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**THE INSTITUTIONAL DESIGN OF INTRA-PARTY DEMOCRACY THROUGH
LEGAL INSTRUMENTS: TURKISH CASE**

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A thesis submitted to the University of Westminster in partial fulfilment of the requirements
for the degree of Philosophy of Doctor

May 2016

ABSTRACT

The importance of political parties for contemporary representative democracies is beyond dispute. Despite their significance for state-level democracy, political parties continue to be regarded as oligarchical and to be criticised because of their internal practices. For this reason, intra-party democracy (IPD) warrants in-depth analysis. This thesis investigates IPD in Turkey, primarily from the perspective of participatory democracy, with the purpose of suggesting reforms to the Turkish Political Parties Law (TPPL).

Turkish political parties and Turkish party regulation provide an interesting case because there is a significant difference between mature democracies and Turkey regarding IPD regulation. IPD in established democracies has always been regarded as a private concern of parties and has been left unregulated. IPD in Turkey, by contrast, is provided for both by the constitution and the TPPL. Although IPD is a constitutional and legal requirement in Turkey, however, political parties in fact display a high level of non-democratic administration. The main reason is that the TPPL only pays lip service to the idea of IPD and requires no specific measures apart from establishing a party congress with a representative form of democracy. By establishing and holding party congresses, political parties are perceived as conforming to the requirements of IPD under the law. In addition, the contested nature of democracy as a concept has impeded the creation of efficacious legal principles. Thus, the existing party law fails to tackle the lack of IPD within political parties and, for this reason, is in need of reform.

Furthermore, almost every Turkish party's own constitution highlights the importance of IPD and promises IPD. However, these declared commitments to IPD in their constitutions alone, especially in countries where the democratic culture is weak, are unlikely to make much difference in practice. Accordingly, external regulation is necessary to ensure the protection of

the rights and interests of the party members with regards to their participation in intra-party decision-making processes.

Nevertheless, in spite of a general consensus in favour of reforming the TPPL, a lack of consensus exists as to what kind of reforms should be adopted. This thesis proposes that reforming the TPPL in line with an approach based on participatory democracy could provide better IPD within Turkish political parties, citing as evidence comparative case studies of the participatory practices for policy-making, leadership selection and candidate selection in mature democracies. This thesis also analyses membership registration and the effect of state funding on IPD, which are highly problematic in Turkey and represent impediments to the flourishing of IPD.

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ACKNOWLEDGEMENTS

I would never have been able to finish my thesis without the guidance of members of my Thesis Committee and supervisors and support from my family and wife. I would like to express my deepest gratitude to my Director of Study, Prof. Dr. Danny Nicol, for his patience and insights, and providing me with an excellent comments throughout the study. In the same vein, I would like to thank to my supervisor Adam Lazowski, who encouraged me from the very beginning and was always available, offering his support. My special thanks go to the Turkish Higher Council of Judges and Prosecutors, which sponsored me to complete my study.

Finally, and most importantly, I would like to thank my dear wife and children for their help, care, support, sacrifice, patience and encouragement throughout my study.

DECLARATION

I declare that all the material contained in this thesis is my own work.

Ali Turkmen

LIST OF ABBREVIATIONS

CEC	Central Executive Committee
CDAC	Central Decision-Making and Administrative Committee
CSO	Civil Society Organisations
CUP	Committee of Union and Progress
DP	Democrat Party
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
IPD	Intra-Party Democracy
JDP	Justice and Development Party
OMOV	One-member-one-vote
OSCE	Organisation for Security and Co-operation in Europe
RPP	Republican People's Party
TCC	Turkish Constitutional Court
TGNA	Turkish Grand National Assembly
USA	United States of America

CHAPTER 1

INTRODUCTION

When I first began to consider the obstacles to democratic consolidation in Turkey, my attention was drawn to the lack of democracy within political parties. Despite decades of experience with a competitive multi-party system, political parties, unfortunately, fall short of being democratic internally in terms of policy-making and the selection of leaders and candidates. The absence of intra-party democracy (IPD) is not a characteristic of any one party or period, but has been a fundamental aspect of Turkish Politics since the foundation of the Turkish Republic, and can even be traced back to the Ottoman period. For instance, as will be discussed below in the historical overview of political parties in Turkey, the first party of the Turkish Republic, the Republican People's Party (RPP), governed in a highly oligarchic way, being under the control of one man or at most two for nearly three decades. Similarly, over the past few years, the Justice and Development Party (JDP) – which has been the ruling party in Turkey for thirteen years – has gained notoriety for being highly authoritarian. Thus, for instance, Caroline Lancaster in her research on the JDP claims that:

[I]ntra-party democracy owes its existence to three indicators – inclusiveness, decentralisation and institutionalisation. Conversely, it should be observed that a party shifting from democratic to oligarchic or personalistic intra-party rule will display decreasing levels of these three indicators in terms of policy formation and candidate selection. By tracing AKP's [JDP] internal party operations since its founding in 2001, I demonstrate a gradual deterioration in these indicators, reflecting a gradual deterioration of democracy within the party to oligarchy and then to personalism.¹

¹ Caroline Lancaster 'The Iron Law of Erdogan: the Decay from Intra-party Democracy to Personalistic Rule' [2014] 35 Third World Quarterly 1672, 1672.

This authoritarian tendency and the corresponding lack of IPD has been characteristic not only of the ruling party and main opposition party, but of other small opposition parties as well. Moreover, the history of political parties in Turkey suggests that, when the political parties practice IPD and fulfil its requirements, as was the case with the Democrat Party between 1950-1960, the Motherland Party between 1983-1991 and the JDP between 2002-2015, Turkish democracy makes progress, but when IPD practices weaken, democratic progress in the country is inhibited. Indeed, a political party which in itself is non-democratic or is controlled by a small oligarchic cadre at the top can hardly be expected to further a democratic agenda within the country at large.

Some scholars, however, doubt that IPD actually furthers the development of state-level democracy. Richard Katz, for instance, called into question the hypothesis that “if you make the parties more democratic, you make the system more democratic.”² He objects that it remains unclear precisely what would constitute “a more democratic party”; that the meaning of democracy itself is contested; and that forcing the parties to be democratic would itself be an undemocratic act.

Yet while Richard Katz takes the position that more inclusive parties are inherently more democratic, others, such as James Gardner, have argued that “populism is premised on the belief that more know better than fewer, and consequently populist assumptions compel the inference that the accuracy of any decision is always enhanced when it is made by a greater number.”³ Further, while the definitions of democracy and IPD remain contested, scholars and observers have developed meaningful criteria for assessing the relative degree of democracy within the various parties. As for the objection to the use of regulatory means in the furtherance of

² Richard S. Katz, ‘Democracy and the Legal Regulation of Political Parties,’ (the USAID conference on ‘Changes in Political Parties: United States Agency for International Development,’ Washington, D.C., October 1, 2004) 1, 1.

³ James A. Gardner ‘Can Party Politics be Virtuous?’ (Columbia Symposium on Political Parties, Nov. 12-13, 1999) 35.

democracy, it may be noted that, while liberal democracy has always correlated with limited regulation, there has recently been increased regulation of political parties in Western liberal democratic countries. In this study it will be argued that – in particular from a Turkish perspective – consolidation of democracy on a state level is intimately connected with increased democracy within political parties.

