

WHY IS TURKEY BOGGED DOWN?

Assessing the Political Party Law, Electoral Law and Governmental Procurement Law, the author argues that the system and the politicians are creating what keeps the country from further progress. Pointing out contradictions between the Constitution, laws, and regulations and the systemic reasons leading already powerful political forces to consolidate their power, which create a very uneven playing ground, the author outlines a vicious cycle resulting in corruption and a deficit of democracy.

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Turkey's continuing endeavor for European Union membership started nearly half a century ago. Since the late 1950s, successive Turkish governments, regardless of their political stances, have been struggling to meet the eligibility requirements to join the Union.

The following is an excerpt from the Copenhagen Presidency conclusions.

Membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and, protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

Although, Turkish Governments have carried out many constitutional and legislative reforms, Turkey's ranking has not improved in many key indices, which assess and rank countries in terms of levels of democracy, level of freedoms such as basic civil rights and liberties, transparency and corruption, human development and quality of life.

A number of direct and indirect military interventions to the democratic process also hindered with progress. But one wonders, how successful civilian governments have been in their attempts to strengthen the country's democracy.

Despite her democratization struggle for decades, Turkey still is in the "partially free" category in the Freedom House's 2007 Freedom in the World report.¹ In the democracy index published by Economist's Intelligence Unit Turkey's level of democracy is ranked 88th in the world and is listed in the "hybrid democracies" category.² United Nation's Human Development Index, taking issues like education, life expectancy, per capita income, literacy into consideration, ranks Turkey 84th, well beyond many other developing nations.³ Transparency International's Corruptions Perceptions Index lists Turkey 64th in its 2007 report.⁴ Heritage Foundation's Economic Freedom Index ranks Turkey 74th in its 2008 report which places her in the "moderately free" category.⁵ Ironically, many other third world nations throughout the world perform much better than Turkey on this index as well.

¹ Map of Freedom in the World 2007, *Freedom House*,

<http://www.freedomhouse.org/template.cfm?page=363&year=2007>

² The World in 2007, Democracy Index, Economist Intelligence Unit
http://www.economist.com/media/pdf/Democracy_Index_2007_v3.pdf

³ Human Development Index –going beyond income *UNDP*
http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_TUR.html

⁴ The 2007 Transparency International Corruption Perceptions Index,
<http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>

⁵ Index of Economic Freedom 2008, *The Heritage Foundation*,
<http://www.heritage.org/research/features/index/countries.cfm>

It is not unusual to hear arguments questioning the credibility of some of these institutions and the methodology utilized in establishing the rankings, but so far, these are by far the most common data put before the policymakers and used in decision making.

One can not help but question, how acceptable these rankings are for a nation that has been in the membership process to European Union since the sixties. On one side there is a nation supposedly struggling to improve its democratic, economic and social system and institutions through legislative processes yet on the other hand, both in practice and in these indices there appears to be no or very little improvement. So, where does the problem lie?

I will try to lay out the implication of certain clauses in three critical laws and their detrimental affect on the Turkish political system in general.

- Laws regulating political parties,
- Electoral Law
- Governmental Procurement Law

After all, the formulation and implementation of these three laws plays a crucial role in determining the level of democracy, basic freedoms and issues such as transparency, accountability and civic participation in a given country.

The Ten Percent National Election Threshold Requirement

Clauses of the current political party law make it virtually impossible for a newly established political party to emerge, expand and become a nationwide viable alternative in the political system.

Turkey has the highest nationwide election threshold in the world at 10 percent. This means that a political party collecting as much as 9.9 percent of the popular votes in the general elections, is granted no representation whatsoever in the National Assembly even if it acquires 99.9 percent of the votes in a given provincial election district.

A devastating outcome of this law was the parliament composition following the November 2002 elections. Of the nearly 32 million votes, AKP (Justice and Development Party) received nearly 11 million votes, CHP (People's Republican Party) received nearly 6 million votes and 15 million votes went to parties which could not pass the 10 percent threshold. As a result, nearly 48 percent of the electorate was not granted any representation in the National Assembly.

