This is a battle that Europe cannot ignore: it is no longer a question of when Turkey becomes a member of the EU, but, once again, a question of ‘if’. There’s also a battle going on in Europe between the progressive European democrats and their opponents, who have little concern for either Turkey or the Kurds.

I was reading Hugh Pope’s report for the International Crisis Group just this morning and it talked about the ‘golden period’ of accession between 2000 and 2004. Now we should remember that during that period there was a search for peace. It was unilateral and it consisted of ceasefires and it was during that particular period that Turkey managed to introduce numerous reform packages, and the AKP have made many strides in relation to democracy. However, let’s not forget the background, and let’s not forget that it was precisely because there was a search for peace that so much progress was made. We can see how clearly distinct the position was then, to that in which we find ourselves today.

I listened to Mr. Lagendijk's speech, and everybody said that he called a spade a spade, and in some senses that's very good: sometimes speeches are about what's right and wrong. However, in the context of a peace process it's not so much about what's right and wrong as about what's helpful. A peace process is a very delicate matter: it requires great sacrifices from all parties and there has to be an element of good faith to reach a final settlement.

If they want to help move the peace process forward I believe that European governments, the EU institutions and European politicians in general have to accept a number of fundamental truths about this conflict that they have ignored up to this point. To this end, let me make ten reflections about the peace process:

1. I think the EU and European governments should accept in any peace process is to scrap their misplaced belief in accession gradualism. I was here two years ago when I heard the European Commission delegate speak about Turkey's accession to the EU. He thought that the Kurdish issue could be ameliorated simply by a slow process of legislative and economic reform, that it wasn't necessary for European leaders to tackle head on the issue of the Kurdish conflict, and that greater prosperity and individual freedom would somehow magically resolve the situation. If you'll recall that's why the report talked about 'the situation in the south-east', 'evolving mentalities', and 'normalisation through socio-economic development'.

Well who believes that today? The approach has to change. It's not a question of technical compliance, it's a question of political will, and European leaders cannot hide behind the accession process. The geopolitical issues are too tense today, too polarised, for this to continue and we will have a critical period from April onwards: five months to do something.

2. I think the EU should finally recognise in clear terms that the Kurdish Question is an endemic source of instability in Turkey, and that it will remain a touchstone issue for all parties whether they like it or not. There will always be an issue about Kurdish human and cultural rights until the Kurdish Question is resolved. Additionally, the AKP, even though it has embarked on a very interesting democratic reform process that I support, must realise that without addressing this issue properly and adequately there will be no peace.
3. The fact that a resolution to the Kurdish Question is necessary for regional peace means that the EU should recognise not simply the centrality of the Kurdish issue, but that its resolution is in the EU's strategic interests. Thus the EU should actively seek to resolve the issue. The EU's timidity is a luxury that we cannot afford anymore, so it should support credible efforts by

credible organisations to peacefully resolve this issue, whether publicly or otherwise.

4. It is absolutely critical that it is understood that there is not only no military solution to the Kurdish issue, but also no purely political solution. The reality is that they are both security and geopolitical issues that go way beyond the issue of democratic change; that is why a twin track approach is needed. I listened to Joost Lagendijk's claims that a solution could be achieved through the DTP, and I have no argument with that. I am sure that the DTP is a legitimate vehicle for voicing the aspirations of Kurdish people. However, the reality of the situation is that there are other security and geopolitical issues that go way beyond the position of the DTP, which that party cannot, in a public or parliamentary sense, solve.
5. The DTP and the AKP cannot simply arrive at a resolution to this difficult situation. It may well be the case that in a universe where the PKK didn't exist there would be peace. However, the reality is that it does exist and, whether you support the PKK or not, the importance of the PKK has to be acknowledged and confronted.
6. I believe that a twin track approach is necessary. A twin track approach consists of a process of democratic and constitutional dialogue within Turkey combined with a recognition that security issues and geopolitical issues have to be dealt with, and that they may have to be dealt with in a different way.
7. The AKP's constitutional recommendations are an opportunity for all Kurds to introduce important alternative democratic models. This opportunity should be grasped, and not only in terms of abstract rhetoric. Kurdish parties need to do detailed concrete work to set out the right alternatives, so that a democratic debate could be had.
8. We should recognise that the Kurdish issue and the PKK issue are not identical; they may be closely related, even inextricably linked, but they are not identical.
9. The PKK affects not only the internal democratic process in Turkey and the EU accession process, but also Turkey's developing alliances with Iran and Syria, the stability of Iraq, and also the ability of the Kurdish Regional Government in Iraq to develop and extend its influence. Therefore peace efforts may include different parties beyond Turkey who have interests in the PKK question. Any security or peace resolution should not simply be seen in the context of securing wider democratic peace in Turkey, but also

of securing wider peace and security objectives in Iraq and the wider region. This is why we probably need a multi-track process, and why the EU is so very important.

10. We need hard as well as soft partners, and I believe that the UK has a very real role to play in the next few months in trying to secure some sort of search for peace for the following reasons:
 - The UK is a long-term supporter of Turkey, and is committed to the Turkish EU accession.
 - The UK has the ear and support of the USA.
 - The UK is on the ground in Iraq and has other bases near it, and has clear strategic interests in stabilising northern Iraq.
 - The UK has experience of building a framework for peace, due to the process it went through in Northern Ireland, and of introducing innovative devolution arrangements in Scotland and Wales. This experience could be valuable in the search for a solution in Turkey.
 - The UK has a historic moral responsibility to deal with the issue given its historic position within the region during the 20th Century.

So those are my reflections on any search for peace. I endorse a lot of what was said yesterday, but I would say this: whether or not people want to recognise elephants in the room, peace and democratic change cannot be achieved without dealing with some of the geopolitical and security issues that exist in the region. That, in turn, requires a calibrated response to dealing with the issue that affects Turkey that includes the PKK. Whether you're for the PKK or against it, that is the reality that has to be confronted. I would urge all states, especially the EU states, to look carefully at these issues and try and confront them in the next five months, because we may be seeing a very perilous descent into violence after April or May of next year.

3.3. The Applicability of Humanitarian Law to the Current Conflict in Turkey

The Situation In South-East Turkey: Is It An Armed Conflict For The Purpose Of International Humanitarian Law? Dr. Susan Breau

Introduction

The purpose of this presentation is to begin an academic debate on whether the long-standing insurgency in south-east Turkey between the Turkish armed and security forces and the Kurdistan Workers' Party (PKK) could be classified as an armed conflict. This will be a very important debate as there are a number of international law implications from such a classification. Up until this point, the United Nations, the European Union and the Turkish government - and for that matter the world's media - have labelled the insurgency in south-east Turkey as a series of terrorist attacks. There is no legal bar to having both classifications, a group could be labelled terrorist but still be a participant in an armed conflict. There are two separate questions being examined in this article. Firstly, whether the conflict itself is at an intensity that results in it being an armed conflict and, secondly, what international legal rules might be applicable in that event.

This short talk can only begin this debate and will certainly not provide a definitive answer to the question of whether the insurgency is an armed conflict but will suggest that the international law rules constituting international humanitarian law (or as known as *jus in bello*) might impact on those who are involved in the conflict. This presentation will be divided into two sections, first a brief description of the conflict in southeast Turkey since 1999 with an analysis of the questions that must be considered in whether this situation might be classified as an armed conflict. The second section will consider those rules of international humanitarian law that would or might apply if the situation were thus classified. The conclusion will suggest ways forward if the debate moves into the arena of solutions to armed conflict rather than the professed and disputed category of a 'war on terrorism'.

The situation in south-east Turkey – classification as armed conflict

The conflict between the Turkish government and the PKK dates from 1984 with 30,000-40,000 persons killed, three million displaced and over 3,000 villages in the region destroyed⁹.

⁹ K. Yıldız, *The Kurds in Turkey*, (London, Pluto Press 2005) p.2 and 'Project Ploughshares', Armed Conflict Report: Turkey 2003 <http://www.ploughshares.ca/libraries/ACRText/ACR-Turkey.html> accessed 10 November 2007

It was initially argued that the conflict ended in 1999 with the arrest of Abdullah Öcalan and the declaration of a PKK ceasefire. However, the conflict never truly ended, with skirmishes continuing since the ceasefire¹⁰. Recently we have seen an increase in the level of severity to the point that the Turkish parliament voted overwhelmingly on 17 October 2007 to authorise sending troops into northern Iraq. This could potentially involve Turkey and Northern Iraq in an international armed conflict, but until that point the focus has to be on the events in south-east Turkey.

Project Ploughshares in its annual Armed Conflict report of 2003 traced the conflict back during the previous few years. It recounted that during 1999 armed clashes between government forces and Kurdish rebels continued in south-east Turkey and northern Iraq, though the intensity of the fighting decreased. The 1999 death toll was estimated at about 1,300 people killed, including civilians, a decline from the 1998 figure of 2,100. It was reported that in 2,000 the Turkish forces, in dismissing the PKK ceasefire as a terrorist ploy, pursued PKK rebels deeper into northern Iraq. During that campaign at least 100 people were killed. The report then reviewed the major Turkish military operation in January 2001 which was one of only a few incidents of violence reported for the year. There was a corresponding decline in the death toll for the year to an estimated 20¹¹.

There was a similar situation reported by Project Ploughshares for 2002. The Turkish military and Kurdish rebels engaged in a number of skirmishes on Turkish and Iraqi soil. The Turkey-based Kurdistan Freedom and Democracy Congress (KADEK) deployed man-portable surface-to-air missiles (SAMs) on Turkey's border with Iraq in anticipation of a possible Turkish invasion in northern Iraq triggered by a US-led war in Iraq.

It was alleged that the 'village guards' armed by Turkey against Kurdish rebel incursions were raping, attacking and, in some cases, murdering villagers returning to their land through a resettlement program initiated by the government. On 27 May 2002 the Kurdistan Observer reported that 700 Turkish soldiers battled in Northern Iraq with 500 Kurdish guerrillas of the People's Defence Force (HSK) an armed wing of KADEK. Even so, in December the government lifted its state of emergency in the south-east. Due to the decrease in the actual death toll (estimated 20 for the year 2002) Project Ploughshares removed the situation from their annual armed conflict reports in 2004. This is in spite of the fact that on 1 June 2004, the PKK ended their ceasefire.¹²

¹⁰ Yidiz, p. 15.

¹¹ Project Ploughshares, *Armed Conflict Report: Turkey 2003*
<http://www.ploughshares.ca/libraries/ACRText/ACR-Turkey.html> accessed 10 November 2007.

¹²Ibid.

The media began to report on an escalating conflict from 2004. The BBC reported that in 2004 the PKK resumed its violent campaign, which escalated steadily from 2004 to the present despite several other short-lived, unilateral ceasefires. It was stated that the Turkish government believed that the PKK had several thousand fighters based in the Qandil Mountains of northern Iraq¹³. A major incident took place on 16 July 2005 when it was alleged that the PKK launched a bomb attack in Kuşadası. Five people including tourists from Britain and Ireland died and thirteen were wounded. The PKK denied responsibility and another group, the TAK (Teyrenbaze Azadiya Kurdistan, the Kurdistan Freedom Falcons), claimed responsibility for this and another attack earlier in the month which wounded 21 people including three foreign tourists in the Aegean coastal town of Çeşme¹⁴. On 25 March 2006 fourteen PKK were killed during an armed attack by the Turkish security forces in the Senyayla region. In the next month it was reported that at least a dozen people were killed in clashes between Kurdish protesters and security forces in the south-east¹⁵.

The reports of violence escalated in 2007. On 30 September 2007 the Associated Press reported that according to a local official, Kurdish rebels ambushed a minibus carrying pro-government village guards and civilians in south-east Turkey and killed 12 people. It was stated that the rebels armed with automatic weapons attacked the minibus in Sırnak province near the border with Iraq, killing seven village guards and five civilians. Two people were wounded, but it was not clear whether they were village guards or civilians.¹⁶

Kurdistan TV reported that a land mine exploded on Sunday 7 October some 25 kilometres inside Turkey from the Iraq border in the south-eastern Sırnak Province. The mine killed 13 soldiers. It was also reported on Kurdistan TV that on Saturday, 20 October, a Kurdish attack killed 10 Turkish soldiers already massed at the frontier.¹⁷ On 21 October Canadian Broadcast Company news reported that Turkish artillery units shelled rebel positions in northern Iraq in retaliation for an ambush that killed at least 12 soldiers and injured 16 others. The Turkish military said its

¹³ P. O'Toole, 'Profile: the PKK', BBC News 15 October 2007, <http://news.bbc.co.uk/2/hi/europe/7044760.stm> accessed 10 November 2007.

¹⁴ BBC News, 'Turkish Resort Blast kills five, BBC News' 16 July 2005, <http://news.bbc.co.uk/2/hi/europe/4688575.stm> accessed 10 November 2007.

¹⁵ BBC News, 'Timeline Turkey' http://news.bbc.co.uk/1/low/world/europe/country_profiles/1023189.stm accessed 10 November 2007.

¹⁶ BBC News, 'Kurd Attack kills 12 in Turkey', as reported by Associated Press 30 September 2007, http://news.bbc.co.uk/2/hi/middle_east/7020360.stm accessed 11 November 2007.

¹⁷ Kurdistan TV reports at <http://www.kurdistantv.net/english.asp?ser=20> accessed 11 November 2007.

troops, backed by helicopter gunships, killed 32 rebels belonging to the PKK.¹⁸

Although these reports would have to have some independent verification for accuracy, especially with respect to death toll, there is no question that there is an escalation of violent clashes between the PKK and the Turkish military with thousand of combatants being involved on each side. However, one of the most controversial areas in international humanitarian law is whether or not a civil disturbance or insurgency can rise to the level of an armed conflict. It is the general practice of a sovereign state not to admit that they have an internal armed conflict. Those who wish to secure a new political arrangement are classified as rebels, terrorists or insurgents, or - as Margaret Thatcher famously said with respect to the IRA captives during the Northern Ireland Troubles - criminals.

There are two main legal difficulties:

1. Due to disagreement among States, the 1949 Geneva Conventions deliberately did not include a definition of what constitutes an armed conflict. The provision for non-international armed conflict, Common Article 3, states simply that it applies to 'an armed conflict not of an international character occurring in the territory of one of the High Contracting Parties'. It should be noted that there is also not an agreed formula as to how to classify a conflict as international or non-international¹⁹.
2. Secondly, there is also no definition of armed conflict that might constitute customary international law. States do express positions on whether a situation of violence amounts to an armed conflict in General Assembly or Security Council resolutions but the States involved in this type of insurgency rarely agree with this classification and tend to argue that the action of its military is for the purpose of law enforcement or counter-terrorism operations. Rather, it is left to the international community and often civil society to argue that the situation has escalated to that extent. A pertinent example given by Pejic is that the Russian Constitutional Court in 1995 indicated that Additional Protocol II was applicable to the fighting in Chechnya at that time, but when hostilities resumed in 1999 the Russian executive referred to the situation as a counter-terrorist action.²⁰

¹⁸ CBC News, 'Turkey considers response after deadly rebel ambush on soldiers', 21 October 2007. <http://www.cbc.ca/world/story/2007/10/21/turkey-kurds.html> accessed 11 November 2007.

¹⁹ J. Pejic, 'Status of armed conflicts' in E. Wilmschurst and S. Breau, *Perspectives on the iCRC Study on Customary International Law*, (Cambridge University Press 2007), p. 78.

²⁰Ibid. p.79.

This means that distinguishing between situations of non-international armed conflict, which will trigger the operation of common Article 3 to the Geneva Conventions and Additional Protocol II of 1979 (if applicable), and situations of internal disturbance or tension is a very difficult task. The result of this lack of definition is that a series of criteria has been developed in the practice of States and in the legal literature, even though it might not be accepted as customary. The first and primary criterion is the existence of parties to the conflict. Common Article 3 is applicable to 'each Party to the conflict' and this means there must be in existence at least two parties. It is not difficult to determine the existence of the armed forces of one of the parties the State. However the non-State armed group is more difficult. It is widely recognised that an armed group has to have a 'certain level of organisation and command structure, as well as the ability to implement international humanitarian law'.²¹

In addition there are other important criteria, including whether the government is obliged to use military force, the number of victims, the means used to deal with the opposing side, and the duration and level of violence involved.²² In his lectures to 'The Hague Academy of International Law', Schindler came up with the following definition which will suffice for the purpose of examining the Kurdish Conflict. He stated:

*Practice has set up the following criteria to delimit non-international armed conflicts from internal disturbances. In the first place, the hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, that is, they have to be carried out not only by single groups. In addition, the insurgents have to exhibit a minimum amount of organisation. Their armed forces should be under a responsible command and be capable of meeting minimal humanitarian requirements. Accordingly, the conflict must show certain similarities to a war, without fulfilling all conditions necessary for the recognition of belligerency.*²³

One case that considered this issue is the Abella case in the Inter-American Commission on Human Rights. In the view of the commissioners a conflict lasting 30 hours between a group of dissident officers and the Argentine military at the

²¹Ibid. pp. 85-86 and L. Moir, *The Law of Internal Armed Conflict* (Cambridge University Press, 2002) p.36.

