

LEGISLATION TO REDUCE ARMY INFLUENCE: A CASE STUDY OF TURKEY

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Abstract

Most of the developing and under-developed countries are facing army dominance in political matters. Turkey is also facing this challenge but its case is different in the way that here the army has ruled systematically through constitutional provisions. Contrarily, The Grand National Assembly of Turkey has been trying consistently to reduce army influence through legislation. There have been total 21 amendments in Turkish Constitution of 1980 till now. Especially, the amendments passed in the year 2010 are historical achievement which paved the way for the trial of last two alive members of 1980 coup, General Kenan Evren, the leader of the coup and Tahsin Şahinkaya for their criminal activities in 1980. The purpose of this study is to analyze the effectiveness of the constitutional amendments passed by GNAT to abolish systematic control of Turkish army over civilian government. Hence, a brief account of civil-military relations since the Ottoman Era, founding ideology of Turkey and armed forces' perception of being the sole guardian are also being given in this paper.

Keywords: *Civil-Military Relations, Interventions, Secularism, Legislation, Democratization*

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Introduction

Official name of Turkey is ‘Republic of Turkey’ which is pronounced as Türkiye Cumhuriyeti in Turkish language. Geographically, it is in two continents, about 97% in Asia and 3% in Europe. (Zdanowski, 2014) Turkey is ethnically a diverse country with about 75% Turks, 18% Kurds and 7 to 12% other minorities groups. (CIA, 2016) Turkey became a modern secular state on 29th October, 1923, under the leadership of Mustafa Kamal Atatürk and with that the 623 years Ottoman monarchical rule was ended. Mustafa Kamal was elected the first President of the country who introduced several modernization reforms based on Western values. (Axiarlis, 2014)

There have been total 21 amendments in the constitution since 1987, out of which 13 were made by the Justice and Development Party that has managed to gain parliamentary majority since 2002. (Coşkun, 2013)

Democracy in Turkey has seen many ups and downs as the military has largely dominated the politics of the country since its inception. There is a long history of direct and indirect military interventions since 1960. The first elected Prime Minister Mr. Adnan Manders was sentenced to death after the first military coup in 1960. (Pelt, 2014) Military has stabbed the civilian government thrice besides indirect interference as was done in the Presidential Elections of 2007. When the JDP was threatened by an open memorandum by the general staff of Turkish Armed Forces. (Document, 2007) Even more, a section of TAF tried to take over the JDP Government on 15th July, 2016 which was defeated by Turkish people which is considered a great turn over for Turkish democracy. (Editor.News, 2016) Turkish armed forces have ousted three elected governments in 1960, 1971 and 1981. An attempt was also made in 1997 while Turkish legislature is constantly amending the constitution to reduce army dominance. Therefore, the aim of this study is to analyze the effects of laws passed by parliament to strengthen civilian control over national affairs. However, Turkish democratic struggle against the army dominance is better understood in the context of the founding ideology of Turkey.

Kemalism: Turkish National Ideology

The role of army elite for nation-building in the early period of Turkish Republic is the basis of military influence in Turkey. TAF(Turkish Armed Forces) considers itself as the sole guardian of Kemalist principles which did not let Turkey become a state providing and protecting basic human rights. (Burak, 2011) The main giver of Kemalism, Mustafa Kamal was an army officer who later led the national independence movement and defeated allied armies. After

that Kamal concentrated on the overall progress of the country and drafted a detailed program of reforms, known as Kemalism. (Organization, 2017)

Turkish revolution under Kamal, basically has two stages. First, from the war of independence to the abolition of Caliphate from 1918 to March 1924. The second stage includes the formal imposing of an ideology focused especially a shift from an Islamic nation to a modern European one. “Central to understanding the Kemalist approach to reformism is their idea that the permanence of secularism could only be assured if traditional cultural values and by the same token symbols would be permanently removed.” (Schön, 2013) The Kemalist principles are Republicanism, Nationalism, Populism, Reformism, Secularism and Statism which were formed to liberate Turkish citizens from traditional religious thought and to give them equal opportunities in all spheres of life. To make the citizens realize their potential and to build confidence in them to step forward and strive for their own national development alongwith the aid of Westernization. “We have got to go on. And we are to progress whatever happens. We have no choice now. Civilization is a blazing fire that burns and destroys all who will not pay allegiance to her.” (ATAÖV, 1980-81)

