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A Democratic Opening? The AKP and the Kurdish Left

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Abstract: Since its foundation, militant democratic arguments have underpinned an enforced secularism in Turkey. The 2002 election of the AKP, described as a “moderate Islamist party”, has challenged Turkey’s secular identity. In the more than twelve years since the AKP has been in power, Turkey’s political landscape has experienced significant changes, with periods of extensive democratic reforms punctuated by regression in certain areas, notably freedom of expression and the right to protest. State repressive measures coupled with Recep Tayyip Erdoğan’s reluctance to exit the political stage have been the focus of much commentary and analysis. This article argues, however, that under AKP rule the Kurdish issue – critical to ensuring the normalization of politics and democratization in Turkey – has been brought in from the political cold and assesses the creation and role of the HDP (*Halkların Demokratik Partisi*), a Kurdish political party that is endeavoring to situate itself in the mainstream of Turkey’s political landscape. We posit that the HDP can be viewed as the offspring of this “democratic opening,” a project that was meant to ensure a radical transformation of the Kurdish issue in Turkey. Through analysing the historical trajectory of both AKP and HDP and the militant democratic arguments that led to their predecessors’ exclusion from the public sphere, this article engages with the key question of the extent to which the AKP’s treatment of the Kurdish issue has provided a vehicle for broader democratisation and facilitated a reconsideration of the Kurdish question in Turkey.

Keywords: Turkey, AKP, HDP

Introduction

Increasingly, security narratives are being used by states (including democratic and quasi democratic states) in order to justify pre-emptive actions and measures which otherwise would not fit within an international human rights law

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framework. These are usually constructed around the necessity to protect democratic values and the democratic “way of life.” This typifies what we refer to as “militant democratic” language and the “preventive state” (Sajo 2006). Militant democracy was a term introduced in 1937 by Karl Lowenstein. It refers to a form of constitutional democracy authorized to protect civil and political freedom by pre-emptively restricting its exercise (Lowenstein 1937).

There are two competing but equally plausible theories that underpin the debate on militant democracy. The first of these is the “toe in the door” thesis which posits that if anti-democratic groups are allowed to use democratic means to enter the public sphere (e.g., competing for elections, holding office, etc.) the path remains open for them to seize power and destroy the institutions that provided their platform. It is necessary, therefore, to pre-emptively restrict these groups from the public sphere. In contrast, the exclusion-radicalization thesis argues that excluding these groups and preventing them from channelling their grievances into public life (political/legal) may further radicalise their agenda.

There is significant (and unresolved) debate on the underpinnings of each theory. In some cases, a State may be able to argue that the exclusion of a certain group from the public sphere was necessary in the circumstances in order to combat a viable threat to state security. It follows, then, that pre-emptive State actions in restricting the possibilities of political groups using the democratic system to gain election, only to undermine it when in power, are essential. A constitutional expression of military democracy has been adopted by many liberal and illiberal States and is reflected in the various undertakings by the Turkish State, which has used militant democratic measures to excise political parties that clash with the secular principles of the Republic from the public political sphere.

In contrast, critics of the militant democratic thesis argue that these measures may well be used to silence political opposition or in order to target particular groups. Those writing on what are typically viewed as “anti-democratic” parties or movements argue that labelling something moderate or radical (inclusive, and therefore democratic, or exclusive and therefore anti-democratic) usually fails to apply consistently across categories of political actors. The result is that in the case of legal Islamist political parties, they are often identified alongside groups that use violence but do not engage in pluralist practices, and with those that use violence in certain circumstances but may also adopt pluralist practices (e.g. Hamas). As well, a critical reading of the practice of the USA (and other Western governments) suggests that labelling a regime/group as moderate or radical is less of a forensic evaluation of the nature of the group, and more an indicator of that group/regime’s

support (or resistance to) the policies of the West (e.g. the USA-Pakistan alliance in the “war on terror”). When applied to the Turkish context, militant democratic arguments underpinned an enforced secularism. By labeling political parties as “Islamist”, the Turkish State engaged the Constitution and the Constitutional Court in regulating democratic self-defence and gave legitimacy to preventative state measures. These measures also served to marginalize communities (religious, minority, left) who did not fit within the prescribed Turkish identity.

The policing of the public square at the domestic level in Turkey was paired at the regional level where the European Court of Human Rights (ECtHR), in the 2001 case of *Refah Partisi (the Welfare Party) and others v. Turkey*, upheld a domestic court decision on the banning of a political party. This case concerned a 1998 decision by Turkish Constitutional Court to dissolve the *Refah* Party that had been in existence for fifteen years, alleging that it was inconsistent with Turkey’s constitutional commitment to secularism. At the time of its dissolution, it had the most seats in the Turkish Parliament, having gained approximately 22% of the popular vote, and was part of a national coalition government. The ban was upheld by a Chamber of the ECtHR in 2001 and referred to the Grand Chamber. A 2003 decision by the Grand Chamber upheld the Court’s earlier decision but importantly, placed the rationale for its ruling within a militant democratic framework. The Court argued, “it is not at all improbable that totalitarian movements, organized in the form of democratic parties, might do away with democracy, after prospering under a democratic regime, there being examples of this in modern European history.”¹

This case is worth noting as the Court’s approach moves us closer to establishing a sound legal framework for both concepts that compete for space in Turkey – militant democracy and legal pluralism. Moreover, the years since this decision was made provides rich empirical ground to interrogate the underpinnings of the militant democratic discourse. The ascension of the *Adalet ve Kalkınma Partisi* (AKP: Justice and Development Party), a moderate Islamist party, to power in Turkey in 2002, was met with a significant apprehension amongst Turkish nationalists who feared that this was the “toe in the door” and that faith, even in moderation, was incompatible with the democratic foundations of the State. Advocates of Lowenstein’s thesis point to the AKP’s increasingly authoritarian tendencies as proof positive of the Trojan horse. Conversely, critics of the militant democratic thesis point out its underlying paradox – that is

¹ The case of *Refah Partisi (The Welfare Party) and Others v. Turkey*, European Court of Human Rights Grand Chamber, Application Nos. 41340/98, 41342/98 and 41344/98, 13 Feb. 2003, ¶199. Hereinafter: ‘Refah’ or ‘Refah Party case’.

that it conflicts with, “a normative commitment to the principle of self-determination... the freedom of a people to alter the ways in which they are governed” (Macklem 2006). In the Turkish context, the most visible of these measures – the banning of political parties – has read secularism as inextricably linked to the only acceptable form of self determination – one that “privileges democratic forms of government” (Macklem 2006, 500).

