

Reform Packages of AKP and CHP

It has now become a fact accepted by all political parties, including the Government Party AKP, that democracy, human rights and the rule of law in Turkey are below the standards contained in the international documents to which Turkey is a party. This is clear from the reports of international observers such as Human Rights Commissioner of the Council of Europe, Freedom House, Journalists Without Borders, Human Rights Watch, Economist Intelligence Unit etc.

The AKP Government gives all the indications of leading Turkey to a regime which bears the characteristics of an “elected authoritarianism”.

To remedy this situation Republican People’s Party (CHP) prepared an “urgent democracy package”. The process will continue also in the future. The Government, facing harsh criticism from abroad also prepared a reform package.

The differences between the two packages are the following;

- a. AKP package is confined to the judiciary. CHP package is broader than that. It is related not only to the judiciary, but also to the shortcomings of democracy in general. This is why besides the judicial questions it also contains amendments to the legislations on freedom of manifestation, on election, on criminal code articles or offenses committed by children.
- b. The AKP package instead of addressing to the root causes of the problems, chooses to diminish their effects by reducing the punishments. The CHP package’s objective is to eliminate the problem and find a lasting solution.

1. The proposals of CHP and AKP on the Anti-Terrorism Law

The current law considers the persons, who are not members of a terrorist organization but who have committed an offense on behalf of a terrorist organization, as terrorist and gives them the same punishment as a member of a terrorist organization.

According to the proposal of AKP, these persons are still described as terrorists but will be sentenced with reduced measures. On the other hand, the proposal of CHP stipulates the elimination of the said article. They can only be punished under the Criminal Law.

On the same legislation, AKP proposes a reduction in the sentences given to the journalists. However, these arrangements are not enough to prevent the human rights violations.

The proposal of CHP aims at amending the articles in the anti-terrorism law which conflict with the freedom of press. To this end, it proposes to delete the articles that create a new offense such as "making propaganda of a terrorist organization". This article is broadly interpreted by the courts and resulted in the suppression of freedom of press. CHP proposal also provides for the deletion of provisions of sentencing owners or responsables of newspapers who are not involved in the offense. In the same vein, the proposal deletes the provision that bans the distribution of the newspaper for one month.

In October 2011, on the report of the Commissioner for Human Rights, Thomas Hammarberg listed the requirements to eliminate the violations in Turkey. The proposal of CHP was prepared as being in respect to these requirements.

2. The proposals of CHP and AKP on "detention"

The proposals on AKP on detention issue are not sufficient to prevent the violations of Article 5 of the European Convention on Human Rights. On the other hand, the proposals of CHP are based on the criteria contained in the ECHR judgements, which state that there are systemic and widespread problem in Turkey with regard to the detention in remand.

Furthermore, the CHP proposal envisages that the trial of the members of the Parliament should be conducted while they are free and not under detention, so that they can fulfill their legislative task entrusted to them by the people.

CHP proposal provides that detention orders should be based on concrete facts. In addition, the principle of presumption of innocence should be taken into account. There should not be a special category of offenses called "catalogue offenses" where the accused is detained without examining whether there is a risk of absconding or destroying the evidence. The decision on the lawfulness of the detention (right to **habeas corpus**) should be given only after a public hearing, where all the guarantees of a fair trial are ensured. Judges should give more weight to other measures such as release on bail.

On the other hand, the proposal of AKP does not contain any measures with regard to the detention of the elected parliament members. Neither does it address to the problems in the exercise of the right to **habeas corpus**, such as having a public hearing or catalogue crimes.

3. The proposal of CHP on the "**Law of Demonstration**"

According to CHP and the European Court of Human Rights, everyone has the right to join the organized meetings and demonstrations without prior permission.

At present, the obligation to inform the authorities is misused, in practice, as a prior permission. Under the CHP proposal, such a requirement would not be used to prevent the right to demonstrate. In exceptional cases where the intervention of the security forces is justified, the CHP proposal underscores that such intervention should take place only when it is absolutely necessary and it should be proportional.

4. CHP proposes that "specially authorized courts" should be abolished. The specially authorized courts are the same version of the ex-state security courts and establishes different procedures for different crimes.

5. Another proposal of CHP is on "**The General Elections Law**". CHP proposes the 10%threshold system to be reduced to 5% on order to ensure a better democratic representation in the Turkish Parliament.

In a statement on 1st of February, Prime Minister Erdogan asked the following question to the Republican People's Party (CHP) leader *"are you against raising religious generations?"*

On the next day, Mr. Erdogan made the following statement on his party's provincial leaders. (02.02.2012)

"Do you expect the conservative democrat AK Party to raise atheist generations? This may be your business and objective but not ours. We want to raise a religious generation"

From CHP's point of view, in a democratic society the government does not raise a generation according to its own ideology. On the contrary, as the ECHR provides in Zengin v Turkey judgement, knowledge to be given to the students should be objective, pluralistic and critical minded. Furthermore, in a secular state, the government should be impartial and equal distance all convictions.

Unfortunately, the monopolistic power of AKP government is far from building good governance and threatens the democracy and liberties of the individuals. The recent statements of Mr. Erdogan is the manifestation of his authoritarian frame of mind and reveals AKP's agenda of designing a society according to its religious, authoritarian ideology.