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Not a Roadmap for Peace: Erdoğan's democratisation package defies Kurdish expectations

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Not a Roadmap for Peace

Erdoğan's Democratisation Package Defies Kurdish Expectations

Dilek Kurban

Despite Turkish Prime Minister Recep Tayyip Erdoğan's emphasis to the contrary, the "democratisation package" announced on September 30 was expected to be more than just another bundle of EU-induced reforms. The much-awaited package came nearly a year after the initiation of informal peace talks between the government and Abdullah Öcalan – the imprisoned leader of the Kurdistan Workers Party (PKK), listed as a terrorist organisation by the EU and the US – and six months after Öcalan made a historic call to his fighters to end the armed struggle. The package was anticipated as the Justice and Development Party (AKP) government's response to Öcalan's three-stage road map for peace. Yet, rather than legislative changes for a political settlement on the Kurdish question, Erdoğan announced a generic harmonisation package, a move which has put into question his government's commitment to the peace process. The fragility of the cease fire between the PKK and the Turkish military and the urgency of radical reforms to prevent a deadlock in the peace process render the AKP's piecemeal approach to democratisation too costly at this point in time. With the EU's opening of negotiations on Chapter 22 on regional policy, which pertains to decentralisation in governance and is thus relevant for a political solution to the Kurdish question, there is a real and urgent need for European policy makers to be involved in the peace process in Turkey.

On September 30, in a press conference broadcasted live, Prime Minister Erdoğan launched the "democratisation package" long anticipated by the Kurdish opposition, the Turkish society and the European Union. As the nation held its breath and listened to every word he uttered, Erdoğan announced, among other things, that elementary school pupils were no longer required to take an oath of allegiance to the Turkish nation; that the letters x, q and w were now free to be used in official documents; that all female public servants who were not required to wear official attire could now wear the headscarf; that politicians could speak "languages other than Turkish" in their election campaigns; that political parties were allowed to have two co-chairs; that he was open to discussions on the nation-wide 10 per cent electoral threshold, provided that the choice is between two options that he has proposed; and that education in "languages other than Turkish" was now allowed in private schools.

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Had Erdoğan made this announcement after the opening of the EU accession talks in 2005 or as part of his government programme after his re-election in 2007, or even in the context of the "Kurdish opening" in 2009, many more people than just core constituents, party members and supporters in the pro-government media would have wholeheartedly welcomed the measures. However, Erdoğan's speech came nearly a year after the launch of informal peace talks and six months after Öcalan's historic announcement on 21 March 2013 that the era of armed insurrection against the Turkish state was over. It was in response to Öcalan's call and in confidence of the road map he outlined in a series of letters delivered by the Peace and Democracy Party (BDP) delegation stating that the PKK's military leadership in Iraqi Kurdistan had ordered an indefinite ceasefire and had started to withdraw its fighters beyond the Turkish borders. As conveyed to the media by the PKK's top military leaders and by the BDP delegation, which was acting as a messenger between Öcalan and the PKK leadership, Öcalan envisioned a three-stage peace process, starting with the PKK withdrawal, continuing with legal reforms granting the Kurds their full political and language rights, and ending with the reintegration of the soon-to-be-ex PKK combatants into normal life (for more on the peace process, see SWP Comments 13/2013, *Erdoğan and Öcalan Begin Peace Talks* by Kevin Matthees and Günter Seufert). These developments turned all eyes to the AKP government, which was successfully put under the spotlight by the Kurdish political movement as the player with the ball in its court.

It was in this political context that Erdoğan announced the democratisation package. Although the AKP officials have time and again emphasised that the reforms were not their "response" to Öcalan, and while Erdoğan persistently rejected that his government was negotiating with the PKK leader, the package was expected as Erdoğan's long -awaited response to Öcalan's peace initiative. Despite Erdoğan's repeated emphasis to the contrary, this was not expected to be just another reform package. Much more was at stake than the harmonisation of the laws with the EU *acquis* or the advancement of individual rights and liberties.

Continuity with the state tradition: Piecemeal and implicit reformism

As Erdoğan repeatedly stressed in his introductory remarks on September 30, this is not the first reform package adopted by his government. Already, the coalition government predating the AKP had enacted high-profile reforms for harmonising Turkey's laws with the EU *acquis* and executing the judgments of the European Court of Human Rights (ECtHR). Some of these reforms were directly related to the Kurdish question, including the abolishment of the death penalty (rescuing the life of Öcalan), the removal of the constitutional bans on the use of Kurdish and the permission to teach Kurdish in private courses and to broadcast in Kurdish. After it came to power in November 2002, the AKP continued the reforms with an accelerated pace, adopting a series of packages that included the enactment of a compensation law for displaced Kurdish villagers, the abolishment of the state security courts and the lifting of the state of emergency regime in the remaining two provinces in the Kurdish region.

