

REFERANDUM OF SEPTEMBER 2010,
JUDICIAL INDEPENDENCE AND
THE HSYK CASE



November 2011
UMUT ORAN

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WHAT HAPPENED AFTER THE REFERANDUM?

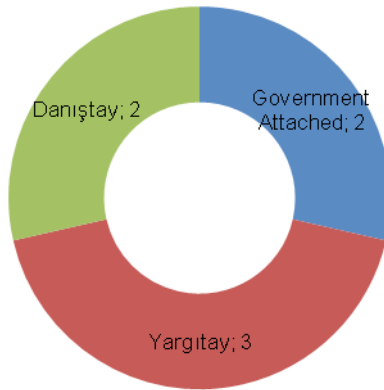
12 September 2010	<p>58 percent of the people accepted the 26 proposed changes in the Constitution, including the changes regarding the Economical Social Council, the stature of the Court of Constitution, and the High Council of Judges and Prosecutors (HSYK)</p> <p>CHP was objecting change proposals about the HSYK, Court of Constitution and the regulation regarding the banning of the parties.</p>
17 October 2010	<p>HSYK election held. All of the Members of the Minister of Justice List chosen as members of the HSYK.</p>
9 February 2011	<p>Parliament accepted the law that changes the statute of the High Court (Yargıtay) and the Council of State (Danıştay). New chambers established in both of the courts.</p>
18 February 2011	<p>Journalists Soner Yalçın, Barış Pehlivan and Barış Terkoğlu taken under custody. Prosecutor claimed that they were members of a terrorist organization.</p>
25 February 2011	<p>High Council of Judges and Prosecutors appointed 160 new judges to the High Court and 51 new judges to the Council of State.</p>
6 March 2011	<p>Ahmet Şık and Nedim Şener taken under custody. Prosecutor claimed that they were members of a terrorist organization.</p>
7 March 2011	<p>Journalist Doğan Yurdakul taken under custody in regard of the ODA TV case.</p>
24 March 2011	<p>Police force with the order of the Specially Authorized Prosecutor went to Radikal Newspaper and deleted the copies of the unpublished book of Ahmet Şık.</p>
30 March 2011	<p>Turkish Parliament accepted the law that changes the stature of the Court of Constitution</p>
2 June 2011	<p>Presidency Election of the High Court held. With the block vote practice of the newly appointed 160 members of the court, Nazım Kaynak was elected president. Vice Prime Minister Bülent Arınç celebrated this event by saying "I am very happy. My dear brother , my classmate is elected as president of the High Court"</p>
8 June 2011	<p>Presidency Election of the Council of State held. With the votes of the newly elected 51 members, Hüseyin Hüsnü Karakullukçu was elected as president. Vice Prime Minister Bülent Arınç said "Thanks to my God, he gives again and again." Karakullukçu was also a classmate of the Bülent Arınç</p>
12 October 2011	<p>According to the Progress Report 2011, freedom of expression is at danger in Turkey because of the number of court cases against writers and journalists, rule of fair trial violated in several of cases, long periods of trial raised serious concerns.</p>

31 October 2011	Newly established chamber numbered 14 in the High Court approved the decision of the Mardin Criminal Court that rules discount in the punishment of the 26 people that rapes a 13 year old girl claiming that the girl showed consent
13 November 2011	Member of Turkish Intelligence (MIT) Kaşif Kozinoğlu died in prison before attending even a single trial after 8 months of custody regarding the case of ODA TV.
24 November 2011	<p>Since the acceptance of the relevant articles, Prime Minister never held a meeting of Economic Social Council despite the law.</p> <p>There are now 12.897 people in prison allegedly to be a member of a terrorist organization. In 2005 the number was only 273.</p> <p>According to the Human Rights Foundation of Turkey, between the years of 2002 to 2011, 116 people murdered by unidentified perpetrators, 367 people murdered by the officers without a trial, 370 people died under custody or in torture. According to the same source, 8710 people tortured during these years.</p> <p>There are now 8 members of the parliament, 64 journalist, 500 university students, hundreds of local government officers are under custody. Prosecutors, Prime Minister, Minister of Justice, Minister of EU Relations claim that they are all members of various terrorist organizations.</p> <p>Minister of EU Relations said “None of the journalist are in prison because of their journalistic activities” still, there is not a single court decision about the 64 journalist in prison that proves that they are guilty. For example, Prosecutors claim Ahmet Şık to be a member of a terrorist organization because of an unpublished book that is found in the personal computer of another journalist, Soner Yalçın.</p>