²²J. Pejić, 'Status of armed conflicts' in E. Wilmshurst and S. Breau, *Perspectives on the iCRC Study on Customary International Law*, (Cambridge University Press 2007), p. 86

²³D. Schindler, 'The Different Types of Armed Conflicts According to the Geneva Conventions and Protocols', *Recueil des cours, Volume 163/ii, 1979, p. 147.*

Tabalda military base qualified as an armed conflict and Common Article 3 was held to be applicable.²⁴

The test is more stringent in Additional Protocol II to the Geneva Conventions. Article 1:

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.
2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

The two key additional factors were territorial control and the ability to carry out sustained and concerted military operations. An explanation is that Additional Protocol II was negotiated in an atmosphere of determining the lowest common denominator in a situation of infringement of state sovereignty. Therefore, the scope of application is much narrower than Common Article 3 but the Protocol specifically states that it develops and supplements Common Article 3 without modifying its existing conditions of application. The Geneva Conventions are now universally ratified Conventions whereas many countries, including Turkey, are not party to Additional Protocol II. The International Court of Justice has declared that Common Article 3 represents customary international law in both international and non-international armed conflict.²⁵

The Rome Statute of the International Criminal Court provides yet another definition of a non-international armed conflict. Article 8 2(f) provides a definition that is not as stringent as Additional Protocol II but not as general as Common

²⁴ *Juan Carlos Abella v. Argentina*, Case 11.137, Report N° 55/97, Inter-Am. C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 271 - November 18, 1997.

²⁵ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA.)*, Merits, 1986 ICJ Rep. 4, at paras. 118-120.

Article 3. It states:

Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

The only criteria of an organised armed group and protracted conflict are also found in the Schindler summary of practice in the area.²⁶

Pejić summarises the serious legal problem with this issue by stating:

*Political considerations aside, there remains the difficulty of determining and analysing the various factual criteria to which legal conclusions can be pinned. Based on the facts, it can legitimately, if only hypothetically, be asked whether, for example, the situations in Northern Ireland, Turkey and Algeria, constituted internal disturbances or tensions or internal armed conflicts. The general conclusion to be drawn is not that a definition of internal armed conflict would solve the problem - the examples provided above would attest to the contrary - only that knowledge of the facts, careful analysis and a bona fide approach to the habitual criteria for assessment are required.*²⁷

If one carefully analyses and assesses the increase in violence in south-east Turkey and the history of the conflict we can see that:

1. There has been sustained violence between the military and security forces of Turkey and an organised group, the PKK since 1984.
2. The violence takes place within the sovereign state of Turkey.
3. The PKK has the level of organisation required and has a military command structure.
4. The PKK has expressed its agreement to abide by the laws of armed conflict. This was confirmed by a statement to the United Nations delivered in Geneva on 24 January 1995 in which states that ‘in its conflict with the Turkish state forces, the PKK undertakes to respect the Geneva Conventions

²⁶See footnote 62

²⁷ Pejić, op cit, p.89

of 1949 and the First Protocol of 1977 regarding the conduct of hostilities and the protection of the victims of war and to treat those obligations as having the force of law within its own forces and the areas within its control.²⁸

5. The violence may be reaching the intensity of armed conflict. Only cautious analysis of each incident and a comprehensive review of the structure of the PKK will give a definitive answer but certainly an initial and careful view of the criteria and facts of this conflict suggests to this author that a non-international armed conflict exists in south-east Turkey.

Nevertheless, this conflict must be examined by the rest of the international community in light of these well established criteria. States who are members of the United Nations should not forget their obligations under international law to respond to situations of armed conflict including internal armed conflicts as threats to international peace and security.

The applicable international humanitarian law should the situation in south-east Turkey be classified as armed conflict

The Martens Clause has formed a part of the laws of armed conflict since its first appearance in the preamble to the 1899 Hague Convention (II) with respect to the laws and customs of war on land. It states:

*Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience.*²⁹

Notions of the ‘laws of humanity’ and ‘the requirements of public conscience’ have led to the development of a series of international humanitarian law instruments with a primary focus to prevent human suffering for persons who were ‘hors de combat’ and civilians. A specific example of such protection is Common Article 3 to all Four Geneva Conventions of 1949, which states:

²⁸PKK Statement to the United Nations Geneva, 24 January, 1995

²⁹ Hague Convention II Laws and Customs of War on Land, 29.07. 1899.

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b) taking of hostages;
- c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.³⁰

As part of four universally ratified treaties, the Geneva Conventions can also constitute customary international law. Thus the provision is binding on the Turkish government and also binding by its own agreement, as discussed above, on the PKK.

In addition to these specific protections and many more outlined in various treaties, the rules of *jus in bello* have evolved into three primary rules: necessity, distinction and proportionality. It is accepted that human lives will be lost in an armed conflict but the primary goal is to limit the casualties to the actual belligerents. Armed conflict is to be directed against a state's military not their civilians. Attacks are to be against military targets not civilian ones such as hospitals, schools and churches and for that matter, villages, as has allegedly been the practice of the Turkish forces in the course of this conflict.

³⁰Geneva Conventions I-IV, 75 UNTS, 31, 85, 135 and 287

The first general principle is the rule of necessity which prohibits destructive or harmful acts that are unnecessary to secure a military advantage. Before any military action commences, it must be established that a direct military advantage will result.³¹ This is a primary rule of military targeting.

The second principle distinction requires that a belligerent distinguishes between civilian and military objectives and between civilians and combatants. Article 48 of the First Additional Protocol to the Geneva Conventions sets out the basic rule of distinction:

*In order to ensure respect for and protection of the civilian population and civilian objects, the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.*³²

Furthermore, Article 51 paragraph 2 of AP I prohibits ‘acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited’. In paragraph 4 and 5 of the same article, area bombardment is outlawed, which is defined as ‘an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives in a city, town, (or) village’.³³

The third primary principle is the rule of proportionality. It means that in warfare, ‘a belligerent may apply only that amount and kind of force necessary to defeat the enemy’.³⁴ The rule implies that the enemy should be defeated with a minimum loss of life or property. The use of any kind of force not required for the defeat of the enemy was prohibited. Even if a target was a military objective, it should be avoided if it might cause excessive civilian casualties. The first specific provision is Additional Protocol I Article 51(5) (b) which states:

An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

³¹M. Schmitt, “Clipped Wings” in Schmitt, (ed.), *International Law Studies Volume 72*, (1998) p.247.

³²Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, (Protocol I) 8 June 1977 Article 48.

³³Ibid. Article 51.

³⁴C. Greenwood, ‘Historical Development and Legal Basis’ in D. Fleck, (ed.), *The Handbook of Humanitarian Law in Armed Conflict*, (Oxford University Press, 1995), p.30.

The Protocol goes on in Article 57 to outline a series of precautionary measures to avoid civilian casualties:

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.
2. With respect to attacks, the following precautions shall be taken:
 - a) Those who plan or decide upon an attack shall:
 - (i) Do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;
 - (ii) Take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;
 - (iii) Refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
 - b) An attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
 - c) Effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.
3. When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.
4. In the conduct of military operations at sea or in the air, each party to the

conflict shall, in conformity with its rights and duties under the rules of international law applicable in armed conflict, take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects.

5. No provision of this Article may be construed as authorizing any attacks against the civilian population, civilians or civilian objects.

This principle is further supported in the Advisory Opinion on Nuclear Weapons when it states ‘respect for the environment is one of the elements that go to assessing whether an action is in conformity with the principles of necessity and proportionality.’³⁵

These rules are also argued to be customary, as is evidenced by the International Committee of the Red Cross study on customary international humanitarian law.³⁶ This influential study does much to clarify the rules of international humanitarian law in light of the fact that several countries have not ratified the more specific Additional Protocols I and II of 1977 to the Geneva Conventions. The first part of the rules, as may be expected, set out the rules surrounding the three principles of distinction, proportionality and necessity:³⁷

Rule 1: The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

Rule 11: Indiscriminate attacks are prohibited.

Rule 12: Indiscriminate attacks are those:

- (a) which are not directed at a specific military objective;
- (b) which employ a method or means of combat which cannot be directed at a specific military objective; or
- (c) which employ a method or means of combat the effects of which cannot

³⁵*Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996 [1986] *ICJ Reports* 14, Para 140

³⁶Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law (3 volumes)* (ICRC and Cambridge University Press, 2005)

³⁷*Ibid Volume I*, Part I, pp. 3-76 Rules 1-24 and see M. Schmitt, ‘The Law of Targeting’ in E. Wilmshurst and S. Breau, (eds.), *Perspectives on the ICRC Study on Customary International Humanitarian Law*, Chapter 6.

be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

Rule 14: Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.

The study contends that all these rules are applicable in internal armed conflict even though they are not specifically mentioned in either Common Article 3 or Additional Protocol II to the Geneva Conventions of 1977.

It has to be pointed out that these specific rules apply to both sides in this conflict. Allegations of terrorism on the part of insurgency groups often relate to the use of methods that target civilians. However, in armed conflict civilians might be killed if they are present at a military objective, for example civilians working in an arms factory or military base. The obligations expressed in the established rules of customary international law prohibit any targeting of civilians to spread terror. Notwithstanding a label of terrorist, a belligerent can still be a participant in an armed conflict and bound by the customary and treaty rules of international humanitarian law.

There are many other rules of conflict that could be discussed but space does not permit. This would be particularly the case if the conflict becomes an international armed conflict if the Turkish forces invade northern Iraq. Nevertheless, the cardinal rules of distinction, proportionality and necessity will prevail regardless of the type of armed conflict that is pursued. There is also the assistance of the Declaration of Minimum Humanitarian Standards negotiated at Turku that merit examination in the context of any type of internal disturbance even if it does not rise to the level of armed conflict but it contains many of the same guarantees contained in Common Article 3 to the Geneva Conventions.³⁸

³⁸Declaration of Minimum Humanitarian Standards, reprinted in Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Forty-sixth Session, Commission on Human Rights, 51st Sess., Provisional Agenda Item 19, at 4, U.N. Doc. E/CN.4/1995/116 (1995) (Declaration of Turku).

Conclusion

In the upcoming publication on this issue to be co-authored by myself and Kerim Yıldız of the Kurdish Human Rights Project, another important area in this debate will be canvassed, that of possible political solutions to the situation of the Kurds in south-east Turkey. If the situation rises to the level of a non-international armed conflict, as indeed seems likely, there is an international obligation on the parties and the international community to seek an appropriate and long-lasting political arrangement that might prevent further conflict. The number of lives lost, properties destroyed and persons injured necessitates an urgent examination of possible solutions to this long-standing dispute.

3.4 Improving support for the peace process: The role of the EU, European governments and NGOs

Hugh Pope

In my talk today I would like to underline how important Europe and the European Union has been in the history of the Kurdish problem. As Ahmet Türk rightly pointed out yesterday, both Kurds and Turks have a real interest in using Europe to move beyond the ethnic feuding of the Middle East.

First I'd like to tell you what I learned about the Kurds and Europe when I visited Mehmed Uzun in Stockholm seven years ago. Mehmed picked me up at the airport, we spent two days together and then he dropped me back at the airport at the end. I saw Stockholm entirely through his eyes and for me it became almost a Kurdish city. But at the same time Sweden also deeply influenced Mehmed's Kurdishness.

When Mehmed arrived in Sweden in 1977, he didn't know which language to write in - Turkish, Swedish or what. It was his Swedish friends who persuaded him to write in Kurdish. They told him that if he could invent a Kurdish literary language, it would be a major contribution to the Kurds and to the world. So as many of you know he set about it with research, conferences and magazines. Along the way he relied on the support of the Swedish welfare state and Swedish money for cultural development. When Mehmed's group was collecting animal vocabulary, they were even able to fly a Kurdish shepherd to Europe to debrief him. He told me, for instance, that for every six months of its life, a sheep has a different Kurdish name.

So in a way, Sweden was like a hothouse that preserved and developed a new Kurdish high culture. In fact, Mehmed used to say that when he flew into Stockholm he felt that he was coming home to Kurdistan.

It's also worth noting that Mehmed was very disappointed when his first novel came out. Nobody from the Kurdish community read it or talked about it; the only encouragement he got, he told me, was from Swedish media and fellow authors in Sweden. One Swedish author told him to keep working at the Kurdish language and novels for 25 years, and then he would be recognized. They were right. Sadly, of course, Mehmed Uzun isn't alive to see this conference in his name today.

But to underline my point: Europe has played a critical and pioneering role in the history of the Kurds. And it's not just cultural and sometimes it has taken time to be appreciated. It's on many levels, thanks to Kurdish Diaspora communities in Europe and thanks to the interest of European intellectuals. Most importantly for the Kurds, however, is the European Union's opening of accession negotiations with Turkey. As has been noted earlier in this conference, these EU entry negotiations have done

more than anything else up until now to improve the real situation of Turkish Kurds living in the south-east.

It was obviously critical to these reforms, and the improvement of people's living conditions, that the PKK and Abdullah Öcalan declared and implemented a ceasefire between 2000 and 2004. However, this ceasefire on its own would have got nowhere if Europe, and in particular the European Union, had not provided a new framework for Turkey and the Kurds to progress. At this point I'd also like to point out the Crisis Group report on Turkey and the EU, which details a full list of these points:

1. The EU provided a new standard of laws and values to protect ethnic, religious and political diversity.
2. The EU provided Kurds with new hope and a sense that there was an outside party that was monitoring their fate in Turkey.
3. The EU provided the carrot of future prosperity and security that persuaded the Turkish government and the Turkish people that change was the price of transition to something better.

In the first category, the list of advances made in recent years thanks to the EU input of new laws and values is a long one.

- Turkey began paying legal settlements awarded to Kurds by the European Court of Human Rights.
- Following ratification of the European Convention of Human Rights, Turkish courts have begun to transfer its principles into Turkish law.
- In 2002, Turkey lifted the death penalty, which, for instance, is the reason that it did not carry out the death sentence against Abdullah Öcalan.
- In 2004, Turkey released Leyla Zana and the other jailed Kurdish deputies
- A significant number of Kurds have been able to return to villages destroyed by the army in the 1990s. According to Human Rights Watch, the number is about 124,000 of the 350,000 people who were officially displaced.
- Mehmed Uzun's books are now available on sale; there is a wide range of writing on the Kurds now in bookshops.
- The word 'Kurd', and more importantly an acceptance of a legitimate concept of Kurdishness, has become common in Turkish media and politics.

- Despite all the restrictions, the use of Kurdish language and culture has become far more widespread and confident, from minibus bumper stickers to music to celebrating Newroz and even to politics. There is now even a rough and ready Turkish Kurd film-making industry in Diyarbakır.

Obviously, as other speakers have pointed out, Turkey is still far from European standards of freedom. There is still much legal harassment. Kurdish-language education has been far too restricted. Kurdish-language media also faces far too many restrictions, and the Kurdish broadcasts on state television are almost nonsensical.

I believe that Turkey itself is paying a big price for this. One result of being unfree is that it is Kurdish satellite television stations from outside Turkey that are watched throughout Kurdish areas of Turkey, not ones based in Turkey. Turkey could have fostered its own Kurdish language service, but chose not to. But overall, what I think we should all recognize how much has changed, as well as how far there is to go.

In the second category, in terms of hope that the EU-Turkish process provided to Kurds living in Turkey, I think we can just look at the history of the death toll from fighting in the south-east. During times of EU-Turkish convergence, the death toll went sharply down. The combined number of people killed was 92 in 2001, 30 in 2002, and 104 in 2003. But as the EU and Turkey began to diverge, the death toll began to go up again: 240 dead in 2004; 496 dead in 2005; 345 in 2006. This year seems as though it will be worse than 2006.

Another proof that Turkey's convergence with the EU gave Kurds hope and a sense of security, in my opinion, was the way the majority of the Kurds voted for the ruling AK Party in July, endorsing their pro-EU, pro-reform stands.

Finally, I'd like to describe how the Turkish government and people see the EU. The level of political tolerance and progress in Turkey is almost indexed to how ready Europe shows itself to cooperate with and to accept Turkey. A Turkey that is on course to join the EU is far more ready to take risks and is far more ready to accept and internalize European values.

Currently, unfortunately, we have the reverse dynamic. Over the past five years, statements by a series of European leaders from Austria, Germany the Netherlands and now France have poured cold water on Turkey's ambitions to really become European. A Turkey that feels it faces the world alone will inevitably go back to the old-style 'mono-ethnic' authoritarian nationalism that created much of the Kurdish problem to begin with.

Promoting Turkey's sense of inclusion is one reason why I would argue that Kurdish

organizations in Europe should do everything they can to support Turkey's EU accession process. Another is that many of the arguments used by European right-wingers against Turks in Europe - about ethnic differences, about religious differences, about being geographically non-European - could also be used against Kurds. A third reason is to win the trust of the Turkish side.

I do realize that many people here will believe that the main onus of change lies on the Turkish side, since it is has the responsibilities of a state and is more powerful. But we should remember that any new approach to the Kurdish problem, any peace deal, if you like, is going to be made inside Turkey, between Turks and Kurds in the broadest sense. Europe can supply ideas and support, but cannot force either side to any settlement. So there will have to be compromise, and both sides will have to be able to trust each other.

Going forward, we have to assess who represents the Turkish Kurds? Clearly, the AK Party won the majority of Kurdish votes. This is the reality. Two million votes also went to the DTP and their parliamentary group. These are the two interlocutors that have legitimacy and credibility in the eyes of the EU and the international community. There are also many other independent civil society organizations and business groups, often with elected leaderships, that could be considered as part of the process. Everyone should recognize that there is a broad range of political opinion within Turkish Kurd society.

On the other side, I believe that many in Turkey, even in the establishment, have now understood that there has to be a new approach to solve the Kurdish problem. One part of this will be to create a new constitution, another to re-launch the EU reforms.

