

Analysis

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Summary: The June 12 Turkish national elections appeared to be a success. Less than a month after the election, however, the optimism that characterized the initial post-election mood is all but gone. The parliament reached an impasse when CHP and BDP deputies refused to take the required oath of office. Eight deputies-elect are awaiting trial for terror-related crimes. Not having been convicted, they could go to the parliament and take their oath. But first they have to be released from prison. A variety of possibilities were discussed to secure the release of the deputies-elect to allow them to come to the parliament, take their oaths, and thus end the “oath boycott.” Confronted with the opposition’s parliamentary boycott, the prime minister has chosen not to be accommodating. It seems that the CHP had decided on the oath boycott not as part of a carefully designed political strategy but as an act of protest. The boycott of the BDP is more deliberate, aiming to get the government to make commitments to recognize Kurdish rights. Did the parties persuade voters that such action was warranted to popularize the injustice that was done to the deputies-elect? That is unclear.

Much Ado about Nothing or a Step Toward Democratization: The Oath Crisis in the Turkish Parliament

by İlter Turan

The June 12 Turkish national elections appeared to be a success by all measures. There were no major incidents during the campaign or on voting day. Fights among the supporters of competing candidates of the same party or rival parties were generally absent. There was widely shared consensus that the elections had been fair with no major irregularities. The participation rate was high, neutralizing any potential allegation that the legislature was unrepresentative.

Post-Election Euphoria Disappears

All agreed that the outcome was satisfactory. The governing Justice and Development Party (AKP) was happy that it got nearly 50 percent of the vote, the highest it had achieved in its history. Justifiably, AKP felt that its policies were vindicated. And the major opposition Republican People’s Party (CHP) moved up from 20 to 26 percent. While such improvement appeared to be below the 30 percent to which the party’s new leadership aspired, it was judged to be encouraging. The Nationalist Action Party (MHP) had also made it to the parliament, receiving 13 percent of the

vote, alleviating fears that it would not, owing to a 10 percent national threshold. The Kurdish Peace and Democracy Party (BDP) had also scored major success by having 35 of its candidates, who had run as independents to avoid the national threshold, elected. Finally, the opposition was content that the government party had failed to reach 330 seats, a number that would have made it possible for AKP to change the constitution by itself.

Less than a month after the election, however, the optimism that characterized the initial post-election mood is all but gone. The relations between the government and opposition parties (save MHP) seem to be highly polarized. The parliament reached an impasse when CHP and BDP deputies refused to take the required oath of office.

The Problem of the Elected Nondeputies

What exactly is the problem? The Turkish constitution and electoral and criminal laws contain provisions that impose limitations on who can file for candidacy, as well as what happens



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to candidates who get elected while criminal proceedings are in progress against them. In particular, people either being tried or convicted for crimes related to terrorism are targeted for stringent restrictions. Those with such convictions may not become candidates. Those who are still being tried may become candidates but they are not covered by the broad immunity that Turkish parliamentarians enjoy. As regards deputies charged with violations of law other than terrorism, judicial proceedings are suspended until the end of their parliamentary tenure. Terrorism, it should be added, is broadly defined not only to include those who have actually committed acts of terror but also individuals who are alleged to have been members of a “terrorist” organization, extended support to it, facilitated its work, conducted propaganda on its behalf, or spoken favorably of it. The obsession with terror is a product of the 1982 Constitution, whose makers tended to see any unorthodox political behavior as a challenge to state power and therefore potentially as a manifestation of terrorism.

As Turkey has democratized during the recent years, laws dealing with terror crimes have been modified, but those pertaining to parliamentary elections have remained on the books. This was in part because no major problem had been experienced in elections, but in larger part, it was because the military, the bureaucracy, the courts, and major political parties had all agreed that legal instruments were needed to prevent the Kurdish terror organization PKK from penetrating ordinary politics. The current situation shows how a poorly designed legal framework can lead to crisis in a democracy.

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In the elections of June 12, all opposition parties included candidates who had either past convictions or were currently under arrest, being tried for terror-related crimes. Nine such candidates were elected deputies. In the case of one candidate from the BDP, Hatip Dicle, the sentence he had received under anti-terror legislation seemed not to

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allow him to become an independent candidate. He petitioned the High Board of Elections regardless and was told that he could run. His name was put on the ballot. He won the election only to be told by the same body that he was disqualified as a candidate. His election was annulled and the empty seat went to the AKP. The High Board’s decisions cannot be appealed. Nevertheless, Mr. Dicle filed a suit with the Constitutional Court, which was rejected as having no legal basis.

In the case of the remaining eight deputies-elect, they are all awaiting trial for terror-related crimes. One MHP and two CHP deputies are in prison within the framework of the Ergenekon Trial, which alleges the existence of a major military-civilian plot to take over government. Five independent (BDP) candidates are being tried for having taken part in organizational activity supporting Kurdish terrorism. Not having been convicted, they could go to the parliament and take their oath. But first they have to be released from prison. It was assumed that, as had been the case in the past, the courts would release the deputies-elect. Citing the improbable possibility that they might violate their parole, destroy evidence, or both, the courts have rejected their appeals.