Military Coups and Steps towards Militarization

The year 1960 saw the first military takeover in Turkey. According to Mogens Pelt: “The armed forces’ intervention marked the end of a unique era in Turkey’s history when governments for the first time were elected by popular vote and ruled without being subject to the control of nonelected institutions.” (Pelt, 2014) The reasons of this coup could be seen in the constant defeat of RPP by DP in the general elections of 1950, 1954 and 1957 which was alarming to armed forces. Because RPP was considered as Kemalist party and its defeat meant danger to Kemalist ideology for TAF. (Pelt, 2014)

Military command justified this coup by stating that Menders’ government was no more legitimized. Coup leader Gursel was determined to hand over political control of nation to civilians while some members of Menders’ government were persecuted and punished. New cabinet was formed namely National Unity Committee under the leadership of General Gursel which was working both as legislative and executive simultaneously. The 1924 constitution was abrogated and a new one enacted in 1961 and new institutions named Constitutional Court and National Security Council were established. TAF dominated politics till 1965. (Burak, 2011)

In the late 1960s, political and economic stability was weakened badly and could not be controlled by leading party which itself was tearing into parts by internal factors. This worse situation provided army the reason to intervene again. (Ahmad, 1993)

In March, 1971, Turkish military demanded resignation from Demirel government by issuing an ultimatum stating that in case of refusal, the armed forces would take charge of the administration by force. Demirel resigned and the President Cevdet Sunay publicly thanked armed forces for being concerned for national stability. This behavior of a president further strengthened the ideas of guardianship in TAF. (Sansal, 2017) Constitution was amended to give military as equal representation in judiciary as civilians. Defense budget was more private matter and state authority was increased against individual liberties. National Security Council was authorized to make recommendations to government. (Burak, 2011)

1970s was also a period of political instability out of the control of civilian government. Turkish politics seen ups and downs as there was lack of decision making authority in social and political spheres. This situation could not be controlled and resulted in economic downfall, civil riots and importantly difficulties to nation's secular identity which invited another martial-law in 1980. (Frank Tachau, 1983). According to Aljazeera English news website: "Instability continued even after the 1971 coup: Turkey changed prime ministers 11 times in the 1970s, the economy continued to stagnate, and left- and right-wing groups continued their violent clashes in the streets. Thousands of people were assassinated." (Aljazeera, 2017) Parliament was dissolved while political parties and all trade unions were suspended. However, citizens welcomed military government and hoped that military would bring peace and stability in the country.

Changes were made to centralized military control in government while the economic system of Demirel was kept intact. A new constitution was enacted in 1982 in which basic human rights and autonomy of civil judiciary were curbed but the power was centered to military and the President. Higher Education Authority was established to militarized education system. Government was handed over to Motherland party under the headship of Ozal after the general elections of 1983.

In the mid of 1990s, the emerging stability of civil-military relations seemed to be deteriorated as the elected government began to lose control over separatist

terrorism alongwith the growth of political Islam. This situation ended in a soft coup d'état in 28th February, 1997 which did not dismiss the democratic machinery rather getting it under strict military control. Mainstream media also supported military intervention by making it feel about public concerns for the protection of secularism.