If we want a solution, I believe these are the main and proven ways forward. Both sides should end the fighting and allow the free emergence of all non-violent strands of Turkish Kurd politics. This is the kind of neutral solution that Mehmed Uzun himself argued for. He told me that he often felt in a kind of multiple exile: exile from Turkey, exile from Kurdish politics, exile spiritually and exile intellectually. This is what he said to me about Turkish Kurd politics, although it probably applies more generally:

'I want to stay out of it. I often thought of giving up. I didn't have support from people. They always looked at me as if I was a suspect. I never said anything against them. But they censored me, never talked about me, told their supporters not to read me.'

But he also believed an intellectual's responsibility was to record what happened, which he did in his own, independent way in his novels.

'I deliberately leave out humour. I want to make people sad, like in the old Kurdish songs. I'm telling a sad history. I want people not to forget. I have a survivor's guilt, looking over my shoulder at the many people who died. These dictatorships are what sow unhappiness in the world. Literature has a duty to show this.'

Mehmed Uzun wanted to move the process forwards. I believe all of us here have a duty to try and move beyond narrow definitions, and to try together to embrace a multifaceted, European solution to the Kurdish problem.

3.5 Prospects For Peace And Democratic Reconciliation In Turkey: Old Mistakes And New Opportunities

Doğu Ergil

The Historical Legacy

The Turkish republic was born by a total rejection of the Ottoman heritage. Pax Ottomana was based on an understanding of ‘justice’ that allowed the cohabitation of different relatively autonomous ethnic and religious elements of the empire. This tradition was abandoned in favour of nation building that reduced the nation to the qualities of the dominant ethnic group in the country. Attributions to the Turkish and Kurdish peoples that were hailed as founding elements of the republic soon gave way to mono-culturalism and denial of the existence of the Kurds. Nationalism became an exclusive ideology to ‘Turkify’ the nation. Justice was sacrificed to politics.

Turkish modernization progressed in the void of civil society. Diversity was not only denied but repressed in order to expand the realm of the state over the social, cultural, political and economic realms that made up the sociological reality. This arrangement estranged the state from society and turned politics into a process for the strengthening and protection of the state rather than for improving societal standards like basic rights, democracy, and the rule of law, as well as for increasing wealth production and closing the gap with the developed world in terms of standards of living.

Instead, Turkish modernization produced an omnipotent state apparatus and a corporatist ideology based on the assumption that society was an undifferentiated, united entity that fused the state and the nation into one. This assumption neither allowed the burgeoning of liberties nor pluralism. Any mention of diversity, any demand for pluralism, and any call for multiculturalism was branded as subversive and treacherous. Turkey lost the chance to develop a ‘culture of conciliation’ and democracy born out of the management of cultural differences. The end result of this failure was constant friction between the state and society in general and between social groups whose qualities were favoured by the state and those that were found to be unfavourable. Such infighting weakened the social fabric and depleted the societal energy needed to produce the kind of vibrant civil society that would be capable of increasing affluence and creating a contemporary democracy.

The way in which the republican ethos was construed led to constant identity crises as well. The identity of the dominant majority element was made the official identity of the nation. Due to this top down imposition, the Turkish identity became inseparable from the state. Turkishness could not be distinguished as a cultural

reality other than or separate from the state. Any demand that expressed a cultural or political difference became a reason for an identity crisis, and an excuse to protect the state from 'subversive' manifestations that would undermine the unity of the state and society (expressed as 'nation').

Statecraft boiled down to safeguarding the state from subversive inclinations, which really meant no more than resisting change coming from within and without. As a consequence politics became a game for maintaining the status quo rather than for fostering change and progress. Based on a fabricated history and perception of social reality premised on the state, politics failed to produce human rights, basic freedoms and a vibrant civil society that would take on many of the functions of the state, especially the reconciliation and peaceful management of cultural differences.

Failure to meet economic, social, and cultural demands led to their politicisation and the repression of the need for political participation. This in turn led to the radicalisation of social groups that aired these demands. Continual repression and the denial of basic rights and liberties allowed the most radical groups to hijack the democratic cause. This further radicalised relations between state and society. The Kurdish problem, Islamization of politics, frictions between the seculars and the religionists, violence replacing legal procedures in problem solving are all by-products of the radicalisation of the political realm due to the entropy of problem solving in the state-centred system.

Turkish nationalism, adopted as the ideological instrument of nation building, excluded the Kurds (as others) radicalising the Kurds by stimulating a counter-nationalism. Kurdish nationalism gave way to Kurdish separatism bypassing the idea of a 'Kurdish emancipation' that was made impossible given the constraints of a narrowly defined nationhood and citizenship that was reduced to Turkishness.

Kurdish radicalism found its voice in the secessionist agenda of the PKK. This agenda was marked with as much violence as was the state's attempts to stifle any expression of diversity by groups other than Turks. The Turkish establishment never displayed the capacity to distinguish the 'Kurdish issue' from the political violence perpetrated by radical Kurdish elements. The Kurdish issue was one of acknowledgement, inclusion, basic rights and liberties, participation, and the desire for a higher quality of life without being forced into a different cultural identity. Repression of these reasonable demands brought about a violent backlash, the price of which was paid by all Kurds and, to a lesser degree, by Turks, through retarded development and half-fledged democracy.

Confessions and Admissions

Nowadays, those who have been responsible for excluding the Kurds from expressing their identity in public life and for repressing their demands for cultural diversity are pouring their hearts out and confessing their guilt. They simply say their harsh methods were wrong and counterproductive.

General Hilmi Özkök, former chief of the General Staff, said, ‘There is a Kurdish reality in Turkey and the PKK cannot be finished off by cross-border operations alone.’ Gen. Aytaç Yalman, former Land Forces commander, said:

‘The Kurdish question may be separated into three phases: the phase of social demands, the military phase and the political phase. Turkey had to recognize the issue while it was at the social phase. Maybe the problem could have been solved at that level. ... They (the Kurds), wanted to speak their language, sing their own [ethnic] songs and live their culture. We failed to recognize these demands. ... Unfortunately we were educated with the belief that there were no Kurds in the country; rather they were deemed to be a branch of Turks. We saw social demands in those days as disruptive. ... The end result has been our failure to understand the nature of the problem; furthermore assimilation has not been realized.’

The most astounding moment of the recent debate came from the former chief of General Staff, later chief of the junta that instigated the 1980 military coup and the seventh president of Turkey, General Kenan Evren. General Evren was sincere enough when he started a public discussion several months ago by stating that the central administration of Turkey was too rigid and inefficient for the present needs of the nation. Turkey had to be managed more locally and the country should be divided into administrative units that would allow more local initiative and participation and better efficiency in public services. Some commentators went as low as to call the former dictator of Turkey ‘senile’ or ‘deranged.’

Recently General Evren confessed to one of his gravest mistakes – prohibiting the Kurdish language in public. Severe punishments were imposed on anyone who dared to speak, write or sing in Kurdish. So much torture and oppression was applied to any expression of Kurdishness that it is a widespread belief that armed resistance, and its standard bearer the PKK, emerged from Diyarbakır Prison in the 1980s. Evren admitted that the prohibition was indeed ‘excessive.’

The generals were not alone in facing their conscience. The retired Deputy Head of the Turkish Intelligence Service Mr. Cevat Ones demonstrated the repressed common sense in the civilian bureaucracy. He admitted the fact that, ‘... We have observed how a national problem has become a regional, even a global issue by seeing how the PKK has become a trump card and an instrument of threat against Turkey in Iraq and

Washington.’ As regards the prospect of banning the Democratic Turkey Party (DTP) that admittedly voices the demands of the section of the Kurdish community that supports the PKK, Mr. Ones says: “[Such a move] will play into the hands of the radical elements in the Kurdish community. It is not right to close down a party during the process of strengthening our democracy...It is the duty of everyone; especially the DTP to assume responsibility at a time when a political solution is sought for.”

Asked how he interprets the electoral victory of the incumbent AK Party in Kurdish provinces, overwhelming the influence of the DTP, Mr. Ones says: ‘Voting for the AK Party in the south-east means standing against armed struggle in general and PKK’s armed activities in particular.’ He went on to propose that Abdullah Öcalan, the imprisoned leader of the PKK, should be involved in the process of searching for a peaceful solution to the Kurdish problem and in the decommissioning of the PKK. He believes that Öcalan sees how the PKK can be a tool for foreign forces that have unsettled scores with Turkey. When asked whether he aired these bold statements during his active service, he said: ‘Such matters were discussed at different levels’, giving the impression that the overall state bureaucracy did not go beyond such discussions. He expresses sorrow for the fact that Turkey could not produce the ‘will for a democratic solution’ to the Kurdish problem because a democratic security concept could not be formulated. The old method of repression and responding to violence from below with more violence from above continued as a method of security that that did not yield any considerable improvement.

When asked about the confessions of former commanders who carried out the military operations against the PKK, Cevat Ones is even bolder:

‘A military foray into Iraq will not end the Kurdish problem. Finishing off the PKK in north Iraq will not bring an end to the Kurdish problem in Turkey. What the retired generals are saying yields enough evidence about old mistakes that must not be repeated and demonstrates the necessity of solving the Kurdish problem through democratic civilian politics.’

Mr. Ones is convinced that what former commanders and he are now saying is the harbinger of a mentality shift that might be followed by policy change. He says:

‘The government signals that it is going to be more active along EU standards. Conditions show that the realm of civilian politics is expanding and will continue to expand. Both the internal dynamic of Turkey and EU dynamics demand change...[Radical] solutions are coming to an end and radicals will be increasingly marginalized.’

Not long after this critical old bureaucrat’s statements reached the public attention, Mr. Deniz Baykal, leader of the main opposition Party (People’s Republican Party-

CHP), who advocated harsh measures against expressions of ethnic identity bolstered by a reactionary nationalism, drastically shifted from advocating the use of hard security methods towards the use of soft power and reconciliatory methods. This telescoped change may be attributed to two things. Firstly, his harsh rhetoric and futile stance in denying the Kurdish reality was severely punished in the Kurdish provinces during the July elections, reducing the CHP's vote to 2 percent in the region. Secondly, even the most reactionary elements of society have begun to change their minds about old and dysfunctional methods and left the CHP behind in terms of adapting to reality.

While Mr. Baykal was defending the hardliner position of shaking the Kurdish Regional Government in Iraq if not eliminating it altogether, he came up with a package to diffuse the tension between Iraqi Kurds and the Turkish state which consisted of the following:

1. To develop economic ties with northern Iraq.
2. To supply more electrical energy and water.
3. To open up new border gates in order to increase trade.
4. To invite the most talented Kurdish students to study in elite Turkish universities and provide scholarships for them.
5. To initiate a high profile broadcasting system fashioned after the BBC to inform the Kurds of Iraq on Turkish affairs in Kurdish, etc.

Why the change of heart?

These public statements by establishment figures are unexpected eye-openers, in that the whole country was able to learn how the fate of a nation was determined by a handful of men who have squandered the youth, welfare, time and reputation of a nation without any accountability. In return we have to be satisfied with an exclamation of 'sorry', for the time being.

Are these consecutive admissions a concerted action that could be the harbinger of a change of attitude by the Turkish establishment? Or is it merely a sincere act of moral obligation felt after long years of mistakes that have cost this country so much from the same people who committed those mistakes? What has happened in Turkey all of a sudden to facilitate so much change? It seems the following happened simultaneously:

1. The July 2007 national elections that ended with a land-slide victory of the AKP has indicated that people of Turkey reject violent ways of solving problem such as the Kurdish issue. The Kurds of south-eastern Anatolia overwhelmingly voted for the AK Party rather than the DTP, crying out that they want normalization rather than a conflict that brings only destruction and misery to their lives.
2. The Turkish bureaucratic (civilian and military) elite and the politicians alike began to see that their mistakes are going to cost their country the unity and stability they thought they were striving for. The trial and error process of policy formulation ended with error and left no margin for other futile trials with old methods.
3. The Kurdish issue has slipped out of Turkey's hand and has become an international affair. This is the last chance for the Turkish elite to come up with a solution in order to avoid an unsavoury solution that would be imposed from outside.
4. Other ethnic and religious groups within the republic began to demand their rights within the framework of democratic pluralism. Turkish liberals and democrats reciprocated by meeting them halfway by adopting the moral and realistic position that Turkey has to acknowledge its cultural pluralism inherited from the Ottoman Empire.
5. EU legal and political requirements dictate that human, minority and cultural rights have to be adopted as a necessary condition for membership. Whether Turkey vies for membership or not these rights are basic requirements if it wishes to be a modern democracy, something that is imperative for the sake of the country's stability and progress.
6. After the elections the AK Party government was felt to have a mandate to implement an alternative strategy to end this gangrened problem with popular consent, ending authoritarian centralism and the military nature of statecraft at the same time.

It is at this historical conjuncture that Turkey stands and there is a government in office that owes little to the state for its electoral success (and political power) and, out of the mainstream political parties, is the least blinded with the kind of nationalism that churns enemies within and pits citizen against citizen. All these factors align to produce a favourable atmosphere in which we can hope for the beginning of a fully fledged democracy based on rule of law and social justice that equalizes all the citizens disregarding their ethnic, cultural, and religious roots or their political leanings.

Needless to say, this is not a one-sided process. Reconciliation needs determination as well as flexibility to accept the next best thing by all sides in a conflict situation. Democracy is not a fixed station; it requires constant tuning. We the Turks and the Kurds of Turkey have to meet at the same station to listen to the same tune that was so far denied to us due to the roar of the guns. Now it is time for reason and the soft tone of democracy, which will allow us to hear each other with our own voices. The challenge will be the litmus test for all citizens of Turkey as to whether they are sincere in searching for a human and democratic solution rather than pursuing other ends that will further destabilize the country and the whole region.

Session 4: Conflict Resolution and a Democratic Future for Turkey and the Kurds

4.1 Lessons from International Peace Processes

Motivating Leadership: Lessons from International Peace Processes - Clem McCartney

Of all the people in this room I probably know the least about the conflict between the Turks and the Kurds. It's not my field at all. So what I really want to do is to raise some questions about the processes which happen in conflicts and conflict resolution. Hopefully it will raise questions for you and get you thinking in a way that will prove useful.

As Andy Carl mentioned, quite a bit of my experience in this work comes from thinking about processes in different parts of the world, and I've worked with his organisation, 'Conciliation Resources', for some time on these issues. One of the things that he and his colleagues have been working on was a study on the particular problems that arise when attempting to engage with and work with armed groups, and they produced this publication 'Choosing to engage' and they've got three or four other publications relevant to this particular topic.

In many ways that particular publication dealt very much with the nature of armed groups and the particular problems that are raised by working with armed groups. Yet, funnily enough, the same issues arise when you're dealing with governments, international institutions and sometimes even NGOs. The kind of characteristics that can be pronounced not only in armed groups but in these other kinds of organisation as well are things like being secretive, impenetrable, slow to change, and committed to the ways they've always done things. It's not surprising that that is the case, because – as someone has once said – the dominant group sets the tone for debate and creates the structure according to which discussion takes place. So at the end of this chain you get armed groups trying to find a way to express themselves within someone else's paradigm of how society works.

So rather than talking about armed groups or the state I'm going to focus more on the question of what role international organisations can play in facilitating a process of negotiation and change, which is something that's been an underlying theme in

what we've been talking about for the last two days. There's a bit of exasperation and frustration in the air at how difficult it is to move things forward, and I do share that frustration. However, it's something that we have to live with, and when we understand this reality sometimes it's easier to cope with.

I would like to start by bringing out the well known adage that there's a solution to every problem. The participants in this conference seem to have no problem thinking of solutions to the problem. Indeed, there's not a great deal of dissent within this room about what might be reasonable solutions. There were people who said they were thinking in terms of an independent state, and then there was Mr Demirtaş who put forward a proposal this morning which I think few people in this room will have found unreasonable or unworkable. So there are solutions to the problems; there's no pressing need for more solutions to these problems.

However, you can turn that adage round the other way by noting that while there's a solution to every problem, there's also a problem with every solution. This field that I work in is sometimes less about thinking of solutions than about understanding the problems with those solutions and how to get round those problems. The problem is: how if we see reasonable ways forward and reasonable ways to solve problems, is it so difficult to get other people to recognise this and to take up those solutions. That is the big question I think very often in this kind of work.

At one stage I thought that I might have to say something about what might be an ideal kind of solution, and I was thinking of referring to the world social development forum statement about social cohesion and integration. However, as I say, I heard Mr Demirtaş give his opinion on how the problems could be solved and heard Mr. Demirtaş give a much more elegant explanation of what such a solution would involve than anything I could read in a dry UN document. So we're all on the same page here, but I'd still like to mention four elements that should be included in a solution before I look at the problems.

I've been doing some work with the Club de Madrid, which is an organisation of retired Prime Ministers and Presidents. One of their major projects is what they call the 'shared societies project', which is an investigation into how to create a 'shared society' and what that society might look like. We thought of five key elements, which are the core of what you get when you boil down the widely recognised fundamental human rights, which we think are necessary for a 'shared society':

1. Democratic participation
2. Respect for diversity
3. Dignity for the individual
4. Equality of opportunity
5. Protection from discrimination

I just wanted to make a couple of points in relation to two of them.

First, in relation to participation, I think that it seems evident to most of us that when we're talking about participation we mean that people are able to decide who represents them, and that this choice should be respected even where the result is that the representatives decided upon are not acceptable to other people. If you really believe that people need to choose their representatives, then you can't turn around and say that you don't like the people they have chosen, or that you don't like what they say, or that you'll only talk to them if they'll say something different.