The latest democratisation package builds upon the gradualist approach of prior reforms, thereby leaving room for further improvement. Take the example of the teaching of Kurdish. The reforms in this area started in August 2002, before the AKP came to power, with the opening of private Kurdish courses and were continued by the AKP government with the selective opening of Kurdish language and literature departments at universities from 2009 onwards. In April 2012, on-demand elective courses in "living languages and dialects", including Kurdish, were introduced in secondary schools. These courses are offered for two

hours per week at schools where a minimum of 10 students opt for them. With the latest package, Kurds are now granted the ability to have education offered in their mother tongue in private schools, the details of which will be laid down by law. Publicly funded education in the mother tongue will need to wait for the time being.

As in previous reforms, the democratisation package does not make any explicit reference to Kurdish. Throughout the Republic, neither the constitutional and legislative provisions prohibiting the use of Kurdish nor successive changes that gradually removed such bans have ever uttered the word "Kurd" or "Kurdish". The official policy of denying Kurdish legal recognition remains intact, even though the AKP has long departed from the state tradition at the discursive and policy levels by extending political recognition to the Kurds. Although declaring "freedom to keyboards" through the legalisation of the use of the letters x, q and w as well as announcing that private education "in different languages and dialects" will be allowed, the Prime Minister again refrained from explicitly referring to Kurds or Kurdish. In order to prevent a perception that the democratisation package was tailored for the Kurds or was a concession to Öcalan, the AKP government continues its balancing act based on a "little bit of everything, and not too much of anything" approach to reforms – as evident in the inclusion in the same package of the easing of restrictions on the headscarf ban, new language rights for the Kurds and the return of confiscated properties to an Assyrian monastery.

What is in the democratisation package for the Kurds?

Political party and election reforms

Erdoğan stated that the amendments in the laws pertaining to political parties and elections were intended to facilitate political participation and ensure fairness in competition. In the name of the former, a number of stringent conditions imposed on political parties will be removed. Whoever can vote can be a political party member; parties are no longer obliged to open offices in small administrative units and can have (up to two) co-chairs; and it is no longer a crime to speak Kurdish in political campaigning. The Prime Minister's speech left uncertain the scope of the amendments concerning the use of Kurdish in politics. Both the Law on Political Parties (no. 2820) and the Law on the Fundamental Principles of Elections (no. 298) have provisions that ban the use of unofficial languages in primary elections and in elections. According to Article 58 of the Law on the Fundamental Principles of Elections, "political parties and their candidates shall use Turkish in their propaganda." Erdoğan said this article will be amended to allow the use of other languages. Article 43 of the Law on Political Parties prohibits candidates from using unofficial languages in the primaries. This provision, too, will be amended. However, the Prime Minister did not mention Article 81(c) of the same law, which prohibits *political parties* from using unofficial languages in their election and other campaigns, meetings, congresses and written materials. Pending the release of the draft amendments, the status of the ban on political parties remains unclear.

To improve fairness in competition, political parties that have received 3 per cent of the national votes in the last general election will be entitled to receive financial aid from the Treasury (this threshold is currently 7 per cent). As for the highest national electoral threshold in Europe (10 per cent), Erdoğan proposed two alternatives: lowering the threshold to 5 per cent and narrowing electoral constituencies to five seats, or removing it altogether in a single-member-district system.

From the perspective of the BDP, the legalisation of the co-chair system will not have a practical effect, since the party has always had co-chairpersonship in defiance of the ban. For the BDP and the pro-Kurdish political movement in general, the rele-

vant changes are the legalisation of the use of Kurdish in election campaigning and the loosening of the eligibility criteria for public financing of political parties. The decriminalisation of Kurdish dates back to 1991, when the ban on the use of this language in daily life was abolished. Coming 20 years after this first step, the legalisation of politicians' use of Kurdish is a much belated measure, particularly for a government that launched the self-proclaimed "Kurdish opening" in 2009 and established university departments on Kurdish language and literature. The amendment also lags behind the social realities on the ground. In the Kurdish region, where people in some parts do not understand Turkish, politicians – both from the pro-Kurdish parties and the AKP – have long addressed their constituents in their mother tongue. Yet, it was the politicians from pro-Kurdish and leftwing political parties who were convicted for violating the law, as evident in the ECtHR's 2013 judgment of *Sukran Aydin and Others v. Turkey*. In its ruling, the Court held that "a total prohibition on the use of unofficial languages coupled with criminal sanctions" was a violation of freedom of expression. It was Turkey's obligation to comply with this judgment and its willingness to deter similar rulings in the future by the ECtHR – and not the pursuit of fair play as such – that prompted the AKP to change the laws governing political parties and elections.

