

Strategic Insight

Turkey's Summer 2003 Legislative Reforms: EU Avalanche, Civil-Military Revolution, or Islamist Assertion?

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Strategic Insights are published monthly by the Center for Contemporary Conflict (CCC). The CCC is the research arm of the [National Security Affairs Department](#) at the [Naval Postgraduate School](#) in Monterey, California. The views expressed here are those of the author and do not necessarily represent the views of the Naval Postgraduate School, the Department of Defense, or the U.S. Government.

September 2, 2003

Turkey's government has recently enacted major constitutional reforms to render Turkey a more attractive candidate for full European Union membership in 2004. These reforms are the sixth and seventh in a series of harmonization packages enacted since February 2002 to conform to the EU's [Copenhagen Criteria](#) for accession, and they touch upon core elements of Turkey's political architecture. These include human rights, political expression, and—most importantly given Turkey's post-1960 political life—the structure and dynamics of civil-military relations.

The current Turkish government is run by the [Justice and Development Party \(AKP\)](#). Controlling over two-thirds of parliament, the AKP can forgo rule through coalition and has a large enough majority to legislate over a Presidential veto. This kind of absolute parliamentary majority is novel in Turkish politics, suggesting further EU-oriented democratic liberalization will occur even more smoothly. AKP, however, is an Islam-affiliated successor to a much more extreme Islamist party unseated by the military in 1997 and outlawed in 1999 for challenging Turkey's constitutionally secular character.^[1]

While passage of the seventh harmonization package raises some observers' hopes that Turkey is moving towards a liberal democracy as part of an EU-driven "political avalanche,"^[2] new limitations on the Turkish Armed Forces' (TSK) interference in civilian politics to protect secularism raise darker questions: Are we witnessing the beginning of the AKP's larger game of hijacking the state through democratic procedures to alter society away from [Kemalist](#) secularism and towards socio-political Islam? Will this involve a defanged military unable to prevent Turkey's turn away from the United States in favor of Middle Eastern and Islamic political alliances, with ramifications for America's strategic position as well as access to Caspian and Central Asian energy resources?

In this nightmare scenario, the AKP government and parliamentary majority have emasculated the military, both by making it appear impotent during the US-Turkish negotiations prior to the Iraq war, and now through removing the structures and mechanisms for the TSK to dictate legally-binding desires to civilian governments. After this, AKP will work to take over the parliament-elected presidency by moving the election date earlier, prior to the next round of general elections. Turkey's government could then mount an assault on the judiciary, the remaining stronghold of Turkish secularism.

Such prognostication is premature. Not only has Turkey demonstrated a capacity to legislate laws one way and implement them differently, but in the final analysis, the TSK still has all the tanks and the most fans: it has a monopoly on a loyal coercive force that it has politically deployed in the past, while the military remains the most respected national institution among Turkish citizens.

Rather, examination of the reforms themselves elicits certain questions: are they indeed democratizing, and on the level of civil-military relations do the changes render Turkey more similar to Western Europe and the United States? Might alterations to civil-military dynamics contribute to a more mature, balanced form of Turkish civilian politics? What levers of political influence remain to the military? And, to the extent

that these are democratizing reforms, what approaches are appropriate to a United States currently committed to regional democratization?

Harmonizing Measures

Recent changes fall into two categories: those dealing with political expression and human rights, and those focusing on civil-military interactions.

Political Expression, Human Rights

In the Penal Code, expressions of thought for the sole purpose of criticism and not defamation are no longer subject to prosecution. Further, blanket statements such as "facilitating the actions [of criminal organizations] in any way" have been removed. Likewise, in the Anti-Terrorism Act, actual "incitement to violence" must be the criterion enabling prosecution for "propaganda against the inseparability of the state." The minimum penalty for insulting "Turkishness, the Republic... ministries, the military or security forces" has been reduced from a year to six months.

In the Code of Criminal Procedure, investigation of state bodies for torture and misconduct are now to be treated as priority matters. Hearings may be delayed for no more than thirty days, taking place during judicial recess if need be. In peacetime, *military* courts will no longer prosecute *civilians* inciting soldiers to mutiny or discouraging the public from military service. As well, for the purposes of prosecution, the term "child" now applies to those under the age of eighteen, as opposed to the previous fifteen.

