

By Baris Gulmez, Research Associate, UK Defence Forum and Turkey Correspondent

Introduction

On June 5th 2008 the Turkish Constitutional Court overturned a law which Parliament had passed by a large majority to change some of the rules underpinning the secular state. In particular this would allow women to wear Islamic-style hijabs in universities (the so called "Turban Decision"). Some claim this is a prelude to allowing hijabs in Government buildings ♦ something the President's hijab wearing wife appears to advocate.

(NOTE : The Turkish word for hijab, which we use here to describe the garment, translates as "turban" which should not be confused with the Indian turban. The turban covers the hair and neck and can make identification of the wearer difficult. For this reason it is banned in official situations. Many Turkish women traditionally wear a basortusu. which does not completely cover the hair and is similar to the head covering worn by Benazir Bhutto. The basortusu is not banned.)

The vote in the court was 9 ♦ 2 in favour of striking down what is claimed to be moves by the Chief Prosecutor to ban the ruling Justice and Development Party (AKP) and bar over 70 politicians, including the Prime Minister and President, from politics. The AKP became the Government in 2002 and was re-elected in 2007 with an increased share of the vote and an increased majority.

The AKP (AKP is the Justice and Development Party and is the ruling Turkish political party. It describes itself as a centre-right conservative party and is descended from the fundamentalist religious movement in Turkey)

The decision on the turban case caused panic in the AKP. This resulted in hasty and emotional comments and then proposals from the AKP concerning the decision. Initially, the reactions were that the court had exceeded its authority by decreasing the role and the rights of the parliament, because 411 out of 550 deputies, including the votes of MHP, AKP and DTP, had made the amendment for the turban possible. Thus, according to the AKP, the court's decision was counter to the democratic decision of the parliament.

Ahmet Iyimaya, an AKP deputy for Ankara and the head of the committee for the constitution in the parliament called a press conference and proposed to annul the decision. He said that the decision of the court breaches the constitution for the human rights reasons. Such an annulment would be proposed by 184 (one third) of the 550 deputies in the parliament and the vote of 330 (three fifths) of the total seats. Upon the annulment, the Constitutional Court would not be able to try the same issue for 5 years.

(This of course would give the AKP the ability to overturn Constitutional Court decisions whenever it is not comfortable with them since it currently holds 340 seats. However this proposal was attacked by many segments of the public and accused of dismissing the Constitutional Court totally.)

On the other hand, the turban decision also caused splits in the AKP. Koksak Toptan, the speaker of the parliament proposed the introduction of a Senate and thus a bicameral system to solve the current problems of Turkish democracy. But Cemil Cicek the spokesperson of the AKP dismissed the proposal as the individual view of Toptan.

Reha Camuroglu, an advisor of the Prime Minister Erdogan on the Alevis minority resigned although he did not quit the AKP. He argued that the AKP tended to focus on the turban issue when it comes to human rights and freedoms but it did nothing to enhance the rights of Alevis living in Turkey. He claimed that Erdogan had promised to organize dinners with Alevi community but even this did not happen. With the resignation of Camuroglu, the only direct link between the AKP and Alevis ceased to exist.

The CHP (CHP is the Republican People's Party, a social democrat party and the main opposition party having 98 deputies in the parliament.)

The CHP although happy with the result, said that they were sorry that the issue had gone as far as the Constitutional Court. CHP officials claimed

that the turban issue was totally contrary to the secularism principle and this had been confirmed by the Constitutional Court. Since the turban issue was decided by the court in accordance with the article 4 of the constitution which states that the first three articles are eternal and no proposal to amend them is possible, the CHP asserted that the turban issue was solved forever and the court decision constitutes a precedent for the future. The CHP claimed the AKP will be banned because of its actions against secularism. Baykal also claimed on TV that Prime Minister Erdogan will seek a new general election right after the banning of individuals even if the remnants of the AKP would be enough to form a government, Erdogan would not be able to join the government but in a general election could re-elected as an independent deputy and then become prime minister again.

The TSK (TSK is the Turkish Armed Forces.) While the generals of lower rank only stated that they respect the court's decision, Yasar Buyukanit, the Chief of the Joint Staff stated that Turkey is a secular state and the court decisions are final. He said that the turban issue was totally contrary to the secularism principle and the court gave the correct decision in this sense. He also said that as the European Court of Human Rights had decided that turban issue was against the secularism principle, it would have been absurd for the Constitutional Court to come to a different decision. Before the decision was announced, Buyukanit had said that the secularism principle plays a crucial role in the survival of the modern Turkish republic. It was already obvious that the TSK was totally against not only the lifting of turban ban at universities but also the hijab itself. Military officers had always protested against women wearing hijabs, including not participating in the 23 April reception of the President Gul and his wife, in official meetings or official programmes.