Two approaches have generally been employed in promoting internal democracy in political parties; one depends on advocacy, while the other is legal or regulatory. The advocacy approach employs a classical liberal understanding of democracy in which, while there is a freedom of association for parties, democratisation within parties should be supported from outside by civil organisations such as democracy-promoting organisations. External support for a greater role by the rank and file in party decision-making can boost the role of party members and will in turn enhance the parties' democratic credentials.⁴

Turkey may be considered an example of the latter approach. In Turkey, regulations regarding IPD were originally enacted by the military regime in order to diminish oligarchic tendencies within the political parties. While devising the new constitutions in 1960 and 1982, the military regime, in consultation with various lawyers and political scholars, chose to enshrine IPD in these texts in order to minimise the risk of oligarchic tendencies within the parties. Moreover, both Turkish Political Parties Laws of 1965 and 1982 explicitly gave special attention to IPD. Although Turkish parties are coerced by law into adopting a specific organisational structure and specific democratic internal procedures in order to promote IPD, the parties have consistently fallen short of meeting these criteria. This situation has fostered the assumptions that, first, politicians disrespect the laws and are uninterested in internal democracy, and, second, that the laws governing political parties are poorly written, in particular lacking any real institutional design for working IPD.

⁴ Peter Burnell 'Building Better Democracies: Why Political Parties Matter' (Westminster Foundation for Democracy 2004) 18.

With regard to the first assumption, the lack of IPD in Turkey has, quite rightly, always been associated primarily with a behavioural, educational and cultural point of view. Political scientists often claim that cultural factors may hinder the proper functioning of a democracy, not only at the state level but also within the political parties. Thus the prominent Turkish constitutional lawyer Bülent Tanör claims that the lack of IPD is best explained in terms of culture, education and understanding of democracy in Turkey. Although Tanör acknowledges the shortcomings of the Turkish Party law on IPD, he is suspicious about whether it can be solved through legislation.⁵ However, while most Turkish scholars give pride of place to political culture in these considerations, they do not underestimate the significance of the laws that govern political parties.

Another factor that is related to political culture and that obstructs the emergence of democratic parties is the party members' demand for IPD. From this perspective, while politicians may not be respectful of IPD, ordinary party members also remain reluctant to demand democracy. As Nahomi Ichino and Noah Nathan argue, "democratisation within a party is not only a result of top-down, supply-side electoral calculation by elites but also a consequence of bottom-up, demand-side pressure from local party members."⁶

It must be remembered, however, that there always exist certain oligarchical tendencies emerging from human nature and organisation itself, whatever the level of education or nature of the culture in any given society. For instance, Ronald Syme in *The Roman Revolution* claims that "In all ages, whatever the form and name of government, be it monarchy, republic or democracy, an oligarchy lurks behind the façade."⁷ At the same time, these anti-democratic

⁵ Bülent Tanör 'Siyasi Partiler Yasası: Demokratik Standartların Yükseltilmesi Paketi Tartışma Toplantıları Dizisi – 1' (Mayıs 1997 Tüsiad-T/97-5/213) 19.

⁶ Nahomi Ichino and Noah L. Nathan 'Primaries on Demand? Intra-Party Politics and Nominations in Ghana' [2012] 42 British Journal of Political Science 769, 772.

⁷ Ronald Syme *The Roman Revolution* (Oxford University Press 1961) 21.

tendencies can differ from country to country and party to party, and are naturally relatively pronounced in developing democracies like Turkey.

Before proceeding to the our second assumption, regarding the nature of the laws, it is important to mention a survey regarding state-level democracy and IPD that was conducted in 2007 of 100 Turkish MPs.⁸ When asked whether Turkey is a democratic country or not, 64 per cent of MPs answered in the affirmative. When asked whether business within their own parties is democratic, 82 per cent of MPs also assented.⁹ From the perspective being advanced in this study, the high percentages of MPs professing faith that their nation and even more so their own parties are democratic is best, if paradoxically, understood as a consequence of the fact that the parties have been purged of voices of internal opposition.¹⁰

Further, when asked to name factors that account for the lack of IPD in Turkish parties, 47 per cent of participants pointed to the political culture, 29 per cent to the Turkish Constitution and the TPPL and 25 per cent to the parties' own constitutions. Another question asked of MPs was whether the current Turkish constitution favours IPD, to which only 29 per cent answered in the affirmative.¹¹

Turning now to the second assumption regarding the failure of legal measures to advance IPD effectively, the lack of a clear definition for what constitutes an internally democratic party, along with the absence of working institutional design in the TPPL, means that the provisions relating to IPD have nothing more than a declarative status. Indeed, although the TPPL has 150 articles, is 43 pages long and regulates the workings of political parties in a very detailed manner, the articles related to components of IPD, namely policy-making, leadership selection

⁸ Saime Müjde Önal 'Türkiye'de Parti İçi Demokrasi: CHP ve AKP Örneği' (Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi 2007). Participants include 56 from ruling party the JDP, 40 from the main opposition party the RPP, 3 from the Motherland Party and 1 independent MP. The total number of MPs, constituted 18% of all MPs.

⁹ *ibid* 194-200. This number is 80.4% in the JDP and 83.4% in the RPP.

¹⁰ *ibid* 188.

¹¹ *ibid* 188-192.

and candidate selection, give almost all power to political parties with regard to these three crucial issues. In addition to the Turkish citizens' lack of the strong democratic values that are found in mature democracies, political institutions – namely political parties – lack strong democratic institutions that have been founded on a firm legal basis. According to Murat Yanık, an improved party organisation set on a firm legal footing is a *sine qua non* for the democratic functioning of political parties in Turkey.¹² This point is also the starting point of this thesis.

The TPPL adopted a representative model of democracy by establishing a party congress system. However, party congresses are old-fashioned institutions for exercising IPD, which was originally designed for mass parties. Maurice Duverger's mass party idea was presented as an internally democratic party model which is structured based on a bottom-up approach, proceeding from the grassroots to the highest level, with a traditional form of representative democracy. However, as most scholars point out, the "golden age" of mass parties has now passed,¹³ and new types of political parties have emerged, such as catchall (which aims to attract constituents with different perspectives that will be popular with a large segment of the voting public),¹⁴ cartel (which uses the resources of the state in order to maintain power),¹⁵ electoral-professional (which is a more advanced version of the catchall party that places relatively more power in the hands of the leadership)¹⁶ and modern cadre parties (which are dominated by activists).¹⁷ Thus, there is a need for conceptual renewal of party organisation and party law, since the mass party concept does not meet the present-day realities.

¹² Murat Yanık, 'From the Standpoint of Intraparty Democracy, Local Organizations of Political Parties in Turkey' [2007] 20 *Journal of Qafqaz University* 15, 15.

¹³ Peter Mair and Ingrid van Biezen, 'Party Membership in Twenty European Democracies: 1980-2000' [2001] 7 *Party Politics* 5-21.

¹⁴ Otto Kirchheimer, 'The Transformation of the Western European Party Systems', in Joseph LaPalombara and Myron Weiner (eds) *Political Parties and Political Development* (Princeton University Press 1966).

¹⁵ Richard S. Katz and Peter Mair 'Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party' [1995] 1 *Party Politics* 5-28.

¹⁶ Angelo Panebianco *Political Parties: Organization and Power* (Cambridge University Press 1988).

¹⁷ Ruud Koole 'The Vulnerability of the Modern Cadre Party in the Netherlands' in Richard S. Katz and Peter Mair (ed) *How Parties Organize: Change and Adaptation in Party Organizations in Western Democracies* (Sage 1994) pp. 278-303.

