

Upcoming Elections in Turkey

KHRP Briefing Paper

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Summary

While the rest of Turkey is preparing for parliamentary elections, parts of the provinces of Siirt, Hakkâri and Şırnak of the Southeast have been declared a High Security Zone. At the heart of the ongoing conflict, which once again has flared up, is the struggle over representation of the Kurdish people. The Turkish electoral laws provide several restrictions that in the past have prevented pro-Kurdish parties from gaining seats in the Turkish Grand National Assembly (TGNA), even though such parties clearly have the first preference of the voters in the Southeast. One of these restrictions is the requirement that a party must gain at least 10 per cent of the national vote. In order to overcome this threshold, pro-Kurdish Democratic Society Party (DTP) has registered their candidates as independent candidates for the upcoming elections. KHRP has received reports of recent intimidation of voters trying to discourage them from voting for independent candidates, which raises concerns about whether the elections will be genuine. Election campaigning is still prohibited in any other language than Turkish, preventing candidates from imparting information to the Kurdish electorate in Kurdish. According to international electoral standards flowing from treaties like the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), both of which Turkey has signed and ratified, elections should reflect a genuine and free expression will of the people. The means deployed to prevent the Kurds in the Southeast from electing a pro-Kurdish representative for the national parliament distorts Turkey's proportional electoral system and denies the Kurdish population the right to have their free will expressed and heard. It is of uttermost importance that the election authorities and the Turkish Government revise what is happening in the Southeast in order to make required policy changes to ensure the upcoming elections can meet the international electoral standards to which Turkey has committed itself.

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Introduction

In the beginning of May this year, the Turkish parliament voted to hold parliamentary elections on 22 July, following the political deadlock that had resulted from the parliament's failure to elect a new president to succeed Ahmed Nejdet Sezer. President Sezer's seven year term expired on 16 May 2007 but he remains in his seat as a result of the deadlock, and blocked an attempt by the government to pass a bill allowing the next president to be directly elected by the people. A new parliament will come to determine how the next president will be elected.

The ongoing conflict in the Southeast and the Turkish electoral system

In the build up to the elections, the main opposition party *Cumhuriyet Halk Partisi* (Republican People's Party, CHP) has entered into an alliance with ultra-nationalist *Milliyetçi Hareket Partisi* (National Action Party, MHP) and put pressure on the governing *Adalet ve Kalkınma Partisi* (Justice and Development Party, AKP) to take a hard line on the ongoing conflict in the Southeast. The security situation has deteriorated and the military has declared the south-eastern areas of Siirt, Hakkâri and Şırnak a High

Security Zone since 9 June. There has also been strong pressure from the military on the government to allow Turkish military forces to enter into Iraq to pursue members of the Kurdistan Workers' Party (PKK) there.

At the heart of the ongoing conflict lies the denial of any form of autonomy or self-government for the Kurdish people. In the face of such denial, Kurds would opt for proper representation within the Turkish democratic national institutions, as a second best option, but electoral hurdles have in the past prevented any representation for the Kurds. As a result, the Kurds are denied their very existence as a people. Their wish to exert control over their own lives is rendered illegitimate.

The restrictive 10 per cent threshold

The Law on Parliamentary Elections in Turkey stems from the aftermath of the military regime of 1980 - 83. While it provides for a system of proportional representation, it contains certain hurdles, which indirectly discriminate against pro-Kurdish parties with strong regionally concentrated support. The first hurdle is that to stand for elections, political parties must be registered in more than half of the provinces and present a list of candidates in all those provinces. The second hurdle is that to win seats in parliament, a political party must gain at least 10 per cent of the

votes cast nationwide.¹ The 10 per cent threshold is the highest in Europe. The higher the threshold, the more difficult it becomes for smaller parties with a strong regional base to gain a seat in the national parliament. While other countries also operate thresholds, they are normally much lower and have additional provisions to compensate the distorting effect of the threshold. Germany and Poland for example both operate a 5 per cent national threshold, but candidates may also be elected by direct mandate to the German Bundestag and in the Polish system ethnic minority parties do not have to surpass the threshold. In the 2002 elections, a coalition of pro-Kurdish left-wing parties, DEHAP, won 45 per cent of the vote in the province of Şırnak and 6.22 per cent of the national vote. However, as they failed to reach above the threshold, they did not secure any seats in parliament. Instead, out of three Şırnak seats two went to a party (the AKP) that had received only 14 per cent of the vote, and the last one went to an independent candidate who had received 9 per cent of the vote.