A more forensic read of Turkey’s socio-political landscape suggests that the long term forecast on the impact of the AKP’s (albeit incomplete) democratization process, is far from clear. What is evident, however, is that the historical backdrop of AKP’s ascent to power, as well as its earlier reforms has often been lost in the more current focus on its charismatic leader. In establishing the AKP, political actors were brought together from a number of existing political parties including its own earlier manifestation, the *Fazilet Partisi* (Virtue Party); which had previously been excluded from the Turkish political landscape. Since the election of the AKP in 2002 Erdoğan has led the party to two subsequent victories in the 2007 and 2011 general elections, attaining 47% and 50% of the vote respectively (Letsch 2011). This period coincided with a period of economic revival domestically – Turkey’s GDP rose by 8.5% in 2011 after a 9% increase in 2010 (*The Economist* 2012), making it then one of the world’s fastest growing economies. Turkey was also, at least until recently, seen as a resurgent force in the Middle East, partly due to the “zero problems with neighbours” foreign policy adopted by the then Foreign Minister Ahmet Davutoğlu, which achieved some degree of success. Additionally, then Prime Minister Erdoğan, defied critics who warned of the danger of imposition of Islamic law, and implemented a series of legal reforms that moved Turkey closer to European Union membership.

So what can we assess in the period since the *Refah* party decision in Turkey? Has the Trojan horse indeed entered the Turkish political landscape or is it possible to argue for “faith” in democracy or, as Schwedler has argued, “faith in moderation”? (Schwedler 2006). The answer to this question, when reviewing the wealth of commentary both from within and outside of Turkey, seems to be that it depends on the narrator. It is, in fact, that lingering question as to whether democracy is inextricably connected to enforced secularism that lies at the heart of the contest for what is necessary in a democratic state. Whilst we recognise that this is a much larger question than we will tackle here and has implications that extend far beyond the Turkish context, the assessment on the AKP’s commitment to democratization, and the liberal positioning of rights are deeply entwined within an ideological battlefield that has held Islam to be a powerful political symbol, equated with intolerance and rigidity. This was the view of the European Court of Human Rights in its seminal *Refah Partisi*

(*The Welfare Party*) and *Others v. Turkey*² decision and, in many ways, mirrors the perceptions held by other member states of the Council of Europe, which increasingly have come to see Islam in the public sphere as in contradistinction to democratic tradition. The manifestations of this within human rights law range from the banning or attempting banning of political parties to the wearing of the *hijab* in public schools.

As we focus on how these factors relate to the impact of the AKP on human rights in Turkey, the timing could not be more critical. The events of the summer of 2013 in Gezi Park and Taksim Square have once again resurfaced the militant democratic debate, and precipitated a constitutional reform standoff. Whilst the events of Gezi and Taksim seem to support one end of the debate, the reform package introduced by Erdoğan in September 2013 and implemented in March 2014 gives weight to a different interpretation. Against this backdrop, this article will specifically examine one aspect of the AKP's democratization policy – the “democratic opening” of the Kurdish issue and the accompanying legal reforms introduced by the AKP that relate to Kurdish identity and culture in Turkey. Despite lingering questions around the AKP government's sincerity and commitment to the Kurdish peace process, a series of reforms have been implemented, the ceasefire has largely held and, importantly, through this “opening,” the potential of a viable alternative political party in the form of the HDP (*Halkların Demokratik Partisi*) or the People's Democracy Party has emerged.

The AKP and the HDP: A Shared History?

The AKP's rise to power in 2002 and subsequent steady increase in their share of the national vote and consolidation of that power stands in stark contrast to their sojourn in political wilderness that pre-dated it. As we noted earlier, the dissolution of AKP's predecessor, *Refah Partisi*, by the Constitutional Court in 1998 was sanctioned at the European level by the European Court of Human Rights.³ The AKP was one of two parties that rose from the ashes of the Virtue Party (*Fazilet Partisi*), *Refah's* successor party, itself closed by the Constitutional Court in 2001. That the AKP represented a break with its more religiously

² The case of *Refah Partisi (The Welfare Party) and Others v. Turkey*, European Court of Human Rights Grand Chamber, Application Nos. 41340/98, 41342/98 and 41344/98, 13 Feb. 2003.

³ See *Refah Partisi (The Welfare Party) and Others v. Turkey*, European Court of Human Rights Grand Chamber, Application Nos. 41340/98, 41342/98 and 41344/98, 13 Feb. 2003, where the European Court of Human Rights found that the closure of the *Refah* party did not violate Article 11 of the European Convention on Human Rights.

conservative (if not from the socially conservative) past was epitomised by Recep Tayyip Erdoğan's statement that he was taking off his "national view" (*Milli Görüş*) shirt, to form a moderate party based on political and economic liberalism and social conservatism; a conservative-democratic party (Gumuscu and Sert 2010, 55). Thus, as Dağı notes "[h]aving broken away from its origins, the AKP today stands squarely in the center-right band of the political spectrum, representing rising forces that have considerable numbers and growing weight in society (due not least to economic growth), but who have long felt relegated to the sidelines of public life by strongly entrenched bureaucratic state elites" (Dağı 2008, 30). In breaking away from its origins, however, the AKP has, it is suggested, kept its own identity deliberately ambiguous: "[a]bandoning explicitly Islamist politics in characterizing itself as "conservative-democrat" yet keeping some affinity with Islamist ontology, the party has conveniently wed populist reformism with conservative sensibilities shaped by capitalist consumerism" (Cizre 2011, 97–98).