This representative system was also proposed by Macpherson as “a pyramid delegative model” designed to facilitate the participation of citizens in the decision-making process. According to this model, participation takes place as direct democracy at the base and delegate democracy at every level above that. In political parties, low-level party members select their delegates to serve in the next highest level on the pyramid through open and fair elections.¹⁸ In Turkey, party congresses at each level (district, provincial and national) work as the central link in a chain of delegation that connects party members to the central party. Although this system was proposed as an alternative institutional arrangement for participatory democracy, it has not brought about real democratisation, especially in Turkey. Turkish parties violate the ideal-type chain of delegation in many ways, insofar as the central party and the party leader play a predominant role at each stage.

The feasibility of the party congress in the context of new types of party models must be reconsidered, or new alternatives must be found, in order to promote IPD. In sum, it is important to reform the party law in the light of the changing dynamics of politics and democracy. Notwithstanding, this study will proceed in full accord with Susan Scarrow’s observation that “realistic practitioners recognize that intra-party democracy is not a panacea: some procedures are better suited to some circumstances than to others.”¹⁹

Purpose of this study

Since most people realise that, in a democracy, there is no alternative to political parties, much of the current debate in Turkey centres around new policies aimed at making parties more democratic and responsive.²⁰ Thus, the present study aims to reveal the reasons behind the lack of IPD in Turkey by examining the current legal structure that regulates the Turkish political

¹⁸ Crawford Brough Macpherson *The Life and Times of Liberal Democracy* (Oxford University Press 1977) 108.

¹⁹ Susan Scarrow *Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy* (Washington, DC: NDI 2005) 3.

²⁰ Ergun Özbudun ‘The Institutional Decline of Parties in Turkey’ in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The John Hopkins University Press 2001) 261.

parties. The identification of legal problems that have impeded IPD in Turkey and the choice of inclusiveness as a reform that can increase the level of IPD together form the basis of this thesis, which aims to explore the link between inclusivity and party regulation in a Turkish context. In the opinion of Richard Katz, those who are concerned with improving democracy often look first to legal reforms, since political practice in a country mostly depends on political objectives, political culture and political institutions, whereas in the short run institutions can easily be changed by way of legislative reforms.²¹

Scholars in the fields of Turkish political science and constitutional law have disputed the extent to which political parties, from left to right, nationalist to conservative, have been administered in undemocratic ways. Nevertheless, the precise reasons for this situation and the extent to which democratic institutions have failed to take root have rarely been subjected to legal and comparative research. For instance, the prominent Turkish constitutional lawyer Ergun Özbudun claims that:

Strong party discipline often stymied parliamentary mechanisms of accountability. Election campaigns stressed the personal qualities and trustworthiness of individual leaders rather than party programs or policies. Party leaders were presented as “saviors of the country.” Their policies in office typically bore scant resemblance to what they had promised while campaigning. The key explanatory variable here is strong party discipline and the absence of intraparty democracy. With top leaders in control of nominations and patronage, MPs are highly dependent and docile. Patronage in particular is a prominent feature of politics in Turkey as it is in Latin America. No doubt the Turkish tendency toward *personalismo* also draws strength from political culture and historical traditions.²²

²¹ Katz (n 2) 1.

²² Ergün Özbudun, ‘Turkey: How Far from Consolidation?’ [1996] 7 Journal of Democracy 123, 136-137.

In analysing the TPPL, some weaknesses in the law that aggravate the situation and pave the way for oligarchic tendencies become readily apparent. For this reason the TPPL is here regarded as an important issue before the democratisation of political parties. However, this thesis does not intend to offer a comprehensive analysis and discussion of each and every detail of the TPPL, but will naturally focus on those details pertinent to IPD. Therefore, in critiquing these details, specific attention will be given to the principles of participatory democracy and inclusiveness in political parties. Since intra-party democratisation means the extension of ordinary party members' right to participate in the important decision-making processes in political parties, the participatory democracy approach to inclusiveness is considered the key requirement for reforming the TPPL.

The main reason for choosing the inclusiveness model is that mature democracies are moving towards a more participatory model in governing their political parties. Moreover, the current delegatory democracy model being practised by Turkish parties is simply not working. In recent years, the Turkish Grand National Assembly (TGNA) has become entirely dominated by the executive branch of government and has wielded almost no power in policy-making or in holding the government accountable for its actions and policies. There are several reasons for this state of affairs. First, the party leaders are neither accountable to the party members nor to the MPs. Second, because the MPs are chosen by the party leaders, they are not accountable to their constituencies or to party members. Although most countries have experience with these issues, it will become clear in the course of this study that the situation in Turkey is worse than in Western democracies. Therefore, while it seems difficult to control the government outside the context of the party, IPD could help to reinforce government accountability. Moreover, it will be argued that the existence of internal democracy within political parties may encourage the development of a democratic culture on the state level. This is particularly important for countries like Turkey, where the democratic culture is still in an early stage of development.

Theoretically, the notion of improving IPD might sound hollow or even illogical. Attempts to improve IPD by way of legal reform are unlikely to be successful in the country at large until and unless they are not only drafted but also implemented by the parties. As Anika Gauja puts it, “Whilst intra-party democracy is an honourable ideal and quite easily translated into formal regulations and party rules, it is very difficult to achieve successfully in practice.”²³

The concept of intra-party democracy

Investigating what is meant and understood by IPD – both in theory and in practice – is crucial for proposing alternative systems. Political scholars have long discussed the necessity of IPD in the functioning of political parties. Actual political practice shows that political parties are more or less oligarchical in every country, whether an established one or a developing democracy.

As in the case with the definition of “democracy,” there is no universally accepted definition as to exactly what IPD means. Generally speaking, the most basic and literal definition of IPD is rule by the party members. Nonetheless, there are different degrees of IPD. In internally democratic parties, decision-making processes are consistent with the bottom-up principle that proceeds from the grassroots to the top level.

For the purpose of this study, IPD will be analysed with respect to three specific procedures that will illustrate the extent to which the TPPL can be considered democratic and how it could be reformed: (1) policy-making procedures, (2) methods for selecting party leaders and (3) methods for selecting candidates. According to Scarrow, Webb and Farrel, these are the three key areas in which members have the potential to exert influence within parties.²⁴ Of course, there is no standard form of IPD for all political parties, for the concept relates to a wide

²³ Anika Gauja ‘The pitfalls of participatory democracy: A study of the Australian Democrats’ GST’ [2005] 40 Australian Journal of Political Science 71, 84.

²⁴ Susan E. Scarrow, Paul Webb, and David M. Farrell ‘From Social Integration to Electoral Contestation: The Changing Distribution of Power within the Political Parties’ in Russell J. Dalton and Martin P. Wattenberg (eds), *Parties without Partisans. Political Change in Advanced Industrial Democracies* (Oxford University Press 2000) 133-134.

variety of factors beyond policy-making processes, leadership selection and candidate selection, though the scope of this thesis precludes a detailed consideration of all the areas related to IPD. These procedures are important for examining and comparing the direct participation of party members and indirect methods within a given political party. The outcome of the participation of party delegates or party elites on those important processes is not the same as the outcome brought about by empowering party members. A more detailed discussion on the conceptualisation and indicators of IPD will be presented in Chapter 3.

The concept of party law

According to van Biezen, party law is a common denominator for the legislation within political parties embodied in the constitution and other statutes such as political party laws, political finance, electoral and campaign laws.²⁵ Müller and Sieberer mention two definitions of party law: as legislation explicitly designed to regulate the life of party organisations, or more broadly as the total body of law that affects political parties.²⁶ The term “party law” in this study accords with the first definition, and refers to a narrow body of party law that explicitly regulates the internal life of the Turkish political parties. This study is thus interested in the perspectives offered by the TPPL and the Turkish constitution on the realisation of internal democratisation, since these are two main legal sources of IPD in Turkey. This definition of party law will become clearer in the following analyses, the goal of which is to identify how party law affects IPD in Turkey, with a focus particularly on the internal functioning of political parties. Further, since there is a significant difference between the legal requirements and actual practices regarding the operation of political parties, this study will also analyse briefly the actual situation within two large Turkish parties.