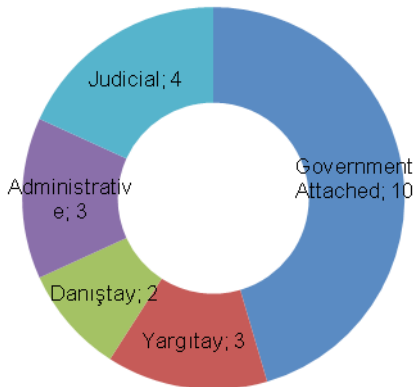
JUDICIAL INDEPENDENCE AND THE HSYK

Before the general referendum, HSYK was composed from 7 members. Minister of Justice and Undersecretary were the members of the HSYK and 5 members were chosen from the High Court (3 From the Yargıtay and 2 from the Danıştay)

COMPOSITION OF THE HSYK BEFORE THE REFERANDUM



COMPOSITION OF THE HSYK AFTER THE REFERANDUM



After the general referendum, HSYK's composition changed and number of the members of the council increased to 22. Minister of Justice and Undersecretary is still the members of the HSYK and in addition to this, 4 members are chosen by the President from the lawyers and academics of law, 3 members are chosen by the Yargıtay, 2 members are chosen by the Danıştay, 1 member is chosen by the Academy of Justice that is governed by the Ministry of Justice, 7 members from the first degree judges and prosecutors by the judicial judges and prosecutors, 3 members from the first degree administrative judges and prosecutors by the administrative judges and prosecutors.

In the election time a list called the "Ministry of Justice list" sent to the first degree judges and prosecutors, any other election campaign declared illegal and after the election, all the members of the list elected to the HSYK.

Now, the ex director of the Staff of the Ministry of Justice, ex vice undersecretary of the Ministry of Justice and the ex Chairman of the Justice Academy is also in the council.

Direct representation of the government in the HSYK increased due to this election process, in addition to the 2 members of the government, ex government representatives and government attached people are elected with the help of Minister of Justice and President.

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The laws regarding the High Council of Judges and Prosecutors and the Organisation of the Constitutional Court might be seen more democratic than previous laws. But these institutions lost reliability during the election period and with the result of the election of the High Council members and the Court members.

After the election of new members, the three specially authorised prosecutors in the Ergenekon case were reassigned to other duties by High Council. The prosecutorial team investigating the Deniz Feneri case were changed by High Council before the submission of indictment to the court.

WHAT HAPPENED IN THE HSYK ELECTION?



Orhan Gazi Ertekin is the president of the Association of Democratic Judiciary in Turkey. He was known to be a liberal judge and supported the 2010 referendum in Turkey.

He published a book about the election of the HSYK named “Problem of Judiciary Resolved - Test of the Judges with the Democracy with Donkey”

Relevant passages of the book quoted below.

WHICH DEMOCRACY AND WHO WON?

Winning the election of HSYK (Supreme Court of Judges and Public Prosecutors) with the formation of a block of votes reaching two-thirds can be evaluated in two ways, which are very different from, even conflicting with each other. Every judges and public prosecutors out of three have voted for the list of the Ministry bureaucracy. A voting score reaching 60% has formed, and an area of stability was created reaching 60-70% as regards all those elected. The same stability is present even the reserve members. Even they got votes not going below 50%. In such a situation, the first thing that comes into mind is that formation of the new HSYK with the great majority of the judges and public prosecutors creates a powerful and undeniable democratic legality in the judicial body.