Despite this shift from the political periphery to the centre and the increase in the share of the national vote, in 2008 the AKP only narrowly avoided being banned by the Constitutional Court on the basis that it had engaged in activities contrary to the principles of secularism. Ten out of the eleven judges on the Constitutional Court considered that the AKP had exploited religious feelings for the sake of political interests and had, in fact, become a centre of activities contrary to the principles of a democratic and secular republic. The Court sanctioned the party by withdrawing half of its public financial support for the period of one year, with a majority of six judges actually voting in favour of dissolving the party, falling one vote short of the necessary qualified majority of seven. The decision to sanction the party with a financial penalty rather than close it suggests that AKP had yet to, "consolidate its conservative identity and clearly formulate its understanding of the role of Islam in public life" (Gumuscu and Sert 2009, 960). Nonetheless, having avoided the fate of its predecessors, the AKP were again successful in the local elections of 2009 although with its share of the vote decreasing slightly to 39% (Gumuscu and Sert 2010, 55).

Historical parallels in the State's treatment of Islamic and Kurdish political parties in Turkey are readily apparent. Political parties with a real or perceived "Islamist" agenda have, since the formation of the State, been viewed as a threat to the secular nature of the Turkish Republic, whereas Kurdish nationalist parties, or even those challenging the traditional State security narrative in addressing the Kurdish question (such as the Communist Party), have been seen as a threat to the unitary nature of the Turkish State. Thus both groups have a long history of their political representation being excised from the public sphere on the basis of militant democratic arguments: between 1971 to

date, four parties were dissolved on the basis of their anti-secular activities⁴ and thirteen others were banned ostensibly on the basis that they advocated separatism.⁵ The last dissolution of the Kurdish political party *Demokratik Toplum Partisi* in 1999 led to the formation of *Barış ve Demokrasi Partisi* (BDP; Peace and Democracy Party) and its more recent manifestation, the *Halkların Demokratik Partisi* (HDP; People's Democratic Party).⁶

The HDP was borne from the political space created by the Gezi Park movement. It is the newest political party to enter the Turkish political landscape and is underpinned by a practical, as well as a more ideological driver. On the practical side, the HDP is endeavoring to situate a Kurdish political party in the mainstream of Turkey's political landscape and, in doing so, provide an alternative for both the left, as well as marginalized groups in Turkish civil society. Ideologically, whilst the HDP originated from within (and is aligned to) the Kurdish movement, it situates itself (and its policies) to the left of Turkey's political spectrum. In having a foot in each political camp, the challenge facing the HDP is twofold – to gently bleed Kurdish issues into Turkey's political mainframe while at the same time, to create an electoral platform that appeals beyond the Kurdish movement.

The HDP, in its present form, was established in October 2013 but its roots can be traced to the 2011 general election. To meet the electoral requirement that political parties must gain at least 10%⁷ of the vote in order to enter Parliament, pro-Kurdish candidates aligned with leftist candidates to form the Labor, Democracy and Freedom Bloc. The strategy proved successful and 36 candidates from the Bloc were elected as independents. The electoral success was the catalyst for the development of the HDK, (*Halkların Demokratik Kongresi*), or

4 These were: *Millî Nizam Partisi* (National Order Party: 1971); *Huzur Partisi* (Peace Party: 1983); *Refah Partisi* (Welfare Party: 1998); and *Fazilet Partisi* (Virtue Party: 2001).

5 These were: *Türkiye İşçi Partisi* (Workers' Party of Turkey: 1971); *Türkiye Emekçi Partisi* (Labourers' Party of Turkey: 1980); *Türkiye Birleşik Komünist Partisi* (United Communist Party of Turkey: 1991); *Sosyalist Parti* (Socialist Party: 1992); *Özgürlük ve Demokrasi Partisi* (Freedom and Democracy Party: 1993); *Halkın Emek Partisi* (People's Labour Party: 1993); *Sosyalist Türkiye Partisi* (Turkish Socialist Party: 1993); *Sosyalist Birlik Partisi* (Socialist Union Party: 1995); *Demokrasi Partisi* (Democracy Party: 1994); *Demokrasi ve Değişim Partisi* (Democracy and Change Party: 1996); *Emek Partisi* (Labour Party: 1997); *Demokratik Kitle Partisi* (Democratic Mass Party: 1999); *Halkın Demokrasi Partisi* (People's Democracy Party: 2003); and *Demokratik Toplum Partisi* (Democratic Society Party: 1999).

6 It should be noted that a challenge to the decision of the Constitutional Court to dissolve the *Demokratik Toplum Partisi* is currently pending before the European Court of Human Rights. See *Demokratik Toplum Partisi and Others v Turkey*, application no. 3840/10, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109449#\['itemid': '001-109449'\]](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109449#['itemid': '001-109449']) (in French).

7 Article 33 of Law 2839.

the People's Democratic Congress. The HDK provided a forum for the various facets of Kurdish civil and political society – trade unions, political party representatives and NGOs – to mainstream Kurdish issues and develop strategies that would bring a leftist perspective to shape policy at the national level. These two processes would converge to form the HDP.

While the BDP was the main pro-Kurdish party and the successor of the first political party to emerge from the Kurdish movement, the party's appeal has been primarily confined to the Kurdish community in the southeast of Turkey. The links between the BDP and HDP were both real and perceptual. The BDP shared with the HDP a strong tie to Abdullah Öcalan, the Kurdistan Workers' Party (PKK) leader. The BDP was a founding member of the HDP and this, together with its close alliance to the PKK, made it difficult for the party to distinguish itself (at least in the minds of the wider Turkish political spectrum) from this ethno-political link. As well, there was very little to distinguish the BDP and HDP in terms of ideology or its political agenda and policies; they both shared a leftist political agenda, placed Kurdish issues at the top of their agenda and were both active in the current peace process. Against this backdrop, there have been some commentators who questioned HDP's agenda and autonomy; was it a genuine attempt by the Kurds to further Turkey's democratization agenda or merely a cover to help facilitate BDP's Kurdish agenda under a different party roof.