²⁵ Ingrid van Biezen ‘State intervention in party politics: the public funding and regulation of political parties’ [2008] 16 *European Review* 337, 342.

²⁶ Wolfgang C. Müller and Ulrich Sieberer ‘Party Law’, in Richard S. Katz and William J. Crotty (eds) *Handbook of Party Politics* (Sage 2005) 435.

The relationship between legal theory and political parties

The underlying assumption of the research and analysis presented here is that both political theory and legal theory are conceptually linked and interdependent. Despite the increasing importance of the IPD in established democracies, the subject has been remarkably neglected in constitutional law and has received little scholarly attention from constitutional lawyers. Although there has been a shift of emphasis in recent years, and valuable research has been done on the subject of party regulation,²⁷ there are still gaps in this area. These gaps have been largely created by the dominant notion that the internal functioning of the political parties should be outside the scope of laws in liberal democracies, on the grounds that regulation by the state may violate their right to freedom of association. For example, Gauja claims that, in liberal democracies such as the United Kingdom, Australia and Canada, the law has only recently recognised political parties as anything more than mere “voluntary associations” akin to social and sporting clubs.²⁸ However, the situation in Turkey is different from that in Western democracies, where political parties have been regarded as institutions of constitutional law for nearly six decades. While the political parties have been one of the important components of the constitution since 1960, they have mostly been studied by constitutional lawyers, in contrast to Western democracies, where this area has mostly been studied by political scientists.²⁹ For instance, in the British context, Bogdanor notes, “it is perhaps because the law has been so late in recognizing political parties that constitutional lawyers and other writers on the constitution have taken insufficient note of the fact that parties are so central to our constitutional arrangements.”³⁰

²⁷< www.partylaw.leidenuniv.nl/ >Website on Party Law in Modern Europe, which is the portal for research on the legal regulation of political parties in post-war European democracies accessed 01 December 2012.

²⁸Anika Gauja *Political Parties and Elections: Public Law, Political Parties and Representative Democracy* (Ashgate 2010) 1.

²⁹ For detailed study of how the political science emerged from law in Turkey look at Bogaç Erozan and İltur Turan, ‘The Development of Political Science in Turkey’ [2004] 37 *Political Science and Politics*, 359-363

³⁰ Vernon Bogdanor ‘The Constitution and the Party System in the Twentieth Century’, [2004] 57 *Parliamentary Affairs* 717, 718.

It is also important to note that this study, to some extent, draws on political theory (namely, participatory democracy) in order to understand the nature and content of IPD. The nature of this study emerges from the political theory that I have been and will be discussing. Since the subject is enshrined in the constitution and a special law has been adopted for the enforcement of certain rules, this study also touches on constitutional and legal theory. Thus this thesis draws throughout on insights from constitutional and legal theory on one hand, and political theory on the other.

The concept of participation

Most literature on IPD calls for enhanced membership participation in party decisions. As will be seen later, some procedural mechanisms designed to promote membership involvement in party decision-making have been instituted at all levels of party organisation with the TPPL. Although there are similarities between political participation in state-level democracy and in IPD, there are also differences in some respects. For instance, in state-level democracy, political participation means voting in general elections, which is a minimalist definition of democracy. This idea has been defended by such scholars of elitist democracy as Schumpeter. Voting in a general election also provides equality among citizens. Pateman argues that, in the participatory theory, “participation” refers to (equal) participation in the making of decisions.³¹

On the other hand, a maximalist definition, identified with Dahl’s approach, “includes a wide range of actions, directly or indirectly influencing the government, voluntary or involuntary, conscious or unconscious, and also including information seeking or information-sharing, consuming media, expressing attitudes, etc.”³² Van Biezen summarises the ideals of participatory democrats as follows:

³¹ Carole Pateman, *Participation and Democratic Theory*, (Cambridge University Press, 1970) 43.

³² Nils Gustafsson ‘Leetocracy: Political participation, social network sites and inequality’ [2013] 169 *Lund Political Studies* 28.

While for pluralists and democratic elitists individual participation in politics is not in itself an important ideal, for participatory democrats a high degree of political participation and a sense of civic responsibility is necessary for a political system to warrant the label democracy.³³

Although participation may take various forms, there are two main practices for IPD. The common model of participatory democracy within the political parties is based on the minimalist definition of participatory democracy, which only gives voting rights to party members in the decision-making process. The other is the hybrid model of democracy, in which party members have a right to attend every stage of decision-making, including policy development processes and voting rights at the end. In chapters relating to policy-making, leadership selection and candidate selection, this thesis will analyse the subject from the point of view of hybrid democracy, in which party members and party officials take part in the decision-making process, while the last word remains with party members.

Moreover, self-development is a key idea behind participatory democracy. Pateman in particular points out the instructional role of the participatory process. She believes that mass participation has an educational effect that is an ideal *per se*. She argues that “the experience of participation in some way leaves the individual better psychologically equipped to undertake further participation in the future.”³⁴ Thus participation of party members in party decision making is also important for cultural development and has long term benefits for the democratic consolidation of the country.

Applicability of the concept of IPD for reforming the TPPL

As mentioned in the previous section, the concept of IPD will be analysed in this study from the perspectives of policy-making, leadership selection and candidate selection. It is

³³ Ingrid van Biezen, ‘How Political Parties Shape Democracy’ (Center for the Study of Democracy, Paper 04’16 University of California, Irvine, 2004) < <http://repositories.cdlib.org/csd/04-16> >.10.

³⁴ Pateman (n 31) 43-45.

argued that all party members should be involved in these three processes directly in some way through the requirements of public law. It is not difficult to legislate IPD, but Parliamentary legislation must work in practice. Thus this study looks for a realistic conception of IPD that will be workable and can be implemented by law.

Regarding the candidate selection, for instance, closed primaries typically allow all party members to participate in this important party activity. The experiences of the US, some other countries and the earlier version of the TPPL demonstrate that states can regulate and enforce this area easily. With respect to leadership selection, well-known parties from mature democracies such as the British Labour Party, the British Conservative Party, the Canadian Conservative Party and the Canadian New Democrat Party use a process that involves all of the party members. Although these rules are not enforced by the state and emerge from individual party constitutions, it is not difficult to legislate this kind of activity through a national statute. With respect to the policy-making process, giving a say to party members in drafting and approving party programmes and election manifestos could also be provided for through legal reform. The articulation of proposals regarding the regulation of the policy-making process is the most challenging part of this study because of the institutional difficulties. I will explore this issue in a detailed manner, along with the problems involved in the realisation of this kind of regulation.

Research questions

The analysis in the following chapters is guided by a number of assumptions that will be summarised here. This thesis presumes that inclusiveness is an important and effective way to curb oligarchic tendencies in political parties. Therefore, the provisions of the TPPL should be reformed in a way that promotes the participation of ordinary party members in the decision-making process on important issues. More recently, there has been a gradual implementation of more participatory and thus more democratic mechanisms of intra-party decision-making in

political parties in established democracies.³⁵ Therefore, it may be beneficial to look at the practices in these countries in terms of the methods they use for participation. Some lessons and conclusions may be derived from these comparisons in order to help reform the legal framework in which parties operate in Turkey.

In order to refine the hypotheses, the following research questions are considered. The first is in regard to whether the provisions in the party law in Turkey in terms of policy-making, candidate selection and leadership selection have provided IPD to Turkish parties or not. The concerns identifying the more inclusive IPD methods and determining how might they be incorporated into the TPPL.