This military intervention was different only in terms of its imposition as it was not imposed by force of guns but rather with the support of social organization, media and judicial support, campaigns, public debates and conferences. A meeting of National Security Council held on 28th February, issued a memorandum which resulted in the resignation of Prime Minister Erbakan's resignation, who was an Islamist. Military elite reformed the national identity policies as a zero-sum game. A set of rules namely Public Act of the Prime Ministry Crisis Management Center was introduced to remove restrictions of Public Act of Crisis Evaluation Board of 1976 which paved the way of indirect armed control in political affairs and deprived the legislature to decide on larger national issues. Furthermore, an association, Western Working Group was formed to deal Islamist-minds within armed institution. (Burak, 2011) The 1997 coup and the forced resignation of Erbakan, once again proved the authority of TAF over democratic government regardless its electoral win.

On 15th July, 2016, another coup attempt was made which could not be successful as large crowds of public came out to save democracy. President Erdogan was on vacation in a seaside and appealed his nation to confront the army: "I urge the Turkish people to convene at public squares and airports. There is no power higher than the power of the people,". Countering the armed coup more than 290 people sacrificed their lives alongwith 1,400 injured. (Abdul-Ahad, 2017)

As per initial reports, it was said that only a group of army found involved. President Erdogan blamed his opponent Gulen (a US based Turkish cleric) as the mastermind of this non-democratic event. However, Gulen denied the accusations condemned the act. (McLaughlin, 2017)

Constitutional Provisions of Military Autonomy

There are some constitutional aspects that helped TAF to intrude easily. Establishment of legal institutions under 1961 constitution was the starting point of systematic armed authority over civilians. Among them National Security Council was most powerful: "introduced by the 1961 constitution as an embodiment of the bureaucracy's primacy over the popularly elected parliament,

it was designed to serve as a platform for the military to voice its opinion on matter of national security.” (Sakallioglu, 1997)

With passage of time more powers were granted to NSC (National Security Council). It was authorized to give recommendations to government under 1973's amendments which were to be considered as priority in ministers' council alongwith an increase of army representation in NSC. NSC's further executive powers include developing curriculum for schools, regulating broadcasting hours of T.V stations, closing T.V stations, appointment of bureaucracy for public works ministry in southeast; to suggest electoral arrangements among different political parties in the local elections of 1994; to affirm laws and punishment regarding terrorism and introducing Arabic as optional subject in secondary educational institutes. These powers did not satisfy military command because after 1980 coup, Ministers' council was bound to consider the recommendations of NSC as orders. NSC was restructured under article 118 of 1982 constitution further enhancing its powers to take and execute political decisions. (Burak, 2011)

On the other hand, Internal Service Code 'General Duties' of Turkish military also compelled armed forces to intrude in politics. (Burak, 2011) . Article 85 of ISC says; “Turkish Armed Forces shall defend the country if necessary by force.” (Guney, 2000). Military command misinterpret article 35 of ISC while defining internal enemies and expands it to various sections of the country such as political parties, religious and ethnic groups and issues like water shortage etc. Even social activities are monitored and political statements are released on public ceremonies and celebrations. As stated by Begum Burak; “the Turkish military provides security not against an attack from outside, but against its own country and people.”

Moreover, the Red Book or the National Security Policy Document is to be prepared by the government to deal national security issues but in past years, TAF has been maintaining it. Even recommending ways to deal security threats and forcing government to accept it. (Burak, 2011)

TAF has never allowed to discuss defense budget in parliament or in media. Furthermore, it promoted private sector and established Army Mutual Assistance Association in 1961 (Jacoby, 2003) to seek cooperation from industrial class for its own political and economic interests. Constitutional privileges like tax exemption has been the main principle for the success of General Duties.

Relatively, military has established its monopoly to define threats or enemies and to devise measures to counter it. Some religious ethnic groups that never indulged

in any anti-state activities such as the Greek Orthodox Patriarchate of Istanbul were categorized as internal enemy and investigated under constant pressure. (Burak, 2011) Summarily, the above discussion reveals constitutional justifications of military involvement.