Such an extended presumption will render the democracy discussions in the judicial bodies invalid in the universe of numbers. Judges and public prosecutors have used their votes and being respectful for this result also means being respectful for the democracy. This is the first and most extended evaluation, and has a powerful side in theory, because democracy can never give up the factor of creating an extended presumption. The second evaluation completely conflicting with the first one insists that the same “universe of numbers” proves that all the legal structures of the democracy have been violated in fact. According to this idea, collecting the votes of the 70% of the judicial circles on the same list as a single block does not prove that a “democratic choice” has been made, but it proves that a “military shaping up” has occurred, since the candidates have not been “preferred” but the voters have been “directed”.



While the emphasis is on the jurisdiction and democracy in the first evaluation, the relationship between the jurisdiction and political power is emphasized in the second evaluation. The answer to the election and the election of the members is that the judges and public prosecutors have preferred them. In the second evaluation however, the answer to the election and the result is the imposition of the power, in other words, pressure of the Ministry of Justice on the judges and public prosecutors. The free election of the judges and public prosecutors come in the first place in the first evaluation, while the potential of the powerful bodies has the same position in the second evaluation. In the first evaluation, judges and public prosecutors

are recognized, evaluated and preferred, which is democracy. In the second evaluation, judges and public prosecutors do not even know the names of the members, leave aside to recognize and prefer them, which is the destruction of democracy.

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Well, which one of these to opposite and conflicting points of view are correct? The correct answer to this question required to ask and give answers to the formation processes of all these preferences, if these preferences do really have grounds of "preference", if those elected were really elected, if so, the grounds for their election, which democratic experiences do the members have, what kind of a strategy did they use, and on which levels and how did they face the judges and public prosecutors as the voters, because the point of bringing a solution to the democracy problem is the relationship of practices and tactics for agenda-creating and front-creating with democracy. We shall first investigate the parties of democracy, and then its practices, and lastly, who won.

EVALUATIONS

THE PATHETIC RELATIONS OF THE JURISDICTION WITH DEMOCRACY

"The jurisdiction has declared its intention and elected its representatives. Democratic legalization in jurisdiction was thus practiced. Let us digest democracy and be respectful to the will of the voters."

From: Scolding of a judge to those who criticized the 2010 HSYK elections

With the debates related to the constitutional amendment lasting for about 5-6 months, we had the opportunity of finding out how minimal the relation of Turkish jurisdiction with “law” and “justice” is. Very basic concepts and institutions related to the jurisdiction were discussed in a large frame and in popular level for the first time. As a result, it was found that the Turkish jurisdiction was lacking of a wide accumulation of ideas and literature related to law and justice, and also we started to understand better that the connection between the jurisdiction and the mission of law and justice was always contentious, at least, open to discussion. However, our findings on the jurisdiction had of course not come to an end with the referendum of 12th September 2010. In the HSYK election process after the referendum process, it became clear that the relationship of the jurisdiction also was minimal, and its connection not only with the law and justice, but also with elections and democratic standards were very problematic. The problem was not limited with the applications of democracy in the jurisdiction. It was also related to a mental mediocrity that would normalize such applications. Leave aside opening the very serious democratic problems for discussion, the political style that attempted to impose the results of the election as the democratic results covering the debate area rapidly and surprisingly must be carefully evaluated in this sense.

It was of course unavoidable that this most comprehensive democracy experience of the jurisdiction (election was made only among those classified as the first class in the 61’ Constitution) would include different perceptions of democracy. Giving meanings to democracy that compete with each other is an effort that reveals to the level of the democracy culture. It is natural that all the judges and public prosecutors involved in the HSYK election process give meanings to this process is also natural. However, efforts of passing off the remarks related to “democratic standards” with rapid, hasty and nomadic perceptions of those attempting to subject the problems during the election process to serious questioning is very remarkable. Consequences of the efforts to use the entire election area without any limitation and supervision through the conditions of the elections, illegal presence of the bureaucracy in the elections of the jurisdiction (inequality between the bureaucracy and the chairing judges and candidate public prosecutors), inability of the chairing judges and public prosecutors to perform campaigns, focusing of the Ministry on the election with all its power and administrative mechanisms, establishing a supervision and control mechanism downwards from the Chief Public Prosecutors, chairmen of committees, and forcing the small judiciaries to develop joint preferences and attempt to put forth promises (for example, purchasing lodgments in Diyarbakır, making Silivri first zone), power play by distributing the Inspectors of the Ministry, investigation judges, and even lawyers to the periphery to use many diverse methods, dinners for hundreds of guests using unknown resources, in short through arbitrary use of power, and transforming them to

details that the perception of “democracy” in the middle is never touched must be observed carefully.

