

'The Turkish Accession and the Need for Change'

Speech delivered by KHRP during a seminar on 'The Kurdish Human Rights Situation, a Lasting Peace and a Democratic Development', European Parliament, Brussels, 29 April 2009

Introduction

I'd like to thank the organisers for inviting us to speak today. Kurdish Human Rights Project has been working in the Kurdish regions of Turkey, Iran, Iraq, Syria and the Caucasus for over 16 years, and I cannot overstate how much our world and the places we have worked have changed during that time. Indeed, the world has changed dramatically since Turkey became an official candidate for accession to the EU in 1999. And, it is a different place than just 5 years ago when formal accession talks began. Acts of terror by organized groups have had international ramifications on how states act and are seen to act. We have once again witnessed the impact torture and ill treatment has, not only on its victims, but also on the nations that condone and support such treatment. We have also seen how armed groups and states alike have manipulated fear and public sentiment, so that citizens turn a blind eye to them venturing outside the internationally agreed boundaries established in customary and conventional law in the name of national and group security.

Of course, there is also the current economic downturn, which has reminded us of the reality of our interconnectedness, that we are subject to a larger group dynamic and that what affects one of us, affects all of us. So, the world is a changed place. And at this time of transformation, in looking at the fundamental values, systems, practices, and principles that we believe must exist in order for us to move forward... to progress globally, it is critical that we challenge ourselves in the same way in assessing the accession process.

What are the systemic issues that have brought reforms in Turkey to a standstill?

In the view of the KHRP, the immediate and long-term impact of the ongoing armed conflict in Turkey on the civilian population must certainly be one.

The narrow definition of minorities in Turkey's constitution must be another.

The view that women can only be good at their work inside the home



11 Guilford Street
London WC1N 1DH
United Kingdom
Tel: +44 (0)207 4053835
Fax: +44 (0)207 4049088
khrp@khrp.org
www.khrp.org

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or outside the home, but not in both arenas, and that men cannot be equal partners in the advancement of women's rights are third and fourth.

And finally, the equating of Kurdish group rights, especially civil, economic and political rights, with threats to national security must also be included.

Through its casework at the European Court of Human Rights, KHRP has worked with its local partners to bring the fore the systemic issues that plague Turkey's human rights agenda and the EU's support of it.

The European Union, as well as the larger international community, has an obligation to push Turkey to make the lasting reforms necessary which make it clear that valuing multiculturalism is inherent to becoming a part of a union that is home to member states of very different cultural, linguistic and ethnic backgrounds.

Because...

Although it has played an important and valuable role in Turkish reform over the last decade, the EU has failed to radically advance the human rights situation in Turkey in the way that many had hoped it might. Particularly significant has been its failure to highlight the importance of resolving the Kurdish issue and the conflict in the southeast of Turkey. If Turkey is to deepen its democracy, improve its human rights situation and achieve EU membership, working towards a peaceful solution to the Kurdish issue will need immediate attention.

This year's EU Commission Turkey report demonstrates all too well how little attention was paid to group rights. Little mention was made of language rights and there was no mention of the proposals that have been suggested by some opposition party politicians and civil society groups for greater devolution of power to the regions in order to cater for Kurdish cultural differences, which features prominently in EU countries, including where we are right now, Belgium and KHRP's own country, the UK.

Given the importance that the EU attaches to improving the human rights situation in Turkey, it is extremely important that they acknowledge the role the Kurdish issue plays in Turkey's human

rights record. A large proportion of the human rights violations that occur in Turkey are related to the Turkish establishment's distrust and suppression of ethnic pluralism. The time has come to not just manage Turkey's conflict with its Kurdish population, but to move towards resolving it.

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

Concretely, the EU must do a number of things to push this forward:

Firstly, both the EU members and the Turkish state must acknowledge and recognize the existence of the Kurdish issue and the role it plays in further conflict and instability in the region. True and lasting reform is not possible as long as the reality and impact of the Kurdish issue is avoided. Only with honest and open dialogue can Turkey and the Kurds, with the help of the EU, recognize that each side has much to gain from recognition and reconciliation.

Secondly, it must cease to underplay the severity of the conflict. The EU has thus far failed to address the issues raised by Turkey's cross-border operations into Northern Iraq. The intensification of cross-border operations by the Turkish military continues to result in widespread destruction and the displacement of civilians into refugee camps. As in the past, Turkey's use of force in dealing with the PKK, with little or no regard for civilians, has created an atmosphere where dialogue and reform are increasingly not possible.

The loss of property and livestock and the displacement of whole villages is an unacceptable consequence of these bombardments. The civilian and environmental toll of these operations is overwhelmingly clear and more must be done to ensure that they do not continue.

KHRP has submitted a number of cases to the ECtHR on behalf of victims of these cross border attacks. These cases represent clear violations on the part of Turkey to the right of life and the right to

respect for private life and home. There has been no effective investigation by the Turkish authorities into allegations of suffering and ill-treatment. Moreover, it is unclear what, if any, domestic remedies are available to the victims of the attacks.

The use of military force under the guise of fighting terrorism does nothing to resolve the Kurdish issue and has provided a justification for maintaining temporary military security zones in southeast Turkey. The security situation, lack of basic infrastructure and limited employment opportunities make returning home impossible for many of the approximately 3.5 million IDP's still in Turkey. Further, such arrangements create an atmosphere where the 2006 Anti-Terror Legislation is misused and torture and ill-treatment are regarded as justified in the self-defence of the Turkish state.

