

Human Rights and the Transformation Process in Turkey

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About the Author

Bülent Arınç was born in Bursa in 1948. He graduated from Manisa High School and the Faculty of Law, Ankara University. For many years he worked as a lawyer in Manisa. Elected as the Welfare Party's Member of Parliament (MP) for Manisa in the 1995 general elections, he was a member of the Welfare Party's Central Decision and Administration Board, as well as serving on the Justice Committee and the Turkey-EU Joint Parliamentary Committee of the Grand National Assembly of Turkey. Elected as the Virtue



Party's MP for Manisa in the 1999 general elections, he served as Group Deputy Chairman of the Virtue Party for two successive legislative terms, and was a member of the Foreign Affairs Committee of the Grand National Assembly of Turkey. He joined the Justice and Development Party, founded after the Constitutional Court's decision to disband the Virtue Party in 2001, and was elected to serve as Group Chairman of the Party in Parliament. Between 2002-2007,

he served as Speaker of the Grand National Assembly of Turkey. In the 2007 general elections, he was elected as Head of the Turkish Delegation to the Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC). Since 1 May 2009, he has served as the 60th Government's Minister of the State and Deputy Prime Minister. On 12 June 2011, he was elected as the MP for Bursa Province, and has been serving as Deputy Prime Minister and Spokesman for the 61st Government. Bülent Arınç knows English at an intermediate level, and is married with two children.

Human Rights and the Transformation Process in Turkey

Bülent Arıncı

Introduction

The increase in the number of nation-states and the violent wars of the last century has triggered the evolution of a new approach that seeks to find a place for the individual in international law. In other words, human rights has become internationalised and this is for the good of all humanity. Today, the fundamental human rights principles, such as justice, equality and freedom, have been embraced unquestionably and put into writing, which demonstrates that they were adopted by all peoples on earth.

The fundamental principles of human rights include ensuring a life and governance system where all people will be free and equal and not subject to discrimination due to their race, colour, sex, language, religion, faith, nationality or ethnic origin. In addition, the rights must include an adequate standard of living for the individual, encompassing health, education, food, shelter and social services; an equal enjoyment of legal protection; freedom of assembly and association; and freedom of belief, conscience, thought and speech.

One can see the traces of the human rights principles that I have just mentioned in the American Declaration of Independence and in the French Declaration of the Rights of Man and of the Citizen. However, there have been times when these documents have lost their function due to the arbitrary manners and the cruel regimes of some rulers. Particularly, the destruction caused by World War II prompted governments to take measures to prevent such grievous incidents and pave the way for international organisations and judicial mechanisms.

When discussing the issue of human rights, we should also consider the boundaries, shortcomings, and problematic aspects of today's human rights rhetoric. I do not agree with those who hold a one-sided view of the norms of universal human rights and interpret their historical evolution as part of the Westernisation and Europeanisation process. Within different intellectual traditions, many philosophers have rejected certain perspectives that suggest a limited and narrow understanding of human rights, and have introduced new approaches that suggest a wider scope. They have adopted a global perspective, instead of those based on white, western or male dominance. Thus, I believe that among the many prominent traditions that have developed throughout the world, approaches that assert reasonable and fair interactions between different communities within a globalist framework and political consciousness are the most valuable.



Human Rights: Turkey's Perspective

Turkey, which has been a part of Europe for centuries, has been influenced by the developments in the international human rights regime from the beginning. In the last periods of the Ottoman Empire, there were considerable changes in the rights of both nations and individuals. The reforms in citizenship, education and the Ottoman administration failed to prevent the wars and secession of some parts of the empire. After World War I, this change manifested itself in the regime of a new Turkey that was established in 1923.