Let us put the news articles in the media with the Ministry as the source that the military services of the judges and public prosecutors will be solved by the Ministry of Justice, salaries will be improved and the wearing factor will be recognized put aside to advance the questioning of democracy. On top of all these, answering the question, “What kind of a democracy is this?” with the scolding of “be respectful to democracy” with a tragicomic style clearly shows how problematic is the perception of “democracy” in Turkey.

It is considered that the perception that the action of putting the vote paper in the drawer, which is the most elemental and minimum scale for democracy, is accepted as sufficient and adequate also perceives the HSYK election process as real democracy is a natural result. At the same time, eliminating the bureaucracy, which is an illegal power also, from the election process, not using the administrative mechanisms, hiding the candidates of the Ministry from the supervision and inspections under the fake image of implementing official actions and procedures and thus ensuring that the officials to make the propaganda of the list of the Ministry with joy and ease of mind in their power and potential areas in the velvet arms of the official departments are all transformed into “legal” and “respectable” activities of democratic forces.

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Of course the problem is not limited with the despotic implementation of this process. What probably more important than this is the lack of the jurisdiction a perception of democracy that would allow it to question this election experience seriously, and that is not restless at all when calling all these experiences “democracy”.

It is clear that ruling forces make the public to elect them. They are not spontaneously elected. The voters do not elect, they are influenced to elect. The election process is dangerous and anarchist for the established power. As said by a philosopher, “the election can demolish the power and re-establish it.” The ruling power must take measures against this! In other words, an area of “approval” must be created instead of an environment for election, because the voter is within the environment of power that makes him/her obliged to power. This relation is one sided and from top towards down. We need the headline below to explain this more concretely:

Acknowledgement of “elected” HSYK members: In fact, there was no election at all!

The strategy of the new members of HSYK right after the election including dialogs with the judges and public prosecutors harbors acknowledgements in the literary sense. HSYK announced that it will hold a meeting for the “Analysis of the Situation in Jurisdiction”. As is known, the process of the election is the process of empowerment and forming the representation with the thoughts of the voters crystallize and differentiate, and the representatives take these over by transforming them into expectations and demands to carry them to higher layers. The basic mechanism of the election is this. The election is interactive, because the election is not a process determined by the candidate, but it is process created within the relation between the candidate and the voter. In this sense, if an election is made in any area, a meeting with the voters must have been materialized in this or that level, and their thoughts and demands must have been determined and the ground for mutual agreement must have been clarified for the carrying of these thought and demands to the area of representation.

Therefore, there is a strange situation regarding the “Meetings of the Analysis of Situation in Jurisdiction”. The process of election has just been completed. However, the “elected” members of HSYK are announcing that they have no material information related to the demand and expectations of the voters, and that they will contact them to ask about their expectations. The strange point is that: has the 2010 HSYK elections were held without listening to the judges and public prosecutors, understanding their thoughts, and not knowing what to represent? If so, what are the grounds of this election? Can there be any election not managed by the expectations and demands of the base? Is there an area of preference independent from the thought of the base? Then, currently what to the “elected” HSYK members represent? The chairing judges and public prosecutors? Or the Ministry that is known as power, potential, and the ruling power? If the secret of this election is the power of the Ministry instead of the demands and expectations of the chairing judges and public prosecutors, then what is the difference of this election from the election of any powerful dictator? On the other hand, if those “elected” represent the Ministry, it is very natural that they would turn to the base, and ask them “what are your thoughts?”, because the newly assigned to the administration asking the base about their thoughts is an example of courtesy.

In conclusion, the question of “what do these judges and public prosecutors want and what do they think” right after the election and before making any material implementations clearly demonstrates that what we experienced in jurisdiction on the date 17th October 2010 is not an election in reality, don't you think?