Methodology

The chapters relating to policy-making, leadership selection and candidate selection will begin by examining the theory on these subjects, and will then analyse the existing provisions in the TPPL, including consideration of the policy underpinning the existing party law, why it was enacted and its defects in practice in two large Turkish parties.

In order to test the plausibility of the hypothesis that reform of the TPPL would enhance IPD in Turkish parties, the research will be carried out using a mixed methodology. Specifically, the approach is interdisciplinary and comprises research into legal reform and comparative and case study methods.

An interdisciplinary methodology is deployed because the regulation of IPD needs to be informed by political as well as legal theories. More specifically, this study uses materials and insights from political theory in order to diagnose the substantive problems and formulate better legal solutions and to explain the structure and function of political parties and their institutions: political theory aids in understanding the lack of IPD in Turkey, while the likely cure for these

³⁵ Anika Gauja 'Internal Party Democracy and Policy Formulation: Rationales, Trends, Relevance' (Paper for the ECPR Joint Sessions, Workshop 21 Lisbon 2009), Braum Wauters, 'Intra-party democracy in Belgium: On paper, in practice and through the eyes of the members' (Paper for the ECPR Joint Sessions, Workshop 21 Lisbon 2009)

ailments requires engagement with legal theory. An interdisciplinary approach is also required to obtain the different perspectives necessary to understand the nature of IPD because in Turkey research on this topic has been conducted by both constitutional lawyers and political scientists, but mainly from the different perspectives of their respective disciplines. This thesis makes an effort to bring these parallel research paths together in order to enhance the overall understanding of the regulations of IPD.

It is important to note that the interdisciplinary dimension of the regulation of IPD has been lacking in the literature of both political science and constitutional law. Recently, however, constitutional lawyers and political scientists have been reading and drawing on one another's research more often and for a wide range of aims. Indeed, "political" and "legal" theories are not watertight compartments; they have various connections. For instance, in Turkey, political parties are evaluated by the Constitution Court according to their commitment to such terms as democracy and secularism, which have highly political, rather than legal, connotations.

Research into legal reform simply seeks to outline an existing legal problem, to demonstrate how a particular law is not working and to conclude that the current law needs amendment or that there is a need for an entirely new law.³⁶ By examining the party laws (the TPPL and the Turkish Constitution) together with case studies from Turkish parties, this study analyses the relationship between the legal requirements and actual practice with regards to IPD in Turkey. The thesis concludes by proposing amendments to the existing law or the contents of a new law. Furthermore, for a complete investigation of law reform, it is necessary not only to evaluate the current party laws, but also to analyse the reasons behind their adoption, so the party constitutions will also at times be analysed in order to evaluate the approach to IPD established therein. Although political scholars are rightly suspicious regarding their actual implementation, party constitutions are useful in forming interpretative assessments of the level

³⁶ Ian Dobinson and Francis Johns 'Qualitative Legal research' in Mike McConville Wing Hond Chui (eds), *Research Methods for Law* (Edinburg University Press 2010) 20.

of IPD.³⁷ The rules produced by political parties are framed considerably differently than domestic statutes are. Moreover, although informal rules (cultural values, political ideologies etc.) are important factors shaping IPD, as Pippa Norris states, “the informal rules are more difficult to study, often requiring a blend of detailed case-studies, representative surveys of the mass membership and participant observational studies.”³⁸

A comparative approach, then, helps to identify the existing differences and similarities in relation to the regulation of IPD among parties and to evaluate the best practices. Dobinson and Johns claim that “comparative law has usually been as an extension of the study of national law and justified in terms of the benefits it brings to the national legal system.”³⁹ According to Tim May, “comparative analysis is worthwhile because in producing findings on the practices of other countries, we are better able to see the basis of our own practices.”⁴⁰ Thus, comparative studies provide practical applications and can be used by Turkish legislators as a basis for legal reforms. This study focuses on comparing participatory models from mature democracies with the less participatory models in Turkey in the three important areas of IPD. Since there are countries and parties around the world which have more participatory rules, Turkey could reform its own party law using those examples as a source of inspiration for an external regulatory framework. The comparative study will be done by means of case studies, which are employed in some chapters in order to shed some light on the current situation in Turkey. According to David Collier, the case-study method and the comparative method are closely linked, and case studies are the basis of most comparative research.⁴¹

³⁷ Benjamin von dem Berge (et al) *Measuring Intra-Party Democracy* (Springer 2013) 2.

³⁸ Pippa Norris ‘Building political parties: Reforming legal regulations and internal rules’ (Report commissioned by International IDEA 2004) 5.

³⁹ Mike McConville and Wing Hong Chui (eds) *Research Methods for Law* (Edinburgh University Press 2010) 8.

⁴⁰ Tim May *Social Research: Issues, Methods and Process* (Open University Press 1997) 185.

⁴¹ David Collier ‘The Comparative Method’ in Ada W. Finifter, (ed) *Political Science: The State of Discipline II*, (APSA, 1993) 116.

This study also focuses on the normative desirability of IPD, and sees legal enforcement as necessary. While in some mature democracies self-regulation of IPD seems to suffice, this study argues that Turkey is not at that level.

The thesis involves a review and analysis of primary sources, including national constitutions, party laws and political party documents, as well as such secondary sources as academic books, journal articles, working papers, reports and newspaper articles. The theoretical part is accomplished by examining competing theories from academic literature on party law and IPD.

Case selection

Two parties from the United Kingdom and the closed primary system from the United States were selected for comparison in this study for a number of practical reasons. First of all, the choice was made based on the researcher's familiarity with the English language. Secondly, in terms of the level of democracy, these countries have the longest traditions of democracy and established political parties.

Chapters 4 and 5 will examine, respectively, the Labour Party, which is the main opposition party in Britain, and the ruling Conservative party. The reason for focusing on these parties is that ordinary members' participation in party decision-making processes is on the rise in Britain. Since allowing ordinary party members a direct say in party decisions seems to be a strategy of the party leaders to empower their positions in the face of party activists in the British contexts, it is important to determine whether Turkish parties will face this same problem. In Chapter 6, the thesis examines the parties in the US, which regulates candidate selection through state law, not from the perspective of an individual party but as system, and focusing only on "closed" primaries, in which only registered party members can vote.

I will look at the two major Turkish political parties in the Parliament, namely the ruling Justice and Development Party and the Republican People's Party that is the main opposition,

in terms of the actual practice of candidate selection, leadership selection and policy-making processes. These two parties have been selected for several reasons. First, they have long parliamentary traditions and an enormous number of party members representing right and left wing ideologies, and have been the government and main opposition parties for almost 13 years. Second, in terms of the literature, several studies, documents and articles have been written about these parties. Third, these parties represent a broad cross-section of Turkish political life, regularly garnering 70-80 per cent of the total votes. While in theory the level of IPD differs between ruling and opposition parties, and between right and left wing parties, it will be expedient to analyse the effects of party law on these dominant parties. Although they resemble one another in several aspects simply because the organisational structures of parties are subject to the provisions in the TPPL, their similarities and differences well illustrate the main points advanced in this thesis.

Contribution of the thesis

Many scholars have emphasised the lack of IPD and the oligarchic structure of political parties in Western democracies since the parties emerged.⁴² The degree of IPD depends mostly on the political culture and organisation of parties along with the legal structure with which the political parties must comply. Although democratic culture is necessary and important for realisation of IPD, it is not in itself sufficient. That is why political parties from advanced democracies that have a long tradition of democratic culture experience similar problems and are moving towards a more regulatory approach. This thesis will contribute to the current literature and the discussion relating to IPD by showing how legal texts have affected democracy within political parties, examine the deficiencies of Turkish IPD from legal

⁴² Robert Michels *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (London, The Free Press, 1962); Moisei Ostrogorski *Democracy and the Organization of Political Parties* (MacMillan 1902).

perspective and then discuss how it should be reformed in terms of advancing internal democracy.