After World War II organisations such as the United Nations (UN), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the UN Commission on Human Rights, the International Court of Justice, the International Criminal Court and the European Court of Human Rights (ECHR) all played important roles in the development of human rights. As a member of these organisations and as an EU candidate country, Turkey has been a party to human rights related UN conventions, OSCE documents, European Convention on Human Rights and other documents of the Council of Europe, and has made legal regulations in this field for the ECHR jurisprudence, the EU's Accession Partnership Document, the National Programme and the Copenhagen Criteria.

Within different intellectual traditions, many philosophers have rejected certain perspectives that suggest a limited and narrow understanding of human rights, and have introduced new approaches that suggest a wider scope.

Nevertheless, legal regulations are not sufficient on their own. The disparity between the legal regulations and the practice is a controversial human rights issue worth discussing. In this respect, comparing today's Turkey with the Turkey of a decade ago is important. A

decade ago, the image of Turkey was that of a country which was continuously criticised for human rights issues, blamed for torturing detainees and prisoners and depriving them of fair trial, and where prohibitions and obstructions in education, media and politics were rife. Among the reasons behind this unfortunate image, we can count the interruptions to our democracy by the *coups d'états* in 1960, 1971 and 1980, the periods of state of emergency in counter-terrorism, and failures in economy, education and health. However, it is a fact that the will and determination to prioritise human rights was lacking in the political atmosphere of that period.

Therefore, since coming to power in 2002, the Justice and Development Party firstly broke the shackles of the minds and made revolutionary reforms in issues that were regarded as taboos. For example: the state of emergency, which allows for the

suspension of human rights, exists in the legislations of almost all countries. However, this practice may bring about abuses and bad practices. The 25 years of state of emergency which was declared due to terrorism was abolished only 12 days after the formation of our Government on 30 November 2002. Indeed, being the first action of our Government, it was a clear sign of our human rights perspective.

Main Principles

The Justice and Development Party projected changes in Turkey in three main spheres: democratisation, economic development and multidimensional foreign policy. In order to succeed in this endeavour, we adopted the principles of fighting against poverty, corruption and prohibitions. Our vision of human rights is apparent in all three of these spheres. We have accomplished revolutionary tasks in these three areas. It has always been on our minds to elevate human rights in our country to international standards and ensure a peaceful life for our people. Our policies, efforts and activities have been designed in a way to ensure best practices in human rights.



As we consolidated democratic and pluralist politics, the support from our people grew. As we dismantled the tutelage on politics, people from all walks of life demonstrated their support. The demand by our citizens for a free and democratic Turkey strengthened the environment for democratic politics. The civil-military relations took the same form as a democratic country. As the rusty wheels of democracy began spinning slowly, success in economy and foreign policy became inevitable.

Recently Turkey has been striving to settle the issue of terrorism that has claimed many lives over the last three decades. Terrorism hindered improvements in our economy, foreign policy and democratisation process. Our Government's efforts to end

terrorism and violence generated great excitement in Turkey. I am filled with this excitement as well, because the end of violence signifies achieving much higher levels of human rights, democracy, development and foreign policy.

We definitely do not disregard the social and economic problems behind terrorism while we silence the guns. We regard the problems and demands of our Kurdish citizens as a human rights issue, independent of terrorism. We have witnessed that each step we have taken in human rights issues has narrowed the fields of abuse by terrorism. We rejected policies of neglect and alienation, as we consider all citizens of our country as equal. Nothing can be achieved with terrorism, guns and violence. Our recent initiative aims to silence the guns for good and let the politics and ideas speak. We are open to all ideas and regard the expression of any

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non-violent idea as freedom of expression. We guarantee to ensure the function of all democratic methods to allow our citizens to enjoy this fundamental right without discrimination.

Human Rights in Practice

Basic Developments

Our reform strategy, which aims to establish the infrastructure needed to entrench respect for fundamental rights and freedoms, includes three main elements. These are: making the necessary amendments in legislation, accession to international conventions on human rights and ensuring an effective practice of reforms. To this end, nine harmonisation and reform packages between 2002 and 2006, and a number of constitutional amendments in May 2004, were adopted. Many legal and administrative regulations have been introduced as well.