“DONKEY DEMOCRACY”

“I would vote for any donkey if nominated by the Ministry of Justice”

(Statement of a senior judge when he was displaying his tragedy during the HSYK election process)

One of the most important statements showing the conditions and perception that the HSYK elections is the statement of a senior and obedient judge of, “I would vote for any donkey if nominated by the Ministry of Justice”. What we should not here is not only the crudeness of the statement or the level of obedience. That is, only the immaturity of the owner of the statement and his conditions, the level of the political culture he belongs to and the “esthetic” dimension of the statement will not be sufficient to tell us more. All these should be united with the tragic situations of the political and judicial environments in Turkey. Only this way we can comprehend the depth of the tragedy we experience in jurisdiction. Our understanding of the level of representation that the trial of the judges and public prosecutors according to democracy take place will depend on this.

Recording the following and then continuing with the discussion will be beneficial: There will be no problem if you are not interested at all in the person who will represent you. Disinterest of the voters in the elections and candidates is widespread and understandable.

INTERVIEW OF POST EXPRESS MAGAZINE WITH ORHAN GAZİ ERTEKİN, PRESIDENT OF THE ASSOCIATION OF DEMOCRATIC JUDICIAL

SEPTEMBER 2011

How was “Matter of Judicial Was Solved!” being received?

Orhan Gazi Ertekin: We did not observe a result that excess the palace’s Supper, yet. In the media, it was headlined in Vatan first, two days later it was in the news again. It was considered with an approach which is more to question AKP’s power and develop the suspicion towards the AKP: How the list of the Ministry of Justice was fictionalized, what are the details of the process? It is too incomplete to determine the position of the book from the perspective of Vatan. It was reported in Milliyet, Cumhuriyet. Beyond these, it did not receive so serious confuse in the media.

Did Zaman, Yeni Safak, Sabah report it?

No. There is an obvious silence.

TWO TRENDS, TWO ANALYSES

When and how the Democratic Judiciary Association was built?

The founding core staff of the Democratic Judiciary was mostly consist of people who are brought together by Radikal2’s writing experiences. I have started writing in 2005. Osman Can was started a year before me, Kemal Sahin (General Secretary of the Democratic Association of Judiciary) and Faruk Özsu, who is now hakim of Diyarbakır were also began at that time. For the first time a group appeared which makes judiciary a subject of debate and shares it with community. Previously, judiciary and the law were the areas where the parties hold them outside the criticism. It was an area which was not taken very seriously by the Marxist left and did not require to produce information from the inside; there exist an approach where asking over judiciary accepted as meaningless. Since the late 1990s, law and justice began to enter to political analysis more intensively. Our presence, gradually expanding in Radical 2, began to find a response outside. Of course, there are sides which

corresponds the tension between AKP and the traditional ruling powers. After period of 2004-2005, the conflict between the AKP and the traditional powers began to grow not over army or pro-coup but over the judiciary and the law began. Almost every day we had faced interference by the judiciary and the legal field. The first time it appeared most serious was the matter of Semdinli. Sin Semdinli issue, this group - Osman Can, other friends, I - gave a common response. This became the first unification.

The headscarf case, the AKP's closure case, 367 decisions in Presidential election which came just after forced these individuals to come together more tightly and to give a common response. This was an acquisition due to following political problems reflected to the judiciary from acquisition. And exactly two years ago, in August or July of 2009, we have made the decision to transport this partnership to integrity of association. There was a gap in this area which is dominated by YARSAV. Discussion of the association was the point where we come to distinguish between the political differences between us.

HSYK: NOT A SELECTION, AN ASSIGNMENT

As you all know the most important event which highlights the differences are HSYK elections. For example, Ahmet Insel who involved actively in “Not enough, but yes,” campaign wrote a vitriolic writing about HSYK election; it was like someone who says “no” or “boycott” wrote it...

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Liberals are never satisfied with HSYK selections, anyway.

In the axis of your book, HSYK selections exist. What happened during HSYK elections?