Legislation towards Democratic Control

The past decade has been fruitful for Turkish democracy in general and for reducing army influence particularly. TAF has been emphasizing its role even more since mid-1990s to 2000s while the European Union is constantly demanding democratic reforms for Turkey to attain full membership. Not only providing guidelines but European Commission is monitoring Turkey's overall progress on yearly bases as per the criteria fixed in the Copenhagen European Council meeting of 1993 which demands strong civilian control over military. (Burak, 2011).

In the late 1990s, a historical shift towards democratization was seen with the removal of military judges from security courts. Similarly, civilian representation was enhanced in the NSC in October, 2001 and priority condition of NSC's recommendations was abolished. In 2003, the condition of an in-service military member as secretary NSC was ended as well. (Jenkins, 2007). Furthermore, the access of NSC to civilian institutions was restricted alongwith the abolition of military representation from higher education institute, cinema, video and audio supervisory board. (Burak, 2011) . Even more, under 7th Harmonization Law, the basic unit of military power NSC was detached from decision-making body and reduced to an advisory board as it was in its initial form in 1960 and in 1971. (Michaud-Emin, 2007). In spite of these changes, European Commission still pointed out the informal influence of TAF. (EC, 2004). Though, Turkish military supports Westernization but it cannot remain ignorant about Western ideas of Turkish democracy. However, it is expected that Turkey's efforts to join EU would further enhance civilian control in political affairs. (Karaosmanoğlu, 2000)

However, TAF kept considering itself superior to politicians. This is evident from the events of 27th April, 2007 when general military staff issued a memorandum at its official website threatening the government, (Document, 2007) "know your place or suffer the consequences" is enough to understand the tendency of military staff. (Coşkun, 2013) The matter is that the presidential candidate was of JDP (Justice and Development Party) was Abdullah Gul whose wife used to wear headscarf which was perceived by army as a threat to secularism. Relatively, it should be remembered that Turkish president is a sign of Kamal's legacy and as a symbol of secularism. (James W. Warhola, 2010).

The then government dealt this threat with an iron hand as first time in Turkish history to stand against military. (James W. Warhola, 2010). Later, the presidential election was cancelled and general elections were recalled. The JDP won majority with Abdullah Gul becoming president of the country. (Document, 2007)

Constitutional Amendments

The 1982 constitution originally framed to protect the interests of ruling elite mainly military command. It was criticized from all sections of society besides the democratization requirements of EU. Necessarily, following governments amended constitution of 1982 time to time. There have been 21 amendments in the 1982 constitution since 1987 to 2010. (Coşkun, 2013) However, keeping in view the scope of this study, only relevant ones are discussed here.

Amendments of 1999 and 2004

Under the amendment of 1999, military judges were removed from national security courts, formed in 1973 and had been subject controversies. Furthermore, the immunity against the decisions of NSC regarding judicial review was eliminated in the 2001 amendment and the decisions of NSC were to be challenged in the constitutional court. Similarly, the 2004 amendment removed the military representatives from Higher Education Board. (Ozbudun, 2007) There have been 13 amendments from 2002 to 2013. Among them 10 have been implemented while the other three are not yet approved.

Seventh Harmonization Reforms (Law No. 4963)

This package was enforced on 7th August, 2003. Article 24 of this law authorized the Prime Minister to sanction one of his deputies to present the opinions and suggestions of the NSC in the Ministers' Council to ensure their contribution in the final decision making process which was previously done by the secretary general of NSC. While article 25 limited the meetings of NSC from once every month to every two months. Additionally, the secretary general of NSC was deprived of his six most important executive powers under article 26 and restricted to only secretarial related duties. Moreover, under article 28, NSC Secretarial activities were made transparent and to be printed in Official Gazette. Similarly, this reforms package enabled the Accounts Court to take control the state-owned properties, previously controlled by military. Another important step towards democracy is the amendment in the criminal proceedings of military courts. Article 6 of harmonization reforms directs to not to trial military crimes in military courts committed by civilians. (Document, 2007)