However Yasar Buyukanit will retire in 30 August 2008 and a new chief will be appointed 1st September. The custom is that the commander in chief of the ground forces usually becomes the new Chief of the Joint Staff. The current commander of the ground forces is Ilker Basbug but there are campaigns to prevent Basbug from becoming the chief. Two years ago, while Buyukanit was about to become the chief, there were unproven accusations against him concerning the Semdinli diyarbakir bombings in which he was alleged to have played a role. Similar allegations against Basbug have come from the TARAF newspaper which is very close to the AKP. It was claimed that Basbug had covertly spoken with Osman Paksut, the member of the constitutional executive body, to influence the other members to prevent the turban liberalisation at universities. Such allegations that the decision was manipulated and invalid were rejected by both Basbug and Paksut, and Basbug decided to sue the TARAF newspaper.

The MHP (MHP is the Nationalist Movement Party, a far right party and the second major opposition having 70 deputies in the parliament.) The MHP had supported the lifting of the turban ban and upon the cancellation of the bill by the court they stated their regret and criticised the court for prohibiting the freedom of turban wearing women to take part in higher education. Bahceli, leader of the MHP made a controversial proposal to the AKP. Dubbed as the "cloning the AKP", Bahceli advised the AKP should continue its political life in the form of new political party irrespective of whether the AKP is closed or not. He also suggested that only the 39 deputies against whom the case file was opened in the closure case should stay in the AKP and be marginalized. The other should form the government under different party and should seek cooperation with MHP and CHP on economic and political policies. However, this suggestion was fiercely opposed not only by the AKP but also within the MHP.

While the AKP criticised the move as a tactic to divide the party, various MHP members also criticised it as evidence that the MHP is becoming the pawn of the AKP trying to help save the party. In the event of this causing a split

within the MHP the CHP might benefit since its opposition to the policies of the AKP have started to gain support within the MHP grassroots.

Nevertheless, the political agenda in Turkey is very volatile and prone to change. For instance, the statement of Onder Sav concerning the Hz. Mohammed is being criticised in the Turkish public domain and could result in the dismissal of Sav from the top position in the CHP.

The AKP closure case

The turban decision technically does not mean the automatic closure of the AKP, however according to many authorities it reveals the general view of the court members about the AKP. Hasim Kilic, the chairman and Sacit Adali voted against and the other 9 members voted in favour of striking down the turban amendment. Kilic and Adali had been appointed by Turgut Ozal and are known as close to the AKP. They had also voted against the 367 decision concerning the election of Gul as the president. The other members are appointed by Demirel and Sezer. The fact that they voted against the AKP's turban amendment might mean that they would also vote for the closure of the AKP, because in principle the basic grounds for their decision on turban and the closure case is the same: Secularism.

Since they decided that the turban issue is against the secularism principle and it is counted as one of the acts of the AKP against secularism, then they might come to a conclusion that the AKP mainly acts against the secularism principle and decide on its closure. The turban decision also indicated that the influence of the chairman of the executive board of the Constitutional Court is limited since the turban decision was made in spite of Hasim Kilic's veto. This also strengthens the notion that the AKP might be closed despite some opposite voices in the constitutional board.

If the AKP is closed then 70 AKP members will be prohibited from participating in a political party for 5 years. However, according to prominent law authorities, this prohibition only applies to the (23rd) present term. In the 24th term for example they might be elected to the parliament as independent deputies although not as a member of a political party.

One scenario is that right after the closure, the remaining AKP deputies will form a party with a different name and then demand early elections. In the new elections, Erdogan will be elected as an independent deputy and will be chosen by the ex AKP party deputies as prime minister.

There is a widespread view in the Turkish parliament that the AKP is preparing for the early elections, because it believes that after the turban decision the closure of the AKP is certain. Baykal criticised the early elections issue and claimed that the next elections will be held in order to save Erdogan and make him prime minister again.

On the other hand, there is another debate in the political circle that there is a possibility that the Constitutional Court, if it decides to close the AKP, might rule in its statement of reason that the prohibited members of the AKP could not participate in political life for 5 years in any circumstances.

Conclusion

The turban decision created a strong belief in Turkey that the AKP will be closed. During the closure process, the name of the new party will not change anything. Hence the existence of the GTP will not make any difference as long as Erdogan is re-elected. However the closure of the AKP would mean great financial and physical loss for the AKP since all the branches will have to be re-established and the party members be re-recruited. All the party assets including cars and buses would be confiscated.

To date there has been no statement from Erdogan but implicitly he must be convinced that the AKP will be closed since there is an anticipatory mood in the AKP for an early election. On the other hand, the hasty comments and proposals of the AKP members concerning the turban issue and the split within the AKP might mean that the AKP is in a panic. If the AKP can act more cool-headedly, focus on early elections and calculate the possibilities for re-electing Erdogan as prime minister, then

the AKP will come through this process with less damage.<br /><br />But there is a lesson from history. If the new AKP cannot find a way to re-elect Erdogan as prime minister, then the party will face enormous legitimacy crisis and is likely to fall apart as did the Refah Party. Erbakan could not come back into political life, and Recai Kutan its replacement leader lacked Erbakan's charisma. The remnant of the Refah Party became marginalized.<br /><br />About the author<br /><br />Baris Gulmez is a political consultant on Turkey and former parliamentary advisor in the Turkish Parliament.<br /><br />This paper was published by the U K Defence Forum in June 2008.<br />All rights reserved.</p>