The reality of the conflict, and of the existence of the Kurdish issue, must be urgently and publicly acknowledged and the EU must bring its full influence to bear on Turkey to begin a dialogue and move towards lasting conflict resolution. As long as the EU fails to make Turkey acknowledge the political nature of the Kurdish issue, it risks undermining its reputation as an honest and ethical arbiter of regional issues and creating resentment amongst Kurds.

Additionally, without the external impetus and support provided by the EU, political leaders in Turkey seem unlikely to act forcefully on the Kurdish issue given the political risks attached to altering the status quo. Thus it seems likely that only once the EU explicitly lets it be known that achieving a political resolution to the Kurdish issue is vital to Turkey's chances of achieving membership of the EU will the issue begin to receive the energy and attention from within Turkey that is required to achieve a resolution.

Therefore, the onus is on the EU to forcefully and continuously insist that Turkey refrain from launching cross border operations in coordination with the Iranian military, and instead engages in dialogue and negotiation to begin to bring an end to the violent conflict and heal wounds on both sides.

Finally, the European Union should identify and promote a set of legislative changes and judicial and administrative targets necessary for Turkey to put itself in compliance with the political and human

rights criterion for accession as outlined by the Copenhagen Criteria. Chief among these must be changes to the Constitution.

As the recent elections, and the arrests and detentions that followed, show, a government that lacks transparency and a respect for pluralism has little reverence for democratic outcomes. Instead, when faced with electoral losses or criticism, it becomes sensitive, angry and vengeful, particularly against an unpopular ethnic or cultural minority.

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

Turkey has failed to implement independent inspections of detention facilities despite a recommendation from the Council of Europe's anti-torture committee¹ and has all but ignored the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) regarding the detention of Abdullah Öcalan on Imrali Island.²

Another obstacle to achieving an acceptable level of respect for human rights in Turkey has been the poor implementation of European Court of Human Rights (ECtHR) case law. The Turkish constitution requires that the judgements of the ECtHR supervene over the decisions of national judicial bodies. This should be an extremely important tool for transforming the jurisprudence of Turkish courts and the policies of

¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report to the Turkish Government on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7-15 September 2003, Strasbourg, 18 June 2004, § 40.

² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report, 6 September 2006.

the Turkish government; however, to date this has not been the case. Areas in which implementation has been lacking include laws on conscientious objection, control of the security services, remedy of abuses, and freedom of expression.

The reform of Article 301 of the Turkish Penal Code has attracted considerable attention but has, in reality, been one of many reforms that are far less extensive than is necessary to bring about real change. The impact of amending the article seems little more than cosmetic. The ability of the Turkish state to prosecute speech that is critical or questioning of the political or military establishment is considerable and remains a threat to free speech in Turkey. Article 301 is just one of a host of anti-freedom of expression provisions within the Turkish Penal Code and Anti-Terror Law, and have been used frequently to punish those making statements not approved by the establishment.

Public schooling in Kurdish remains illegal, even in districts where the population is more than 80% Kurdish. In addition, access to public services in languages other than Turkish remains an issue. These rules effectively discriminate against anyone who does not speak Turkish and disproportionately hurt the Kurdish population.

Despite some promising developments in other areas, such as the creation of the new Kurdish-language channel TRT-6, freedom of association and assembly remain heavily restricted. People taking part in political demonstrations, trade unions or other activities critical of the government or dealing with taboo subjects are often met with police harassment, violence and detention.

The EU is best placed to pressure Turkey to find a political solution to the Kurdish issue and to continue moving in the direction of democracy and the rule of law. Turkey's strategic importance and military cooperation should not whitewash its human rights record or excuse it from making substantive and lasting constitutional reform a priority.

Changes are needed to increase civilian control of the Turkish military; Constitutional reforms are necessary in order to ensure that closure cases like those against the AKP and DTP do not disrupt Turkish democracy; Judicial reform is necessary to ensure that judges and prosecutors are carrying out their duties in a fair and unbiased

manner; And the rights to freedom of expression and association must be respected.

Although not a comprehensive list of necessary reforms, these issues help make clear that the EU can and should be doing more to urge and assist the Turkish state in achieving the progress necessary for accession

Conclusion

Within the EU, it is vital for both Europe and Turkey that all the relevant players unite around the membership criteria. It is equally important that the EU adopts a proactive, precise and explicit stance when it comes to encouraging Turkey to pursue the reforms necessary to meet that criteria, providing the right rhetoric, incentives and encouragement to help push reforms through. In Turkey the momentum for reform needs to be regained after a period in which the pace of progress has slowed and public support has waned.

The ongoing armed conflict between the parties has gone largely unchallenged in part because of the language of the 'War on Terror.' With many international figures in and outside the Council of Europe, including Gordon Brown and President Obama, changing their language and the logic it flows from, Turkey has a unique opportunity to be at the forefront of a new era in conflict resolution. By reaching out to its Kurdish population and working to instil trust in government and establish true democracy, Turkey will begin moving towards reconciliation. All parties to the conflict must recognize the time for change and demonstrate courage and leadership by committing to all the ideals enshrined in the ECHR and other international human rights conventions and take concrete and tangible steps in showing this commitment.