While this may seem like a flagrant violation of the right to stand for election for any party and the right of voters to have your vote count, the European Court of Human Rights (ECtHR) has as of yet avoided drawing that conclusion. In

¹ Section 33 of Law no. 2839 (as amended on 23 May 1987)

Yumak and Sadak v. Turkey the ECtHR held that the establishment of the 10 per cent threshold fell within the margin of appreciation of the Turkish government, while noting that a lowering of the threshold would be desirable. Also the OSCE/ODIHR 2002 Election Assessment Report noted that the high threshold virtually eliminated the possibility for regional or minority parties to enter into the parliament and recommended that the authorities should consider lowering the threshold.² However, the 10 per cent hurdle remains in place before the upcoming elections.

Reactions against independent candidates

As a result of the difficulty that the 10 per cent threshold poses for smaller, regionally based parties, many such parties have decided to register their candidates as independent candidates for the upcoming elections. Independent candidates naturally do not need to surpass the national 10 per cent threshold.

The main parties have reacted against the potential threat to them from independent by encouraging voters not to vote for independent candidates. Prime Minister Erdoğan has publicly commented that voting

for independent candidates would be like throwing money into the streets as he urged people not to waste their votes on independent candidates.³

The parliament has passed a law that requires the independent candidates to be listed on the same ballot paper as all the other parties, while they previously had separate ballot papers. While this was a change that the OSCE/ODHIR Electoral Observation Mission of 2002 recommended as a means to avoid compromising the secrecy of the vote, the change may also have the effect of making independent candidates less visible. A long and complex single ballot is especially disadvantageous to those who had little or no formal education. In the Southeast, campaigners from pro-Kurdish Democratic Society Party (DTP) are working hard to teach illiterate voters how they can find the independent candidates on the ballot paper.

At the same time, KHRP has received reports of security forces intimidating villagers in the area which has been declared a High Security Zone, in order to make them abstain from voting for independent candidates. These reports must be taken very seriously as intimidation by security forces constitutes a flagrant violation of the principle that the people through

² Turkey Parliamentary Elections OSCE/ODIHR Assessment Report, 3 November 2002, p. 7
http://www.osce.org/documents/odihr/2002/12/1463_en.pdf (Last accessed 4 July 2007)

³ Bianet reported 21 June 2007 that Erdoğan made this comment on a rally in Ağrı.
http://www.bianet.org/index_eng_root.htm (Last accessed 4 July 2007)

elections should be able to freely express their will.

Nationalism in the electoral campaign

Nationalist rhetoric from the opposition and the military has pressured the Government to prove it is taking a tough stance on terrorism. In an attempt to stand up to this pressure, Foreign Minister Abdullah Gül has repeatedly urged the U.S. and Iraq to control the PKK, declaring that there are invasion plans and that Turkey will act if necessary.

Although the death penalty has been abolished in Turkey, representatives from the governing party have asked the MHP why they did not hang Abdullah Öcalan during their time in power when it was still legal. The nationalism pervading the electoral campaign has made the debate deteriorate with backlashes against ethnic and religious minorities the common result.

Restrictions of political freedoms

Freedom of expression

According to Article 58 of the Law on Basic Provisions on Elections and Voter Registers it is strictly forbidden to use any other language than Turkish in "electioneering". As part of its reform process, prohibitions on the use of other languages than Turkish have been loosened up, and in August 2002 laws were changed to allow limited

broadcasting and education in languages other than Turkish. However, the prohibition on the use of any other language than Turkish in electioneering remains in force. Before the 2002 elections, several candidates and supporters in the Southeast had cases filed against them or were detained for speaking Kurdish at rallies or for playing Kurdish music.⁴

In addition, the Turkish Penal Code and Anti-Terror Law are continuously used to prosecute the peaceful expression of politicians, writers, journalists, publishers and human rights activists. Article 301 of the penal code, which criminalizes denigration of 'Turkishness' and the foundations and institutions of the Turkish Republic, has been used frequently throughout the year to prosecute journalists, human rights defenders and others, the most famous cases being the prosecutions of Orhan Pamuk and Hrant Dink.