Ironically, after the re-allocation of those 15 million votes, AKP controlled about 64 percent of the seats with nearly 34 percent of the votes and CHP was granted the remaining 36 percent of the seats with only about 18 percent of the votes.

Between 2002 and 2007 all legislative activities in the National Assembly were undertaken by only those two parties, both disproportionately represented.

The 10 percent threshold mandate has been and continues to be a major deterrent for a large portion of the electorate to vote for the parties of their choice. Many voters, with the opinion of “my vote will not count and it will be wasted”, stay away from the ballot box or vote with political reservations for parties believed to have a chance to pass the threshold. Such voter attitude is one of the biggest obstacles for the growth of small and newly established political parties.

Furthermore, a threshold at this level creates democratically unacceptable political outcomes and thereby violates basic democratic principles such as “one man one vote” and “taxation with representation”.

Public Financing of Political Parties

In addition to the bureaucratic and legislative hurdles for new political ideas and voices to flourish, public financing of political parties is another detrimental element. The law grants financial assistance from the treasury only to parties that have acquired over 7 percent of the popular vote in the previous parliamentary elections. Thus, five parties, AKP, CHP, DYP, MHP and Genç Party were granted a total of nearly 720 million YTL (or nearly 600 million U.S. dollars) from public funds in the 5-year period between 2002 and 2007. The remaining parties did not receive a single cent in the same time period although some acquired over a million votes, still below the threshold.

Clearly violating the “fair elections” clause of the Constitution, public financing of political parties has created an unfair competitive advantage and it has become one of the key decisive factors in election outcomes. Those five parties which split up nearly 600 million dollars ended up being the top five parties in the July 2007 parliamentary elections.

What is more troubling is the fact that funds to be accumulated in the pool for political party public financing will reach nearly a billion U.S. dollars in the next five years and only three parties, AKP, CHP and MHP will be eligible to collect it, further widening the gap with rest.

It should also be noted that a substantial part of these public funds are used by the current chairman and his administration to crush any opposition within the party which has no access to these mind boggling amount of money.

Organizational and Bureaucratic Requirements for Political Parties

In order to qualify to participate in national or local elections, the law requires that a newly established political party form local organizations in half of the 81 provinces, in one third of the nearly 1,000 towns and half of the nearly 2,500 townships. This prerequisite is put in front of a newly established political party without any financial assistance from the treasury. In total, formation of a local organization in over 1,500 localities is required by law.

A local political organization requires an office space and all other logistical necessities, and professional employees. Even with the most conservative figures, at a cost of 1,000 YTL or nearly 800 U.S. dollars is required per month per local party branch. This amounts to a need for approximately 800,000 U.S. dollars per month and nearly 10 million U.S. dollars per party, per year just to meet the minimum legal requirements to obtain or maintain the right to participate in national or local elections.

Furthermore, articles regulating from whom and how much contributions a political party can solicit and collect are very restrictive. When evaluated comprehensively, party financing laws, if fully enforced, make it virtually impossible for parties to raise sufficient funds to become viable opponents to those collecting tremendously high amounts of public financing.

In addition, bureaucratic requirements hidden in regulations, unpublicized amendments, only known by a clerk and interpreted arbitrarily yet demanded by The Supreme Election Board, Political Parties Desk at the Court of Appeals, provincial election boards, local election boards, provincial police headquarters, local police, governors' offices in the cities, sub-governors' offices in towns often result in "warnings, lawsuits and/or monetary fine.

Declared statements by citizens are never admitted by authorities and every party official is frequently required to provide proof of identity, residency, criminal record, and education level in some cases by obtaining related documents from government agencies at cost.

Corruption and the Procurement Laws

Turkey's record on corruption has not improved in decades. Although paying some of the highest taxes in the world on commodities like gas, electricity, cell phone use, the Turkish public, in general, is not familiar with terms such as government accountability or transparency. The sense of the "fatherly state" or perception of "government's money" still overwhelmingly prevails.

On the websites of many ministries and government agencies one can find every insignificant detail with one exception; an itemized budget. State Economic

Enterprises, such as the State Railways, State Radio and Television, Tobacco Monopoly (until it was privatized earlier this year); in the red year after year, hardly ever publish their itemized budgets, citing trade secrets.

