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Western Impact and Turkey

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The Second Wave of Modernization: EU Reform Packages (after 2001)

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The Concept: "Western Normative Effect"

- A fairly new study area in Europe
- A long historical experience for Turkey: The fifth wave
 - 1839 Tanzimat
 - 1876 New Ottomans
 - 1908 Young Turks
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 - 1923 → Kemalism
 - 2001 → EU Reform Packages.

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The Second Wave: What Made It Possible?

- Feb. 1999: Öcalan captured in Kenya
- 1999: PKK declares cease-fire, sends militants abroad, Turkey abolishes capital punishment
- Dec. 1999: EU declares Turkey Official Candidate
- 2002: The first "non-nationalist" party in power: AKP.

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Key Reform Categories

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- 1) More Freedom of Expression, Less “National Security State”.
- 2) Greater Freedom and Protection from the State.
- 3) Differentiate “Thought” from “Violence”, and “Criticism” from “Insult”.
- 4) Containment of the Military’s Political Power.
- 5) Fight Against Torture

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Key Reform Categories -1
More Freedom of Expression,
Less “National Security State”

- Deleted from the Constitution: *“No language prohibited by law can be used to express and diffuse thoughts.”*
- *“Indivisibility of the State and nation, and national security”* will no longer constitute legal grounds for the confiscation of printing houses
- Added to the Constitution (art. 90/5): *“International treaties concerning fundamental rights and freedoms have priority over national laws of the same subject”* (LPT 39/4 vs. Law on Political Parties, and Election Law).

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Key Reform Categories – 2
Greater Freedom and Protection from the State

- Abolished: Capital punishment.
- Custody period limited; next-of-kin will be notified.
- Permitted: Learning, publishing, and broadcasting in *“different languages and dialects traditionally used by Turkish citizens”*.
- Permitted: Non-Muslim foundations can now acquire new real estate.
- Permitted: Parents will be able to name their children as they wish.
- Initial start of a legislation against hate speech *“To insult a segment of the population in a degrading way as to harm human dignity”* or *“to openly provoke the hatred of one segment of population against the other is prohibited”* (+ Art. 20 of the UN 1966 Covenant = legal basis against hate speech).

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Key Reform Categories – 3
Differentiate “Thought” from “Violence”,
and “Criticism” from “Insult”

- Penal Code amended to legalize expressions not inciting to violence and not constituting a concrete threat.
- Penal Code amended as to include: *“Declarations of thought made with a view to criticize will not be considered an insult to Turkishness, and to State agencies”* (applied only once).

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Key Reform Categories – 4
Containment of the Military's Political Power

- The opinion of the NSC will no longer be sought concerning "*broadcasting in different languages*".
- The representative of the General Staff will no longer be a member of the Higher Education Council.
- Civilian authorities and juridical persons of private law will no longer be obliged to provide the NSC with confidential information.
- The Secretary General of the NSC does not have to be a military personnel anymore.
- High Court of Auditors will be able to audit the Military budget.

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Key Reform Categories – 5
Fight Against Torture

- When the ECtHR awards damages on grounds of torture, the State may now have recourse to the responsible civil servant for the amount of damages (applied 1st time on 26 Oct. 2009)
- Prosecution of cases of torture by civil servants is no more subject to special administrative permission.
- Prison sentences for torture cases may no more be postponed or converted into monetary fines.
- Testimonies taken without the presence of an attorney will no longer have evidential value.

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Implementation of the Reforms

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Implementation of the Reforms – 1 Military and Civil Bureaucracy's Resistance

- Military remains highly untouchable
 - High Court of Auditors is unable to audit the military budget
 - The Military has own Court of Cassation and High Administrative Court
- The same reform law had to be enacted several times because the civil servants find excuses for not applying it
 - Non-Muslim foundations' real estate: 3 times
 - Radio-TV broadcasting in different languages: 3 times
 - Private language courses: 2 times
- Tragicomic developments:
 - "Kurdish Language" → "Local Language" (H. Pinter)
 - A different building, manager, secretary required
 - Teacher licenses
 - Doors: 85 cm → 90 cm.

Courses close.

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Implementation of the Reforms – 2 Judiciary's Resistance

- Very harsh on the Liberals and the Kurds
 - Court of Cassation: “Any Turk has legal standing to sue Orhan Pamuk”
 - Mr. K. Doğru, sentenced to 2 years for dancing to a tune “*the words of which made PKK propaganda, thus divided the State*”.
 - 6 months for using w, q, x
 - 6 months for “Hand me some water” during the election campaign
 - 11 years to each child who threw stones to police panzers (membership in PKK) (max. 12-15 years for C. Gariboglu)
 - 3 years to Mr. E. Açıklan for exaggerating the situation of these children, while on a phone interview on TV (26 Oct. 2009)
- Very lenient on the Establishment
 - Acquitted: Policemen who tortured and killed Mr. E. Çeber in prison
 - Acquitted: Policemen who killed 12-year old U. Kaymaz (9 in the back, 4 in the chest)
 - Acquitted: “Let him ask his mother to find out who his father is!” (Minority Report)
 - Acquitted: “This is treason to the Fatherland. The price of the land is blood. That blood will be shed if necessary” (Minority Report)
 - Acquitted: “5 DTP members should be killed for every soldier killed”
 - 2007: The Constitutional Court prevented the Presidential election by ruling that 367 was required as quorum also.

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Resistance – Why?

