

The New Execution Arrangement Enacted in Turkey

News:

“Probation period will be extended to 3 years. According to the temporary arrangement, the one-year probation period regarding crimes committed until March 3, 2020 will be extended to 3 years, except for terror, drug trafficking, sexual assault and abuse crimes, willful murder, intentional injury offenses causing a permanent disfigurement of the face and violence, torture and torment against women and crimes with respect to the right of privacy. (aa.com 19/04/2020)

Comment:

The law on the execution arrangement, which has been on the agenda and discussed for more than a year, got through the parliament by the bill of the AK Party and the MHP and entered into force by law no. 14/04/2020/7242 published in the Official Gazette. “A total of 300,000 people are currently in prisons in Turkey, 257,000 prisoners and 43,000 detainees. The Ministry of Justice has not yet released the prison statistics for 2019, but according to the information obtained from the Ministry of Justice sources, as of March 20, 65,000 are in prison for drug trafficking, 45,000 for theft, 37,000 for terrorism, 34,000 for murder, 27,000 for looting and extortion, 4,000 for forming and managing organized criminal groups and 89,000 for other crimes. The 65,000 people who committed drug trafficking crimes, 45,000 people who committed theft crimes and 27,000 people who committed looting and extortion crimes, will benefit from the execution arrangement.” (t24.com 19/04/2020)

As can be seen in the figures above, the present system is constantly producing criminals and the current number of prisons of 355 is not sufficient. For this reason, the state has to grant amnesty every fifteen or twenty years on average because prisons are constantly overflowing. As of now, the number of people under probation has reached 456,157 and the improvement, supervision and follow-up works of this amount of convicts are carried out by a total of 4,938 personnel.

We want to emphasize the following matters in relation to the execution arrangement and its implementation.

1- President Erdogan had said in September 2018 before the flight to America at the airport: “if a crime is against the state, the state may have the authority to pardon it. But if it is against individuals, the government does not have the authority to pardon it. But the authority that can forgive is the epitome of those individuals, the oppressed and aggrieved people.” (tr.euronews). However, while the detainees and convicts within the scope of crimes against the state are in prison in compliance with the current law, the majority of those who are sentenced for crimes against persons are excluded. In other words, what the rulers say and do never match.

2- Unlawful clauses were being added into this law by the Supreme Court in a way that its scope could be amended. As in the previous amnesty laws, the rulers are paving the way for filing objections in high courts like the Supreme Court by the opposition in order to enable the release of some convicts who are excluded from the scope of amnesty. Thus, they are extending the scope of amnesty. However, while doing this, they are clearing themselves by saying we didn't do it, the opposition wanted this! Because of that, for now, the release of some convicts who are excluded from the scope of amnesty is at stake.

3- While Muslims who are arrested and sent to prison for carrying the Islamic da'wah are included in the scope of terrorism and kept in prison, all thieves, impudents, swindlers, etc. are being released. Because according to this law, 45,000 people who committed theft and 27,000 people who committed looting and extortion, will benefit from the execution arrangement. However, those who are under arrest within the scope of early marriage have not been released due to the CEDAW Convention.

4- In the Islamic State, where the Ahkam of Islam are being implemented, the concept of amnesty is almost non-existent. It is only at stake regarding some pending crimes and within the framework of certain conditions. However, neither the Khalifah nor anyone else has amnesty authority regarding those who received a sentence due to a crime they committed (except crimes against the human body). Because punishment under Islamic Sharia is on the one hand an occasion for the person to beat a charge in the Hereafter due to the crime he or she committed, and on the other hand a punishment which includes deterrence.

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