Over the years, a virtual unwritten agreement between the public and the governments has been in practice. Successive governments have agreed to overlook infringements committed by the citizens, e.g. nearly 70 percent of all inhabited dwellings in the cities have no construction permissions or licenses, millions of houses are constructed on government property and frequently they are granted deeds-usually before local or national elections. In return the public disregards alleged corruption of public figures, hardly ever making them liable.

Furthermore, it has become lucrative to be a staunch supporter of the ruling party since the party's local administration is the body that, albeit unofficially, makes the decisions about awarding contracts.

It is no wonder that the current government has amended the "Procurement Bill" no less than 12 times in the last six years, between 2002 and 2008. According to a United Nations report, government purchases in goods and services total 16 to 18 percent of Turkey's GNP. An Ankara Chamber of Commerce report states that 15 percent of the amount in tenders is paid as bribes and kick-backs. A simple calculation reveals a whopping 20 billion dollars, roughly, of corruption in politics.

Many existing laws, violating citizens' rights and liberties guaranteed by the constitution, continue to go unchallenged because only political parties with groups (20 or more seats in the parliament) can take cases to the Constitutional Court while other parties and citizens can only challenge in lower courts, lengthening the legal procedure.

While some laws violate the Constitution, there are articles in agency regulations violating the laws. As "the devil is hidden in the detail" principle dictates, skillfully inserted burdens in regulations, interpreted at will by uncooperative civil servants can and does simply stop or slow down a totally legal transaction.

Non-Democratic Processes within Party Organizations

Lack of oversight and regulations in a system where billions of dollars are involved, makes politics, even at the local level, an attractive and lucrative field. Masses get involved in politics hardly through ideological identity, but rather for the benefits it offers.

Laws, regulating party structures, furnish the party chairmen with tremendous powers and appear to be very undemocratic. The leaders protect the parties' ideological base from takeover attempts initiated at the local level.

Laws regulating party organizations do not prevent a very common practice of party chairmen and directors “selecting” loyal and obedient local and provincial delegates who in return elect those who hand picked them during supposedly democratic national party congresses, that are held once in three years. Such party congresses often turn out to be mock bureaucratic formalities, usually with the incumbent candidate running with no opposition.

Furthermore, laws permit party central organizations to crush any threatening opposition by canceling a democratically held provincial or local party congress, if delegates in opposition are elected.

Setting aside marginally ideological parties, traditionally, private donations to political parties materialize only in return for expectations of political clout and or monetary gains. Political parties are permitted to levy membership dues to members but by law, members’ rights to elect and be elected in internal party elections cannot be revoked for non-payment of dues.

Under the current popular perception of politics in Turkey, there appears to be no clear answers as to how more democratic procedures may be implemented in parties’ internal organizations.

Conclusion

For Turkey to be considered a serious and viable candidate country for membership in The European Union, she urgently needs to reprioritize, draft and implement her fundamental laws regulating civic participation in the democratic process.

The system that has allowed party chairmen, very rarely chairwomen, to hand-pick the parliamentary candidates without any input from the citizenry has resulted in legislative bodies with so-called “representatives of the people” yet unknown and not accountable to the people who supposedly elected them.

Party chairmen’s autocracy must come to an end. Simultaneously, through legislative, judicial and cultural reforms, the political arena should be prevented from being a field of engagement for monetary benefits. A law mandating budgets and balance sheets of publicly financed organizations be available for public review must be adopted. The culture and tradition of demanding accountability and transparency needs to be indoctrinated to new generations.

The Political Party Law should be overhauled to ensure a fair and competitive election environment. The ten percent threshold should be reconsidered to ensure a proportionate representation in the Parliament. The system must ensure that elected officials be accountable to the electorate and not to those who selected

them. A judiciary reform should grant the right of any citizen to petition the Constitutional Court.

One may cite further suggestions but more important than any legislative reform, only a new generation who will demand, value and uphold the basic principles of democracy and liberties can bring about the change Turkey has long been striving for.