The constitutional amendments adopted with the 12 September 2010 referendum introduced new rights for citizens, expanded the scope of current constitutional rights, introduced mechanisms

to protect constitutional rights, strengthened the state of law, restructured the Constitutional Court and the High Council of Judges and Prosecutors to approximate their equivalence in the democratic world, limited the jurisdiction of military courts and introduced individual application to the Constitutional Court.

The ‘Fourth Judicial Package’ reform bill, which included additional improvements in freedom of expression, was adopted by the Grand National Assembly on 11 April 2013. This package aims to further strengthen the legal framework concerning freedom of expression by inserting the relevant basic parameters of the European Court of Human Rights into the penal code. Turkey’s Human Rights Institution and the Public Monitoring Institution (the Ombudsman’s Office) were established. The Ombudsman’s Office has been accepting applications since 29 March 2013.

Moreover, The Human Rights Inquiry Committee, which also functions as a national monitoring board, is actively working under the Turkish Grand National Assembly. The Committee inspects onsite the conditions of prisons and other corrective facilities, works in cooperation with NGOs and submits their findings to the Government for any necessary measures.



In spite of all the legal reforms, what Turkey indeed needs is a new constitution. We have had three different constitutions until now, none of which was prepared in a regular process with democratic participation. The post-coup constitutions allow for a limited democratisation and improvement of human rights. Therefore, we started working on a new constitution in 2012. We will prepare a constitution that represents civilian power and encompasses the diverse values in our society. Human rights will certainly be a key in this constitution.

In addition, we made comprehensive reforms in cultural rights, which is a significant part of human rights. We prepared the ground for private courses teaching the different languages and

dialects spoken by Turkish citizens in daily life, and broadcasting in these languages in audio-visual media. TRT-6, a public TV channel, has been broadcasting 24 hours a day in Kurdish and Zazaki since January 2009.

Women's rights and combating violence against women are among our priorities. During our chairmanship of the Committee of Ministers of the Council of Europe, we spearheaded the preparatory work on Istanbul Convention (Convention on preventing and combating violence against women and domestic violence), which was the first international document concerning violence against women. Turkey is the first country to sign and ratify this convention. The Law to Protect Family and Prevent Violence against Women was ratified on International Women's Day on 8 March 2012. The law aims to protect women, children and family members who are exposed to or are at risk of being exposed to violence, to protect victims of stalking and to prevent oppression and violence against these persons.

The difference between legal regulations and implementations is important; we have regarded human rights as a comprehensive and inclusive right of our people.

We have increased our efforts to improve human rights awareness through education. Today, human rights issues are a part of the primary school curriculum in Turkey, and democracy and human rights are part

of elective courses at high schools. Various universities opened human rights centres. *Human Rights* is a compulsory course in the Police Academy and part of the training programmes for public service employee candidates. In this context, 2011 and 2012 alone, approximately 52,000 security personnel participated in human rights training programmes.

The intensive process of reform we have initiated within Turkey at the beginning of the 2000s includes endeavours pertaining to different religious groups and minorities as well. We now prefer the phrase 'different faith groups' to the expression 'non-Muslim' employed in the Treaty of Lausanne. Under the Treaty of Lausanne, our citizens of different faith groups possess their own schools, places of worship, foundations, hospitals and media.

Recently, as part of the extensive reforms in human rights and democracy, we made some regulations that will improve the legislation concerning our citizens of different faith groups. Since issues related to pious foundations (*waqf*) of communities are within my area of responsibility, I am able to provide precise information on this subject. With regulations concerning the foundations of communities, dated 2003, 2008 and 2011, we considerably improved the property rights of the congregation foundations. The amendments in the Law on Foundations in 2008 and 2011 sanctioned the return of properties of 165 minority foundations that had been seized in the past for various reasons. 111 properties were registered and monetary compensation was paid for 15 properties.

