Turkey's New Constitution & Secular Democracy: A Case for Liberty

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MURAT SOMER, JUN 5 2012

In the fall of 2011, the Turkish National Assembly embarked on the process of drafting a new constitution, an effort spearheaded by a multi-party parliamentary commission..[1] Time will tell whether this collective effort to draft a new document, outlining the supreme law of the land will bear fruit, allowing Turkish citizens to finally take pride in a civilian-made constitution. .[2]

How will the new constitution affect the role of secularism in Turkey? Can Turkey take advantage of the new constitution-making process to develop a more democratic and pluralist model of secularism? And what should the new constitution have, and not have, in order to achieve this goal?

Against the backdrop of Arab transitions and the continuing rule of the Justice and Development Party (AKP)—which is rooted in moderate Islamism—the Turkish government and its allies have presented the Republic as an example of secular democracy upheld by a predominantly Muslim population. [3] But Turkish secularism (laiklik) suffers from grave democratic deficits as an authoritarian and interventionist model. [4] Thus, Turkey needs to reform its secularism, *and* democracy, in order to become a more enviable example. It should also endeavor to draw inspiration from the current democratic enthusiasm of Arab polities as much it tries to inspire them.

What is wrong with Turkish secularism?

It is crucial to correctly identify where laiklik went awry in order to be able to reform it.

Laiklik is the Turkish translation of, and was inspired by, French *laïcité*. This has led many scholars to argue that the problem with laiklik is its removal of, or attempt to remove, religion from public space (Kuru, 2009). I think this diagnosis is highly misleading because it shows only one side of the problem. It is true that the state in Turkey has too much control over religion (and everything else) and often tries to ban religion from many public spheres in ways that violate human rights and the modern standards of pluralistic democracy. However, the state promotes public religion as much as it tries to restrict it.

The claim that laiklik tries to remove religion from public space is not supported by evidence. Current laws and practices of laiklik actively promote religion in public space. They do so mainly but not exclusively through the colossal state agency referred to as the Diyanet. Among many other activities, the Diyanet encourages and subsidizes the building of mosques and pays the salaries of imams, and publishes and promotes religious literature. [5] In 2012, the Diyanet's approximately $2 billion budget was larger than that of the Ministry of the Interior.

"Secular" Turkish laws and state practices actively promote religion in such public spheres as education (vocational imam-hatip schools and in all primary and secondary schools compulsory courses of "religious culture and morality" which in practice are taught as courses on Sunni Islam) [6]; social security services (imams and the Diyanet are involved in their provision); and promotion of nationalism, national identity and sacrifice for the homeland: by law, for example, fallen Turkish soldiers are considered *shaheed* (Muslim martyr) and their families receive benefits accordingly. Since religion is promoted to shape people's identities, beliefs and morality through education and

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national identity formation, one can also say that the Turkish state promotes religion in both private and public spheres.

Possibly and partly as a result, religion is quite present and visible in Turkish society, everyday operation of the state, and politics. Much like the United States but in stark contrast to France—which Kuru (2009) classifies as in the same "assertive secular" category as Turkey, as opposed to the "passive secular" United States—Islam and piety are highly salient features of Turkish politics and political discourse.

While laiklik in principle promotes secular science and education, it often does not protect the freedom of unbelief and secular thoughts and expressions. Many secular intellectuals have been prosecuted and sanctioned for offending religion, which is in practice interpreted to mean Sunni Islam. Most recently, famous pianist Fazıl Say was indicted with insulting people's religious feelings. [7] Such prosecutions and often convictions of cartoonists, novelists, and media are quite common. [8] The draconian and hardly accountable Information and Communications Technology Authority (BTK) now has the authority to filter and block access to websites it deems to be subversive of morality or national integrity. It has used its authority and technological infrastructure to ban thousands of websites including many on Darwinism. [9] A gruesome past example comes from 1993 when public authorities banned the publication of Salman Rushdie's Satanic Verses. In the aftermath, 33 (Alevi and secularist) artists and intellectuals were killed in the province of Sıvas when a hotel was set on fire by a Sunni religious mob. The mob was enraged that satirist Aziz Nesin wanted to publish the novel. [10]