HSYK selection took place as a plebiscite which is directed by the Ministry of Justice's staff, powers, treasure, and an administrative power. In fact, it is not a choice, because “the right to vote” was not in question. It was happened by voting the names which were assigned by one of the components of the ruling. HSYK elections was as same as the selections in 19039's which was by carrying out assignments or like Saddam Hussein's or Husnu Mubarak's selection. It was an election through the dynamics which is a representation of the authorization, rather than navigating through power and ruling's domination.

“2010 HSYK assignment” will mean a more accurate naming. We are talking about Ministry undersecretary (Ahmet Kahraman) and deputy ministry (İbrahim Okur) and through down, chief prosecutor, the heads of the commission, an administrative saving organized through channels of visiting officer, and the closure of all democratic channels which are related to representation of chair judge and public prosecutor with the powers of that state officials. New HSYK

was selected by state itself, it was only confirmed by the floor. So once again we are talking about a nationalized HSYK.

The whole list of Ministry of Justice “was chosen” with zero leakage. Deputy Undersecretary Ibrahim Okur got the highest vote and now he is HSYK’s First Chamber Master...

In spite of reading judges, prosecutors individually, we ought to question where the forces of big government are judge, what can they do. It may be more accurate to talk in last five years there exist judiciaries rather than judiciary. Different groups exist within the judiciary; in fact there are two great ideological blocks and two major ruling powers.

DOLMABAĞÇE PACT

After the selection of faculty, where his close friend Nazim Kaynak selected for Supreme Court, to the Presidency of the Council of State, Hussein Hosni Karakullukcu was chosen, who is again from the same environment. Therefore; Bulent Arinc was said, “My God, he gives and gives”.

A SHY YES!

Prior to the referendum, ones who take stand by “no” and “boycott” were generally said “judicial is not being democratized; custody was passing into other hand. Therefore, the expectation of self-criticism we initially mentioned cannot consider as unfounded. One other importance of your book is to show the point where representatives of an association suggest to democratized the judiciary, says ‘This is not a democratic transformation, a transfer of custody’ after referendum.

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I think, if we did not say “Not enough, but yes,” we will probably come into a group which is not taken into account. “Not enough, but yes,” opened us a political space, we have earned the ability to make a promise and persuade, and we are now listened by many region. We gained our word a practical experience. This experience led us to be party in the discussions within the judiciary.

“Not enough, but yes” gave you an area, did not political power has a function like giving legitimacy to eight-year anti-democratic acts, and make it carefree thoroughly? During the referendum process, in any environment, “Not enough, but yes “members obtained promise more than AKP members and emphasized “Yes “, not “ Not enough”. Moreover, they target the left opposition not the power. They declared everyone as nationalist, even “Hidden Ergenekon member” who say” No,” and

“Boycott,” they declared. “Not enough, but yes” campaign has a role of responsibility such as relieving the government’s hand who carries all the anti-democratic practice

“Not enough, but yes,” was not an independent political practice. It was something belongs to the AKP. It would be wrong to express this as an independent political line. Both showing within the AKP, and outside of AKP was poisoned the tongue to defend “yes” to the some extent. For me, also, in terms of other friends, it should be accepted that such a problem exists. During the selection process of HSYK, I phoned to a professor of the constitution who positioned himself on the left and saying “ we are going to improve, sometimes things like these happen” in a TV show. “What are you doing Sir?” I said. His saying was this: “My dear Orhan, until yesterday we had a completely different attitude. Now, if I said we have seen all of these claims are being falsified and criticized the HSYK selection process, rudeness will occur”. Almost all of them were like a gambler who deposited all of their destitute, possessions to the AKP.

SPECULATION OF ERGENEKON

Can we connect Ergenekon case to Dolmabahce Pact?

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We can connect such a comfortable progress to Dolmabahce Pact, yes. Ergenekon was a fictional case at the beginning of 2006. Who dreamed up is known: A good police chief, an intelligence whose name is known by everyone. In order to avoid giving compensation, I will not give his name.

Which region does that police chief belong to?

He is from Community.

Can these be designed outer than Community’s headquarters?