I am following this issue in person and we are returning these properties, not for any reciprocity or expectation, but simply out of consideration that these people are part of Turkey. We wish to do what must be done for justice. Moreover, the Directorate General for Foundations has finished

restoring five churches, while the restoration of two synagogues and four churches is still going on. The Prinkipo Greek Orphanage in Büyükada was registered under the Greek Patriarchate. The Soumela Monastery is open for worship once a year since 2010. Similarly, since 2010, a service is held each year at the Akdamar Church that is much valued by the Armenians. Lastly, we permitted the reopening of the Greek school in Gökçeada and are still working on the issue of the Halki Seminary.

387 places of worship belonging to different faith groups are currently active in Turkey. There are no work restrictions for foreign clergymen with work visas. It is not a crime for an individual to engage in activities to spread his religious beliefs in Turkey. On the contrary, it is a crime to prevent an individual by threat or coercion from expressing or spreading his religious

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belief. We regard minorities, different faith groups and foreigners as part of and a fortune to our country. We do not discriminate against them; on the contrary, we are being criticised for positive discrimination concerning these people. We often convene with representatives of different faith groups, listen to their problems, and try to solve them in accordance with the law and our capabilities.

Human Rights and Social Welfare

Of course human rights is not only about freedom of expression, faith and demonstration. Everyone has the right to food, clothing, housing and medical care for the health and well-being of himself and of his family, as enshrined in Article 25 of the



Universal Declaration of Human Rights. During times of economic crises, initial cuts are directed at social policies. This often means pushing aside those in need into worse life conditions. I know that the European Union Agency for Fundamental Rights urged EU members to remain on guard against the increase in human rights violations during the Eurozone crisis.

We should not forget that enjoying such rights as health, education, food, housing and receiving social services are basic human rights. Without ignoring these areas, Turkey has undergone some radical changes in the sphere of economic and social rights during the last decade. This success has also increased the opportunities available to Turkish citizens receive in the aforementioned areas.

We have constructed a brand new Turkey and have left behind the image of a country, which experienced tremendous crises in 2001, in which conflicts can be triggered by tiny issues. Today, Turkey is the 16th largest economy in the world and the 6th largest economy in Europe. I mentioned earlier about our fight against poverty. In 2002, the proportion of the population which received

less than US \$4.3 in a day was 30.3%. We decreased this figure to 2.7% in 2011. While the per capita income was US \$3,500 in 2002, in 2012, this figure surpassed US \$10,500. The inflation rate was 65% in 2002, now we have a single digit inflation rate, which was recorded as 6.2% in 2012.

I also mentioned corruption. We worked to eliminate conditions from which corruption could emerge. Therefore, the Turkish economy, which grew only by 3% between 1993-2002, grew by approximately 6.1% between 2003-2010. Our GNP, which was US \$230 billion in 2002, reached US \$772 billion in 2012. Our exports, which amounted to approximately US \$36 billion in 2002, rose to US \$151 billion in 2012.

Those who see these basic economic indicators ask us how we have succeeded. If you have economic problems, then you will certainly have problems concerning democracy, foreign policy and human rights. In this regard, we consider that our people deserve good governance. We have to accept this fact: the economy is still the top priority for mankind. When you disturb the economic balance and cannot manage to govern well, you could face unexpected actions and incidents. Political power can shift. Patriotism, honesty and human rights can be forgotten in the blink of an eye. In our 11th year of power, we received the votes of 21,5 million citizens, equivalent to 50% of the overall votes. We have been displaying accountability and transparency as a political power for which every one person out of two has voted. In other words, we are happy to see our citizens exercise greater control over us.