Laiklik, of course, does restrict religion in many specific public spheres, as the infamous (now relaxed) headscarf ban in schools and government shows, but it does so selectively and discriminatorily. Article 136 of the current constitution says that the Diyanet will act "in compliance with the laiklik principle, regardless of all political views and orientations, and aiming at national solidarity and unity."[11] This gives the impression that the Diyanet should be neutral vis-à-vis different interpretations of Islam. [12] Yet, the present Diyanet supports Sunni Muslim mosques but not Alevi Muslim shrines (*cemevis*), and, for that matter, others.[13]

Article 24 of the present constitution prohibits the use of religious freedoms "for even partially basing the fundamental, *social, economic*, political, and legal order of the state on religious tenets" [emphasis mine]. Political parties have been banned for violating the principle of secularism, the last one the AKP's predecessor, the Virtue Party in 2001. But at the same time center-right religious parties have ruled the country for most of the period since 1950. Many religious movements have been supported by the state, most paradoxically by the military regime of 1980-83, which was the maker of the present constitution and promoted the Turkish-Islamic synthesis ideology. These contradictions occur because Article 24 has been enforced selectively. It has been used to promote some religious views, parties and groups (movements and communities-*jamaats*) while suppressing others.

How we can make sense of all this conceptually and theoretically is outside the scope of this essay. Suffice it to say that laiklik was not only motivated by positivism and the politics of anti-Ottoman ancient regime. Equally, its founders were secularist-nationalists (Kemalists) who were former Ottoman officials (some of whom were deists or atheists and others were pious Muslims), whose intellectual milieu included modernist Islamism in the world, and who extended late-Ottoman modernization to its extreme. [14] And, contemporary laiklik was shaped over time by multiparty politics. [15] It evolved through confrontations as well as cooperation and informal compromise among religion and different state agencies. As a result, the state increasingly accommodated majority religion. [16]

Accordingly, Davison (2003) argues that in post-Ottoman Turkey "Islam was not disestablished, it was differently established." White (2008: 359) observes that Kemalist reforms "provided ideological support for the new secular national identity and legitimized a Turkish form of Islam." Similarly, Gürbey (2009) takes issue, as I do, with the claim that laiklik is "hostile to religion, or assertive, aiming to eliminate" religion in public sphere. Instead, she maintains that laiklik involved "the construction of an 'enlightened' conception of religion based on a particular Sunni interpretation of Islam" in pursuit of state-led, top-down modernization and nation-building.

In a nutshell, then, the problem with laiklik is not that it removes, or tries to remove religion from public space. The problem is that it suppresses some interpretations and expressions of religion while actively promoting others (mainly

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a Sunni-Hanafi Islam deemed to be authentic, docile and enlightened) in public, and that the state has the legal authority, resources and organizational capability to do so. It is to miss the point and the big picture to argue that the victim is public religion. The real victims are both religious and secular thought and public expressions, and more generally the expression of Turkey's diversity.

This is an important point with major implications for the constitutional process. If the problem with laiklik were its removal of religion from public space, then the remedy would have to be a reinforcement of religious freedoms, more specifically the freedoms of the majority religion, in public space. If the problem is, as I argue, the selective promotion and suppression of different religious and secular expressions, then the remedy should be to reinforce religious *and* secular freedoms, with emphasis on the freedoms of Muslim and non-Muslim minorities. [17] A new and more democratic constitution should provide protections for people's freedom of unbelief as well as safeguards against discrimination among different faiths, or, for that matter, different interpretations of Islam.

A radical remedy would be to dismantle the Diyanet altogether. Given path-dependency in the evolution of state institutions and the fact that no major political party advocates this radical remedy, a more feasible recipe is to make both Diyanet and other integrationist institutions and laws more democratic, pluralist and less restrictive of both religious and non-religious thought and expressions.

The new constitution should also include a more clear and pluralistic-democratic definition of laiklik. In the past, both Islamists (for example by using public funds and agencies to promote religion) and secularists (for example by banning Islamic headscarf in universities) have exploited the ambiguities and contradictions of laiklik for their own ideological purposes. [18] The result has been a less open and democratic public space for both religious and secular thought and practices.

Prospects for Secularism in Turkey

Laiklik is likely to remain one of the fundamental principles of the new constitution. All major parties are committed to it as a nominal principle. However, the content of laiklik in the future, more specifically, whether or not it will be more pluralistic and democratic than it is currently, will depend on how pluralistic and democratic the country's political system will be, the way the AKP government and Muslim-conservative intelligentsia will perceive and implement laiklik, and how strongly and effectively the new constitution will protect both religious and non-religious freedoms.