Yet despite these reservations, it would be myopic to read the HDP as a mere extension of either the BDP or the PKK. Its emergence in the wake of the Gezi Park and Taksim Square protests was not coincidental. Whilst Gezi brought together a wide variety of actors, particularly drawn from the left, the momentum created by this protest did not coalesce into a viable political movement. The HDP sought to fill that vacuum and provide an alternative to disenfranchised AKP voters, leftist opposition, as well as marginalized groups that had yet to find a viable political platform. Questions related to labour rights, gender equality, sexuality, the environment, and peace (regionally and internally), most of which had been on the periphery of mainstream political thought in Turkey, became core to the HDP electoral platform. Importantly, the HDP challenged the AKP's neoliberal economic agenda and pressed against an increasingly centralized power in advocating for devolution to regional authorities.

Read within the reform happening within the Kurdish movement, the development of the HDP is a logical endgame in the restructuring process initiated by Öcalan; a way to, "advance more effectively its cause at national level, the Kurdish movement needed to find the appropriate political vessel to broaden its natural geographical constituency. Exploiting the vacuum on the left flank of the Turkish opposition was thought to be the solution to help anchor the new party into national politics" (Gisselbrecht 2014, 4). The PKK ceasefire, the

ongoing peace process, the conflict in Syria (and events in Kobani) and Öcalan's very public engagement with Turkey's political leadership, signal two important changes within the Kurdish movement. Firstly, that the Kurdish movement itself is undergoing a structural overhaul and alongside, this, the Kurd/Turk relationship is recalibrating. It is against the backdrop of both of these factors, that the HDP appears now to have provided a "third way" for Turkish politics – an alternative to the more right wing Nationalist parties and the AKP.

The engagement of AKP on the Kurdish issue, which we return to in the next section, has arguably led to a normalisation of the Kurdish question (and Kurds) in what might be termed "western" Turkey, thereby potentially opening up the space for HDP to be viewed as not a single-issue Kurdish party but rather one that would appeal to those, Turkish, Kurdish, or other ethnic identity, broadly categorising themselves as on the "left".⁸ In its electoral debut in the March 2014 local elections, candidates in the Southeastern Kurdish regions ran as BDP and secured 1.885.992 votes or 4.2% of the votes and in the Western provinces, candidates ran under the HDP banner and won 853.686 votes or 1.9% of the total votes.⁹ It was the results of the August 2014 Presidential election, however, that signaled that the HDP's message was finding an audience outside of the Kurdish community as the number of votes for the HDP doubled, with the HDP Presidential candidate, Selahattin Demirtaş, securing 9.76% of the overall vote and falling just short of the necessary 10% threshold that is so pivotal in general elections.¹⁰ Demirtaş's campaign slogan, "New Life – *Yeni Yaşam*," was a direct appeal to Turkey's politically marginalized and disenfranchised groups – labour, environmentalists, women, members of the LGBTQ community, and youth.¹¹ The HDP committed a 50% quota for women and a 10% quota for LGBTQ.¹²

The messaging of the campaign was important. Demirtaş ran on a radical democratic platform (Akkaya and Jongerden 2012) that challenged and disrupted notions of Turkish identity and State over individual interests that were

8 The authors acknowledge here the perils of left-right categorizations in Turkish politics. See, for example, Aydoğan and Slapin (2013, 1) suggesting, through analysis of electoral manifestos, *inter alia*, "that the Republican People's Party (CHP), a social democratic party typically associated with centre-left politics, as well as other parties of the left, use language in their manifestos that stresses concerns typically associated with the right in West European democracies. Traditional 'rightwing' parties, on the other hand, tend to use language often associated with the left in the West."

9 Election results can be found at: <http://secim.haberler.com/2014/>

10 Election results can be found at: <http://secim.haberler.com/cumhurbaskanligi-secimi/>

11 For an outline of the 'New Life – *Yeni Yaşam*' programme see: <http://en.selahattinDemirtas.net/newlife/> [Last accessed 11 February 2015]

12 The HDP's manifesto is available at: <http://hdp.org.tr/parti/parti-programi/8> (in Turkish).

long part of Turkey's political landscape – issues that transcended ethnopolitical divisions and could appeal to all facets of Turkish civil society. The campaign's success may perhaps be best understood as the nascent broadening of HDP's political base and, we argue, could not have been achieved without the transformation in the approach to the Kurdish question, begun under AKP rule.

Even prior to the HDP's electoral success at the general election in June 2015, the HDP has already in certain respects irrevocably defied the political status quo in Turkey. The decision to field HDP, rather than independent candidates in the 2015 general election presented a significant risk for the party, one which undoubtedly paid off, with HDP gaining more than 12% of the vote and 80 seats in Parliament. The election results and HDP's success is undeniably the most serious challenge to AKP's hegemonic control of the political arena with it failing to achieve a parliamentary majority for the first time since its formation. At the time of writing talks were continuing between AKP and CHP and AKP and MHP about the possibility of forming a coalition government, with the possibility of an election re-run should agreement not be reached. The paradox of the situation is clear – the HDP has evolved and been made viable through a peace process that has been strongly endorsed by Erdoğan and, in the end, it is the HDP that has now presented the greatest challenge to the AKP's monopoly on power. HDP has been hugely successful in its attempt to provide a viable political alternative to the AKP and the main parties to the right. Map on to this the popular appeal of the HDP Presidential candidate, Selahattin Demirtaş, and the recent electoral win of SYRIZA in Greece, with which HDP has publicly aligned (Çandar 2015), and the success of radical left politics in Turkey may be guaranteed for some years to come.