It has also been possible to increase expenditures in such areas as health, education and housing, thanks to economic progress. While the Ministry of Health's budget was US \$2.2 billion in 2002, we have increased this amount to US \$8 billion in 2011. We have opened 2021 new health facilities between 2003 and 2011. Our citizens no longer have to wait in queues for hours, and they receive health service in the shortest time possible and get immediate treatment in emergency services. We have extended the scope of health insurances. We provide state guaranteed health services until age 18.

Before we came to the power, the security and defence sector was receiving the biggest share of the budget. We have raised the Ministry of National Education's budget, which was US \$4.2 billion in 2002, to US \$19 billion in 2011, hence, this has become the biggest sector. We have built 170,000 new classrooms. The education system in Turkey has gone through a radical change and has been equipped with the latest technology. Students in primary and secondary education get their textbooks for free. We have facilitated a nine-fold increase in the scholarships granted to primary and secondary school students whose families have financial difficulties. While the number of public and private universities in 2002 was 76, it has risen to 168 with the 92 newly founded universities during our term.



We have supported the construction of 544,887 housing units through the Housing Development Administration of Turkey (TOKİ). We, in cooperation with TOKİ, have invested nearly US \$25 billion with the aim of providing our citizens with affordable quality housing facilities. As I have mentioned, the difference between legal regulations and

implementations is important; we have regarded human rights as a comprehensive and inclusive right of our people. We keep the scope of human rights as wide as possible, and implement one by one what is written down in the papers.

Human Rights and Foreign Policy

The human rights issue is a fundamental aspect which shapes our foreign policy. We have supported the Arab Spring from the very beginning, since we regard it as fundamental and legitimate demands by people living in those countries. We have evaluated the fall of certain oppressive regimes as a positive step towards the restoration of basic human rights.

In this context, Turkey has approached the developments taking place in Syria through the same perspective. Some countries, as

well as the opposition parties in Turkey, are questioning the change in our stance towards the Assad regime, with which we previously had close relations. The reason for this is quite clear; we have warned the Assad regime, first in a friendly manner, when we saw that the democratic rights and demands of the Syrian people were not being met by the oppressive regime; nonetheless, we had to change our approach when we saw that the situation continued regardless of our warnings. Our aim is to help provide the Syrian people with their rights. We have opened our borders to these people deprived of their basic rights. Although international support to these people is extremely limited, we have hosted 200,000 refugees and 332,000 Syrian people in total thus far.

What is more, we have displayed a similar attitude towards the rightful cause of the Palestinian people and have exerted efforts with the aim of providing Palestine with the 'non-member observer state' status in the United Nations. Our primary objective is to help people live in a world in which they can all enjoy their basic human rights. For this reason, we do our best to stand against the injustices all over the world. We support human rights in every way that we can.

In this context, we expect non-discriminatory and objective action from international organisations. We do not think the current structure of the United Nations is capable enough. We have witnessed the political interests of the permanent members causing the international community to act too late or to remain unresponsive towards the incidents in Bosnia, Syria, and during the Arab Spring. Tens of thousands of people have died and millions of people have been displaced due to lost time and late responses. We cannot accept the fact that final decisions for the problems faced by the people all around the world are up to these five permanent members, especially when we are talking about human rights.

Conclusion

I have attempted to explain in detail the legal framework and implementation processes with regard to human rights in Turkey. These are examples of how historic transformation is reflected

in daily politics. However, I do not think these developments are sufficient. We will do our best to improve the rights of our citizens. For all these reasons, I do not consider it fair to present the situation in Turkey based on false data and by ignoring all the steps that have been taken so far. We certainly take the criticisms into account; however, we expect our progress to be taken into consideration as well.

I think sharing the details of the ‘arrested journalists’ issue would be useful. The majority of those who are referred to as ‘arrested journalists’ have been accused of serious crimes, such as being members of armed terrorist organisations or supporting such organisations. The number of terrorist organisations and acts of terror in Turkey is unfortunately very high. The fundamental condition of human rights is to enjoy one’s freedom unarmed,

non-aggressively, with respect for the rights of other people and by obeying the rules. The aforementioned individuals have been charged with such crimes as extortion, deliberate injury, fraud and supporting terrorist organisations, none of which are related to the profession of journalism.