Amending the Acts on Association and Assembly, citizens convicted for "inciting to hatred on religious, racial, social, or cultural grounds" will no longer be prohibited from joining associations. The Ministry of Interior must hasten the process of reviewing new associations' charters, while students' rights to form associations have been broadened. Assemblies and demonstrations may only be banned if there is a "clear and present danger that a criminal offense will be committed," with the term of judicial postponement being likewise reduced.

Particularly important in the context of the Kurdish issue, the Act on Foreign Languages and Dialects now permits existing language course facilities to offer instruction in citizens' traditional dialects. Parents may give their children Kurdish names, while private radio and television stations may broadcast in Kurdish.^[3]

Civil-Military Relations

Central portions of the seventh harmonization package focus on reducing the military's autonomy as a "state within a state."^[4] Until now, the size of Turkey's defense budget has been determined almost entirely by the TSK itself. Further, the TSK alone decided how to spend defense liras. With sole control over R/D, acquisitions, and military pay, the army reduced the civilian defense ministry to an instrument of uniformed commanders. Now, military expenditures will come under parliamentary scrutiny through the Court of Accounts, a body similar to the American Government Accounting Office (GAO).

The most fundamental alterations limit the TSK's legally-enshrined, institutionalized ability to intervene in civilian politics. Here, the role of the National Security Council (MGK) is at issue. A very different body from the American NSC, the Turkish MGK was established after the 1960 coup to "recommend to the cabinet the necessary basic guidelines regarding... decisions related to national security."^[5] After the 1980 coup, the [1982 Constitution](#) greatly expanded the powers of the MGK. The council assumed the lead in defining national security priorities, taken to include domestic issues such as political Islam, (Kurdish) separatism, and organized crime. Further, the government was to "give priority consideration to the decisions of the MGK concerning measures it deems necessary." The MGK's decisions became much more than recommendations to its civilian masters; rather, they resembled decrees civilian governments ignored at their peril.

For the past twenty years, the MGK's General Secretariat has managed the Council's affairs in between at least monthly meetings, to be called by the President in consultation with the Chief of General Staff (CGS). A largely military body, its 350 permanent staff are mostly active-duty or retired military, led by a flag officer appointed by the CGS. Empowered to obtain any classified or unclassified materials from all departments of state and even private individuals, the General Secretary also set the agenda of MGK meetings and oversaw revision of the MGK's National Security Policy Document every five years.

The balance of civilians and military officers on the MGK also contributed to the body's becoming a chief institutional means for the military to forcefully communicate its views. Though including the President, Prime Minister, and Ministers of Defense, Foreign Affairs, and the Interior, the TSK contingent comprised the CGS, General Secretary, as well as land, air, naval forces and gendarmerie commanders. The MGK thus was numerically stacked in favor of the military, which in any event defined Turkey's national security priorities, prepared the MGK agenda, and ran it in between meetings. As the best-organized, best-informed, most powerful foreign and defense policy body, the military-dominated MGK has been referred to as Ankara's kingmaker. It could indeed unmake civilian governments, as it did during the "soft coup" that toppled the Refah Islamist party from power in 1997.

Against this backdrop, recent measures approach a civil-military revolution. First, the MGK's structure has been drastically revised to alter the balance of "suits" to "uniforms," by removing the force commanders from the Council. Though individual commanders may be consulted by the MGK, the sole remaining permanent military member of the MGK is the CGS. Likewise, while the General Secretary will remain as an ex officio member, he is now to be appointed by the President from a list provided by the Prime Minister, who may propose either officers or civilians. This allows for non-military control of the General Secretariat, and more broadly, the MGK agenda.

Second, MGK authority has been reduced. The General Secretary will no longer act "in the name of the President, Prime Minister, and the MGK," but only "in the name of the MGK." On his own, he may no longer require all manner of documents from public and private entities. Overall, the General Secretariat is now confined to a research and analytical role, having been stripped of executive prerogatives.