Now this is not to say that you can't disagree with what they say, or you shouldn't challenge it, or that it's wrong to publicly say that you don't like it. All these responses are fine, but making criticisms of this type is very different from deciding that you won't talk to these representatives unless you say something different. In other words, if we accept that one of the key elements in respect is that people are able to participate, this means that they must be able to participate in their own way, not just in the way that others think is an acceptable way for them to participate.

I'd also like to say something about dignity, mainly because I was very struck by something that Albie Sachs said recently. Sachs, as you may know, was one of the drafters of the constitution of South Africa, and in the constitution of South Africa they put dignity before equality and freedom. They put dignity as the first of the important elements that the state is there to respect. When challenged about why dignity was put before everything else Sachs responded: "when it comes to the puzzles we have to deal with in thinking about how people live together, wherever we started we ended up with human dignity." He just found that that was the touchstone, that what he called the 'dignitarian' approach unites equality and freedom. Freedom is seen as autonomy of choice, and equality as having opportunities and choices in life and non-discrimination; what links them together is dignity.

Those four key elements that I'm talking about are very easy to get states to subscribe to, it would be very difficult for a state to say that it doesn't subscribe to respect for dignity. So maybe the first step is to try to achieve agreement with states on what basic principles would characterise a fair and equal society. When it comes to spelling out whether the state actually live up to any of those principles, that is the point at which one can begin to explore where they fail. Thus one test by which we can judge the current Turkish constitution is by asking whether it respects the dignity of all nationals of Turkey, including the Kurds.

So if it's so obvious to us that a fair and equal and just society would be best for everybody, for the majority as well as for the disadvantaged minority, and that achieving such a society is feasible, why is it that states find it so difficult to make it

happen? When EU officials and MEPs are trying to positively influence a government, what is it that they're up against?

Firstly, we have to recognise that most states work within a power paradigm: within an idea that one has to have power, authority, and control. Within this paradigm it's very rarely recognised that the state might need to change the way it is organised. So there is a resistance to ways of operating not based on authority and control, which makes it very difficult to get beyond such tactics.

We also have to recognise that there is a history of hostility and hatred on both sides in any conflict, and that this will be a factor when we try to talk to the parties involved in the conflict. We have to recognise their hurt and their pain; whether it's the state or a community or an armed group, they'll have that same sense that they've been marginalized, ignored or hurt.

There's also the distrust and insecurity factors, which I think are recognised in relation to the conflict that you're concerned about; there is that fear that the whole thing will unravel and that we'll end up in a situation where we lose the very things that are important to us. Ignoring this reality doesn't help.

So the question is, are the kinds of interventions that are provided by third party intermediaries reinforcing the kind of negative tendencies I've described? Do such interventions increase the tendency for parties in the conflict to be paranoid about insecurity, to hold onto their pain and bitterness, and to feel that they have to keep control? Are the strategies of the international community helpful or not helpful in these situations? Is tolerance of the way groups involved in the conflict behave helpful? Is condemnation helpful? Are sanctions helpful? Are the threats and use of force helpful? Is engagement with them helpful? Is exhortation alone adequate?

The State tends to rely on some of the more strong-armed tactics I've listed. If we use the same methods which the state uses against the state is it going to weaken or crumble, or will it resist? My contention is that the state will accept the space you give it without changing if you treat it with tolerance and will resist if you attempt to use aggression.

So one has to consider the possibility that many of the ways we approach these situations may unfortunately be reinforcing the very types of behaviour that we see as unhelpful. I was struck by an article that Roelf Meyer, another South African, once wrote about the paradigm change that is needed for successful negotiations³⁹.

³⁹Roelf Meyer: "Paradigm Shift: The Essence of Successful Change: A Personal Experience"

He talked about three kinds of leadership; it's not very original, but it's a useful way of capturing it:

1. There is dogmatic leadership, which is holding on in the way we've just been talking about.
2. There is transitional leadership, which is pragmatic and looks for ways of managing the situation. We've been talking a lot recently about the AK Party, and I think that it may now be in that kind of transitional mode.
3. There is what is really needed: transformational leadership. This is leadership that respects difference, is transparent, is committed to cooperation, and is based on principle not dogmas. Additionally, it has a real belief in the potential benefits of a peaceful resolution, and it is confident.

Mayer says that transformational leadership took a long time in coming to South Africa. So how do we build transformational leadership? It seems to me that in all the work we do in conflict resolution it is confident parties, not the weak and uncomfortable, who offer the best chances for a settlement. Ironically, the parties in the conflict try to make each other weak, when arguably each party benefits from having a confident opponent to deal with. So what kind of approach should we use to move all the parties involved in the right direction?

1. We need to remember that people in a conflict need space. They need space to think, they need space to talk, and they need space to be challenged. This is something that an organisation like the EU can provide in their negotiations with Turkey; they have to give them space but they also have to challenge them within that space.
2. The problems of all the parties involved have to be acknowledged, since they are real or at least feel real to the people involved. So in the negotiations problems have to be acknowledged but not treated as excuses for doing nothing.
3. We have to treat each party's problems as a shared problem. If Turkey has a problem we all have a problem, if the PKK has a problem we all have a problem, if the DTP has a problem we all have a problem. So when we see a problem we all have to grapple with it. That means that we may need to work out ways to minimise the problem, to minimise the risks of change, and that needs to be a shared approach.
4. We need to facilitate a dignified exit; we need to be able to help people find

a way off the hooks on which they've hung themselves. If you're stuck on a hook you need to be helped off it. Having stones thrown at you while you're stuck on this hook won't help you get yourself off it, so a dignified exit is key.

5. We need to maximise the benefits of change, and there are very obvious benefits of change ready and waiting to be grasped in the case of the situation in Turkey that we're discussing.

So that's a very quick series of thoughts and reflections on some of the things that may need to be there in order to achieve a solution. My final point is just that it's not a question of complaining that people don't change, but rather a question of understanding why they don't. Once one has that understanding one can begin to find ways to help them through the change process, and so to move towards a solution.

4.2 Choosing to Engage: The Kurdish Project

Ali Yiğit

The Middle East and our country Kurdistan is going through an important period. As the days go by it is becoming increasingly obvious that nationalist and anti-democratic behaviour fuelling the fighting and making the situation an impossible one. It is already well known that one of the main problems in the area is the Kurdish problem. At the present moment, the states which have a Kurdish problem within their borders are pursuing anti-democratic policies towards the Kurds and through doing so are forcing the problem into an impasse.

International and local interests are responsible for this problem remaining unresolved. The Kurdish people are suffering because this problem remains unresolved; however, the states that are sovereign over Kurdistan are also suffering. In an undemocratic Middle East peace can never prosper; Arabs, Kurds, Turks, Persians, Assyrians and Jews will always look at each other with suspicion and in this kind of atmosphere fighting will remain an unavoidable fate for these people. Alternately, a peaceful and stable Middle East would be the guarantor of peace and stability across the world. Primarily the EU and USA must ensure that the Kurdish problem is tackled peacefully through democratic dialogue rather than with the use of artillery. This in itself would surely have positive repercussions both in the area and globally.

Within this framework, the role that could potentially be played by the European Union on both sides holds great significance. Since the day Turkey was accepted for talks on EU accession, the Kurds have made their opinion clear and have supported Turkey's accession into the EU as a basis for solving the Kurdish problem and all of Turkey's problems through democratic means. However, the expected improvements were not realised because not only did Turkey fail to rid itself of all its old policies but the EU remained distant from Turkey's real problems. Our expectations of the EU is that the EU should aim to grasp the problem and analyse it with all its realities and then approach the problem with a clear idea on how it should be resolved. We regret to say that in the EU Commission's latest report there is no evidence of this.

Today it is clearer that a solution to the Kurdish problem can act as a catalyst for the democratization of these states. The Kurdish side has made a lot of sacrifices and attempts at ensuring a democratic solution. Many calls and projects for peace have been made to this end. However, none of these calls or projects received a positive reply from the Turkish state. Instead, the 'one state, one flag, one nation, one language' mentality, increasing military operations, and the recent attempted poisoning of the Kurdish people's leader Abdullah Öcalan was put into motion. Torture is being used to try to kill a nation's leader in front of the world's eyes.

And now, as if the military operations within Turkey's borders were not enough, a cross border attack into Iraq is on the table. Turkey is almost signing a treaty for war in the area. At the moment it seems that the Western states are going to turn a blind eye to this. It seems that the green light has been signalled for a 'limited operation'. Everyone should know that however limited it may seem a cross border operation will not help solve the problem, rather it will drag the Middle East deeper into chaos and will only mean another bloody war. The strange thing is that there is not serious opposition to a war that will start in Kurdistan but gradually spread through the area and undoubtedly affect the west.

The Turkish government and its army should realise that this problem cannot be resolved by trying methods that have been tried many times before or by failing to take the Kurdish people's democratic and political will seriously. A '*surrender or die*' approach has given our people nothing but hurt, and our locality nothing but instability. To treat this problem as a military and security problem is a deception. Only with a democratic project can this problem be solved within Turkey's unity and peace. The Kurdish people is ready for any such project, there is the necessary political will within the Kurdish community.

The Kurdish problem is no longer a local problem; rather it has become an international problem. The Kurdish side accept that the USA, EU and the surrounding countries have become major factors in this problem. However, it sees these factors as external dynamics that can have a positive input towards achieving a solution to this problem within Turkey. The EU and other external actors should use their influence not to deepen the problem but to bring it to a peaceful and democratic solution. As for Turkey, they should acknowledge the fact that this problem can only be solved with the Kurds of its land. Turkey should know that they cannot solve this problem by begging America, by creating an anti-Kurd coalition with Iran and Syria, or by forcing the KDP and YNK to apply pressure; in other words, they cannot achieve results by hoping someone else will solve the problem for them.

Nowadays, which democratic norms could ask a nation to accept life without its identity? The Kurdish people want to live and preserve their identity, culture and language. Where in this is terrorism and separatism? Where in this is the division of Turkey? Such claims are just deceptions and demagoguery.

It must be accepted that the PKK and its leadership are a part of Kurdish reality. To separate the two and to try to find a solution without the PKK and Öcalan can only deepen the fighting and force the situation into an even deeper gridlock. To analyse the problem with all the relevant dynamics will serve the search for a peaceful solution. For this to happen, a democratic coalition between the Turks and the Kurds is necessary. A step like this in Turkey will be an example for the other states that

share this problem. As a result Turkey will become a beacon of democracy within the Middle East.

The Kurdish side, therefore, is in favour of solving all problems in the Middle East within the framework of democracy and justice and the brotherhood of the Kurds, Turks, Persians, Arabs and Jews. The Kurdish side does not believe in solving problems through military means. However, it should be accepted that, where there is an attack on human honour, dignity and basic human values, and there is no other legitimate, peaceful or democratic way in which these can be defended, then, in compliance with UN law, the Kurds, like all people, have a right to defend themselves, and no one can deny this legal right. We do not approve or condone any other type of armed action and therefore deem it terrorism.

Since the USA's occupation of Iraq there have been discussions of varying models for regional states. It must be known that without the approval of the local people no project can succeed. Today's impasse in the region is a very blunt example of this. The projects implemented by the Western states regarding military, economic and energy resources are especially well known. These projects may benefit some of the upper class but these never last long. If Western states want to be a part of this region they must first prioritise and take seriously the opinions of local people.

It is noticeable that the USA and local powers have their own projects and interests. Besides these forces the Kurds also have their own projects. As a result, we believe that in the coming period the following may occur:

1. There is likely to be a move to federative or confederative administration in Iraq. However, in order for this to happen smoothly Turkey must rid itself of anti-Kurdish policies and must cease to provoke the Turcoman population against the Kurds and instead must work on the brotherhood of these two peoples. The Assyrians just like the Turcoman people must be able to identify themselves within the political framework.
2. If a federative style government is impeded, then it seems likely that a Shiia-Kurd coalition in Iraq will take its place. The Kurds of Iraq have a strong relationship with the Iranians. If Turkey turns its back on the Kurds then this coalition will prosper. This coalition will not be limited to Iraq but will strengthen the ties between Iran and the Kurds.
3. A theory widely accepted among the Kurds who want to solve the Kurdish problem peacefully through the democratization of the Middle East is that of Democratic Confederalism. This envisages Democratic Confederalism to be implemented in Turkey, Syria, Iraq and Iran. This is a type of democratic autonomy. This is interpreted as having local parliaments and

assemblies. There are many similar examples in the world today, such as Spain, Germany, Britain, and Italy. Even in a country like Germany among a single nation this system is implemented. What is being proposed is that all regional states make peace with the Kurds within their borders, and acknowledge their democratic autonomy.

4. The last option is independence. If Democratic Confederalism is not implemented and Kurds continue to be the victims of an annihilation policy, then we will have no other choice but independence. At present, a Kurdish nation-state is being discussed. However, how democratic this nation-state will be or how much it will play the role of being a beacon for democracy and peace in the Middle East is unknown. If current trends continue, if Turkey and the other states approach the Kurds with the aim to annihilate, if the Kurds are still the victims of an annihilation policy then they will have no choice but to seek an independent nation state. If this happens then an unforgiving Turkish-Kurdish war will be almost inevitable.

As a result, the Turkish state's continuation of its policies of violence and denial will lead to instability and more bloodshed in the region. The Kurdish side's proposal of democratic autonomy, in contrast, aims at stability and at introducing contemporary values into the region. The Kurdish side prefers a solution rather than gridlock, voluntary unity rather than separatism, dialogue rather than violence, peace rather than war and brotherhood rather than hostility.

4.3 Government Policy on the Kurds in Turkey

Baskın Öran

I'm going to begin this talk by presenting four hypotheses around which I'm going to build my speech. After I've outlined these hypotheses I will talk about the Turkish state's policies towards the Kurds over time in chronological order. I will discuss the conflict free Ottoman era, then look at the recognition of the Kurdish identity of the 1919-1923 period, then at the conflict and rejection of Kurdish identity of the 1923-2001 period, before discussing the hesitant recognition and reform of 2001-2004 and the backlash against those reforms from 2004 to the present day. Finally, I will conclude and suggest a possible solution to the problem we are grappling with.

These periods will be developed under the following hypotheses:

1. There has been a struggle over identities, with each group fighting to protect its identity, and to make the other side recognise and accept one's identity.
2. This phenomenon of identity is an issue of nationality. However, nationalities cannot be analysed in an isolated manner, because when there is a nationality emerging it is affected by the nationalism that came before it and it affects nationalisms that come after it. So we can't talk about nationalisms independently of each other. Instead, we should be talking about the dialectics of nationalism: it's a case of thesis and antithesis or, more prosaically, action and reaction.
3. We can talk about the policy of the Turkish state towards the Kurds outside of these dialectic relations. This is because there is a large difference between the levels of development of Kurds and Turks. Additionally, the Turkish state's policy is seriously rigid and therefore instead of being affected by Kurds reactions state policy actually affects Kurds reactions.
4. We can talk about a serious dialectic relationship between Kurdish and Turkish nationalism.

Now let's come to the history of the Turkish state's policies towards the Kurds. There was no problem between Turks and Kurds or between the state and Kurds during the Ottoman era. This was because the Ottoman system divided the nation into two: the dominant Muslim nation and the dominated non-Muslim nation. Turks and Kurds both largely fell into the first category, so they had a joint Islam identity. Ethnic identity was not an issue and so there was no identity fight between them.

This state of affairs continued during the 1919 to 1923 period. Atatürk stated that all

nationals of Turkey have the freedom to travel in Turkey. Article 11 of the 1921 constitution gives autonomy to different provinces, and the role of provincial governors is envisioned as simply one of arbitration between the central government and that state. I'd like to point out that those Kurds who think that Atatürk was giving autonomy to the Kurds are mistaken, in reality he was simply giving it to the provinces.

It is also notable that before the republic was proclaimed in 1923, Mustafa Kemal Atatürk very seldom used the word Turk. Instead, in the majority of the cases he used the phrase 'national of Turkey'. Indeed, the 1921 constitution contained four articles in which Atatürk referred to 'nationals of Turkey'. Turk is a name of a dynasty and race, and it's the name of a Muslim group. However, when you say 'national of Turkey' there is no ethnic or religious subtext; it simply refers to people living within a certain territorial area, and therefore it is a neutral term.

The recognition afforded to the Kurds between 1919 and 1923 occurred because the Kurds needed Atatürk, and Atatürk needed the cooperation of the Kurds. Atatürk needed Kurds because he was fighting the Greeks in the west and couldn't afford to have the Kurds in the hinterland creating a problem. The Kurds need Atatürk because if he was successful the Armenians who had to run away would not come back and ask for their homes.

When you come to 1924-1925, of course, after the Republic was proclaimed, Atatürk didn't need the Kurds anymore. So in the 1924 constitution, for the first time, Turkish is proclaimed as the official language and a central state is formed. Additionally, the Caliphate, which had been the only organic link between the Kurds and Turks, is abolished, and the Kurds are no longer afraid of the Armenians. So no common interest remained between the Kurds and Turks, setting the stage for the 1925 rebellion of Kurds.

Between 1925 and 1938 the Turkish state had a four-pronged strategy towards the Kurds which was focused on the twin aims of destroying the Kurdish rebellions and assimilating the Kurdish people:

1. The resettlement laws of 1927, 1934, 1945 and 1960 led to the relocation of many Kurds to the west.
2. The 1935 law concerning Tunceli led to the appointment of a military governor in the Dersim region in order to crush resistance there.
3. Railways, roads, and concrete – instead of wooden – bridges were built in the Kurdish areas, and military forces were deployed.