The AKP and Democratic Participation

The AKP's stated agenda has, to greater or lesser extent, always been a transformative one. When first elected in 2002, significant emphasis was placed on renewing efforts towards Turkey's membership of the European Union and thus the first period of the AKP's reign was characterised by noteworthy reforms in the area of human rights protection, as well as a series of "harmonisation packages" aimed at bringing Turkey's laws in the area of the EU *acquis* into line with those of the EU member states. Echoes of the *Yenilikçiler* movement that emerged from the *Fazilet Partisi* (Gumuscu and Sert 2009, 954) resonate in

more contemporary expressions of the AKP's desire for, and promises to deliver, a "new Turkey."¹³ The AKP's actions during the early part of its tenure certainly bore the hallmarks of a new Turkey. In 2004 then Prime Minister Erdoğan professed his commitment to reform by calling for "the acceptance of human rights as the common value of continents, civilizations, values, politics, strategies, East and West" and argued that countries that fail to embrace "the universality of human rights, democracy, and the rule of law will be driven into loneliness" (Smith 2005, 437). That same year saw the European Commission conclude that Turkey had sufficiently fulfilled the Copenhagen Criteria for EU membership, facilitating the European Council's decision in December of that year to invite Turkey to commence negotiations. A number of factors had influenced the Commission's decision that Turkey had satisfied the political criteria, including efforts to achieve a comprehensive settlement to the Cyprus problem and the development of positive relations with Greece, as well as Turkey's accession to most of the international and European human rights conventions and increased efforts to implement the decisions of the European Court of Human Rights (European Commission 2004, 174). The Commission also referred to Turkey's efforts to eradicate torture and progress in aligning the overall framework for the exercise of fundamental freedoms with European standards (European Commission 2004, 174). Significant progress in strengthening the freedom of the press, freedom of expression and association and progress in the implementation of reforms concerning cultural rights was also highlighted (European Commission 2004, 175).

The intervening period of AKP rule has, however, been characterised more by reform fatigue than reform – fatigue that has been brought on by "by a confluence of factors, both external and internal" (Patton 2007, 355). Moreover, to attribute the panoply of human rights reforms undertaken in Turkey in the past decade or more solely to the AKP is perhaps an overstatement – the reform process, it is argued, had been underway since 1995 and the implementation of legislative reforms began in earnest under the Ecevit coalition (Barchard 2005, 89). What is certain though is that the reform process accelerated after the election of AKP in 2002 and the early part of AKP's tenure is typified by a reformist agenda, albeit counterbalanced by a very mixed record of human rights protection in the latter part of its rule. In contrast, the state of civil-military relations in Turkey is arguably one area where there is little doubt

¹³ For example, in advance of the presidential election of August 2014 Recep Tayyip Erdoğan repeatedly spoke of his vision for a 'new Turkey', which included substantive constitutional reform: "A new constitution on the path to new Turkey will be one of our priorities if elected president. A new constitution means a new future" (Uras 2014).

that AKP has overseen a complete transformation, notwithstanding contestation over the modalities of its approach and in particular the long-running “Ergenekon” trials. The military’s historical influence on government policy has been radically altered under AKP rule and with the AKP “successful at providing coherent governance and economic growth, and Turkish society as a whole becoming more confident and assertive, the political space available for the military to occupy has shrunk” (Aydınlı 2012, 103). A return to the *status quo ante* would therefore seem highly unlikely.

Turkey is unique amongst Council of Europe member States in requiring that political parties gain at least 10% of the vote in order to enter parliament. This highly restrictive measure is prescribed by Article 33 of Law 2839, which states in part that “[n]o candidates of a political party which has not obtained more than 10% of all of the valid votes in Turkey as a whole or, in the case of mid-term elections, in all of the mid-term election districts shall enter the parliament”¹⁴ and continues to be a source of contention. Turkey’s Constitutional Court has ruled the 10% threshold to be compatible with the constitution and its goal of governmental stability. In a judgment from November 1995 the Court ruled that the 10% threshold “came into force with the approval of the legislature. Electoral systems must be compatible with constitutional principles ... and it is inevitable that some of these systems should contain strict rules. Thresholds which result from the nature of the systems and [are expressed] in percentages, and [which] at national level restrict the right to vote and to be elected, are applicable [and] acceptable ... provided that they do not exceed normal limits ... The [threshold] of 10% is compatible with the principles of governmental stability and fair representation”.¹⁵ A challenge to this requirement was again brought before the Turkish Constitutional Court by three political parties using the “individual” constitutional complaints mechanism implemented by the constitutional reforms of 2010, alleging that the threshold is a violation of the right to free elections (Acar 2014). On this occasion, however, the Court declined to rule on the issue saying it lacked competency. Its decision came against the backdrop of reports of an increasing tension between the judiciary and the current government (Kandemir 2015).

This electoral threshold requirement has and continues to significantly impact political participation in Turkey. This issue has been raised at the regional level in Europe. The Parliamentary Assembly of the Council of Europe

¹⁴ Law 2839 Parliamentary Elections Law, enacted on 10 June 1983. Published in the Official Gazette No.18076 on 13 June 1983.

¹⁵ Constitutional Court, Judgment of 18 November 1995 (E. 1995/54, K. 1995/59), cited in *Yumak and Sadak v Turkey*, Application no. 10226/03, Judgment of 8 July 2008, ¶ 42.