More broadly, the Council itself has lost its executive powers. It will now convene only bi-monthly, and the Prime Minister and President will no longer share with the CGS the power of calling for (or postponing) a meeting. Further, just as the MGK will no longer provide one-stop shopping for setting foreign and defense policies, it has in effect been reconstituted as a solely consultative body, by eliminating its powers to monitor and enforce civilian governments' compliance with Council decisions. In short, at least in theoretical terms, the MGK no longer makes decisions, but only offers advice.

Third, other miscellaneous changes narrow the range of military intrusion into civil affairs. The MGK will no longer provide views on which foreign languages will be taught in Turkey. Likewise, TSK no longer has a uniformed representative on the [National Broadcasting Authority](#). Both measures diminish the military's role in preventing cultural expressions of Kurdish identity, while the removal of a General Staff-appointed member to the Commission of Higher Education (YOK) suggests the TSK will be less able to intervene on matters of cultural and intellectual freedom in Turkey's universities.^[6]

Implications for Turkey

Naturally, TSK leadership has been dismayed by these developments. On the eve of the parliamentary vote, CGS [Hilmi Ozkok](#) wrote Prime Minister Erdogan a letter condemning the changes to the MGK. In recent weeks, former deputy CGS Yasar Buyukanit, newly appointed to command of the 1st Army, has made several public statements questioning the wisdom of the changes and warning against anyone playing with the TSK's role for political purposes.^[7] There are also rumors of junior officer criticism of Ozkok as too soft on the civilians, suggesting the possibility of a 1960-style coup, when mid-level officers executed the TSK's first intervention into politics.^[8]

Failing severe domestic and regional destabilization in the next months, this is unlikely. Even according to certain officers, eliminating the TSK's legal-constitutional means of intervening in the affairs of civilian government must be seen as a move towards the very kind of democracy characterizing those EU countries the Republic wishes to join. Further, political and cultural liberalization of the public space brings Turkish laws more into line with those of the West, that international civilization into which Turkey has sought integration from the first days of the Republic in 1923. And, given the entanglement of issues such as civil liberties and human rights, with sensitive matters like the Kurdish issue, political expression, and religious activism, liberalizing reforms in the socio-political sphere are meaningless without alterations to civil-military relations.

Advocates of the Turkish military's continuing role in civilian politics have referred to the TSK as "Turkey's main bastion for political moderation" and "steady hand" guaranteeing political stability.^[9] Thus far, however, the military has demonstrated only immoderation on the matter of Kurds, in the past even vetoing relatively innocuous measures on the cultural plane. Likewise, the military has cited national security concerns to prevent potentially dynamic civilian government progress on the [Cyprus issue](#). Furthermore, the military's ability to intervene in politics either through recommendations or force has acted to short-circuit regularized governmental processes.

Put differently, the presence of an over-powering TSK has by default excused civilian politicians from dealing wisely with a whole range of foreign and defense policy issues and domestic matters, given the military's broad interpretation of "national security." If fully implemented, then, the June-August reforms will require civilian cabinets to actually govern responsibly, as they will no longer be able to count on the military safety net. After poor showings in the past, politicians will have to more fully heed their professional diplomats and even military advisers, as they will need to think more seriously about foreign policy and defense matters. Potentially, then, recent reforms may drive a greater civilian political professionalism and sense of national responsibility.

A related concern among those who see destabilization rather than harmonization involves the larger intentions of the current government. By portraying itself as merely an Islam-affiliated democratic party—the Turkish analogue to the German Christian Democrats—is AKP practicing a form of dissimulation? Is it pretending to be democratic for anti-democratic aims, in order to gradually pry Turkey away from its secular Kemalist foundations and steward over legal, social, and political Islamization? AKP's late June moves to increase state-funded Islamic prayer leader (imam) slots to 15,000 raised such fears, as did the government's authorization of Turkish diplomatic missions abroad to engage in Islamic cultural activities.^[10]

Of course, it is in the nature of the political game for parties to push agendas in and out of office. Yet, as against the fear of stealth Islamization, it may be noted that since AKP has chosen the route of electoral politics, no matter what its intentions are, it must cultivate the electorate. In the November 2002 elections, it only acquired 34% of the vote. The majority of voters thus did not vote for an Islam-affiliated party, just as many AKP voters voted *against* other parties rather than *for* the AKP. The need to retain and expand its constituency may act to moderate a tendency to Islamist adventures. After all, substantial numbers of Turks will continue to view the TSK as the final resort in safeguarding Ataturk's republic.