4. The Saadabad Pact meant that rebellious Kurds who ran away to Iran or Iraq were sent back to Turkey.

Between 1925 and 1938 these policies were implemented, and then between 1938 and 1961 there was an absolute silence and the Kurdish issue was put on hold, as it were. Then between 1961 and 2001 there was a new era, during which there were military coups at 10-year intervals (in 1960, 1971 and 1980). The attitude to the Kurds that would be displayed during this era was illustrated just three days after the 1960 coup the new Head of State Cemal Gürsel went to Diyarbakır to address the Kurds there and said ‘There are no Kurds in this country. Whoever says he is a Kurd, I will spit in his face.’ This period also saw an increase in assimilation efforts through the opening of regional boarding schools and further relocation programmes.

Following the 1971 military coup Kurds were sent to court, and in court the military prosecutor tried to prove that Kurds are Turkish by saying that the word Kurd and the word Turk have four letters and these letters are the same letters, the only thing is that the place of the letters are changed⁴⁰. The 12 September period (following the 1980 coup) was a period that makes 12 March period (following the 1971 coup) seem like a picnic: people were thrown into sewage canals, were anally abused with truncheons, and had their testicles bitten by Alsatians.

However, I should say this: the Turkish state has behaved in an egalitarian spirit by refusing to differentiate between Kurds who took up arms and those who did not. It is this attitude that gave a monopoly to the PKK to represent Kurds. Indeed, the 12 September military government effectively created the PKK. The PKK’s move towards armed insurrection was precipitated by the 1980 military coup and its consequences; before their 1984 raids at Eruh and Şemdinli no one had heard of the PKK. So the origins of the dialectic dates back to 1925 but the real dialectic dates back to the 12 September period.

This incident was cut off by two incidents in 1999. The first one occurred in February 1999 when Öcalan was captured. The second came with the Helsinki Summit and the EU’s decision to give candidacy status to Turkey. The result of the euphoria created by these two incidents in Turkey was that a second westernisation revolution started. The first westernisation revolution was called Kemalism, which turned the country from a semi-feudal empire into an assimilation driven modern nation state, turned the people from the sultan’s subjects to compulsory citizens, and attempted to move the country away from a Muslim supra-identity to a Muslim Turk supra-identity. So, between 2000 and 2004, there was an extension of this westernisation and there

⁴⁰In Turkish the word of Kurd is ‘Kürt’ and the word for Turk is ‘Türk’

was a transition from nation to individual, from compulsory citizen to voluntary citizen whose identity was recognised, from Muslim Turk to a national of Turkey.

However, the dialectic is demonstrated here because this positive change brought its own reaction, so that both the PKK and the Turkish state, and ultimately even ordinary people, started using violence. The 2004 reforms also created a severe paranoia, with claims flying around that the AKP would introduce Sharia law and that Kurds would split the country apart. When the 1927 agreement was made this didn't happen, but by 2004 the history of the intervening period meant that there was fertile ground for such paranoia.

In order to achieve a solution to the Kurdish problem the Turkish state must understand that assimilation is no longer a realistic possibility, denying the identity and the sub-identity of the citizen would only lead to the other side resorting to violence and it enhances the hand of those resorting to violence. Likewise the Kurds need to understand that resorting to violence will enhance the hand of the 'deep state' in Turkey, that is, the hand of violent and illegal organisations with close links to the state or state officials.

A solution is possible if two things are done simultaneously:

1. The government passes serious economic measures to improve the situation in troubled parts of the country.
2. Legislation is enacted to ensure respect for cultural identities.

To clarify my second point I am not talking about respect for Kurdish identity. This business should be done without touching symbols like the unitary state, the name of the country, the flag, or state borders. To negotiate these would lead to an impasse and there's no reason to touch these in any case.

Kurds should give up this claim that they are not a minority but a founding identity. I can understand that they're not a minority. However, they should give up the claim of being the founding component; I want to bring things down to a normal human level, I'm not going to put the Kurds up to that holy level.

When Europeans call Kurds a minority they get upset, quite rightly, because when you call someone a minority in Turkey it's a derogatory term, since this is the ideology of the dominant nation. Therefore Kurds refuse to be called a minority, but we have to admit that the Kurds want minority rights.

Indeed, I'm not asking for any rights for the Kurds here. I'm absolutely against granting groups minority rights. Hrant Dink, who was killed, was also against that,

because that would make Armenians more of a target for Turks. Instead what I want to do is lift the bans and prohibitions that are currently in place. I want all the prohibitions and bans to be lifted for all the nationals of Turkey, not just for Kurds.

What's going to save Turkey are not minority rights but human rights. What Turkey needs is for the state to provide human rights for everybody equally. Abdullah Demirbaş wasn't only broadcasting in Kurdish he was broadcasting in Armenian, Assyriac, and the other regional languages; that's the way to achieve the salvation of Turkey.

4.4 How the Resolution of the Kurdish Question Can Open the Road for Democracy in Turkey and the Middle East

The Kurdish road to Turkish Democracy - Michael Gunter

A strong case can be made that ever since the Sheikh Said rebellion was crushed in 1925, the Kurdish question in Turkey has been one of the main factors preventing it from becoming a complete democracy. Instead, the Kurds have been viewed as threatening the very foundational rationale for Turkey's existence as a unitary state in which ethnicity is supposedly an irrelevant criterion in the public and political sphere.⁴¹ As a result, Turkey has largely opted for 'securitization'⁴² rather than democratization to deal with the problem. In other words, the Kurdish question has impeded the development of democracy in Turkey itself. Accordingly, a democratic resolution of the Kurdish problem could open the door to the full development of democracy in Turkey and would go a long way towards making Turkey eligible for admission into the European Union (EU).

New Kurdish Dawn in Turkey

Given recent democratic developments, the legal and political condition of the Turkish Kurds is changing dramatically.⁴³ Long gone are the days of their being dismissed as mere 'Mountain Turks' and the very term 'Kurd' being treated as a four-letter word. The Turkish Kurds no longer scare so easily and feel freer to express themselves. They have a new openness and even boldness. For example, the Diyarbakır Bar Association is even mulling over hauling General Yaşar Büyükanıt, the outspoken, ultra-nationalist Turkish Chief of Staff, before the courts for his actions and statements against the Kurds. There is a new self-esteem in being ethnic Kurdish citizens of the Republic of Turkey and a desire to prosper as such.

⁴¹On this point and its consequences, see Asa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy* (London and New York: I.B. Tauris, 2007).

⁴²For further analysis of this situation, see Michael M. Gunter "Deep State: The Arcane Parallel State In Turkey," *Orient* 47 (No. 3; 2006), pp. 334-348. Also see the chapter entitled "The Authoritarian Tradition in the Republic of Turkey" by Michael M. Gunter, *The Kurds and the Future of Turkey* (New York: St. Martin's Press, 1997), pp. 3-21; and Michael M. Gunter, "The Connection between Turkey's Intelligence Community and Organized Crime," *International Journal of Intelligence and CounterIntelligence* 11 (Summer 1998), pp. 119-141.

⁴³Sabrina Tavernise, "As Kurds' Status Improves, Support for Militants Erodes in Turkey," *New York Times*, November 2, 2007.

What has given rise to this new dawn awakening? Despite the Kurdistan Workers Party (PKK) being labelled as a terrorist group by Turkey, the United States, and the EU, a recent trip to Diyarbakır, the unofficial capital of Turkish Kurdistan, found few Kurds wanting to criticize the rebel PKK and its imprisoned leader Abdullah Öcalan. Rather there is pride that the PKK was a formidable force that came close to successfully challenging the Turkish state. In more recent years, the belief is that since the PKK has repeatedly shown a willingness to engage peacefully in the political process, the onus is now on the Turkish state to respond positively. Indeed some have argued that the PKK attacks against Turkish targets in Autumn 2007 were provoked by earlier Turkish offensive strikes seeking clashes with the PKK that could then be used as an excuse to invade northern Iraq and eliminate the KRG as well as to gain leverage over the AK Party Government.⁴⁴ Others have further maintained that some of the reputed PKK attacks actually were Turkish ‘false-flag operations’ masquerading as the PKK. The Beytussebab assault that killed 13 early in October 2007 is one supposed example.⁴⁵

Effectively barred from entry into the Turkish parliament by the 10 percent threshold, the legal Kurdish party called the Democratic Society Party (DTP) still managed to gain seats in the recent national elections of July 22, 2007 by having 20 of its candidates elected as independents. Thus, for the first time since the Democracy Party (DEP) was expelled from the Turkish Parliament in March 1994, an avowed Kurdish party has entered the national legislature.

More importantly perhaps, the ruling AK Party of Prime Minister Recep Tayyip Erdoğan —with its roots in Islamic politics—garnered even more votes from Turkey’s ethnic Kurds by stressing its economic reforms and conservative values. The DTP seemingly erred by focusing more on political and ideological demands, but ignoring more immediately important bread and butter socio-economic issues. The AK Party, on the other hand, has come to represent a convergence of moderate, popular Islam with liberal economics, secularism, and moderate nationalism, which is a modern democratic Turkey comfortable with its Islamic heritage and seriously working to become fit to join the EU.⁴⁶

⁴⁴Andrew McGregor, “Tactical and Strategic Factors in Turkey’s Offensive Against the PKK,” *Terrorism Focus* (The Jamestown Foundation) 4 (October 2, 2007); and Deborah Haynes, “We Will Fight to the Death, Kurdish Rebel Leader Vows from His Hideout,” *Times of London* (UK), October 18, 2007.

⁴⁵“HPG [PKK] Statement on Beytussebab Massacre,” <http://rastibini.blogspot.com/>, October 2, 2007.

⁴⁶For background analysis, see 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 and Nihat Ali Ozcan, “Crisis in Turkey: The Conflict of Political Languages,” *Middle East Policy* 14 (Fall 2007), pp. 118-135.

The result is a 180-degree turnabout in Turkish politics. In an attempt to preserve their privileged position, the secularist Kemalists as well as the military has adopted a reactionary anti-Western position and are now sceptical about Turkey's EU candidacy. On the other hand, the AK Party (with its roots in Islam) has become progressive supporters of the EU and the West, in part admittedly to protect itself against the kind of state crackdown that had destroyed previous Islamic parties.

Further, one might even argue that both the Turkish military and the PKK have a vested interest in keeping their struggle going or else both will become increasingly irrelevant. On the other hand, it is the AK Party, which has come to represent the best hope for ending the struggle with a democratic political solution that integrates the Kurds into Turkey's political system. Thus, during autumn 2007, the PKK (or at least elements of it) were seeking to provoke a Turkish military strike against it in northern Iraq, and the Turkish military was pushing to accommodate the PKK and thus embarrass or even sabotage the AK Party's hopes of beginning to solve the Kurdish problem.⁴⁷

Turkey's EU Candidacy

The continuing EU process represents a major factor behind the evolving Kurdish road to Turkish democracy. The great visionary founder of the modern Republic of Turkey, Kemal Atatürk himself, set the ultimate goal of the achievement of contemporary progress, which today is EU membership. However, to qualify for EU membership, Turkey must accept the Copenhagen Criteria of democracy: "the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."⁴⁸ Many hope that Turkish legal and political harmonization with EU norms will have the beneficial side effect of satisfying Kurdish demands for political, social, and cultural recognition as Kurds, within the confines of guaranteed Turkish territorial integrity, a win/win situation both for progressive Turks and Turkish Kurds. The process, however, will prove tortuous at best.⁴⁹

⁴⁷For further development of these points, see the following articles by Ihsan Dagi, "The Future of Kemalism and the Istanbul Biennial," *Today's Zaman*, October, 1, 2007; "Is Kemalism Compatible with Democracy?" *Today's Zaman*, October 4, 2007; "Is the PKK Trying to Provoke a Cross-Border Operation?" *Today's Zaman*, October 22, 2007; and "Rights and Wrongs in the Fight against the PKK," *Today's Zaman*, November 1, 2007.

⁴⁸Copenhagen European Council, "Conclusions of the Presidency," June 21-22, 1993.

⁴⁹For a recent background analysis, see Michael M. Gunter, "Turkey's Floundering EU Candidacy and Its Kurdish Problem," *Middle East Policy* 14 (Spring 2007), pp. 117-123.

Recent Turkish reforms to meet EU-mandated criteria sometimes appear to be merely illusory: paper concessions, tokens, or simply sham measures. Similarly, in December 1991, Prime Minister Süleyman Demirel declared that ‘Turkey has recognized the Kurdish reality.’⁵⁰ Two years later, the new Prime Minister Tansu Çiller broached the ‘Basque model’ as a potential formula for solving Turkey’s Kurdish problem after a meeting with the Spanish prime minister.⁵¹ Then in December 1999, the former prime minister Mesut Yılmaz declared that ‘the road to the EU passes through Diyarbakır,’⁵² the largest city in Turkey’s south-east and long considered the unofficial capital of the historic Kurdish provinces in Turkey. Finally, in August 2005, the current Prime Minister Recep Tayyip Erdoğan declared that Turkey had a ‘Kurdish problem,’ had made ‘grave mistakes’ in the past, and now needed ‘more democracy to solve the problem.’⁵³

However, these official governmental declarations led to few concrete results as the securitization mentality towards the Kurdish problem continued to prevail. The only democratic exceptions worthy of note have been the cautious but visionary initiatives of Turgut Özal in the early 1990s and now the recent AK Party reforms to meet EU-mandated candidacy requirements. If a democratic solution to the Kurdish problem prevails, Turkey will be able to take an important step towards implementing the full democracy required to join the EU.

Turkish - KRG Economic Ties

Along with these democratic political initiatives that are occurring on the Kurdish road to Turkish democracy, are striking economic developments tying Turkey and the Iraqi Kurdistan Government (KRG) together. Given the security problem in the Arab parts of Iraq, many foreign investors have been attracted to the Iraqi Kurdistan region. Chief among them have been Turkish firms, which have been heavily involved in such projects as building international airports in Irbil and Sulaymaniya (each of which was handling more than 70 flights per week as of March 2007) as well as cement plants, among other projects. Attractive supermarkets in the KRG are stocked almost entirely with Turkish brands.⁵⁴ In Irbil, 380 out of 500 foreign

⁵⁰“Kurdish Reality Recognized,” Ankara Anatolia in English, 1505 GMT, Dec. 8, 1991, as cited in *Foreign Broadcast Information Service—West Europe*, December 9, 1991, p. 55.

⁵¹Henri J. Barkey and Graham E. Fuller, *Turkey’s Kurdish Question* (New York: Rowman & Littlefield, 1998), p. 137.

⁵²“Yılmaz: Road to EU Passes through Diyarbakır,” *Turkish Daily News*, December 17, 1999.

⁵³“The Sun Also Rises in the South East,” *Briefing* (Ankara), August 15, 2005.

⁵⁴The following data are taken from Nicholas Birch, “Iraq Incursion Could Have Significant Economic Ramifications for Turkey,” <www.Eurasianet.org>, October 19, 2007.

companies are Turkish. In Dohuk, near the Turkish border, 65 percent of the contracts worth US\$350 million during 2007 have gone to Turkish firms. Another Turkish company won a \$260 million bid to build a new university campus in Sulemanya. Turkish trade with Iraq reached \$3 billion in 2006 and could surpass \$5 billion in 2007. Much of this money is flowing into Turkey's impoverished south-east where it may help solve Turkey's continuing Kurdish problem. An estimated 15,000 Turkish citizens—most of them ethnic Kurds—are working in the KRG region. Qualified Turkish engineers can expect to earn over twice as much as they would in Turkey. Ibrahim Sofy, the deputy head of Irbil's Chamber of Commerce, asserted: 'The quality of Turkish work is good, and they're much more trustworthy than the Iranians.'⁵⁵

İlnur Çevik has been one of the most important of these Turkish entrepreneurs. In 2004, Çevik resigned as the editor of the English-language Turkish Daily News to pursue his family's construction business in Iraqi Kurdistan. As the chief columnist of the New Anatolian, Çevik increasingly became an advocate of Turkish-KRG economic relations for at least two additional reasons:

1. Such economic relations would help alleviate the economically depressed situation in south-eastern Turkey and lessen Turkish Kurds' support for radical Kurdish groups such as the PKK.
2. Turkish-KRG economic relations also would help bind the two, with Turkey, of course, as the senior partner.

By the end of 2005, Turkish-Iraqi trade (much of it involving the KRG) had reached \$2.6 billion.⁵⁶ In January 2006, Vakifbank and Akbank (two of Turkey's largest banks) announced that they would open branches in Irbil, Sulaymaniya, and Dohuk, as well as Kirkuk. Turkish trade and economic relations with the KRG were expected to reach \$3 billion in 2006.⁵⁷ Indeed, an Israeli report in October 2007 claimed that overland commerce between Turkey and the KRG had reached \$5 billion.⁵⁸ Turkey was also supplying the electricity to the western parts of the KRG.

From the Turkish point of view, these economic relations with the KRG would diminish Kurdish nationalism by encompassing it within Turkey's overall Middle Eastern economic initiatives that also included the Arab states and Israel. On the other hand, Turkey still feared that a Kurdish federal state in Iraq would entice

⁵⁵Cited in *ibid.*

⁵⁶See www.Kurdishmedia.com, last accessed May 2, 2006.

⁵⁷See the *Turkish Daily News*, January 23, 2006.