Although the Turkish political party system has received significant attention from scholars, none of these studies has analysed IPD from the perspective of Western literature. Moreover, the institutional design and legal aspects of IPD have been considerably underestimated in much of the literature on political parties and democracy, especially in the Turkish context. According to Caroline Lancaster, “Turkey has never been home to a textbook case of intra-party democracy; its parties almost always suffer from authoritarian leadership, generating a political system that revolves around a few key individuals rather than ideologies.”⁴³

There is no shortage of academic literature on the regulation of political parties, but detailed studies of IPD from a legal perspective are rare. Most studies to date of Turkish political parties have tended to concentrate on the perspective of external democracy, such as dissolutions of parties by the Constitution Court on the basis of non-democratic aims or practices, or from the perspectives of freedom of association or of expression rather than that of internal democracy. Similarly, none has covered IPD from the perspective of the TPPL in any depth.

Since the adoption of the TPPL, politics in Turkey has changed enormously. This research fills a gap in the understanding of the TPPL from the perspectives of both law and IPD. As well as exploring the legal side of IPD, this study also challenges the assumption that party congresses are a necessary element of party democracy. Furthermore, the incorporation of comparative elements substantially increases the theoretical scope of this study.

⁴³ Lancaster (n 1) 1672, 1678 refers to Metin Heper and Jacob M. Landau, (eds). *Political Parties and Democracy in Turkey* (IB Tauris & Company Limited, 1991); Aylin S. Görener and Meltem S. Ucal ‘The Personality and Leadership Style of Recep Tayyip Erdogan: Implications for Turkish Foreign Policy’ [2011] 12 *Turkish Studies* 358.

Structure of the thesis

The thesis is divided into seven chapters, and uses a participatory framework to tie the various subjects together. Each chapter begins by situating its subject within a theoretical framework, and then reviews the legal and actual situation in Turkey to assess the extent to which the components of IPD meet participatory ideals. Finally, each chapter ends with a discussion of how these elements can be made more inclusive by way of legal reform. So, for instance, Chapter 5 begins by situating leadership selection within a framework of inclusiveness; the extent to which the TPPL meets inclusive criteria is then discussed, and the chapter ends with a review of proposals for making the system even more inclusive.

Chapter 2, which follows this introductory chapter, aims to provide a historical framework for the study through a detailed literature review that covers the political parties and democracy and their history in Turkey. In particular, it examines whether state level democracy and IPD have similarities. The last part of the chapter outlines the provisions for the public funding of political parties and the implications of such funding for the realisation of IPD.

Chapter 3 provides an overview of arguments regarding IPD in theory and in the regulation of political parties. First, different perspectives employed to analyse IPD are reviewed, and then the regulation of parties is explored by looking at the general theory and the Turkish case. Drawing on insights from the literature on party regulation, an explanation is offered for why some countries constitutionalise their parties and why others, like Turkey, adopt special party laws. The historical development of Turkish party law will also be surveyed.

Chapters 4, 5 and 6 analyse the components of IPD using case studies from inclusive parties and comparing them with the situation in Turkey. Chapter 5 focuses on leadership elections in Turkey from the perspective of the TPPL, with the actual practice being provided by two case studies. The 2014 leadership elections in the Justice and Development Party (JDP) and People's Republican Party (RRP) will also be analysed. I will first discuss the differences between leadership selection in the party congress by party delegates and the leadership

selection on a one-member, one-vote basis. I propose a hybrid form of leadership selection through a one-member, one-vote system.

Chapter 6 explores various aspects of the candidate selection contests of political parties. The first part of the chapter examines the current legal system and its practice in Turkey in order to understand the problems. The second part reviews different perspectives that have been employed to analyse the candidate selection methods, as well as literature concerning closed primaries. For example, closed primaries in the US are open to registered party members and are conducted under the provisions of electoral law, whereas in Turkey candidate selection is for the most part an internal matter for the party to determine. Finally, Chapter 7 evaluates how the TPPL could be reformed in the light of the findings presented here.

CHAPTER 2

DEMOCRACY AND POLITICAL PARTIES

Part 1: Democracy

Introduction

In order to penetrate to the core of intra-party democracy, the concept of democracy should be scrutinised, along with political parties and their relations with one another. Although the primary focus of this study is the reform of the Turkish Political Parties Law from an intra-party democracy perspective, some basic understanding of democracy and political parties is vital to appreciating the arguments presented here.

The common consensus of contemporary political thought is that there is a close relationship among democracy, political parties and IPD. IPD cannot be divorced from the degree of democracy that is practised in a country at large; these two go hand in hand, with the latter being directly proportional to the degree of democracy within the parties. For instance, the level of IPD in British parties and the level of democracy in Britain, or the level of IPD in Turkish parties and the level of democracy in Turkey, are closely related.

Furthermore, the organisation of political parties usually parallels the organisation of the state. Both have their constitutions, representative organs, voters, executive organs, election systems etc. Party congresses resemble national parliaments, with a party leader as a prime minister, and party elites as other ministers who are responsible for different aspects of a party's direction, and even dispute resolution committees performing functions similar to a judiciary. Thus, theories applicable to state-level democracy and democratic methods such as the popular referendums provided for in some national constitutions can be used by political parties for IPD; indeed, some parties use intra-party referendums from time to time. However, what distinguishes state level democracy from IPD is that the procedural safeguards for state level democracy are mostly integrated into the national constitution and have heavy enforcement

rules, while IPD works without most of the procedural safeguards of a parliamentary democracy. The implementation of party constitutions and party decisions are very loose, and there are limited enforcement mechanisms.

The necessity of democracy, political parties and IPD has always been the central topic of interesting debates in the political science arena. Since the concept of democracy is at the core of IPD, its intellectual richness and history of practice can be used as the basis of IPD. The lively debate over what democracy is and how it is to be sought is parallel, usable and valid for IPD. The basic ideas behind democracy, “the will of the people” and “rule by the people,” are very similar to the concepts of “the will of the party members” and “rule by the party members” in IPD. The diversity of perspectives surrounding the concept “democracy” over the centuries is reflected in disagreements over IPD.

Thus, it will be expedient to begin the discussion of IPD by examining democracy in general. It is worth stressing that a lengthy academic history and comprehensive review of the literature of democracy and political parties is beyond the scope of this study. This part of the chapter will only be able to conduct a brief examination of the emergence and definition of democracy in order to avoid putting the cart before the horse. This research also holds a limited view of democracy narrowed to the participatory and representative democracy theories. In the second part, political parties will be examined in the same way as democracy, and their roles in democracies will be described.