At first glance, the announced changes in rules concerning public financing of political parties will be beneficial for the BDP. The lowering of the eligibility threshold from 7 to 3 per cent will allow for a more egalitarian distribution of public funds to political parties across the spectrum. In practice, the situation will likely be more complex. First, the BDP will not be eligible to benefit from the new eligibility criteria until after the 2015 general elections, based on the percentage of the votes it will receive. Judging from the performance of the BDP's predecessors in past elections, the BDP will easily qualify for public financing. However, this, of course, will only be possible if the BDP decides to contend in the 2015 elections institutionally rather than through independent candidates.

The last time the pro-Kurdish political movement competed in the general elections through a political party was in 2002, when the Democratic People's Party (DEHAP) received 6.2 per cent of the votes nationwide, coming in below the 10 per cent electoral threshold. The movement's inability to enter into the parliament since the 1995 national elections led the Democratic Society Party (DTP) – DEHAP's successor and the BDP's predecessor – to change course in the run-up to the 2007 elections. The DTP decided to compete through independent candidates, for whom the electoral threshold does not apply. This strategic decision paid off: 20 candidates supported by the DTP were elected and formed their own political group as soon as they entered the parliament (a 21st deputy later joined them). The BDP resorted to the same strategy in the 2011 general elections and had 36 of its independent candidates enter the parliament and form a political group.

Thus, the liberalisation of rules for the public financing of political parties will leave the BDP with a difficult decision: either enter the 2015 general elections institutionally (and once again face the hurdle of the 10 per cent threshold) or continue with independent candidates at the cost of foregoing the prospect of receiving public financial assistance. On a related note, the current 7 per cent threshold was introduced in 2005 during the AKP's term. Between 1990 and 2005, the Law on Political Parties allowed the public financing of political parties that had a certain number of deputies in the parliament, irrespective of whether they had entered the elections. The minimum number of deputies required was initially 10 and was later reduced to three. This allowed the People's Labor Party (HEP), which had entered into the parliament through a pre-election coalition with a social democratic party, to receive fund-

ing from the Treasury. HEP and its successor, the Democracy Party, received public financing from HEP's entry into the parliament in 1991 until the latter was banned in 1994. The movement's 13 years of absence in the parliament came to an end in 2007, when the DTP decided to run through individual candidates. However, rules governing the public financing of political parties had changed in the meantime through a 2005 amendment to the Law on Political Parties, which introduced the current 7 per cent threshold as the single criteria for eligibility for public financing.

This makes Erdoğan's proposals for lowering the electoral threshold all the more important for the secular Kurdish national political movement. If the threshold is lowered (down to a level that the BDP feels confident it can pass), then the BDP could indeed consider entering into the 2015 elections. At any rate, experts and the BDP argue that both of the alternatives proposed by Erdoğan would be beneficial to the AKP and would not facilitate the BDP's representation outside of the Kurdish region. Commenting on the democratisation package, the BDP's co-chairman found both alternatives unacceptable on the grounds that they would serve to "trap" the party in the Kurdish-dominated region and prevent it from receiving winning votes from the rest of the country. BDP sources propose instead to lower the threshold to 3 per cent.

Language rights

The package introduces reforms concerning the use of minority languages in official documents and in education. The authorisation of the use of q, x and w will enable Kurds to register names containing these letters. The BDP-run municipalities have already created a *de facto* situation in the Kurdish region whereby the local authorities use these letters in official correspondence and documents, as well as in names of public spaces. The reform is significant, however, in that it will enable the Kurds to use these letters in official documents issued by the national government, such as identification cards. Moreover, the official use of the Kurdish alphabet in a country where the state has long denied the existence of the Kurdish language has a symbolic value that goes beyond its practical implications.

The Prime Minister announced that the official re-adoption of the old names of villages, districts and provinces will be made possible. Accordingly, changing the names of villages will need the authorisation of the Ministry of Interior, while requests for districts and provinces will be evaluated by the Cabinet of Ministers, since they require legislative amendments. The processes through which these reforms will be implemented and how competing requests for new names will be evaluated remain to be seen. In the name of democratic participation and governance, the government would have made a better policy choice by leaving these decisions to bottom-up processes at the local level. Furthermore, it is difficult to understand why the scope of the reform is limited to names changed after the 1980 military coup. The Turkification of place names is an established state policy from before 1980.