As recently as 27 June 2007 Cevdet Konak, Mayor of Hozat, a district of Tunceli province in the Kurdish region, was arrested for his speech during the opening of election office for independent Kurdish candidate Serafettin Halis. The mayor was accused of giving a message of support to the PKK and also of saying "Cities of Kurdistan"

⁴ Turkey Parliamentary Elections OSCE/ODIHR Assessment Report, 3 November 2002, p. 10
http://www.osce.org/documents/odihr/2002/12/1463_en.pdf (Last accessed 4 July 2007)

during his speech. He was released two days later.

Freedom of association and assembly

Turkey has consistently repressed political parties it regards with suspicion and rendered criminal support of such parties. On 25 December 2006, for example, the 9th Chamber of the Court of Cassation, Turkey's highest court, upheld the March 2006 convictions of Mehmet Deste, Mehmet Bakır, Hüseyin Habip Taşkın, Maksut Karadağ and Şerafettin Parmak for "membership in an illegal organisation", and of Metin Özgünay, Ömer Güner and Ergün Yıldırım for "supporting an illegal organisation". The convictions relate to the men's alleged connection with the Bolshevik Party (North Kurdistan/Turkey), a small, non-violent opposition party. During their trial the men denied being members of the group.

Similarly, on 27 February 2007 the Ankara 9th High Criminal Court convicted DTP co-chairs Ahmet Türk and Aysel Tuğluk of "praising crime and criminals" as well as "using a language other than Turkish" in official papers.

It has been suggested that these arrests, emblematic of numerous others, are aimed at keeping DTP representatives from being elected to Parliament and generally at preventing the DTP from being able to organise. This situation highlights the main thrust of these laws, which has been to confound the efforts of Kurds and other minority groups to meet,

assemble and establish political representation. Indeed, it is most often Kurdish political parties that are banned from meeting, harassed or otherwise repressed; the Democratic People's party (DEHAP) was even banned by the Turkish constitutional court for its alleged links with the PKK. Though Kurds are allowed to vote in Turkey, political parties that have taken up the Kurdish issue continue to be harassed by the government. Also student organizations, labour unions, and religious and ethnic minority organizations have been targeted by the government.

Freedom of movement

Targeted security cautions in the form of roadblocks and identity checks by armed officials frustrate the efforts of pro-Kurdish parties like the DTP to function freely. While Prime Minister Erdoğan has denied that the declaration of a High Security Zone in the provinces of Siirt, Hakkâri and Şırnak meant that the so called Emergency Rule Region (OHAL) was in place again, in practice access to the area by civilians has been heavily restricted. Reports of security forces intimidating voters in the region add to the concern that voters in the area will be prevented from expressing their will freely in the elections.

International electoral standards

The right to participate in the government of one's country, through casting votes and through standing for elections, is outlined in Article 25 of the ICCPR and Article 3 of the First Protocol to the ECHR, both of which Turkey has signed and ratified. From these international instruments, certain standards applicable to elections can be drawn: elections must be periodic and genuine, the suffrage shall be universal and equal, and the secrecy of the vote shall be preserved. First and foremost, elections shall allow for the free expression of the will of the people. To guarantee genuine elections, core human rights must not be restricted during the electoral cycle. Restrictions upon freedom of expression, freedom of association and assembly, and in particular freedom of movement, will undermine the genuinely free expression of the will of the people. In Turkey, the ongoing restrictions of

each of these freedoms threaten the validity of the upcoming election.



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The Kurdish Human Rights Project (KHRP) is an independent, non-political, non-governmental human rights organisation founded and based in London, England. KHRP is a registered charity and is committed to the promotion and protection of the human rights of all persons living with the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include both Kurdish and non-Kurdish people.