- The Establishment has too much “education” (Celal The Bearded), and also too many privileges to lose (“Guardians of the Republic”)
- The Establishment is scared:
 - Fears the “Islamists”
 - Fears disintegration (Kurds)
 - Fears pluralism in general
- The AKP scares:
 - The Kemalists: “Neighborhood pressure”, spoils system, past hate crimes and pogroms committed against leftists and Alevis
 - The Media: Intent to silence mainstream media – 2,5 billion dollars fine,
 - The Upper Middle Class : AKP favors the rising Anatolian Tigers,
 - The Liberals: Post pogroms, alcohol prohibitions.

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2005: The Reform Stops

- The Kurds: Independence starts
 - 2005 Kurdistan Regional Government legislative elections in N. Iraq
 - PKK ends cease-fire
- European Union: Islamophobia starts
 - Apr. 2004. Cypriot Greeks who say “no” are in, Cypriot Turks who say “yes” are out
 - Sept. 2005. Danish cartoons crisis
 - Nov. 2005. ECtHR declares veil ban legal
 - Jan. 2006. Nick Griffin: “Wicked, vicious faith”; “Let’s show these ethnics to the door”.
 - Sept. 2006. The Pope: “Show me just what Muhammad brought that was new, and there you will find things only evil and inhuman”
 - Turkish candidacy: Since 2005, new conditions in every new EU report (Islamophobia, no money)
- The Turks: Sevres Paranoia starts
 - 2003-04. Deep State coup attempts: Yellowgirl, Moonlight, Seasparkle, Glove
 - Apr. 2005. General Staff: From “Prospective Turks” to “Pseudo-citizens”
 - Nov. 2005. Bookstore explosion in Şemdinli: “Deep State”
 - 2003-2008. A Black Sea region governor prohibits Kurdish seasonal hazelnut pickers
 - 2004-2007. Lynching parties against Kurds or leftists
 - Jan. 2007. Hrant Dink murdered
 - Apr. 2007. Three protestants murdered under torture in Anatolia.

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Reform Continues: 2008 →

- Cyprus: Talks restarted
- Armenia: Two protocols - Establishment of diplomatic relations, border opening
- Kurds
 - Official and private TVs in Kurdish
 - Local names to be given back
 - Kurdish Language and Literature Departments, and web sites in Universities,
 - “Policemen who speak Kurdish” to answer emergency phones
 - “Amedspor” vs. “Diyarbakırspor” and “Dersimspor” vs. “Tuncelispor”
- EU: Special ministerial post for EU Affairs
- Relations with the Military
 - Military personnel pursuing subversive activities against the established order will be tried in civilian courts (July 2009)
 - **Ergenekon trial.**

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Conclusions and Lessons

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The Second Wave Is More Difficult - 1

The First Wave (1920s, 30s)	The Second Wave (2001→)
M. Kemal, charismatic national hero	T. Erdoğan, "Islamist", too many mistakes
No Islamist counter-elites in 1920s	Preacher school graduates
No freedom of expression	Multi-party democracy
Kurdish issue local and invisible	A very visible national, regional, and international problem
M. Kemal was emulating a "vanquished West"	The West "dictates rules to Turkey"

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The Second Wave Is More Difficult - 2	
Europe today	Turkey today
To be sentenced, a speech: - Insult, incitement to violence, hate-speech, + The perpetrator must be an influential person, + The milieu must be liable to affect other people, + The act must be accomplished in a way to influence the public.	Any of these is sufficient
Largest freedom belongs to those who criticize: - State & Government officials, - Public institutions, - Politicians & bureaucrats, - The man in the street	Reverse order
Prosecutors & Judges apply the laws	They "save the country": State > Justice
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Lessons To Be Drawn
<ul style="list-style-type: none"> • Revolution from Above may change the laws overnight, but not the mentality. Especially, that of the Judiciary • Democracy / Western normative values cannot be <u>exported</u>: Cover for imperialism (Iraq). • But they can be <u>imported</u> if there is a good importer/general distributor: <u>The Enlightened</u>. • Import is faster than production but in the short run the price is higher (speed = more gas & risk) <ul style="list-style-type: none"> – Popular reaction: Support for the EU in 2004: 58 %, in 2006: 22 % – Military reaction: Four coup attempts in 2006-7 – Civil elites reaction: Sevres Paranoia • In the longer run, however, the result is worth the high price.
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Transition Achieved is Remarkable

- This particular level that Turkey is about to reach today is the result of a European process that had started in 1215 (Magna Carta).
- Turkey had started this process in 1839 (624 years later).

Ottoman Empire	Turkish Republic 1st Wave of Mod. (1920s et 30s)	Turkish Republic 2nd Wave of Mod. (2001-2004...)
The State: Semi-feudal Empire	Modern National Security State	Modern Human Rights State
The Society: Umma	Monistic Nation	Individual (civil society)
The People: Subjects of the Sultan	Citizen (Compulsory) (because his/her infra identity is denied)	Citizen (Voluntary) (because his/her infra identity is respected)
The Supra-identity: Ottoman	Turk (Ethno-religious supra identity)	Türkiyeli (Territorial supra identity)

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Main Source

- B. Oran, *Türkiye'de Azınlıklar, Kavramlar – Teori – Lozan – İç mevzuat – İçtihat – Uygulama*, 5th printing, İstanbul, İletişim Publishers, 2008, 280 p. (**“Minorities in Turkey – Concepts, Theory, Lausanne; Legislation, Case-law, Implementation**).
- Also see several related documents: www.baskinoran.com / Other Languages / Important Documents, the last four documents
- Also see several related articles: www.baskinoran.com / Other Languages / Academic articles

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