Definition of democracy

Democracy, at first glance, appears easy to define. Yet despite the attempts by political scientists and philosophers throughout history to offer proper definitions, it remains a contested concept. It is contested because, broadly speaking, the wealth of literature on democracy demonstrates that definitions reflect the values of the various scholars, politicians and citizens, their orientations to understanding and interpreting democracy and their backgrounds and hopes

for it. As Danny Nicol rightly observes, “democracy means different things to different people in different contexts at different times.”¹

Despite this disagreement among scholars over the concept of democracy, it is agreed that democracy is the *sine qua non* for modern times. In order to appreciate the diachronic dimension of this contested concept, I will briefly summarise the history of democracy, how it emerged and gradually evolved from ancient times until today, touching on ancient Greece, England and the United States;²

Historical development of democracy

Democracy in ancient times

The ancient Greeks, specifically the Athenians, are considered the inventors of democracy. The word “democracy” comes from Greek *demokratia*, and the term has entered most major languages, meaning “rule by the people.” Etymologically, it comes from the words *demos*, meaning the citizenry, and *kratos*, meaning “power.” In those days, democracy was an alternative to aristocracy, or rule of the nobles, and oligarchy, or rule of few and, in practice, the wealthy. For Aristotle, for example, “a system which does not allow every citizen to share [in the exercise of power] is oligarchical and that one which does so is democratic.”³ This sentiment can be rephrased in an IPD context as “a party which does not allow ordinary members to share is oligarchical and that one which does so is democratic.”

Although their conception and practice of democracy differed from modern concepts and practices in fundamental ways, ancient Greek ideas continue to form the core of the modern approaches, especially in regard to participatory democracy in which citizens are directly involved on an individual basis in decision-making, rather than acting through intermediaries.⁴

¹ Danny Nicol ‘Can Justice Dethrone Democracy in the European Union? A Reply to Jürgen Neyer’ [2012] 50 JCMS 508, 510.

² Thus Adam Przeworski observes that, “reading histories of democracy, one quickly discovers that they focus predominantly on the experience of a handful of countries: Ancient Greece, England, the United States.” Adam Przeworski *Democracy and the Limits of Self-Government* (Cambridge University Press, 2010) 2.

³ Aristotle (*Politics*, IV, 6), quoted by Carl Cohen *Democracy* (University of Georgia Press, 1971) 3.

⁴ David Held *Models of Democracy*, (Stanford University Press 2006).

Full Greek citizens (male, native-born, free) attended regular meetings, discussed the agenda of the day, and, once debate concluded, determined policies by popular vote in the *ekklesia*, or assembly. For instance, discussions of serious problems were likely to be attended by about six thousand citizens, which was one eighth of the male citizen body in Attica, the region controlled by Athens.⁵ Those who lived in the city centre were more likely to attend the meetings than those who lived far away, and attendance naturally increased when vital or controversial issues were on the agenda.⁶ During the period when democratic institutions were vigorous in Athens, participation was looked upon as the duty of every eligible citizen; and indeed the English word “idiot” derives from ancient Greek *idiotes*, a term of derision direct at those who were overly preoccupied with their own affairs, *ta idia*.⁷

Although citizens did not form political associations in the modern sense, they did form interest groups based on social status, locality, occupation and on occasion charismatic leaders, which groups sought to influence decisions, and some scholars cite these groups as precursors to political parties.⁸ Political authority was often associated with military authority, and generals (*strategoï*) had the advantage of speaking first in order of seniority among private citizens, and those over age 50 had priority over younger men.⁹

However, as alluded to above, not all people, but only a small proportion of the population, had the full citizen status required to take part in the democracy.¹⁰ Women, slaves and long-term resident aliens were systematically excluded from nearly every governing institution, and theorists of the day did not see this situation as a democratic deficit.¹¹ One socio-

⁵ Sarah B. Pomeroy, Stanley M. Burstein, Walter Donlan and Jennifer Tolbert Roberts *Ancient Greece: A Political, Social, and Cultural History* (Oxford University Press, 1999) 216.

⁶ *ibid* 217.

⁷ Mark K. Smith ‘Education for Democracy’ < www.infed.org/biblio/b-dem.htm > accessed 7 October 2013.

⁸ Hans Daalder ‘The Rise of Parties in Western Democracies’ in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The Johns Hopkins University Press, 2001) 40; Pomeroy (n 5) 217.

⁹ Pomeroy (n 5) 217.

¹⁰ Robert A. Dahl *Democracy and Its Critics* (Yale University Press, 1989) 21, also see David Held *Models of Democracy*, (Stanford University Press 2006) 19.

¹¹ *ibid* 21.

historical study has estimated that there were 90,000 Athenian citizens while the number of people inhabiting Attica was 365,000.¹² From this point of view, it can be said that ancient Athens was established on an undemocratic basis, and was democratic only in name.

This complaint about exclusivity could equally be lodged against modern political parties, if not to the same degree. In a similar vein, the elites of a party have discretion regarding which citizens may join or to impose disciplinary measures such as expulsion of members who do not agree with the party leader or party policies. For instance, the TPPL leaves the terms and conditions for the membership registration entirely at the parties' own discretion. Political parties have absolute power to refuse an application for registration without any reason. While most of the political parties were established on an undemocratic basis in this context, in Dahl's sense, they do not see this situation as a democratic deficit.

It is interesting to note that democracy was not regarded as the best form of government among ancient philosophers. Plato rejected Athenian democracy as the best form of governance, and proposed a kind of merit-based aristocracy as an alternative.¹³ Plato considered the mass of the people to be a "large and powerful animal" that needs wise rulers, "the philosophers." He believed that political control must be in the hands of philosopher kings, because they possess "the expert knowledge of kingship," whereas ordinary people lack it.¹⁴ Plato feared that democracy would lead to tyranny, though as Thom Brooks observed, his views changed over time, and he came to endorse a government fusing democracy and monarchy in his last work, *the Laws*, where one of his characters declares that "there are two-mother constitutions, so to speak, which you could fairly say have given birth to all the others. Monarchy is the proper name for the first, and democracy for the second....It is absolutely vital for a political system to combine them."¹⁵

¹² Michael Haralambos and Martin Holborn *Sociology: Themes and Perspectives* (Harper Collins, 1991) 147.

¹³ Thom Brooks 'Plato, Hegel, and Democracy' < <http://ssrn.com/abstract=932555> > accessed 27 February 2013.

¹⁴ Held (n 4) 23-27 refers to Plato's *Republic*.

¹⁵ Brooks (n 13) 5.

Aristotle was similarly suspicious of democracy, arguing that, when the people held the power in their hands, they would ignore or neglect the limits of the laws and supersede them.¹⁶ The philosopher also criticised oligarchy, on the grounds that aggression by the rich is more likely than aggression by the masses, making oligarchies harder to control than democracies.¹⁷

As will be discussed later, these arguments are also clearly echoed in modern IPD debates. Like ancient philosophers, modern party leaders and elites are suspicious of the power of the people. But we may be more sympathetic to Aristotle's idea that regulating the powerful is far more difficult than regulating the weak, and note similarities between Plato's "philosopher kings" and professional politicians or the leadership in modern democracies. The experience of the ancient Greeks might further suggest that the regulation of political parties is more difficult than regulating other associations in the modern era.

Re-development of Democracy

The Greek style of democracy was largely forgotten until being rediscovered by thinkers in Early Modern Europe. While giving a precise date is impossible, it is acknowledged that democracy re-flowered in the world again in the eighteenth century. The American Revolution (1776) and the French Revolution (1789) were historical turning points in the history of democracy, and have played a significant role in the foundations of democratic bodies. These two revolutions created the opportunity for people to practise the democratic ideas that had been tried by the ancient Greeks.

Nevertheless, from ancient Greek times until the late nineteenth century, there were different opinions about whether democracy was desirable or not, so it was still too early to speak of modern democratic understanding without modern political parties and universal suffrage. According to Leib Talmon, "what is today considered as an essential concomitant of

¹⁶ Ricardo Blaug and John Schwarzmantel *Democracy: A Reader* (Edinburgh University Press 2006) 22.