In personal conversations with members of the AKP, one frequently hears that "the AKP is the insurance for the continuation of secularism in Turkey." Indeed, the AKP fulfills a historical mission by reconciling pious citizens in general, and Islamists in particular, with secularism as a nominal value. It is remarkable that a party rooted in political Islamism has evolved in Turkey into a mass party committed to the nominal principle of secularism within the framework of what the party calls "conservative democracy." [19]

The problem is that a political party cannot be the insurance for the future secularism in a democracy, only institutions and a truly pluralistic political system can.

Here lies the main threat to Turkish secularism and democracy. In recent years and under the AKP government, the Turkish democracy has come a long way in dealing with authoritarianism by managing to curtail military praetorianism over civilian politics. [20] This presents a golden opportunity for consolidating a truly pluralistic democracy by constructing stronger and more accountable and representative institutions. Unfortunately, however, in this new era of declining military tutelage, the Turkish political system has also been evolving into a one-party-dominant, authoritarian system supported by a growing, vibrant economy. [21] This is occurring at a time when the EU, which was a crucial facilitator of democratic reforms until 2005, is in crisis, and democracy is a diminished priority for Turkey's allies considering global economic crisis and Turkey's growing strategic importance in the Middle East. [22]

By receiving half of the votes cast in the 2011 parliamentary elections, the AKP has become the first political party in the history of Turkish democracy to win three consecutive elections by increasing its votes in each election. While this

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boosts the AKP's self-confidence, the main opposition party CHP is in disarray suffering from internal divisions and searching for a new identity and political platform in order to broaden its base of supporters. The problems that the CHP and other secularist social and political actors face have long-term historical, social, ideological and institutional roots, which will take time to address. [23]

Predictably, the weakness of the opposition has been strengthening the authoritarian and conservative tendencies of the AKP since 2007. [24] Whether or not it is occurring with the direct involvement of the government itself, the iron laws of oligarchy seem to be in the working and criticism of the government is becoming increasingly costly. [25] Even conservative critics of the government are not safe: most recently, a columnist from the pro-government *Yeni Şafak* newspaper was reportedly fired after he condemned the government's inadequate response to the accidental killing of 34 Kurdish villagers, many of them children, during an air raid against the PKK along the Turkish-Iraqi border. [26]

In the short-run, the question is whether the AKP, which is facing no serious electoral challenges, will find it to be in its interest to reconstruct laiklik in such a way that it will diminish the powers of the state over religion and allow for more freedom of expression and religious and non-religious pluralism. If the AKP uses its powers to transform laiklik to allow more public space for the majority religion without simultaneously increasing the space for minority religions and non-religious expressions, this would replace one authoritarian laiklik with another. The present laws and practices of laiklik provide ample opportunities for a religious-conservative government to reshape society according to its own ideals. Will the AKP be drawn by these short-term opportunities or will it use its historical opportunity to serve the long term interests of a more democratic and free society?

Recently, the signs have become increasingly discouraging. In just the last few months, Prime Minister Erdoğan declared his wish to raise (through public policies) more religious new generations; overhauled the primary and secondary public and private education system to allow for more religious education despite furious but ineffective resistance from opposition and without adequate societal deliberation; and proclaimed that abortion is murder and birth by caesarean section is a conspiracy to undermine Turkey's (population) growth.

The prime minister is entitled to his views. The problem is that the weaknesses of the opposition and the present form of laiklik give him too much political and state power. Hence, a major long-term factor that will affect the nature of secularism in Turkey will be the ability of pro-secular parties and societal actors to overcome their intellectual and organizational inertia, develop more liberal versions of secularism, and present viable democratic alternatives to the AKP's conservative social and political model.