A Democracy in Need of Democratization

All opposition parties have argued that such a judicial stance not only violates basic rights of individuals but also runs counter to the rulings of the European Court of Human Rights, whose decisions Turkey is committed to honor. Beyond that, however, different paths have been followed. The MHP deputies have taken their oath and sat



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in the parliament. The CHP and BDP deputies-elect, on the other hand, have argued that they will not take their oaths until their colleagues in prison join them. While the CHP has chosen to attend the meetings of the Grand National Assembly, the BDP has chosen to hold its parliamentary group meetings in the Southeastern town of Diyarbakir, rendering it difficult to negotiate with them directly.

A variety of possibilities were discussed to secure the release of the deputies-elect to allow them to come to the parliament, take their oaths, and thus end the “oath boycott.” Proposals centered mostly on changing this or that law, allowing the deputies-elect to be released. Government objections, on the other hand, have focused on unintended but problematical beneficiaries of such legal change.

Confronted with the opposition’s parliamentary boycott, Prime Minister Erdoğan has chosen not to be accommodating. Arguing that he will not interfere with the judiciary, he has invited the opposition to take their oaths and propose their solutions in the parliament. He and his associates have also made references to the fact that the parliament could continue to function with some members not attending, and that those who failed to attend parliamentary sessions might be expelled from membership. Some have talked about having by-elections soon to fill the vacant seats. The debate has been further marred by careless use of language. A CHP spokesman claimed, for example, that they would bring the government to its knees. The prime minister retorted “We will make them lick what they spat.”

Cornering Yourself and Trying to Get Out of It

It seems that the CHP had decided on the oath boycott not as part of a carefully designed political strategy but as an act of protest. Some deputies-elect as well as some party members outside of the parliamentary party have questioned the wisdom of the boycott, which has kept them from functioning as parliamentary opposition. Although it is understood that the current laws need “democratizing,” this may be done only in the parliament. After the initial flurry of excitement, the CHP became more amenable to an exit with honor. The newly elected speaker of the parliament, Cemil Çiçek, who asked for CHP’s consent for his election though it was not a numerical necessity, got to work on a solution. The AKP and the CHP agreed eventually to proclaim that the constitution and the laws should be

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interpreted with a view to expanding or deepening democracy. The CHP deputies then took their oath. This means that the CHP will now be able to name its own deputy speaker of the parliament and be represented in committees and administrative organs of the parliament. It will be able to introduce bills, take part in the floor debates, propose amendments, and vote on motions.

The boycott of the BDP is more deliberate, aiming to get the government to make commitments to recognize Kurdish rights. This also may mean that it will be more difficult to persuade them to return to the parliamentary fold, although they now seem somewhat more interested in joining the parliament. They say that they are not committed to staying away from the parliament, but that they were neglected in this process.

Much Ado about Nothing or a Step in the Right Direction

Was this exercise necessary or was it much ado about nothing? It is clear that the opposition tried to dramatize a cause. Did they persuade voters that such action was warranted to popularize the injustice that was done to the deputies-elect? That is unclear. Will they be able to change the legislation such that the courts will not be able to keep the elected deputies under arrest? Perhaps. It is generally thought that the prime minister is reluctant to make a dent in the Ergenekon trials by changing the laws and having two defendants released on account of having been elected. He has already communicated his position effectively to the public. Now that the CHP deputies have taken their oath,



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it was thought that he would moderate his tone in order to cooperate with the opposition on the more important issue of changing the constitution. This has not happened. The prime minister's inflexible approach may not only discourage the BDP from joining the parliament anytime soon but it may also lead to questions on the extent to which the government and the opposition will manage to cooperate in addressing critical constitutional questions.

The CHP boycott has produced an unintended consequence. A boycott conducted solely by the BDP would have resulted in a highly polarized situation along regional-ethnic lines. CHP's boycott decision rendered the debate more comprehensive and took it out of the context of ethnically driven politics, rendering it into a question of democracy. Ethno-regional polarization may yet return, however.

Turks are learning that running a democracy is a difficult feat that takes patience, determination, compassion, and tolerance. It is not an easy lesson. That refusing to take the parliamentary oath may not be a very good idea is a recent addition to Turkey's body of experiential democratic knowledge.

About the Author

İlter Turan is currently a professor of political science at Istanbul's Bilgi University, where he also served as president between 1998-2001. His previous employment included professorships at Koç University (1993-1998) and Istanbul University (1964-1993), where he also served as the chair of the International Relations Department (1987-1993), and the director of the Center for the Study of the Balkans and the Middle East (1985-1993). Dr. Turan is the past president of the Turkish Political Science Association and has been a member of the Executive Committee and a vice president of the International Political Science Association (2000-2006). He has served as the program chair of the 21st World Congress of Political Science in Santiago, Chile, July 12-16, 2009. He is board chair of the Health and Education Foundation and serves on the board of several foundations and corporations. He is widely published in English and Turkish on comparative politics, Turkish politics, and foreign policy. His most recent writings have been on the domestic and international politics of water, the Turkish parliament and its members, and Turkish political parties. He is a frequent commentator on Turkish politics on TV and newspapers.

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