Not possible. Being produced by Zekeriya Oz or Fikret Secen, such “minor judges”, rulers never touch to never touch capable and at the end justice will find its place! Such of a narrative of the story! I think this case is a progress at some extent and certain annotations should be given, but by dropping the endorsement. This is a serious tool for a political operation and not was produced by “little judges”, it was part of operation of compression one of the two big power and operation to disqualify.

Why today?

It is ought to start an investigation against infrastructure related to questioning and tried to solve whether it is a terrorist action or not. Until last year I say, because supporting the new power's deep state investigation in judicial endorsement is a very great risks and it means to give support an environment where everyone can be "terrorist".

Just like the ones happened to Ahmet Sik and Nedim Sener...

Their situation became too grinning, it is too obvious, even no need to talk on. The case of Ahmet Sik and Nedim Sener was revealed the issue. KCK is another example; events in Hopa are other samples.

You said "Terror case of Ergenekon is needed to be investigated." How to handle with Ergenekon?

In fact, Anti-Terrorism Law it is a secondary constitutional. It subjects the validity regime of basic rights and to a validity holds a double. If you are accused of terrorist organization, no more than three lawyers can defend you, your duration of detention is more longer, i.e., you are less citizen. We are talking here about defendants who cannot see his own lawsuit file. Even his lawyer cannot reach the file. When I was about to write as a response to one of Emre Aköz's writing, I called the Ahmet Sik's lawyer. The lawyer even did not see the call decision. Such a thing could be? Because they are terrorists! It is not a legislation to decide who is a terrorist, what is a terrorist. More specifically, the legislation defined in a way, such anyone may enter into it, and none of the basic principles of criminal law exist. If you do a mass action as in Hopa, you are justified according to the Anti-Terror Law. The action in the Hopa has no relation with Special Authorized Courts. But ruling power can decide who is terrorist and overthrow their political opponents as they want.

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While describing the discussions of HSYK elections, you quote the following from "a very senior judge": "For us to win is important. You say the important thing for us is justice. I have nothing to say for these. But, if we could not win, it would be a historical loss. This election is important than anything. In the future, a more democratic election can be done." Do you think these words represent a general tendency?

It may be expressing the worst. One member of the Supreme Court said those words. It was an approach which even shared by regions who has a distance between them during HSYK elections. It a situation postpones the criticism, of course. There was a senior religious judge in that debated, he took a stand open and clearly against Ministry of Justice and gave a beautiful speech about

how he can build a political tie of humanity's overall merits with his religiosity. I'd like you to be there, a lot of us shuddered while listening. A tension between religious people was born. He expressly said against Supreme Court's saying that you read a while ago, "I do not want to win in any way. If I would have such matter, I would have been joined in the Kemalists. If nothing changes, you are going to replace them and the conditions still exist there is no meaning for my win. I cannot cooperate with the devil; my faith will not allow it.

The judge, who is a member of Supreme Court you said, told "Rather than to wake up in a morning where YARSAV win, I would prefer to do corporate with devil".

Just after this sentence, a friend I mentioned just a minute ago answered him. He is one of the religious judges who took a stand against the Ministry of Justice. It is said that this attitude was taken by the liberal left and the left, but after Osman Can and Co. left, Democratic Judiciary is still an associations which predominantly held by religious people. There are regions who say religious people are facing a serious test of ruling and it is needed to exit out the exam with saving faith. Currently, we are together with these friends.

You wrote that a judge told about the selection of HSYK as following: "Judiciary put out the will and elected their own representatives. Thus, the democratic legitimacy of the judiciary took place. Let make Democracy captivate in us. Let's make respect for the will of voters." If we put in the first two sentence "justice" instead of "nation" and "parliament", it is like Tayyip Erdogan is speaking.

It is like a confess that democracy is perceived with its minimum status.

In one of the sub-title of your book, from the mouth of a senior judge: "If the Ministry of Justice shows a donkey as a candidate, I will vote the donkey, too." I guess almost everyone who read this may recall the famous promise of Adnan Menderes, "If I put a piece of wood, it would be selected".

Of course. I told in the book too that the thing we face today is not an actual issue; it is needed to be added to Turkish right conservative tradition.



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