Erdoğan laudably praised secular democracy in his high-profile visits to Egypt, Libya and Tunisia. But his remarks on secularism received criticism from Egyptian Islamists and lukewarm response from many Turkish Islamist intellectuals. [27] It remains to be seen whether or not Turkish Islamic intellectuals, who constitute a major segment of the AKP's intellectual basis, will be able to develop a viable and more pluralist conception of laiklik beyond the mere call for more religious freedoms in public. This will also take time since they spent most of their careers criticizing laiklik and tend to support more religious influence in both society and state. [28]

All of this makes it even more important to call for a pluralist and democratic-secular constitution with strong divisions of power and checks and balances. Turkey should make a new constitution with very specific and strong protections to secure government accountability, an independent and neutral judiciary, and freedom of belief and expression for all. Preferably, the new constitution should not include any references to specific religious institutions such as the Diyanet and should entail strong requirements that any generic institutions will be representative of all beliefs in society. It should protect freedom to believe as well as not to believe, and protect individuals' rights to choose what to learn, what to wear and how to live against both secular and religious pressures, whether these come from government or from social groups. [29] Such a constitution would not be preferred by secular and religious conservatives. But I think it can be and should be defended by both secular and religious liberals and democrats. [30]

Despite its democratic deficits, divisions and festering problems, such as the Kurdish conflict, Turkey manages to be a thriving and ambitious place. Notwithstanding the global economic crisis, it competes with China in economic

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growth rates. The country's bold official goal is to become one of the world's ten largest economies by 2023, the 100th anniversary of the republic's foundation. Integration with the global economy is a major ingredient of this accomplishment and optimism. On the surface, the public spirit matches official goals. A popular TV commercial nowadays compares Emily, who is supposed to be a complacent Harvard University student, with Emine, who is a student of Harran University in Turkey's poverty-stricken and largely Kurdish Southeast. [31] Thanks to the Internet, as the story in the commercial goes, Emine can now reach the same knowledge as fast as (faster, according to Turkcell) Emily can. The commercial's explicit message ("It's Turkey's Time Now") is that Turkish people are leveling the playing field with the western world, the dream of modern Turkey's secular-nationalist founder Kemal Atatürk.

This dynamism should not make the country overlook its pressing shortages of ethnic, religious and ideological pluralism, rule of law, and freedom of expression. This new and self-confident Turkey should also be a more pluralist and democratic one. This is why the new constitution is so important. It would be a great missed opportunity to replace one authoritarian and discriminatory laiklik with another in the new constitution.

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[1]. The four parties present in the national assembly, i.e. the ruling AKP, main opposition party CHP, nationalist MHP and pro-Kurdish BDP each have three members, although only one member of the committee is a woman. The commission takes decisions with unanimity and thus seeks consensus, a rare value in Turkish politics.

[2] The present constitution was made during the military regime of 1980-83. There are some important criticisms regarding the legitimacy and ability of the multiparty commission to lead the process of new constitution, such as the fact that only the parties that were able to pass the ten percent electoral threshold to enter the Parliament are represented in the commission. See Akan (2012) for a critical account and Kentel et al (2012) for criticisms and responses.

[3] Undoubtedly, the terms Islamist and secularist entail a great deal of oversimplification for the sake of linguistic and analytical economy. While rooted in moderate Islamism, the AKP is the product of a major transformation of Turkish Islamism during the 1990s and calls itself conservative democratic. It does not oppose secularism *per se* and is economically liberal, socially conservative, and a coalition of Islamists, liberals, and conservative nationalists. Likewise, while rooted in Kemalism, the CHP tried ultimately unsuccessfully to transform itself into a social democratic party during the 1960s and 1970s, and is now experiencing another period of ideological and organizational transformation, the result of which is yet uncertain. Relatively speaking, it is socially liberal, economically protectionist, and a coalition of secular nationalists, social democrats and people with rigid and defensive as well as moderate and flexible views on religion and secularism. See Konda (2007), Çarkoğlu and Kalaycıoğlu (2007) and Somer (2010 and 2011) for "religious" and "secular" voter and elite preferences that inform these parties. See, among others, Cizre (2008), Hale and Özbudun (2010) and Ciddi (2009) for the AKP and CHP as political parties.

[4] Among others, Sakallıoğlu (1996); Davison (2003); Kuru (2009).

[5] Kuru and Stepan (2012:6) claim that state activities supporting religion do not contradict their argument because through these activities the state tries to produce a "privatized Islam." As I hope that the examples I provide here demonstrate, the Turkish state supports private as well as public Islam.