(PACE) has on a number of occasions called for member States of the Council of Europe to consider reducing electoral thresholds to 3%¹⁶ and in 2004 noted that it considered in the Turkish context the requirement that parties win at least 10% of the votes cast nationally before they can be represented in Parliament to be “excessive” and recommended that it be lowered.¹⁷ The European Court of Human Rights also addressed the issue in the 2008 case of *Yumak and Sadak v Turkey*. Whilst the Court did not find that “...the threshold has had the effect of impairing in their essence the rights secured to the applicants by Article 3 of Protocol No. 1,”¹⁸ it did make several observations worth noting. In reflecting on the 2002 general election, the Court found that, “not only did the proportion of the electorate not represented in Parliament reach a record level in Turkey (approximately 45%) but in addition the abstention rate (22% of registered voters) exceeded 20% for the first time since 1980. As a result, the National Assembly that emerged from the elections was the least representative since 1946, the year in which a multiparty system was first introduced. Moreover, for the first time since 1954, only two parties were represented in Parliament.”¹⁹ It also held that the 10% electoral threshold appeared “excessive” and compelled political parties “to make use of stratagems which do not contribute to the transparency of the electoral process.”²⁰ In 2010 the Venice Commission in examining the issue of thresholds in Council of Europe member States’ electoral systems again pointed to Turkey as having the highest legal threshold.²¹ The Commission also highlighted the results of the general election of 2002 as a

16 See Resolution 1547 (2007) noting: “In well-established democracies, there should be no thresholds higher than 3% during the parliamentary elections. It should thus be possible to express a maximum number of opinions”; Recommendation 1791 (2007), recommending the Committee of Ministers urge member States to “consider decreasing thresholds over 3% for parliamentary elections and ... consider the balance between fair representation and effectiveness in Parliament and government”; and Resolution 1705 (2010), calling on member States of the Council of Europe to “consider decreasing legal thresholds that are higher than 3%, and removing other obstacles, including high financial deposits, which bar minor parties or independent candidates from being represented in elected bodies.”

17 Resolution 1380 (2004) on the honouring of obligations and commitments by Turkey.

18 *Yumak and Sadak v Turkey*, Application no. 10226/03, Judgment of 8 July 2008, ¶ 147.

19 *Yumak and Sadak v Turkey*, Application no. 10226/03, Judgment of 8 July 2008, ¶ 19.

20 *Yumak and Sadak v Turkey*, Application no. 10226/03, Judgment of 8 July 2008, ¶ 147. Need footnote from the case here

21 European Commission for Democracy Through Law (Venice Commission) Report on Thresholds and Other Features of Electoral Systems Which Bar Parties from Access to Parliament. Adopted by the Council for Democratic Elections at its 32nd meeting (Venice, 11 March 2010) and by the Venice Commission at its 82nd plenary session (Venice, 12–13 March 2010).

specific example of the “undesirable effect” emanating from the application of such a high threshold: “for the 2002 elections, the party in power decided to introduce a 10% threshold of votes cast, probably to prevent the Kurdish party from gaining representation. What it failed to anticipate was that it would itself fail to reach this figure and that the so-called “proportional” system would give the following curious results”. The “curious” results considered by the Commission were those underlined by the European Court in *Yumak and Sadak v Turkey* – more than half the electorate was deprived of representation and those parties that were elected had a percentage of seats twice that of their percentage of votes – “so that a proportional system became a majority one.”

Since the elections of 2007 the Kurdish movement has circumvented the requirements of Law 2839 by fielding its candidates as independents and then forming a political bloc in parliament on election. Despite this circumvention, however, the restriction remains in place and unduly favours larger political parties. This is despite the possibility of reform highlighted in the “democratization package” of September 2013, in which three options were proposed: maintenance of the current 10% threshold; abolition of the threshold completely and introducing a single-member plurality system; and lowering the threshold to 5% and reducing the size of the constituencies to a maximum of five deputies per constituency whereas the current system allows for up to 18 deputies (Özbudun 2013). Political parties other than those affiliated to the Kurdish movement have also called for the threshold to be lowered, with CHP member Aylin Kotil walking for 19 days from İstanbul to the Parliament buildings in Ankara in July 2013 in order to raise awareness for the cause of lowering the threshold, a move she said was triggered by the Gezi Park protests (Akarçeşme 2013).

The AKP’s failure to lower the 10% threshold stands in contradistinction to other measures it has taken that have resulted in a broadening of democratic participation such as constitutional reforms and a number of democratisation packages. The proposals on amending the 10% threshold announced in September 2013 have not been followed up on in Parliament, however, because, it is suggested, the current arrangement favours the AKP most: abolition of the threshold “would most affect the AKP, as many votes for it would shift to more ideologically right-wing parties. Some Kurds who mostly voted for the AKP before would vote for the HDP [...] any total vote below 40% could mean the loss of single-party rule” (Şahin 2014). That the HDP was able to overcome the threshold to the degree that it did (by more than 2%) came as a surprise to some observers who predicted a much tighter margin. With HDP now represented in Parliament and the probability of a coalition government the threshold issue is likely one that will be forced back on to the political agenda.

The AKP's Approach to the Kurdish Question: A Vehicle for Democratisation in Turkey?

That there are competing narratives regarding the contemporary phase (post 1984) of the Turkey-Kurdish conflict is clear. The Kurdish population, broadly speaking, views the war fought by the PKK since 1984 as a direct consequence of the policies of the Turkish State towards the Kurds, an approach considered as “state *versus* society...readily substantiated by a myriad historical and contemporary examples” (Watts 2009). For the Turkish State, the Kurdish question has, historically, been framed (and contained) within a State security paradigm. The dominant reading by State actors has been that state repressive measures were a legitimate response to PKK “terrorism,” with little attempt to understand its root causes. Yildiz refers to this as the “classic” approach of the State to the Kurdish question, one of “military intervention, resulting in serious human rights abuses, violent conduct and killings, and leading to an on-going conflict between the State and the PKK” (Yildiz 2012, 152).

