

Turkey after the Constitutional Referendum: Implications for Washington

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Brief Analysis

On September 12, Turkey went to the polls to vote on constitutional amendments proposed by the governing Justice and Development Party (AKP). Nearly 38.3 million people turned out, with 21.8 million voting in favor of a variety of changes to the Turkish political system, from establishing constitutional guarantees of gender equality to giving the AKP de facto power over a majority of the country's high court judicial appointments. Of the twenty-six amendments weighed by voters, several stipulate significant changes on key issues.

The debate preceding the vote was as much about Ankara's commitment to liberal democracy as it was about the amendments themselves. Although the AKP leadership once espoused antidemocratic rhetoric as part of Turkey's Islamist opposition, it now seems bent on casting itself as a conservative democratic force in an officially secular political system. Yet the referendum results indicate that many Turks remain suspicious of that shift -- of the 42 percent of voters who opposed the constitutional changes, many reportedly did so out of fear that the AKP would consolidate its power through the amendments. Indeed, the party's leadership has already promised to use this opportunity to draft an entirely new constitution.

Since the AKP assumed power in 2002, Turkey has become significantly more polarized. Will the amendments and the process of creating a new constitution close this gap and help make the country a better liberal democracy? And which political indicators should Washington monitor to gauge Turkey's stability as this process unfolds?

Judicial Appointments

Currently, Turkey's Constitutional Court is composed of eleven regular members and four alternates, all presidentially appointed. Four of these members were appointed before the AKP-dominated parliament elected party member Abdullah Gul to the presidency in 2007. One of the new amendments changes the court's size, however, increasing the number of regular members to seventeen (three elected by parliament and fourteen appointed by the president). Specifically, the four alternates will now become regular members, and Gul will be tasked with appointing two more. Seven members are already known to be pro-AKP, so the addition of Gul's new appointees will make the court safe ground for the party for the first time since it gained power.

Another amendment alters the High Council of Judges and Prosecutors (HSYK), a key juridical oversight board similar to the superior councils of magistracy in France and Italy. This powerful committee administers appointments, promotions, and disciplinary action for all judges and prosecutors. Currently, it has twelve members (seven regular and five alternate), ten of which were presidentially appointed from a list of candidates nominated by the secular courts of the Council of State and Court of Appeals (three before Gul assumed office). Although the HSYK also includes the AKP justice minister and his undersecretary, the secular bloc forms a majority.

One of the new amendments will change the council's makeup significantly, however, expanding it from twelve (seven regular and five alternate) to thirty-four (twenty-two regular and twelve alternate) members. Four will be appointed by Gul, five will be elected by secular peers, and one will be chosen from the government-controlled academy of justice. Additionally, the justice minister and his undersecretary will remain in place, and a caucus of judges and prosecutors will elect another ten members. The new structure will seemingly give the AKP a seven-member bloc on the council, with the secular members likely keeping their distance and forming a bloc of their own. As a result, the HSYK's general direction will probably be determined by the ten new caucus-elected members. At the same time, however, the justice minister will constitutionally remain the council's "chief administrator and representative," giving the AKP a potentially broad scope of authority.

Military-Civilian Relationship

Another new amendment allows officers expelled from the military on charges of Islamist activity to appeal their cases in court. Previously, expulsion decisions by the Supreme Military Council, Turkey's military promotions board, could not be challenged. The amendment effectively makes it difficult for the avowedly secular military to expel Islamist sympathizers within its ranks.

Gender and Privacy Rights

Some of the more liberalizing amendments may help improve gender equality in Turkey; for example, one key provision will allow the government to implement measures for protecting women without violating equal rights. Although this amendment is progressive, it is tempered by the fact that women have actually lost power under the AKP. For instance, 40 percent of Turkey's teachers, 35 percent of its engineers, and 30 percent of its doctors are female, yet the

AKP has failed to appoint a woman to any of the thirty-five executive posts in the ministries of education, environment, energy, transportation, public works, and health.

Another amendment promises to protect personal privacy, giving citizens the right to request correction or deletion of personal information. As with the gender equality provisions, however, this progressive amendment faces a starkly different political reality: news reports indicate that the number of wiretapped phone calls in Turkey more than doubled between 2007 and 2009 (from 63,576 to 142,135).

What Washington Should Watch

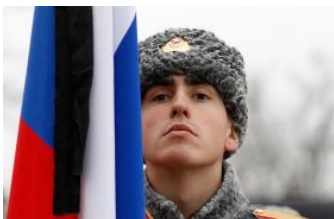
On paper, the new amendments promise to improve civil liberties in Turkey. In light of the AKP's track record on these issues, however, Washington should monitor to what extent the party follows the spirit of the provisions in execution. And given the new barriers to expelling Islamist officers, Washington should also monitor the likely politicization of the Turkish military -- NATO's second-largest army and an important, highly professional U.S. partner.

Finally, although the yes vote on September 12 promises short-term political stability, Turkey likely faces long-term instability due to clashes between the AKP and its opponents. Such conflicts will be exacerbated now that the AKP has the power to shape the high courts in its own image, eliminating an important check on its power. Among the 42 percent of voters who rejected the amendments, this development will increase fears that the party's commitment to democracy is simply a means of consolidating power. Barring an AKP change of heart -- one in which the party drafts and implements a truly liberal constitution to ease tension with its opponents -- Turkey faces increased polarization over the coming year as it prepares for general elections in July 2011.

Soner Cagaptay is a senior fellow and director of the [Turkish Research Program](#) ([/templateI02.php?SID=12&newActiveSubNav=Turkish%20Research%20Program&activeSubNavLink=templateI02.php%3FSID%3D12&newActiveNav=researchPrograms](#)) at The Washington Institute. He would like to thank Institute research assistant Hale Arifagaoglu for her contributions to this report. ❖

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