This suggests another element of Turkey's future political equation. While the TSK has relinquished much of its structured, constitutionally-legitimized influence on civilian politics, to claim it has been struck at the heart is to ignore its arsenal of unofficial means of influence.^[11] As highlighted during the 1997 removal of Refah Partisi from power, these include off-the-record interviews to nationally esteemed journalists; official briefings to the media groups, economic elites, the diplomatic corps, and foreign representatives; insistent statements from the CGS press office; repeated informal visits and telephone calls to members of government and civil servants, either by senior serving officers, retired generals, or civilian intermediaries; and even hints about restless mid-level officers anxious to intervene.^[12] Notably, recent reforms have not at all touched upon these kinds of autonomous "public relations" tools at the military's disposal. Of course, the TSK has also been known to divert armored columns through towns where Islamist mayors have attempted to flout military preferences.

At the same time, the ability of the Turkish military to deploy these informal means of influencing civilian politics depends on other elements of society with like views. Major components of Turkey's economic elite as well as its major media outlets share concerns about creeping Islamization and the Kurds, not to mention Cyprus. Likewise, the judiciary, particularly at its senior levels, is thoroughly Kemalist-secularist, and did not even wait for the generals' nod to close down the Refah Partisi in 1997-1998. Some government prosecutors' views are even more extreme than the military's in their "militant democracy."^[13]

Finally, as a last resort, the TSK still possesses total control of the most decisive means of coercion and influence in Turkey, and notwithstanding periodic rumors of disaffected officers, the military can pride itself on airtight loyalty to command hierarchies. If the generals feel the polity is either disintegrating or being hijacked by mullahs—and if it senses popular support for intervention, as it did in 1980—the TSK will feel no compunction about moving out of the barracks and into the presidential palace. The AKP would perceive this as the greatest defeat.

European Union Guarantor(?) and United States Interests

At its base, the recent legislation is a vote for political and societal liberalization for the sake of EU accession. The current government has set the latter as a policy priority, while the EU has clearly indicated that democratization is a prerequisite of membership. As such, the promise of EU admission and the popularity accruing to a Turkish government effecting it may replace the military as Turkish secular democracy's safety net. In this scenario, whether or not the AKP desires it, the EU harmonization process by its very logic will dissuade the government from those practices provoking military ire. In this sense, even if Europe persists in throwing up obstacles to Turkish entry based on ethnic or religious hypocrisy, EU harmonization will have achieved changes setting Turkey on a course to liberal democracy. Likewise, if AKP comes up short in its EU bid and fails to deliver economic recovery—both likely—its electoral star might dim.

American interests do not appear negatively affected in the near to medium term. The United States actually stands to benefit from its ally espousing a political system more transparent and responsive to the electorate, while over time it is likely that a civilian-dominated foreign policy establishment will present a more unified point of contact. These changes may also drive an emphasis on diplomacy over military ties in bilateral relations. Recent experiences in relation to Iraq commend such an approach.

As such, U.S. foreign policy makers might play down their oft-implied preference for dealing with Turkish generals. [Recent statements](#) indicating disappointment that the TSK has not demonstrated more of a leadership role in foreign and defense policy are unhelpful in this respect: they do not increase public esteem for the Turkish military, while they alienate civilian diplomats from their American counterparts. Much more fundamentally, they convey the impression to Europeans, Turks, and other peoples in the Middle East of an insincere American commitment to democracy and civilian control of the military. Not only does this strengthen heretofore marginalized anti-American tendencies among Turks, but it may harm our global ability to convincingly work for democratization, human rights, and civilian control of the military.

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