Yet a reading of the historical backdrop to the Kurdish question is far more complex than the *security versus human rights* narrative of the Turkish State. The formation of the Republic of Turkey in 1923 abolished the caliphate and sultanate in Turkey and ushered in a government policy of forced assimilation or “Turkification.” All public expressions and institutions of Kurdish identity were banned along with Kurdish schools (madrassas), associations, newspapers, and religious fraternal organizations were closed. State policies that endeavored to extinguish Kurdish nationalism had the inverse affect – a series of rebellions would follow. Kurdish resistance featured prominently in the decades that followed the establishment of the Turkish state but it was not until the establishment of the Kurdistan Workers’ Party (*Partiya Karkeren Kurdistan* or PKK) in 1978 that these movements coalesced. Under the leadership of Abdullah Öcalan, what had, initially, been a civil rights war fought in national liberation terms moved to a national liberation war fought in civil rights terms. The implications of this are important to note. Repressive State measures created a space for the PKK to take root within Kurdish civil society. Unable to find expression or equitable access to socio-political decision-making institutions, for Kurds, the only alternative was to change the political roof under which they were housed. As attempts to do this through Constitutional means were blocked, in 1984 the PKK launched an armed campaign against Turkey that aimed to establish an independent state and challenge the legitimacy of the state monopoly on the use of force. The armed campaign continued, moving in and out of phases and goals, until the most recent PKK ceasefire in 2013, prompted by Öcalan’s *Newroz* address.

In the contemporary phase of the conflict, however, there has, to some extent at least, been an evolution of how both sides view and assert their nationalisms; Kurdish demands are now manifested in claims for democratic, cultural, and citizenship rights within the borders of Turkey, not through secession. A sea change is also apparent in the official State narrative that previously emphasised the homogenous nature of Turkey, embodied in the motto: *Ne mutlu Türküm diyene* (happy is he who calls himself a Turk). Now, as Tezcür has suggested, the State elites are “at pains to emphasise that nobody is discriminated against because of ethnic identity and that all ethnic identities deserve equal treatment” (Tezcür 2009).

The Kurdish question has been high on the political agenda since the AKP were elected in 2002 but the cogency of the question has steadily increased and by the elections of 2011 it was considered a “more legitimate” issue. In 2011, the AKP, MHP and CHP held election meetings in Diyarbakır for the first time in many years – “proof of a political change concerning the Kurdish issue” (Toker 2014, 6). Whether resolving the Kurdish question is an actual priority for the AKP or simply a recognition that its “brand” of conservative-democratic politics appeals to Kurds and consequently it counts a large proportion of Kurds amongst its voters,²² there is no doubt that the approach of the AKP to the Kurdish question has represented a major shift from that of previous administrations.²³

Although prompted by the aspirations of successive Turkish administration to join the European Union, many of Turkey’s democratic reforms are related to the Kurdish question. From areas such as the lifting of the State of Emergency in majority Kurdish provinces, to the abolition of State Security Courts, a “zero tolerance” approach to torture, and relaxation of the restrictions on minority language publications and broadcasting, many of the efforts at reform have a decidedly Kurdish theme.

The dangers of grafting elements of a broader democratisation process onto the Kurdish question notwithstanding – would, for example, a collapse of the current peace process mean abandoning efforts at further democratisation? – the process has to date engendered, or at least coincided with, a series of reforms

²² For a detailed study on the impact of ethnicity on voting patterns, see Gül Ankan Akdağ, *Ethnicity and Elections in Turkey: Party Politics and the Mobilization of Swing Voters* (London & New York: Routledge, 2015).

²³ Another reason for the popularity of the AKP amongst Kurdish voters goes back to the idea that both communities have a shared history of being kept outside mainstream politics by the unitary, secular, nationalistic State: “[m]any Kurds tend to see the AKP as a collection of fellow “outsiders” put upon (like the Kurds) by Turkey’s powerful Kemalist military” (Updegraff 2012, 124).

aimed at addressing Kurdish cultural and political demands. Some of these long-awaited reforms were outlined in the “democratisation package” announced in September 2013 (implemented in March 2014) and included legislation that allowed the use of minority languages in official documents and in education and political campaigns. The package also included elections reforms, which lowered the minimum national vote share requirement for political parties to receive treasury funds from seven to three percent and made it possible for the BDP to benefit from treasury funds.

The current “settlement” process can arguably be seen as a continuation of the talks held between 2005 and 2011 known as the “Oslo process” that had made a small degree of progress before talks broke down in June 2011.²⁴ The transformation in the approach of the AKP government to the Kurdish question compared with that of its predecessors can in fact be traced back to then Prime Minister Erdoğan’s recognition in 2005 that Turkey had a Kurdish “problem”, a problem that would be “solved through democracy” (*The Economist* 2005).²⁵ This has led to a gradual normalisation of the Kurdish question in Turkey and, as Dalay has observed, the AKP have overseen a steady “de-securitisation” of the question, which to a certain degree is due to the AKP’s own ideology. As Dalay suggests, “[c]oming from an Islamic background the governing Justice and Development Party (AKP) elites have had a partial revisionist policy: they do not see Turkishness, secularism, and Western-orientation as the primary foundations of Turkey’s identity nor do they see the Middle East, Islamism, and arguably Kurdishness as a threat. This de-securitization of the Kurdish issue has proved to be the most challenging, given that it has had 29 rebellions since the Turkish Republic was founded in 1923, the latest of which culminated in the death of over 40,000 people, in the past” (Dalay 2014, 1).

The shift in approach to the Kurdish question from a security issue and a terrorist threat to a political problem to be solved by political rather than military means was long overdue. The European Commission had called for such an approach as far back as 1998 in Turkey’s first progress report towards EU accession, highlighting the imperative of finding a “civil, non-military” solution to the conflict in the southeast (European Commission 1998, 53). It is

²⁴ The Turkish government began talks with the PKK after 2005, some of which were mediated by third parties in Europe and became known as the ‘Oslo process.’ The talks continued for about a dozen rounds but “discussions broke off abruptly in July 2011.” See International Crisis Group ‘Turkey: The PKK and a Kurdish Settlement’ Europe Report N°219–11 September 2012, 3.