Although the gradual abandonment of this assimilationist policy is important, there is again a time-lag here. In the past few years, as part of their multilingual municipal services campaigns, the BDP-run municipalities have *de facto* restored the original Kurdish – and in some cases Armenian – names of villages across the region. The reform is nonetheless significant in that the legalisation of this practice will save the BDP officials from prosecution. Furthermore, the possibility to change the names of districts and provinces, which falls outside the mandate of municipalities, will enable local communities across Turkey to pressure the central government on this front.

Finally, the package has opened the way to education being offered in Kurdish in private schools. Mother tongue education has been a long-standing demand of the pro-Kurdish political movement in Turkey.

Though developed and strengthened by the secular Kurdish national movement (the BDP and the PKK), the demand to receive bilingual or multilingual education is virtually shared by all Kurds in the region, including the AKP constituency and the newly formed Kurdish Islamist parties. Many Kurds want to be taught in their mother tongue at every level of the education system, and they demand that this education is provided in public schools. In addition to the BDP, numerous NGOs and academics in the region, in Istanbul and in Europe have worked for the standardisation of Kurdish languages and built a considerable expertise in multilingual education within the last decade. Inspired by the experiences of other assimilated peoples, such as the Catalans during the Franco regime, these actors are designing curricula, developing teaching methods and grooming future teachers of the Kurdish languages in order to be ready, if and when public education in Kurdish commences.

The limitation of education in Kurdish to private institutions was received with criticism by the pro-Kurdish movement across the political spectrum. Pointing out that the majority of Kurds in the region are very poor, critics find the privatisation of education in the mother tongue to be discriminatory in socio-economic terms. While pointing out that only the Turks are entitled to receive public education in their mother tongue, they find the denial of this right to the Kurds and other minority groups – who, as taxpayers, are entitled to comparable public services as the Turks – to constitute ethnic discrimination. Holding the government solely responsible for the denial of public education in Kurdish would be an incomplete analysis, however. There is a constitutional barrier to teaching unofficial languages in public schools, and the AKP does not have the requisite majority in the parliament to make constitutional amendments. Indeed, this has been one of the most contested issues among the four political parties in the Parliamentary Conciliation Committee tasked with drafting a new constitution. On the other hand, during the committee deliberations on this issue in August 2013, the AKP voted with the Republican People's Party (CHP) and the Nationalist Movement Party (MHP) against the BDP's proposal for education in the mother tongue in public schools.

The have-nots of the democratisation package

Perhaps the most important expectation of the BDP from this package was for the introduction of drastic revisions in the penal laws, including the Anti-Terror Law. This would open the way for the release of hundreds of BDP members detained on remand for more than four years, pending prosecution. Currently, according to information provided by the BDP, the party has 6 parliamentarians, 21 mayors and 91 members of municipal councils in prisons. In addition to these elected officials, 6 central executive committee members, 2 deputy co-chairpersons, 57 party assembly members and around 200 party executives of the BDP have also been detained on remand. In addition, there are hundreds of BDP-affiliated activists as well as other activists, lawyers, journalists and students in prisons on charges of membership in the Union of Kurdistan Communities/Turkey Assembly (KCK/TM). The KCK was established by the PKK in 2005 upon the instructions of Öcalan and was intended to put into effect his ideology of "democratic confederalism", which seeks to bring together political parties, civil society organisations and armed groups affiliated with the PKK in Turkey, Iraq, Iran and Syria. Prosecutors allege that the KCK/TM was established by the PKK for the purpose of carrying out terroristic activities and PKK propaganda in urban areas. Some detainees are accused of the use of – or the threat of the use of – violence and/or coercion. Others, however, are charged with "making the propaganda of a terrorist organisation", simply for advocating the same political demands as

the PKK, such as education in the mother tongue and administrative autonomy for the Kurds. The evidence cited against these individuals include: participating in mass demonstrations during Kurdish New Year celebrations as well as on World's Women's Day and Human Rights Day; citing in their news articles the PKK leaders and/or PKK's written materials; and even filing petitions with the ECtHR. Due to the over-inclusive definition of terrorism in Turkey's penal laws, those accused of undertaking or planning acts of terrorism and resorting to violence have been lumped together under the KCK rubric with those who exercised their constitutional rights to free speech and to demonstrate.