⁵⁸Zvi Bar'el, "Turkish Bombs? Trouble for America," *Haaretz* (Israel), October 18, 2007.

rebellion among the Kurds living across the border in south-eastern Turkey. Thus, ironically, while Turkey has presented major political problems for the legitimacy and thus future of the KRG, Turkish businesses have brought much-needed investments and thus implicit legitimacy to the region. It remains to be seen which road Turkey will take: the old road of securitization or the new road towards further political democracy and economic development.⁵⁹

⁵⁹For further development of these themes, see Michael M. Gunter, *The Kurds Ascending: The Evolving Solution to the Kurdish Problem in Iraq and Turkey* (New York: Palgrave Macmillan, 2008).

Final Resolutions from the Fourth International Conference on the EU, Turkey and the Kurds

Introduction to Final Resolutions as read out at the Conference

Turkey and the EU are at this moment at a critical juncture. The accession process is widely regarded as having stalled, or at the very least, significantly slowed down. Reform implemented in the first stages of accession is now a distant memory, and there appears to be regression in progress. Geopolitical pressures on Turkey over incursions into Iraq are growing, while Turkey's domestic politics are becoming more polarised. How Turkey and the EU respond to the turbulence of the past year will be of crucial importance for the future of the accession process, and the stability of the entire region.

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

FINAL RESOLUTIONS

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:

General:

- 1) Recalling the resolutions from the International Conferences on Turkey, EU & the Kurds of the preceding three years, the Conference continues to give its qualified support to Turkey's EU accession process, contingent on demonstrable commitment from both parties to the human rights and fundamental freedoms;

- 2) The Conference calls upon the European Union to act as a unified body publicly expressing support for the EU accession process it began, including support of all EU requirements concerning democratic and legal reform within Turkey;
- 3) 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;
- 4) The Conference notes with alarm the failure of certain institutions within the Turkish State apparatus to adhere to its obligations under the European Convention on Human Rights and 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;
- 5) The Conference notes that it has become clear to everyone, including Turkey and the Turkish army, and the whole of the international community, that there is no military solution to the ongoing conflict;
- 6) The Conference calls now upon both Turkey and the PKK to forthwith stop all hostile military operations in the region to provide political space to address the Kurdish questions through dialogue;
- 7) 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;

Human Rights and Accession:

- 8) 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. These reforms should include a complete overhaul of the justice system including how judges and prosecutors are recruited and trained, promoting full independence of law enforcement officers and public prosecutors in order prevent the law being used to achieve political and ideological objectives.

- 9) The Conference reiterates the view expressed in the three preceding 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;
- 10) 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;
- 11) 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;
- 12) With specific reference to the 2007 European Commission progress report, the European Parliament report on the increasing suicide of women in the Kurdish regions, 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 need to address the regional disparity in the position of women through education, literacy, access to meaningful employment, political representation and access to justice); furthermore 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) 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.

http://www.un.org/events/res_1325e.pdf

- 13) This Conference expresses regret 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;
- 14) In reference to the above, the Conference calls upon the Turkish government to reassess its position vis-à-vis this project, as well as the bodies of the EU monitoring the impact of internal displacement and what the potential effects of this project are on the already overpopulated urban centres of the Kurdish regions, as well as calling on member governments to put pressure on foreign capital companies to withdraw their investments in the project;
- 15) 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, 216 (incitement to hatred), 217, 220 (making propaganda for a criminal organization) 288 (attempt to influence a fair trial) and 301 (insulting 'Turkishness') 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.
- 16) We call upon Turkey to fulfill its positive obligations under article 10 of the ECHR to promote a positive climate in which freedom of expression to flourish, and to protect writers, journalists, intellectuals, lawyers and many other defenders of free speech from unlawful interference by state and non-state actors.

The Centrality of the Kurdish Question

- 17) The Conference asserts that the resolution of the Kurdish conflict 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;
- 18) 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;

- 19) However, the Conference further asserts that more must and can be done on both sides and calls for the following confidence building measures to be adopted;

Confidence Building Measures

- 20) This conference notes the resolution of the conflict and the constitutional recognition of Kurds in Turkey is central to regional stability.
- 21) 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;
- 22) The Conference calls upon all political parties in Turkey to help foster the conditions within Turkey for a democratic platform for dialogue;
- 23) The Conference calls upon the EU actively to support efforts for dialogue on minorities and specifically on Kurds in Turkey;
- 24) The Conference urges Turkey to recognize that for democracy to function, it is imperative that local government structures enjoy the full support of national government.
- 25) At this critical juncture at this time 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.
- 26) In particular, the Conference calls upon the Turkish Government to ensure that all legally constituted Kurdish 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; further to immediately cease the harassment and politically-motivated investigations of Kurdish politicians.
- 27) The Conference notes the recommendations of the ECtHR in several cases, but in particular regarding 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 the health of Mr. Öcalan, and close —with immediate effect— İmrali island.

- 28) 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 the Kurds and fully comply with their own freedom of expression obligations in respect of those Kurdish organisations and individuals who are concerned to promote the same;
- 29) The Conference reiterates that the Governments of the EU should not criminalise peaceful dissent of Turkey echoed by Kurdish organisations situated in Europe and to review its proscription of certain Kurdish organisations, 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;
- 30) Finally, 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.

Appendix 1: Background Paper

Introduction

Last year's Progress Report on Turkey, released by the EU Commission on 8 November 2006, contained notably more critical content than that of 2005 and painted a rather dark picture of Turkey's progress. This report followed on the heels of the Third Annual EU Turkey Civic Commission Conference on the EU, Turkey and the Kurds⁶⁰. Both the conference and the report agreed that Turkey had made some progress between 2002 and 2004, but acknowledged that since then the reforms have slowed down and partly deteriorated. The 2006 Progress Report echoed many at the conference who emphasised that the reforms must be properly implemented, not just agreed on paper. Unfortunately, the issue that overshadowed both the release of the report and the discussions held prior to the release, was the Cyprus problem. Therefore, focus shifted from Turkey's lack of compliance with its human rights obligations and relegated the concerns of international and regional human rights and intergovernmental organisations to a lesser position to that of its economic compliance.

A few weeks after the report was released, on 29 November 2006, the Commission announced that it recommended not opening discussion on eight of the chapters in Turkey's negotiation package, the main reason being the unresolved Cyprus issue. This created strong reactions in Turkey and has been seen as another attempt by some actors in Europe to prevent Turkey from becoming a member of the EU. Some commentators discussed the possible outcome of a permanent rift between the EU and Turkey.⁶¹ The recommendation to suspend negotiations on eight chapters was adopted by the Council on 11 December; however the accession talks were re-opened in March 2007, although at a slower pace.

This year's report, which was released on 6 November 2007, has an even more critical tone than earlier reports. It again points to the fact that overall, little or no progress has been made since last year, and on several points the situation in Turkey has

⁶⁰Third International Conference on the EU, Turkey and the Kurds'; European Parliament, Brussels; EU-Turkey Civic Commission, October 2006.

⁶¹Barysch, Katinka and Grant, Charles, 'If Turkey and the EU Break up...' in *EU Watch*, December 2006, No.2, Istanbul: TESEV

worsened. In other words, the process seems to have reached a stand still. While no party has attempted to end accession talks, no further improvements on the Copenhagen Criteria seem to be within reach.

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 required to give context to the discussion.

Background 2004 - 2006

This background is a summary of the development of the accession process between 2004 and the beginning of 2006, a period characterized by a slow down of reforms in Turkey. It gives an account of the accession process, leading up to the Cyprus crises in November 2006, and then moves on to the developments of the human rights situation and ends on how the position of the Kurds figure into the current standstill.

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.⁶²

On 6 October 2004 the Commission issued its recommendation as anticipated, concluding that Turkey 'sufficiently' fulfilled the criteria necessary to open accession negotiations.⁶³ Certain conditions were imposed, including that Turkey should first be obliged to bring into force six specified pieces of legislation.⁶⁴ 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,

⁶²Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency.

⁶³European 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.

and envisaged that talks would commence on 3 October 2005.⁶⁵ 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',⁶⁶ 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.⁶⁷

On 3 October 2005, European and Turkish leaders welcomed the commencement of official EU Accession talks with Turkey. Prime Minister Recep Tayyip 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.⁶⁸

The Negotiations

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 1993⁶⁹ (the 'Copenhagen Criteria'). These are the minimum standards which all states must fulfil before they are recognised as official negotiating partners. The political

⁶⁴These 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.

⁶⁵Brussels European Council 16-17 December 2004, Conclusions of the Presidency.

⁶⁶European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

⁶⁷Brussels European Council 16-17 December 2004, Conclusions Of The Presidency

⁶⁸BBC '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).

⁶⁹Copenhagen European Council 21-22 June 1993, Conclusions of the Presidency.

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 2004,⁷⁰ examined in detail Turkey’s fulfilment of the political elements of the Copenhagen Criteria. Despite citing substantial reservations on 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.⁷¹ The conclusions of the Copenhagen European Council set out in December 2002 that the December 2004 decision would be based upon whether or not Turkey had fulfilled the Copenhagen criteria.⁷² The Commission recommendation therefore represented an apparent lessening of EU requirements in relation to Turkish compliance with the Copenhagen Criteria. The Council, in its December 2004 decision,⁷³ invited the Commission to continue its monitoring of Turkey’s progress regarding political reforms.

The Negotiating Framework for Turkey,⁷⁴ 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 will be measured in particular against a series of requirements which included the political elements of the Copenhagen Criteria. The Commission continued to monitor Turkey’s progress and regularly report on this to the Council. These reports provided the basis of 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 requirements (to include the Copenhagen Criteria) before a positive decision on accession would be taken. Accession negotiations were set to proceed in the usual way through inter-governmental Conferences between the EU and Turkey, in which Turkey’s current

⁷⁰European Commission, ‘2004 Regular Report on Turkey’s Progress Towards Accession’, COM (2004) 656 final, 6 October 2004.

⁷¹European 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.

⁷²Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency [emphasis added].

⁷³Ibid.

⁷⁴European Commission, ‘Negotiating Framework for Turkey’, 4 October 2005.

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 will have to abide by “the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law”.⁷⁵ 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 member states

On paper, the most significant impediment to Turkish accession prior to 2002 had been its poor human rights record and hence, inability to meet the political elements of the Copenhagen Criteria. For years, Turkey had lagged behind Europe in meeting even the most basic human rights standards. Turkey’s accession bid has also been influenced by the complex backdrop of issues relating to European politics, international security and economic affairs.

Turkey’s forthcoming accession has been strongly welcomed by Britain and the US, as potentially creating a ‘bridge’ between Europe and the wider Muslim world. It was further hoped among pro-Turkish actors in the EU that the process of entry negotiation would provide clear incentives for further reform in Turkey, and that its course towards accession would have a reforming influence on government behaviour. Key EU member states such as the UK have continued to champion Turkish membership, but doubts have remained over whether Turkey could fully attain the standards of a full EU member. Other member states, such as Austria, have openly expressed objection to Turkish membership. This scepticism is in part attributable to concerns that Turkey’s size, predominantly Muslim population and economic under-development would potentially generate strain on EU budgets.

Public opposition to Turkish accession is seen as a factor in the ‘no’ votes in the 2005 French and Dutch referenda on the EU constitution, as part of the growing EU-scepticism within Europe. However, the EU’s Enlargement Commissioner, Olli Rehn, has vehemently insisted that full accession remains the endgame of negotiations with

⁷⁵Article 6, Treaty of the European Union.

Turkey. Still, the election of anti-accession Nicholas Sarkozy, as well as opposition from Austria and some other member states, has cast a shadow of doubt on this vision.

Human rights

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 of 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.

Notwithstanding this, it was submitted that the conclusion that Turkey had sufficiently fulfilled the Copenhagen Criteria misrepresented Turkey's progress on human rights, specifically regarding minority rights. There can be no doubt that Turkey has 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. There have also been some — albeit faltering — improvements in human rights generally. The legal regulation of prohibition of torture has been tightened and the prohibition on broadcasting and teaching in the Kurdish language has been somewhat relaxed. Permissible pre-trial detention periods have been shortened and the death penalty has also been abolished.

The AK (Justice & Development) party Government has staked much on achieving EU accession. It has taken some steps to weaken the power of the unaccountable state by reducing, at least formally, the traditional influence of the old elites in government. Nonetheless, the military continues to exert an influence far exceeding that of any European counterpart through both formal and informal channels. Turkey's record on human and minority rights continued to be a problem. The Commission's 2005 Progress Report⁷⁶ appeared contradictory in tone in its effort to show the reform process in a more positive light. The Commission recognised that reports of torture and ill treatment were 'frequent', however then submitted that 'incidences were diminishing' and no longer systematic.⁷⁷

⁷⁶Article 6, Treaty of the European Union.

⁷⁷Ibid.

The founding members of the EUTCC and several other human rights organisations⁷⁸ have vehemently contested this conclusion, and have continued to do so. 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. The Commission's 2005 report referred to a large number of grave human rights problems in the realms of freedom of expression, the protection of minorities, the fight against torture and ill treatment and the freedom of association and peaceful assembly. The report referred to the Penal Code, stating that many aggravated sentences attached to offences committed through the media had been removed, but stated some remain. Particular reference was drawn to Article 301, which was described as 'vaguely worded' and criticised as 'individuals expressing non-violent opinions ha[d] been convicted and prosecuted'.

Unfortunately however, the Commission's report focused on formal legislative and administrative reforms and put forward little de facto analysis of the situation on the ground. It failed in its wordings and emphasis 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 'in 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 and 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 European Commission's evaluation of Turkey's progress to accession released in 2005 was inconsistent in its assessment of the reform process.⁷⁹ On the one hand, the Commission commended Turkey for its flurry of legislative reforms and the positive moves that it took as regards international human rights instruments with the signing of the Optional Protocol to the United Nations Convention Against

⁷⁸Including the Human Rights Association (IHD) and the Human Rights Foundation of Turkey (HRFT)

⁷⁹European Commission 2005 Progress Report, 9 November 2005, SEC (2005) 1426.

Torture. On the other hand, the Commission criticised the rate of progress towards meeting the Copenhagen Criteria, having stated that it had slowed and had been inconsistent. It noted that instances of human rights abuses were still being reported and that there was an urgent need to implement the reforms in force and take further legislative initiatives.

Torture and ill-treatment

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, the Human Rights Associations of Turkey (TİHV) found 193 of the 675 people who applied to them to have 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.⁸⁰ 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.' Six regional NGOs reported that 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 deprivation. 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.⁸¹ 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.

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

⁸⁰Önen 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).

⁸¹Report published 6 September 2006

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. Turkey had 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.⁸² In such instances, effective medical examinations of detainees become crucially important with the increase of more sophisticated, less visible torture methods. The medical examinations were usually brief and informal, and detainees were often refused access to a second examination by the authorities. Only 300 out of the 80,000 doctors in Turkey have the forensic skills to diagnose instances of torture.

The Anti-terror law

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 adverse effect of the 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 has 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 for 'terrorist' acts without having any real links to actual 'terrorist' organisations.

The amendments also attack press freedom, as those who publish the statements of

⁸²European 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.

terrorist organisations are subject to prison terms. The amendments also provide for heavy fines for owners and editors of media outlets that commit offences, and grant judges and prosecutors the power to suspend publications which are considered to be glorifying terrorist acts for up to 30 days.

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 has 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 has made a democratic solution to the Kurdish question more remote.

Freedom of association and assembly

The right of freedom of association and assembly also remained heavily restricted. Open criticism of the government or peaceful activities which touch on taboo subjects such as the military, the Kurdish question or the Armenian genocide has been met with reprisals. Anti-democratic legislative provisions were used to harass and prosecute dissension, administrative restrictions on the formation of associations resembled those of a police state and assemblies and public meetings were 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’.⁸³

Throughout 2006, security forces continued to adopt a hard-line attitude towards unarmed civilians and aggressive dispersal tactics during pro-Kurdish protests. A number of violent clashes between police and civilians were reported, with the police firing at civilians and children. A fact finding mission sent by KHRP to the south-east region in April 2006 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 2006.⁸⁴ 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

⁸³BBC, ‘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).

⁸⁴See ‘Indiscriminate Use of Force: Violence in Southeast Turkey’ KHRP Fact Finding Mission Report, October 2006.

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.

Women's rights

Combating violence against women was another key area in which the momentum of reform had been dwindling. 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. Violence against women has been pronounced problem in the Kurdish regions. Perpetrators were rarely investigated or charged by the police, and women had not been protected against aggressive male relatives. 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.'⁸⁵ 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.'⁸⁶ 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. The Diyarbakır branch of the Human Rights Association (İHD) reported that following the 17 December 2004 decision to open accession negotiations, the first half of 2005 saw a marked increase in human rights violations in Diyarbakır and the surrounding provinces.

In the sphere of women's rights the new 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

⁸⁵UN Press Release, 31 May 2006.

⁸⁶Ibid.

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.

The Minority Report

Turkey's stated enthusiasm for human rights was further brought into question by its attitude towards human rights defenders. They were perceived to be acting against the state, rather than as a constructive force for change.⁸⁷ The Turkish administration has reacted by instigating a new strategy of investigations and prosecutions against human rights defenders as a means of harassing and intimidating them.

State run human rights bodies had also been sidelined and relieved of any real influence. The Human Rights Advisory Board of the Prime Ministry (BİHDK), which was set up by the Turkish Government to oversee its own adherence to human rights standards, had been overwhelmed by controversy since the beginning and has since ceased to operate. In March 2005, the Chairman of BİHDK, Yavuz Önen, 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.⁸⁸ 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.⁸⁹ 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 Advisory Board was set up, by the state itself, for viewpoints such as this to be aired and debated. The defendants were acquitted by the General Criminal Court in Ankara in February 2006, however this judgement has recently been appealed and the Court of Appeal has overturned the decision.