2004 Amendments

Law no.5170 was passed on 7th May, 2004 that modified nine constitutional articles and eliminated an extra article. Article 131/2 deprived the Military Chief from the right of appointing a member of Higher Education Board and eliminated national security courts under article 143. It is a fact that the Turkish desire of becoming EU (European Union) member has been an important motivation behind these amendments. But this external factor has helped the government to control and minimize the influence of military establishment because EU demands total turnover of Turkish constitution from non-democratic to democratic. (Coşkun, 2013)

2007 Amendments

The focus of 2007 amendments was to solve the constitutional crisis that arose on the eve of presidential election. According to the article 102, a two-third majority (367 votes) in initial two rounds and simple majority of 276 votes are required in third and fourth rounds to elect the president. The 1982 constitution gives president a prominent position and key executive powers to have a strong hold over elected governments as it was drafted by Turkish armed forces. At that time the 7 years' tenure of President Sezer was about to end in May 2007. Though the then government had majority but it was not enough to elect their own candidate in first two rounds. Under 2007 amendments, a method of direct presidential election was introduced to avoid these complications. It weakened the psychological advantage of armed forces over elected representatives.

2010 Amendments

Government proposed an amendment to uplift headscarf ban in the article 10 and 42 which was accepted with 411 votes which was challenged in the court by the then opposition. The court declared it unconstitutional by stating that it was against the secularism. Here, it is necessary to mention that court is authorized only to check the procedure of amendments not the content but in this case court became biased and decided over content. Later, the chief prosecutor Abdurrahman Yalçınkaya applied in the court to impose a political ban on JDP including its Prime Minister Erdogan, President Abdullah Gul and deputies. The appeal was based because the JDP had violated the secular provisions of constitution by proposing the amendment of ending ban on headscarf. But the court favored the then government by stating that it did not commit any violation. A bill for judiciary reconfiguration judiciary was proposed and passed more than two-fifth votes and finally approved in referendum. "The 2010 constitutional amendments represented, particularly about the judiciary, a radical move away from the 1980 military junta regime and –ironically enough- received 58 percent of the vote in a

referendum held on the military coup's 30th anniversary on September 12th, 2010. The adopted amendments fell into two general categories: (1) Liberties and (2) the rule of law.” (Coşkun, 2013)

The most significant achievement was the elimination of article 15 that granted immunity to military officials for the crimes committed against human rights. This amendment proved a mile stone for the strength of Turkish democracy. “Primarily, the changes allowed civilian courts to hold the two surviving members of the original five perpetrators of the 1980 military coup accountable for their actions. Following the constitutional referendum, even spokespeople and members of the no campaign filed official complaints against junta members Kenan Evren and Tahsin Şahinkaya, whose ongoing trial carries vast symbolic value for Turkey.” (Coşkun, 2013)

Conclusion

All the discussions show that the mindset of Turkish army is the result of centuries old ideology of being national saviors that was transmitted since the days of Ottoman Empire. The role of army had been increasing time to time in Ottoman era as the army and the Sultan were one authority over political matters. It is to be remembered that those days' defense responsibilities were quite different as the rulers had to consult with his country's military command as in those times political decisions were directly related to the physical security of empires as it was a period of wars. Moreover, Kamal who himself was an army officer, practically observed the causes of Ottoman Empire's downfall and saw western values as the only hope for Turkey's survival. However, army has behaved quite undemocratically and ridiculously to enhance its staunch control over civilian governments. On the other side, Grand National Assembly of Turkey has been amending the constitution to reduce army influence. No doubt that the urge of EU accession has motivated Turkey to introduce democratic reforms but inside it is the desire of the civilian governments to attain the lost authority of executive decision-making lost in the hands of TAF. It can be said that the legislative efforts have reasonably reduced army influence because the judicial trial of army general Kenan Evren is something unimaginable for a country like Turkey. National Security Council, once exercising executive powers, has been reduced to an advisory body only.

Turkish politics should learn a lesson from 16th July, 2016, development when the mass took steps for the survival of the system and democracy particularly. Politicians should do more for the betterment of people and to strengthen the democracy.

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