The BDP was expecting legal changes to allow the immediate release of the detainees in the second category, which includes elected political representatives who still hold titles to their offices. The release of mayors and other municipal officials is particularly urgent for the BDP in light of the upcoming municipal elections in March 2014. The imprisonment of more than 100 elected officials as well as cadres experienced in local governance makes it difficult for the party to find eligible candidates to run for office, "adversely affecting the exercise of regional and local democracy", as noted by the European Commission in its progress report released on 16 October 2013. Although the courts released a number of current and former mayors and municipal officials during the course of 2013, an *en masse* discharge requires legislative intervention. The need for comprehensive reforms in Turkey's criminal justice system is also being expressed by international observers, first and foremost the EU. Despite external and internal pressures, however, the AKP does not yet have the political will to allow the selective release of KCK detainees. In light of the fierce political competition between the AKP and the BDP and the approaching municipal elections, Erdoğan's persistence calls into question his emphasis on fairness in political competition.

The democratisation package and the peace process: Is there a role for the EU?

Even outside the context of the peace negotiations between the PKK and the government, the reforms fall short of a "democratisation package" expected from a government that is committed to complying with the ECtHR judgments and that is in accession negotiations with the EU. The AKP has gained sufficient understanding about the root causes of Turkey's democratic deficit to know what needs to be done. After a long series of consultations with the Kurdish, the heterodox Alevi, the Roma and non-Muslim communities as part of the "openings" launched since 2009, and after three years of a constitution-making process where reform demands were collected from across the nation, the AKP knows too well the basic demands of its citizens for equality, justice and democracy.

Certainly the presence of a reform-resistant opposition in the parliament does not make life easy for the government. The immediate opposition of the CHP and MHP leaders to the abolishment of a student oath reminiscent of the 1930s' totalitarian ideology once again demonstrated the absence of a political opposition that is willing and able to push the AKP in the direction of more democracy. One group of CHP deputies has already filed a court case against the easing of the headscarf ban, whereas another submitted a legal proposal to the parliament for the re-introduction of the student oath in primary schools. Because the two largest opposition parties in the parliament staunchly resist the acknowledgment of ethnical and religious pluralism, there is some merit for the government to be defensive about the slowness of the reform process.

However, the state of the main opposition parties is only part of the story. In the remaining part are political and social factors that are favourable for a political settlement of the Kurdish question: a fast-changing society that has long understood that the Kurds will, if not should, be given

their rights, at least for the sake of peace and stability; a pro-Kurdish political party that has been constructive in its opposition to the AKP since the launch of the peace talks with Öcalan; and last but not least, an EU wherein key member state governments seem to have understood the mistake they had made in blocking chapters and are now willing to restart the accession negotiations with Turkey. Perhaps most importantly, the domestic and international developments of the past year – from the unexpected Gezi protests, which cost the government a great deal in terms of its international reputation, to the developments in Syria, where the AKP's foreign policy vision has been discredited and a *de facto* autonomous Kurdish region emerged – have helped the AKP to realise that the EU does matter and that a political solution to the Kurdish question is indispensable for political stability and economic growth. It is not a coincidence that Erdoğan announced the democratisation package two weeks before the release of the progress report.

Notwithstanding Erdoğan's recent populist arguments about the survival of tutelage and anti-democratic forces in Turkey, the AKP has the political power to move Turkey out of the league of semi-democracies. Having won its fight with the military, overcome anti-democratic attempts to bring an end to its rule, silenced the judicial and bureaucratic resistance to its policies, and created an extremely pro-government mainstream media through a combination of indirect control and intimidation, Erdoğan is in a position of power not only to pass constitutional and legislative changes on any issue but also to mobilise public support for even the most "radical" reforms concerning the Kurdish question. What he lacks is the political will to do so. While part of the problem is his – arguably understandable – unwillingness to risk the AKP's one-party rule, the rest is his government's selective embrace of democratic principles of equality and human rights.

And herein lies an important role for European policy makers. With the positive atmosphere that the Commission's progress report created in EU-Turkey relations – and the European Council's decision to open on November 5 a new chapter for negotiations with Turkey – there is much that Europe can and should do to expedite the democratisation process in general, and the peace process in particular. The fact that the soon-to-be-implemented Chapter 22 on regional policy concerns decentralisation in governance – and is thus directly relevant for the pro-Kurdish political movement's demands for administrative autonomy in the Kurdish region – renders the EU's active involvement at this point in time all the more important.

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