⁸⁷See: 'Human Rights Defenders in Turkey', KHRP, October 2006.

⁸⁸'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).

⁸⁹See: 'Suppressing Academic Debate: The Turkish Penal Code, a Trial Observation Report' KHRP, June 2006.

The Way Forward

This section gives an account of the major events of the past year and the current situation in Turkey in terms of EU accession, human rights standards and political development. It then goes on to address the future for Turkish EU Accession and the minimum actions required by both parties for a new approach.

EU Accession

In December 2006 the Council endorsed the recommendation of the Commission and agreed to suspend membership talks with Turkey on eight chapters, thereby slowing down the accession process significantly. This was done 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.⁹⁰ Other commentators, such as the European Parliament's Turkey Rapporteur Camille Earlings, also found the decision a harsh one.⁹¹ In Turkey it created strong reactions against the EU, and consequently public support for EU membership has declined.⁹² The negotiations were re-opened in March 2007. Olli Rehn, the EU Commissioner for Enlargement, had earlier stated that 'the train will slow down but not stop'⁹³, in reference to the suspension. However, the psychological effect of the suspension could create further complications in the future.

Soon after the Cyprus roadblocks at the end of 2006, the Turkish Economic and Social Studies Foundation (TESEV) published several reports on the matter, warning that the EU's decisions could have devastating consequences. 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, and should not be a part of Europe, or who are seen to use Turkey's accession as part of their domestic political posturing.⁹⁴ There is 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

⁹⁰*Today's Zaman*, 'Rehn: No Train Wreck, Pace will Slow', 30.11.2006

⁹¹*Today's Zaman*, 'Is the EU Kidding or Offering a Solution', 01.12.2006

⁹²*Seeking Kant in the EU's Relations with Turkey*, December 2006, Tesev Publications, Foreign Policy Program. Istanbul: TESEV, p. 28

⁹³The Guardian, 'Turkey's EU hopes suffer Cyprus setback', 27 November 2006

⁹⁴Tiryaki, Sylvia, 'All for One and One for All!' in *EU Watch*, December 2006, No. 2, Istanbul: TESEV

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.

Among the EU member states there are a growing number that oppose Turkish membership. This is partly due to a general trend of change to right wing governments. 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. This shift within the EU itself is another obstacle in the future of the accession process.

Human rights

The human rights situation in Turkey has certainly improved since the AKP government made the prospect of joining the EU a reality in 2002. However the reform process has often merely been theoretical without enough tangible impact on the ground. As a result, human rights violations have continued to occur and in relation to the right to a fair trial, the violations have increased in the past year. The EU has in the past shied away from taking a critical approach in its annual progress reports. However the European Commission's latest Progress Report appears to have taken a tougher line. Most notably in terms of fundamental rights, it stated that there had been limited progress in legislation and in practice. It went on to add that "no major issue had been addressed and significant problems persist". 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. A considerable number of ECHR judgments are still awaiting enforcement.⁹⁵

Torture and Ill Treatment

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. Amnesty International's recent report stated that "torture, ill-treatment and killings continue to be met with persistent impunity

⁹⁵EU Turkey Progress Report 2007, P.12

for the security forces in Turkey”.⁹⁶ 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 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.

Law enforcement officers continue to be present during medical examinations and 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.⁹⁷ 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.⁹⁸ There also remains a lack of accessible state-sponsored services for victims of torture and ill-treatment.⁹⁹

Freedom of Expression and the Media

Another impediment to EU accession for Turkey is the restriction to freedom of expression and on the media. The country has been overcome with a climate of self-censorship, as identified by the Commission in its 2007 report. This is as a result of the judicial proceedings and threats against human rights defenders, journalists and academics alike. The Commission noted that the number of persons prosecuted for non-violent expression almost doubled in 2006, compared with 2005, with a further increase in 2007. More than half of which were under the Criminal Code, particularly Article 301.¹⁰⁰

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

⁹⁶Amnesty International Report; Turkey: The entrenched culture of impunity must end; EUR 44/013/2007; 5 July 2007

⁹⁷Amnesty international Report: Turkey: The entrenched culture of impunity must end, EUR 44/013/2007; 5 July 2007

⁹⁸EU Turkey Progress Report 2007, P.60

⁹⁹EU Turkey Progress Report 2007, P.13

¹⁰⁰EU Turkey Progress Report 2007, P.15

increasingly undermined by the more restrictive measures of the new Turkish Penal Code.¹⁰¹ 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).¹⁰² These Articles have consistently been used to suppress legitimate debate¹⁰³, which have created the self-censorship climate. The adverse affect of these Articles in the Kurdish regions cannot be overstated. At present, in Diyarbakır alone, there are six times more people on trial under Article 220 than under 301 in the whole of Turkey.¹⁰⁴

Turkey has been strongly urged to liberalize Article 301, which considers insults to ‘Turkishness’ to be a crime punishable by up to three years imprisonment.¹⁰⁵ This provision gained its unsavoury reputation when Nobel laureate Orhan Pamuk and Turkish-Armenian journalist Hrant Dink were charged for speaking out about Turkey’s role in the Armenian genocide. Hrant Dink’s later assassination in January 2007 has shown how the current restraints over freedom of expression have a chilling effect and contribute to creating an atmosphere of intolerance and hatred.¹⁰⁶

Women’s Rights

The legal framework guaranteeing gender equality is now in place, as reported by the Commission, but further efforts are needed to translate it into social reality. However, 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. Although the provision under Turkish law allowing partial justification for honour killing was removed in 2006, contrary to the lobbying efforts of women’s groups, the new code continues 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

¹⁰¹Freedom House, November 7, 2007

¹⁰²Page 15 of EU Turkey Progress Report 2007

¹⁰³Page 9; Publishers on Trial: Freedom of Expression in Turkey in the Context of EU Accession; Trial Observation Report; KHRP and BHRC May 2007

¹⁰⁴Page16; Freedom of the Media in Turkey and the Murder of Hrant Dink; Trial Observation Report; KHRP/BHRC/INDEX/A19; September 2007

¹⁰⁵Freedom House, November 7, 2007

¹⁰⁶European Parliament Debate 24-10-2007

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'. Domestic violence against women also remains of great concern. While, the Commission noted that the number of shelters for women had increased, most have been opened in the West of the country with only two in the Kurdish regions.¹⁰⁷ Nonetheless, it was acknowledged that domestic violence against women is widespread and honour killings, early and forced marriages continue to occur. Finally, women, and in particular Turkey's Kurdish women, lag far behind their male counterparts in areas such as education, literacy, access to meaningful employment, political representation and access to justice.

Internally Displaced Persons

In terms of Internally Displaced Persons (IDP), Turkey was accused of lacking an overall national strategy to address the issue, in the 2007 Commission report. Moreover the implementation of the Compensation Law between provinces continued to be inequitable.¹⁰⁸ Although in order to allow more potential beneficiaries to apply for compensation, the application deadline was extended until May 2008. One of the reasons for IDPs failing to return to their homes is the system of village guards. The Commission described that no progress had been made to abolish them, instead the Turkish Parliament recently made efforts to facilitate their recruitment in May 2007.¹⁰⁹ Other factors which continue to hinder the return of IDPs includes the absence of infrastructure, lack of capital, limited employment opportunities and the security situation which persists in the south-east.¹¹⁰ In addition, there have been regular reports of women applicants being turned away simply because of their gender. In December 2006 the Hacettepe University's Institute of Population Studies reported that the number of IDPs was substantially higher than previous estimates and is in fact between 950, 000 and 1, 200, 000.¹¹¹ Human rights groups put this number between 2-3.3 million.

¹⁰⁷EU Turkey Progress Report 2007, P.18

¹⁰⁸EU Turkey Progress Report 2007, P.24

¹⁰⁹EU Turkey Progress Report 2007, P.24

¹¹⁰EU Turkey Progress Report 2007, P.24

¹¹¹EU Turkey Progress Report 2007, P.23

Language Rights

Language rights continue to be hindered. In June 2007 the Council of State dismissed the mayor from office in the Sur municipality and dissolved the Municipal Council for providing multilingual services.¹¹² An appeal in this case is ongoing. Women's rights groups repeatedly note the undue difficulty this lack of municipal services in the spoken languages of most women in the rural areas of the Kurdish regions puts on Turkey's Kurdish women. Kurdish children are also still prevented from learning their mother tongue in the public school system. All private Kurdish schools were closed down in 2005 and there are no opportunities to learn Kurdish in public or private schools. Although 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 2007.¹¹³ 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. Nonetheless this has yet to be implemented and Turkey's progress in the area of cultural rights has been non-existent in the past year.

Minority and Cultural Rights

A realistic reflection of minority rights was also portrayed by the European Commission, namely that Turkey had made no progress on ensuring cultural diversity or for promoting respect for and protection of minorities in accordance with European standards.¹¹⁴ The Law on Private Educational Institutions entered into force in February 2007, but merely reconfirmed that minorities consist exclusively of non-Muslim religious communities. Furthermore a legal framework has yet to be established in line with the ECHR so that all religious communities can function without undue constraints. Non-Muslim religious communities continue to face problems such as a lack of legal personality, restricted property rights, management of their foundations and recovering property by judicial means.¹¹⁵

The European Commission stated that "the atmosphere in the country in particular as regards issues related to minorities and religion has not been conducive to the

¹¹²EU Turkey Progress Report 2007, P.22

¹¹³Hasan and Eylem Zengin v Turkey (App No. 1448/04)

¹¹⁴EU Turkey Progress Report 2007, P.21

¹¹⁵EU Turkey Progress Report 2007, P.16

full respect of fundamental rights and might de facto restrict their exercise”. Furthermore neither the Council of Europe Framework Convention for the Protection of National Minorities nor the European Charter for Regional or Minority Language has been ratified.¹¹⁶

Situation in the Kurdish Region of the South-east

In regards to the situation in the south-east, the Commission stated that, “no steps ha[d] been taken to develop a comprehensive strategy to achieve economic and social development in the region and to create the conditions required for the Kurdish population to enjoy full rights and freedoms”.¹¹⁷ Moreover the Commission pointed out that the armed forces continue to exercise significant political influence, and senior members of the armed forces have stepped up their public comments on domestic and foreign policy question including the Kurdish issue. Overall, in comparison to previous progress reports the Commission this year appears to have portrayed a less sanitised version of the human rights situation in Turkey. This can only be a positive thing in terms of addressing the issues.

Political Development and the Kurds

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’¹¹⁸. 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

¹¹⁶EU Turkey Progress Report 2007, P.21

¹¹⁷EU Turkey Progress Report 2007, P.23

¹¹⁸Yıldız, Kerim, (forthcoming April 2008), *The European Union and Turkish Accession*, London: Pluto Press, P.120

to withdraw his candidacy.¹¹⁹ This triggered early elections which resulted in a landslide victory for the AKP, which received 46.6 percent of the votes. With this strong mandate, Gül was again nominated and elected by the Parliament in the third round of the presidential elections.¹²⁰

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, 20 of whom were from the DTP and who formed their own political group within parliament.¹²¹ This was the first time since 1994 that pro-Kurdish politicians have been elected to parliament, and potentially the first time that they will be able to operate. The fact that the parliament is now more representative of the country's diversity is of course a positive development; however the 10% threshold is still a major problem. This matter has been brought to the European Court of Human Rights (ECtHR). In a judgement of 30 January 2007 the ECtHR held that the 10% threshold did not violate Article 3 of Protocol No. 1 to the European Convention on Human Rights (right to free elections); however, it noted that it would be desirable if the threshold could be lowered to ensure better representation.¹²²

Constitutional Reforms

On 21 October 2007 a referendum was held which endorsed a package of Constitutional reforms proposed by the AKP. The package includes the election of the President by popular vote and the shortening of the government's term of office from five to four years.¹²³ Some changes are 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 has been criticised as it has 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', is thus questionable. Moreover, this new Constitution has failed to address the Kurdish issue.¹²⁴

¹¹⁹EU Turkey Progress Report 2007, P.7

¹²⁰Yıldız, Kerim, (forthcoming April 2008), P.120

¹²¹EU Turkey Progress Report 2007, P.6

¹²²KHRP Press Release: ECtHR Grand Chamber in Hearing Today on Turkey's Election Threshold, 21 November 2007

¹²³EU Turkey Progress Report 2007, P.6

Military Interference

The e-memorandum referred to above is an example of public statements from the military which attempt to interfere in the political process. Such comments often concern secularism and the Kurdish issue. There have been several attempts to restrict academic research and public debate, especially on security and minority issues. There has been no progress in strengthening civilian control over the military and no parliamentary oversight of the defence expenditure.¹²⁵ However, the AKP's current strong mandate, and the fact that Gül is president, may lead to a weakening of military influence. The election of the AKP was seen by many as a clear message to the military that the public will not tolerate intimidation. On the other hand, the fact that the military has been 'defeated by the AKP' may perhaps lead to an attempt on the military's part to re-establish power over the government. Human rights observers note with irony that in a democratic country, one can talk about a political party 'defeating' the military in a public election. However, some well-respected commentators have gone even further and discussed the possibility for another military coup in Turkey.¹²⁶

This issue is connected to the conflict in the Kurdish region of Turkey. On 17 October 2007 the Turkish Parliament authorised a military intervention in Kurdistan, Iraq, with the justification that clashes between the PKK and the Turkish security forces had led to an escalation in conflict. However, there has not been a significant escalation in conflict, but rather an increase in the rhetoric surrounding the conflict. Clashes between the PKK and the security forces have taken place continually during the past few years. The pressure for an incursion stems not only from the need to fight terror or maintain self defence, as has been claimed, but also from a desire by the Turkish military to undermine autonomy in Kurdistan, Iraq. The Turkish military's Chief of Staff, General Büyükanıt, has on several occasions made his hostility towards the Kurdistan Regional Government (KRG) clear. Recently he posted a statement on the military's website where he described the development in Kurdistan, Iraq as the biggest threat to Turkey's future security.¹²⁷

¹²⁴Yıldız, Kerim, (forthcoming April 2008), P.124

¹²⁵EU Turkey Progress Report 2007, P.9

¹²⁶Yıldız, Kerim, (forthcoming April 2008), P.125

¹²⁷KHRP Public Statement: Turkish-Iraqi Border Tensions – the Bigger Picture, 23 October 2007

Democratic Society Party

On 16 November 2007 Public Prosecutor Abdurrahman Yalçınkaya 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”.¹²⁸ 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. It was asserted by the Public Prosecutor that all of the 221 DTP members should be banned from political activity for a minimum of five years. The ruling AKP government did however condemn the attempt to close the DTP. Prime Minister Recep Tayyip Erdoğan said, “We should not choose anti-democratic means against those who have entered Parliament with the votes of hundreds of thousands of our citizens”.¹²⁹ He warned that if Kurds were prevented from participating in the political process, they were far more likely to join the PKK rebels. The AKP has been striving to project an impression of tolerance and progress on the Kurdish issue towards Europe, in its hopes for Turkish accession to the EU.

The Future

Recent events and the current situation indicate the need for a new approach in the accession process. Turkey has not made the implementation of reforms a reality in 2007 and the EU has not succeeded in developing the process since the opening of negotiations. It is important to ask why this is and what can be done to get the reform process back on the right track. If EU accession served to drive forward reforms in Turkey up until 2004, yet since then has failed to have the same influence, the question arises of what role the EU plays today.

It is clear that the credibility of the EU is called into question by the disagreement among existing member states regarding Turkey’s membership. The EU should maintain a unified position on accession negotiations that is not then subject to the changing views of member states’ governments. If the EU requires that prospective member states are committed to constitutional reforms in order to meet the requirements of accession, including the Copenhagen Criteria, the EU itself must show equal commitment. Therefore it is important that the EU adopts a uniform

¹²⁸The Jamestown Foundation MMIV, “AKP Condemns Judicial Attempts to Close Kurdish Party”, Gareth Jenkins, Monday 19th November 2007

¹²⁹The Jamestown Foundation MMIV, “AKP Condemns Judicial Attempts to Close Kurdish Party”, Gareth Jenkins, Monday 19th November 2007

and consistent policy towards the accession of new member states, regardless of the views prevalent among different member states' governments.

Conclusion

There is 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 from both sides. The EUTCC opposes those strands of thinking which exist within some national governments and political parties, suggesting 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 in order to prevent Turkey from becoming a full member. The EU should condemn such views and most importantly, if the EU sends out signals that it is not committed to the accession, it is highly likely that Turkey in return will show less commitment to reform.

Both the EU and Turkey must be more forthright in identifying the inconsistencies in meeting the Copenhagen Criteria and be direct and transparent in the use of language around these issues. Both parties must assist each other in the process by specifically identifying and naming the specific dire situations of the Kurds, women, and Internally Displaced Persons. Rather than relying on the opaque and general terms that allow both sides to circumvent the problem instead of reaching the heart of the matter, it is essential that the link is overtly made between the lack of compliance of the Copenhagen Criteria and the treatment of the Kurdish population in Turkey.

Although the EUTCC believes that the Kurdish issue is much greater than that of simply resolving the armed conflict in the Kurdish regions of Turkey, it is of decisive importance and needs much more attention than the EU Commission has given it so far. Thus far, by not supporting a platform for democratic dialogue on the Kurdish issue and the situation of ethnic and cultural minorities in Turkey, and by not insisting on an immediate end to the conflict through diplomacy and dialogue, the EU has complicity accepted Turkey's myopic security-centred perspective on the Kurdish issue. Not only is it vital to achieving normalisation and long-term stability in the region, countenancing continuation of the EU accession process without tackling the security situation in the Kurdish regions is highly contentious. Democracy necessarily entails a commitment to the civil, non-violent resolution of disputes. 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 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/or terrorism and refusing to become involved in bilateral negotiations with the Kurds.