Turkey has been undergoing a radical transformation and expects to receive the rightful respect in all domains, including human rights, with its young, educated and globally integrated citizens.

For these reasons, we cannot say that journalists get arrested in Turkey simply because they perform their profession. Besides, is it possible to favour a person who has committed a crime against the law simply because s/he is a journalist? No, it is not possible; however, if s/he commits a crime through the press, s/he is charged with the minimum punitive level set forth by the new judicial package.

In spite of all these facts, the Committee to Protect Journalists (CPJ) has been issuing different figures which contradict themselves. Firstly, they have said that 76 journalists have been arrested. Then, they reduced this number to 49, which is not true either. If they had conducted a comprehensive research, they would have seen that the number of journalists who have been arrested for journalism-related issues can be counted on the fingers of one hand.

That said, I would have a guilty conscience even if there were only one arrested journalist. As a former lawyer and a politician who supports the rights of the press, I feel discomfort by the fact that Turkey is represented as a country where journalists get arrested. This is not fair at all.

Another criticism is about the long detention and trial processes. There is a misconception regarding this issue, due to certain publicly known individuals. Statistics show a totally different picture. In 2001, more than 50% of the people in jails were under detention. Today, however, this figure is 23.3 people out of 100. The EU average is 25.2% and it is 25.4% in France, and 40.6% in Holland. Therefore, Turkey has succeeded in decreasing the rate of people under detention by almost 50 %. Three-fourths of the detainees are released between 0 and 12 months. Almost 75% of those alleged to be kept in prison for 'so long' are released within 12 months, and 16% are released within two years. The long detention periods in Turkey are seen in the cases of KCK, Ergenekon and Balyoz. This misperception is stemming from the fact that some publicly-known figures are still kept under detention in connection with the above-mentioned cases.

In conclusion, Turkey has been undergoing a radical transformation and expects to receive the rightful respect in all domains, including human rights, with its young, educated and globally integrated citizens.

About SAM

Center for Strategic Research of the Ministry of Foreign Affairs of the Republic of Turkey (SAM) is a think-tank and a research center which is chartered by law and has been active since May 1995. SAM was established as a consultative body to provide Turkish Foreign Policy decision makers with scholarly and scientific assessments of relevant issues, and reviews Turkish foreign policy with a futuristic perspective.

SAM conducts research, organizes scholarly events relevant to the ever expanding spectrum of Turkish Foreign Policy in cooperation with both Turkish and foreign academicians, its counterparts from around the world as well as various universities and government agencies. SAM provides consultancy to the foreign ministry departments as well as some other state institutions in foreign policy issues while also establishing regional think-tank networks.

In addition to its role of generating up-to-date information, reliable data and insightful analysis as a think-tank, SAM functions as a forum for candid debate and discussion for anyone who is interested in both local and global foreign policy issues. Increasingly, SAM has become a center of attraction since it successfully brings scholars and policy makers together for exchange of ideas in panels, in-house meetings, seminars and training programs for young diplomats.

SAM has a widening range of publications. Along with its traditional publication, Perceptions, which is a quarterly English language journal that hosts distinguished Turkish and international scholars within its pages, SAM recently initiated Vision Papers which expresses the views of H.E. Prof. Dr. Ahmet Davutoğlu, Minister of Foreign Affairs of the Republic of Turkey, and SAM Papers that covers the current debates of foreign policy by various scholars.

With its commitment to contribution to the body of knowledge and constructive debate particularly in Turkish Foreign Policy, SAM will continue to serve as an indispensable think-tank and research center given its role promoting interaction and mutual benefits among the MFA, NGOs, other think-tanks and the broader scientific community and hence strengthen the human and intellectual capital of Turkey.