²⁵ It should also be acknowledged here that President Turgut Özal had in 1991 pledged to resolve the Kurdish conflict, an (ultimately doomed) initiative which led to the first unilateral ceasefire by the PKK in March 1993 but which ended following the President’s death.

the strength of leadership on both Turkish and Kurdish sides that arguably underpins the current process, although this in itself is perhaps not without its dangers. As Hugh Pope has suggested, “[a] lack of institutionalisation could one day be a problem, since there seems to be no back-up plan if what is essentially an “Erdoğan-Öcalan process” fails, or if something happens to one of them. But for now the fact that there are strong leaders is an advantage” (Pope 2014, 10). On the Kurdish side, Abdullah Öcalan’s *Newroz* declaration of March 2013 in which he called for the “guns to go silent” and “ideas and politics to speak” (Ensaroğlu 2013, 15) facilitated the declaration of the PKK ceasefire days later and the withdrawal of PKK operatives from Turkish soil (albeit to a degree that is contested).

The pivotal role of Recep Tayyip Erdoğan has been evident from the outset of the process and despite the relatively slow pace of progress and democratic reforms “Erdoğan retains some credibility among Turkey’s Kurds because [...] he has done more for them than any previous Turkish leader and is clearly effective when he is convinced of a policy” (International Crisis Group 2012, 32). Crucially, however, Erdoğan has also retained political capital amongst his core AKP constituency since the peace negotiations became public knowledge. AKP won 44% of the national vote in the local elections of March 2014, translating into 41 metropolitan municipalities and signifying a “firm endorsement of the Prime Minister’s leadership” (Ülgen 2014). The results were all the more significant given that “[m]ajor events in 2013 such as the peace process, Gezi protests, and December 17th corruption probe, increased the political tension and turned the atmosphere of the local elections into a general election” (Ete et al. 2014, 20). This, coupled with Erdoğan’s convincing victory in the presidential election of August 2014 gives a strong mandate to continue with the process, despite turbulent times on Turkey’s borders and events in Syria in particular threatening to derail it. The process, should it reach an eventual successful conclusion, may even transpire to be Erdoğan’s greatest political achievement and for now at least it “endures as the main political accomplishment that has mitigated criticism of his authoritarian style” (Pope 2014, 10).

The role occupied by the HDP in the current peace process is identified by some as a “junior partner” to the PKK, with one commentator suggesting that in the “triangle of authority” in the Kurdish movement HDP rests at one apex, the PKK leadership-at-large at another and the imprisoned PKK leader Abdullah Öcalan at the third (Lauer 2015). That the HDP is a key interlocutor in the process, however, was recently highlighted by the announcement of the “Dolmabahçe declaration” in February 2015, in which HDP co-chairperson Selahattin Demirtaş outlined ten areas that the parties had agreed to discuss as part of the settlement talks. Interestingly though, these topics appear to go

beyond questions that we might consider central to the resolution of the Kurdish conflict and encompass issues such as “a debate on the definition and content of democratic politics”, “the relationship between democratic politics and the state and society and its institutionalization”, “the solving of problems and the legal assurances pertaining to women’s rights, culture and ecology”, and “the concept, definition and development of pluralist, democratic and equal mechanisms to acknowledge identity” (*Today’s Zaman* 2015a).

Although accepted now, even by the main opposition party CHP as the “legal representative of the Kurdish movement” and as “one of the legitimate actors of Turkey’s political life”,²⁶ (*Hürriyet Daily News* 2015) HDP’s role in the peace process is arguably greater than simply articulating the key demands of the Kurdish side. In its role as a key stakeholder in the process HDP has positioned itself as peacemakers and for its traditional Kurdish voter base as a non-violent alternative to the PKK. This was evident in statements made by the party’s co-chair in advance of the general election of June 2015, in which he noted that election success for HDP “paves the way for a process that would facilitate the laying down of arms ...[t]o the extent that confidence in politics grows, then reaching peace will be possible and easy for Turkey to the same extent” (*Today’s Zaman* 2015b). Additionally though, by broadening its political base beyond its core constituency of Kurdish voters and championing those issues (and groups) who have been hitherto un/under represented in Turkish politics, HDP has the potential to fill the void of the “left-libertarian soul of politics that Turkey lacks in its political system” and thus, as Celep notes, “[t]he essence of the Kurdish left’s contribution to democratization therefore lies in its left-libertarian elements, such as gender equality, freedom of expression, decentralization of power, the environment and grassroots democracy” (Celep 2014, 173).

Conclusion

The fragile but on-going Kurdish peace or “settlement” process continues at a time when President Erdoğan and the AKP are coming under criticism, both internally and externally, for what is viewed as an increasingly authoritarian stance. With the brutal suppression of the Gezi and Soma protests, attempts to exert ever more control over the judiciary, and a general intolerance of opposition voices, the growing criticism is not without foundation. The arrest in December 2014 of 23 journalists from opposition media outlets and those with

²⁶ Remarks made by CHP party leader Kemal Kılıçdaroğlu.

close ties to exiled cleric Fethullah Gülen was condemned by national and international human rights organisations and by the European Union, which stated that the arrests were incompatible with media freedom and against “the European values and standards Turkey aspires to be part of” (European Commission 2014).

Yet, perhaps paradoxically, both the Gezi protest movement, read as both a reaction to the shrinking of the public space and a challenge to the invasion of personal space (Göle 2013, 9) and the restructuring of the Kurdish movement emerged from the democratic openings created during the earlier part of AKP’s tenure. The AKP, having itself challenged the hegemony of Turkey’s political structure and given voice to a constituency confined to the political sidelines has now, even if unwittingly, opened the political space for others to do the same. This suggests that AKP’s arguably reductionist attitude to democracy, which appears to equate it only with the ballot box, may be unsustainable in this “new” Turkey. The endeavor by the HDP to enter in to Turkey’s political mainstream and provide a viable political alternative to Turkey’s other marginalized voices – members of the LGBTQ community and those whose political leanings were not reflected by the previous “leftist” offerings – is the first test of how secure this space is. In passing the 10% threshold and gaining 80 seats in Parliament in the general election of June 2015 HDP has now clearly established itself as the conduit for those voices.

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