Although the possibility of a full Turkish military invasion of Kurdistan, Iraq - ostensibly to target PKK forces - has continued to persist, with the incursions in October and November of 2007, little attention has been given to the possibility of a negotiated solution to the armed conflict in Turkey's south-east. Evidence drawn from over 20 years of conflict with the PKK demonstrates that a military approach will only serve to raise nationalistic tensions in Turkey. International bodies, including the EU, must publicly insist on resolving the conflict in Turkey through negotiated dialogue, acknowledging the fact that the military alternative threatens to de-stabilise the Middle East. The EUTCC holds that the prospect of a political solution must be placed on the agenda to give democracy and dialogue a chance, as violence will radicalise Turkey and harm the accession process. The only serious option is to end the armed conflict and further the program of democratisation in Turkey.

Furthermore, it is necessary that the Turkish military be placed under civilian control. It is unthinkable to have a member state of the EU in which the military exercises the level of influence on governance and politics to such an extent as in Turkey. A normalised relation between civil and military actors in Turkey is crucial for further democratisation and for Turkey's status as a future member of the EU.

Restrictions on freedom of expression form another huge problem in Turkey today. It is very troubling that the number of persons prosecuted for non-violent expression of opinions almost doubled in 2006 compared to 2005, and has continued to increase in 2007. The new Penal Code which is responsible for this has affected the Kurdish regions in particular. Turkey has been strongly advised to liberalise Article 301, and the EUTCC hopes that the AKP government will take action without delay.

The civilian Constitution prepared by the AKP is on the whole a positive step, although it failed to involve civil society or to address the Kurdish issue sufficiently. The AKP government has gained a very strong position after the general elections in July, and the election of Abdullah Gül as president in August strengthened its position even further. The EUTCC encourages the AKP government to take this opportunity to carry out further reforms and resume the progress made between 2002 and 2004.

In its October 2007 resolution on EU-Turkey relations, the European Parliament asked the EU Commission to provide targeted support to civil society in Turkey, with particular attention to the south-east regions.¹³⁰ The EUTCC supports such attempts, as a vibrant civil society is a precondition for a functioning democracy. It

is important that a democratic culture grows from within Turkey; only through such bottom-up processes combined with the top-down reforms that the AKP government now urgently needs to resume, can Turkey develop into a fully-fledged democratic country.

Another challenge for the AKP government is to ensure that legally constituted Kurdish democratic parties are allowed to engage in peaceful political activity without interference or threat of closure. Erdoğan's condemning statement in regard to the application for closure of the DTP in November this year indicated a will to ensure political representation for pro-Kurdish parties.

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. Discussions among individual member states on Turkey's appropriateness as a member of the EU in reference to criteria other than those set out in the negotiation framework must be strongly criticised. Turkey, represented by the re-elected AKP government, must without delay resume the reform process and sincerely address the Kurdish issue, particularly the armed conflict in the south-east.

¹³⁰“EP praises Turkey's renewed commitment to reform, notes remaining areas of concern”, External relations, 24/10/2007. Available at http://www.europarl.europa.eu/news/expert/infopress_page/030-12154-295-10-43-903-20071023IPR12108-22-10-2007-2007-false/default_en.htm. Last accessed on 29/11/2007.

About the Contributors

Patrons

Archbishop Emeritus Desmond Tutu was a teacher in Johannesburg until 1957, when he took up studying theology. In 1961 he was ordained as an Anglican priest and studied for BA and MA degrees in Theology at King's College, London. Back in South Africa from 1967 to 1972 he drew attention to the situation of the black population, and in 1975 he was appointed dean of St. Mary's Cathedral in Johannesburg, the first black person to hold that position.

From 1976, at the time of the pupil and student rebellions in Soweto, Tutu supported an economic boycott of his country. From 1976 to 1978 he was Bishop of Lesotho, and in 1978 Secretary General of the South African Council of Churches. Desmond Tutu worked tirelessly against apartheid, preaching reconciliation between both sides, and in 1984 he was awarded the Nobel Peace Prize for his role as a unifying leader figure in the campaign to resolve the problem of apartheid. In 1986 Tutu became the first black person to lead the Anglican Church in South Africa, and after the fall of apartheid he headed the Truth and Reconciliation Commission. In 1999 he was awarded the Sidney Peace Prize for his work as Chairman of South Africa's Truth and Reconciliation Commission.

Shirin Ebadi was born in the city of Hamedan [northwestern Iran] in 1947. She has lived 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. Intolerant of 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 is 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.

Noam Chomsky was born on December 7, 1928 in Philadelphia, Pennsylvania. His undergraduate and graduate years were spent at the University of Pennsylvania where he received his PhD in linguistics in 1955. During the years 1951 to 1955, Chomsky was a Junior Fellow of the Harvard University Society of Fellows. While a Junior Fellow he completed his doctoral dissertation entitled, "Transformational Analysis." The major theoretical viewpoints of the dissertation appeared in the monograph *Syntactic Structure*, which was published in 1957. This formed part of a more extensive work, *The Logical Structure of Linguistic Theory*, circulated in mimeograph in 1955 and published in 1975. Professor Chomsky has received honorary degrees from University of London, University of Chicago, Loyola University of Chicago, Swarthmore College, Delhi University, Bard College, University of Massachusetts, University of Pennsylvania, Georgetown University, Amherst College, Cambridge University, University of Buenos Aires, McGill University, Universitat Rovira I Virgili, Tarragona, Columbia University, University of Connecticut, Scuola Normale Superiore, Pisa, University of Western Ontario, University of Toronto, Harvard University, University of Calcutta, and Universidad Nacional De Colombia. He is a Fellow of the American Academy of Arts and Sciences and the National Academy of Science. In addition, he is a member of other professional and learned societies in the United States and abroad, and is a recipient of the Distinguished Scientific Contribution Award of the American Psychological Association, the Kyoto Prize in Basic Sciences, the Helmholtz Medal, the Dorothy Eldridge Peacemaker Award, the Ben Franklin Medal in Computer and Cognitive Science, and others.

Harold Pinter was born in East London in 1930. He started writing poetry for little magazines in his teens. He travelled around Ireland in a Shakespearean company and spent years working in provincial repertory before deciding to turn his attention to playwriting (he started writing plays in 1957), even if continuing to play as an actor. Pinter's first full-length play (*The Birthday Party*) was produced two years earlier in 1958 at the Arts Theatre in Cambridge. Pinter's characters make discussions which are wildly comic and terrifying for their absurdity. He's famous not only for his 29 plays, but even as a screenwriter and director of theatre pieces and TV programmes.

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 Doğan), 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.

Yaşar 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 renowned Del Duca award in 1982 and receives a diploma from France's Legion D'Honneur. In 29 years he has become well known for his work.

Moderators

Jon Rud is a Norwegian human rights lawyer. He is a former Chairman of Amnesty International in Norway, of the Norwegian Bar Human Rights Committee and of the Norwegian Council for the Rights of the Kurdish people. He is now Chairman of the Kurdish Working Group of the Euro-Mediterranean Human Rights Network, an organisation supported by the EU. Jon Rud is member of EUTCC's Advisory Council.

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).

Jill Evans was Chair of Plaid Cymru 1994-96. In June 1999 Jill Evans and fellow candidate Eurig Wyn were elected as the first MEPs in Plaid Cymru's history. Jill Evans was re-elected to the European Parliament in 2004 and is a member of the Green / European Free Alliance Group - the fourth largest group in the Parliament.

She is a member of the Committee on the Environment, Public Health and Food Safety and the Delegation for relations with the Palestinian Authorities. She deputises on the Committee for Regional Development and Committee for Women's Rights and Gender Equality. She is Deputy Leader of Plaid Cymru The Party of Wales, party spokesperson for European and International issues and chair of CND Cymru.

Jean Lambert a former teacher from Walthamstow, East London, was re-elected in 2004 as one of the UK's two Green MEPs. She is one of nine MEPs representing the Greater London region, and is uniquely able to bring a radical Green perspective to the European debate on issues that matter most to Londoners. Jean was Principal Speaker for the Green Party of England and Wales in 1992 to 1993 and from 1998 to 1999. Lambert was Chair of the Green Party Executive in 1994 and has been an active member of the Green Party since 1977. Jean Lambert is the Vice-President of the Green/EFA group in the European Parliament.

Bairbre de Brún is one of two Sinn Féin MEPs and the first Sinn Féin politician to represent Northern Ireland in the European Parliament. She sits with the European United Left - Nordic Green Left.

From 1998 to 2004, she was a member of the Northern Ireland Assembly, in one of the seats for staunchly republican West Belfast. She served as Minister for Health,

Social Services and Public Safety in the power-sharing Northern Ireland Executive from November 29, 1999 to October 14, 2002, when devolution was suspended.

Feleknas Uca (Partei des Demokratischen Sozialismus, Germany) is member of the Confederal Group of the European United Left – Nordic Green Left. In the European Parliament she is member of the Committee on Development and of the Delegation to the EU-Turkey Joint Parliamentary Committee. She is also member of Lower Saxony PDS Regional Executive and founding member of Celle PDS District Association. Uca has been member of the European Parliament since 1999 and is Vice- Chairwoman of the Intergroup on Racism and Xenophobia.

Andy Carl is the executive director and co-founder of the London-based International NGO Conciliation Resources. He has led multiple programs in conflict areas all over the globe focusing on peace initiatives and conflict transformation. Furthermore, he established CR's Accord publications series which documents peace processes and promotes comparative learning. Andy represents CR in various national and international policy forums on conflict transformation practice, acts as a resource person for CR's programmes and develops new areas of work.

Speakers

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.

Francis Wurtz (Parti Communiste Français, France) 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.

Kerim Yıldız 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. Yıldız 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. Yıldız 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.

Joost Lagendijk is Chairman of the Interparliamentary delegation for Turkey in the European Parliament and also member of the Committee for Foreign Affairs, Human Rights, Common Security and Defence Policy. Lagendijk is a substitute member of the Transport Committee and member of the Delegation for relations with the Gulf States. He has been member of the Groen Links delegation in the European Parliament since 1998.

Akın Özçer is a former Turkish Diplomat. His secondary education was at St. Joseph High School, Istanbul. He studied superiors at the Faculty of Political Science in Ankara. His diplomatic career lasted from 1978 to 2005. From 1998 to 2001 he was Head of the Department of Policy and Criteria Relations with parliament, and from 2001 to 2005 he was Consul General of Turkey in Lyon.

He has authored scholarly books on the political history of Basque nationalism and the Spanish constitutional system in the context of its anti-terror policies.

Ahmet Türk was 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).

Vittorio Agnoletto MEP (partito della Rifondazione Comunista - Sinistra Europea, Italy) is member of the Confederal Group of the European United Left - Nordic Green Left. In the EP he is member of the Committee on Foreign Affairs, of the Subcommittee on Human Rights and of the Delegation to the ACP-EU Joint Parliamentary Assembly. Graduate in medicine and surgery, he was the co-founder and national chairman of LILA - Italian League against AIDS from 1992 to 2001. Agnoletto works with the IOM - International Organization for Migration - on preventive health projects in the Balkans. He was spokesman for 'Genoa Social Forum' during the 'G8' summit of July 2001 and is member of the International Council of the World Social Forum.

Emilio Molinari is a member of the Rainbow Group: Federation of the Green Alternative European Links, Agelev-Ecolo, the Danish People's Movement against Membership of the European Community and the European Free Alliance in the European Parliament

İbrahim Bilmez is a Law Faculty of Marmara University graduate. Between 2000 and 2002 he worked as a civil servant at İzmit 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 Öcalan's lawyer since 2002 and works at the Century's Law Office. He represents Mr. Öcalan in front of Turkish courts and at the European Court of Human Rights.

Nurettin Demirtaş born in Palu-Elazığ, 1972. Raised and finished secondary school in Diyarbakır. Studied business at university in Muğla and arrested in 1993 due to political activity. He was in prison for 12 years. After his release he was the founding president of an association for the development of civil society. He was elected the vice president of DTP in February 2007. He was elected as the president of DTP in November 2007. He is currently the President of the Party.

Pergüzar Kaygusuz was born in Tunceli, 1970. She left the Istanbul Faculty of Economics in the final year. Between the years of 1992-2001 she was imprisoned for political reasons. Between the years 2002-2005 she was actively involved in civil organizations such as the Mesopotamian Cultural Centre (MKM), TUHAD-FED and the HADEP Central Women's Branch. Since 2005 she has undertaken duties in various levels within the Democratic Society Party (DTP) and is currently still the Co-Chairperson for Education at DTP.

Margaret Owen is a British barrister. She further acts as Women and Children Programme Consultant and as fact-finding mission member for the Kurdish Human Rights Project (an independent, non-political human rights organisation dedicated to the promotion and protection of the human rights of all persons in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere), which is based in London and active since 1992.

Professor Dr. Cengiz Güleç was born in 1948 in the town of Sarkışla, Sivas province. He completed primary school here. He completed his secondary education in Kabataş, Istanbul at the Erkek College. After completing a degree in physics at the Hacettepe Univ. in 1972 he finished his Masters degree in Psychiatry at the same University and became and neuropsychiatry expert in 1976. Between 1976/78 he specialised in Adolescent Psychiatry at the St. Anne Clinic of Paris V. Physics Faculty funded by the French Government. In 1982 he became a lecturer at Hacettepe Univ. and in 1986 he was appointed Professor. Between the years 1996-99 he chaired the same department. Dr. Güleç was elected member of the faculty board for the Physics faculty in 1988 and had continued this position until 11 January 1999. At the same Univ. he won a 'Philosophy licence certificate' from the Philosophy department in 1972. In 1988 he won the Anthropology Higher Licence. His PhD on 'Cultural Identity Crisis in Turkey' was later published under the same title. He entered Turkish Parliament after being elected MP for the DTP Party in Sivas in the April 1999 elections. After working with the Foreign Affairs Commission and the Information and Technology Commission he continued his work as a member of the Inter-Parliamentarians' Union. Since 2002 he works as a retired member of teaching with a foundation providing special service in the field of Psychiatry. Dr. Güleç has 11 books published to his name. Aside from his career related work Mr. Güleç continues his diplomatic activities as a spokesman for the Human Rights struggle and the Turkey Peace Council.

Abdullah Demirbaş was born in Diyarbakır in 1966. He completed his undergraduate education in Sociology at Fırat University in Elazığ. He worked as a philosophy teacher from 1987 to 2007 and took part in the establishment of the Mardin Branch of the Union of Teachers (Eğitim-Sen) in Turkey. Soon afterwards, he was exiled to Yozgat.

In the General Local Elections of 2004, he was elected the Mayor of Sur Municipality in Diyarbakır. In 2007, due to a municipal council decision approving the provision of local services in multiple languages, he was dismissed by the Ministry of Interior. Mr. Demirbaş is the author of many publications on multi-lingualism, local democracy and local governance.

Mark Muller QC 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 Abdullah 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.

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.

Hugh Pope is a senior analyst with the International Crisis Group. Hugh Pope conducts research in Turkey and Cyprus, writing policy-focused reports on Turkish policy, Turkey's immediate region and the factors that mitigate or increase the risk of armed conflict. Pope's areas of expertise includes Turkey's membership negotiations with the EU, Turkish domestic politics, economics, Turkish Islam and the situation of the Kurds.

Professor Doğu Ergil is professor of political science at Ankara University. He earned his advanced degrees from the University of Oklahoma and the State University of New York, Binghamton. He is the author of several works on the Turkish political system, nationalism, conflict, and conflict resolution. His 1995 survey of the Kurds living in Turkey was the first of its kind and opened a debate about the goals of the PKK and the Turkish state, with respect to the aspirations of the Kurdish people. He has written widely on the PKK and their operations in the popular press and in academic journals. Professor Ergil is the founder of TOSAM, an NGO dedicated to engaging and educating the public on the issues facing Turkey, such as the Kurdish question. He was a fellow of the National Endowment for Democracy in 1999-2000.

Dr. Clem McCartney is an independent research consultant on conflict and community issues from Ireland. He has a wide range of experience in Northern

Ireland, the Caucasus, Middle East, Indonesia and Sri Lanka. He is an associate of various NGOs including Conciliation Resources in London, where he has been consultant to their Comparative Learning Project, working in Colombia and the Philippines, and their Caucasus Programme. He has also in recent years been an associate of Berghof Resource Network for Conflict Studies and Transformation (RNCST) in Sri Lanka, and the Berghof Foundation for Peace Support, Berlin, Germany, Quaker Peace and Social Witness in its activities in South Asia and INCORE at the University of Ulster. Recently his main involvement has been as consultant to the Shared Societies Project of the Club de Madrid. Clem's interests include how to create the conditions for negotiations, dialogue processes and the problems of implementing peace agreements, and conflicts during the post-settlement phase.

Ali Yiğit was born in 1959. He is an exiled member of the Turkish Parliament and a former member of the Democratic Labour Party (DEP). He currently lives in Holland. Ali Yigit is also a spokesman for the Confederation of European Kurdish Associations. He is a former Member of Parliament for Mardin, and President of the Union of Democratic Kurdish Federations in Europe (KONKURD), Holland.

Professor 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.