[6] In practice, while vocational imam-hatip schools were initially established to train imams, they now form a parallel school system preferred by families who want their kids to receive a more religious (Sunni-Muslim) education. Comparing the textbooks and syllabi used in the religious culture and morality courses in high schools in 1995 and 2007, Türkmen (2009: 390) observes that the emphasis on Islamic sources has increased and the new textbooks exhibit a concern for the "recirculation of Islamic terminonology into everyday life."

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[7] Selcan Hacaoglu, "Fazil Say, Turkish Pianist, Charged With Insulting Islam," Huffington Post, June 2, 2012. http://www.huffingtonpost.com/2012/06/01/fazil-say-turkish-pianist_n_1562221.html.

[8] See Freedom House (2012) and Helsinki Watch (1988, especially pp. 30-34). Also see Sebnem Arsu, "Turkish Court Acquits Author," *New York Times*, June 25, 2009 and "Turkish Cartoonist to be Put on Trial for Renouncing God," *Hürriyet Daıly News*, September 28, 2011. http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=turkish-cartoonist-to-be-put-on-trial-for-denouncing-god-2011-09-28.

[9] Among others, Jacques N. Couvas, "Filtering Out Internet Freedom," *IPS*, January 19, 2012. http://ipsnews.net/news.asp?idnews=106493.

[10] Nesin (2009: 200) argued that he wanted to publish the novel in order to protest an "anti-secular [anti-laik] and anti-democratic act of the state" in a country which upholds constitutional secularism.

[11] Deputy Prime Minister Bekir Bozdağ argued that the new constitution should scrap the condition that the Diyanet must act in accordance with the secularism principle. See "Bozdağ: Diyanet Laik Olmamalı" (Diyanet Shouldn't Be Secular) Habertürk, June 5, 2012. http://www.haberturk.com/gundem/haber/748077-bozdag-diyanet-laik-olmamali.

[12] Law 633 defines Diyanet's task vaguely as "conducting affairs regarding the beliefs, practices and moral principles of the Islamic religion, informing the public about religion, and administering places of worship." http://www.mevzuat.adalet.gov.tr/html/1085.html.

[13] So far, the so-called "Alevi opening" launched by the government in recent years has not produced many tangible results. Jonathan Head, "Turkey election: AKP courts the Alevi minority vote," *BBC News Europe*, June 3, 2011. http://www.bbc.co.uk/news/world-europe-13605439.

[14] Findley (2010).

[15] Altunışık (2005)

[16] Cizre (1996).

[17] Despite some improvements in recent years, Turkey's non-Muslim minorities face significant problems that need to be addressed. See, among others, US Department of State (2010). The conception of "minority" should not be identified in terms of fixed demographic relationships but in terms of rights and freedoms. In Turkey, for example, pious Muslims may feel to be a minority and, thus, their freedoms to be restricted, in many secular quarters of Istanbul, while secular individuals may feel to be a minority and restricted in conservative neighborhoods of Istanbul and in predominantly conservative towns of Central and Eastern Anatolia.

[18] Tezcür (2007).

[19] Akdoğan (2004).

[20] Cizre (2012).

[21] Baç and Keyman (2012).

[22] See Öniş (2012) for a critical assessment of Turkey's engagement of the Middle East.

[23] Öniş(2007); Somer (2007); Ciddi (2009); Turam and Ringer (2009).

[24] Somer (2007).

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[25] Akan (2012); Freedom House (2012).

[26] "Turkish columnist fired for criticizing PM," *Hürriyet Daily News*, May 30, 2012. http://www.hurriyetdailynews.com/turkish-columnist-fired-for-criticizing-pm-.aspx?pageID=238&nID=21943&NewsCatID=341 .

[27] Maggie Michael and Lee Keath, "Turkey: Prime Minister Recep Tayyip Erdogan Visits Egypt," *Huffington Post*, September 13, 2011. http://www.huffingtonpost.com/2011/09/13/turkey-erdogan-egypt-visit_n_960855.html . Ali Bulaç, "Ortadoğu'ya Türk Laikliği,"(Turkish Secularism for the Middle East), *Zaman*, September 17, 2011. http://www.zaman.com.tr/yazar.do?yazino=1180525 .

[28] Somer (2010 and 2011).

[29] See Konda (2007) and Toprak et al (2008) for social pressures and discrimination felt by different groups in Turkish society.

[30] An-Na'im (2005).

[31] http://www.youtube.com/watch?v=H-leC0kJosw. Accessed on May 22, 2012.

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