¹⁷ George H. Sabine, Thomas L. Thorson, *A History of Political Theory* (4th edn The Dryden Press 1973) 114, 115.

democracy...was far from being regarded as essential by the eighteenth century fathers of democracy.”¹⁸ For instance, in America, the Founding Fathers, similar to some classical philosophers, expressed concern that democracy would lead to popular tyranny and constituted a threat to the rights of minorities.¹⁹ Madison expressed some anti-democratic sentiments; he was wary of popular politics and suspicious of majoritarian rule, which he had come to believe was endangering the new nation.²⁰ Alexander Hamilton similarly worried that, “give all the power to the many, they will oppress the few. Give all the power to the few, they will oppress the many.”²¹ Alternatively, American statesmen were impressed by Montesquieu’s famous separation of powers idea, which has its roots in Aristotle’s political theories. For them, government must depend upon a system of checks and balances, whereby power is divided among three main institutions, the legislature, the executive and the judiciary, and the role of each must be enshrined in a document, in America, the Constitution. Early American statesmen believed in constitutional government and constitutional pluralism, but not in party government or party pluralism.²² This sentiment also demonstrates their suspicion and fear of factions, which will be discussed further below. According to Birch, “belief in popular sovereignty and frequent elections did not at first lead American theorists and leaders to identify their system of government as democratic.”²³ This was because they still thought that democracy meant direct popular participation in government, as it did for the ancient Greeks.²⁴ Their understanding of this government model is today called “constitutional democracy,” which was also defined by Robert Dahl in 1956 as “Madisonian democracy.”²⁵ Since democracy was not seen as a

¹⁸ Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (ECPR 2005) 12-13, referring to Jacob Leib Talmon *The Rise of Totalitarian Democracy* (Beacon Press 1952) 44.

¹⁹ Anthony Arblaster *Democracy* (3rd edn, Open University Press, 2002) 41.

²⁰ Larry D. Kramer ‘The Interest of the Man: James Madison, Popular Constitutionalism, and the Theory of Deliberative Democracy’ [2006] 41 Val. U. L. Rev. 697, 707.

²¹ Alexander Hamilton, Federal Convention (18 June 1787 Farrand 1:282—93) < <http://press-pubs.uchicago.edu/founders/documents/v1ch8s10.html> > accessed 21 November 2013.

²² Sartori (n 18) 12.

²³ Anthony H. Birch *The Concepts and Theories of Modern Democracy* (Routledge, 1993) 50.

²⁴ Arblaster (n 19) 39.

²⁵ Peter Mair ‘Democracy Beyond Parties’ (Center for the Study of Democracy, 2005) 5.

desirable form of government, these thinkers preferred the term “representative republic” with a balanced constitution.²⁶

Although the citizens of some countries gained a greater say following the eighteenth century revolutions, it is difficult to speak of democracy in the modern sense in the absence of political parties and universal suffrage. Nonetheless, the debates over the best form of government among the ancient Greeks have had a strong influence on modern ideas about democracy. The classical democratic concepts and criticism of them by classical thinkers have inspired modern political scholars in support of or opposition to the idea of democracy.²⁷

In the nineteenth century, a simple definition of democracy is offered in the memorable phrase of U.S. President Abraham Lincoln, who put people at the core of democracy: “Democracy is government of the people, by the people, and for the people.” Lincoln, probably unconsciously, defined two different democracy theories. The first is direct democracy, “government by the people,” and second one is representative democracy, “government for the people.” Peter Mair analyses this understanding as follows:

On the one hand, there is the constitutional component – that which emphasises the need for checks and balances across institutions and which entails government for the people; on the other hand, there is the popular component – that which emphasises the role of the ordinary citizen and popular participation, and which entails government by the people.²⁸

Indeed, consciously or unconsciously, when Lincoln was defining democracy, his intention was most probably guided by a notion of “popular sovereignty,” which is the basic idea of participatory democracy. Popular sovereignty means that people are the highest political authority in the government. This notion dates back to the sixteenth century, when George

²⁶ Arblaster (n 19) 41.

²⁷ Held (n 4) 27.

²⁸ Mair (n 25) 5.

Buchanan stated that “The Law is more powerful than the King, as being the Governor and Moderator of his lusts and actions. But the whole Body of the people are more powerful than the Law.”²⁹ Popular sovereignty in England is manifested in efforts to limit the authority of the king, facilitate the creation of Parliament, expand suffrage and establish civil liberties.³⁰ The idea of popular sovereignty also fostered the emergence of mass parties, which were designed to promote participatory democracy. However, as will be discussed further below, mass parties had never put those ideas into practice, and the organisations quickly assumed an oligarchical character.

Ancient Greek democracy had a significant influence on modern democracy. The various scholars and politicians saw ancient Greek democracy as both an inspirational model and also as an example of dangerous excess. After analysing the way in which democracy was understood by the ancient Greeks and its re-emergence in the Early Modern era, we can now analyse modern democracy. It is important to note that, with regard to institutional design, there are two key differences between modern democracy and ancient Greek democracy in terms of participation methods and of eligibility. The fact that Greek cities were small in both territory and population allowed citizens to govern themselves directly; modern states, by contrast, have large territories and populations and are governed by representatives rather than by the people themselves. In respect to eligibility for voting, while most of the Greek people were disenfranchised, in modern times much larger portions of the citizenry are eligible for voting. The modern understanding of democracy has expanded considerably, as will be discussed in detail below.

²⁹ Joyce Lee Malcolm *The Struggle for Sovereignty: Seventeenth-Century English Political Tracts* (Liberty Fund, 1999).

³⁰ Joseph LaPalombara and Myron Weiner ‘The Origin and Development of Political Parties’, in Joseph LaPalombara and Myron Weiner (eds) *Political Parties and Political Development*, (Princeton University Press 1966) 12, referring to Robert Roswell Palmer, *The Age of the Democratic Revolution*, (Princeton University Press 1959).

Democracy in modern times

When it comes to the twentieth century, many scholars tend to equate democracy with representative government and free, competitive elections. Schumpeter, for instance, stated that “the hallmark of modern day democracy is elections: a competitive struggle for the people’s vote.”³¹ Duverger claimed that the simplest and the most realistic definition of democracy is “a regime in which those who govern are chosen by those who are governed, by means of free and open elections.”³² Rather than offering pithy definitions of democracy, some scholars have instead proposed several criteria for what can be accepted as democratic. According to Marilino, the definition of democracy suggests that “such a regime has at least: universal, adult suffrage; recurring, free, competitive and fair elections; more than one political party; and more than one source of information.”³³ Robert Dahl suggested five key criteria that are essential for democracy and also for IPD, which deserve to be highlighted here since they are closely related to core of thesis.³⁴

Effective participation – Before policy is adopted by an association, all the members must have equal and effective opportunities for making their views known to the other members as to what the policy should be.

Voting equality at the decisive stage – When the moment arrives at which the final decision about the policy is made, every member must have an equal and effective opportunity to vote, and all votes must be counted as equal.

Enlightened understanding – Within reasonable limits as to time, each member must have equal and effective opportunities for learning about the relevant alternative policies and their likely consequences.

³¹ Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (Harper 1942) 269.

³² Maurice Duverger *Political Parties* (Methuen & Co, 1961) 353.

³³ Leonardo Morlino ‘What is a “Good” Democracy? Theory and Empirical Analysis’ (Conference on “The European Union, Nations State, and the Quality of Democracy. Lessons from Southern Europe”, University of California, Berkeley, October 31-November 2, 2002) 1.

³⁴ Charles Tilly *Democracy* (Cambridge University Press 2007) 9, referring to Robert A. Dahl, *On Democracy*, and (Yale University Press 1998) 37–38 (quotation from Charles Tilly).

Control of the agenda – The members must have the exclusive opportunity to decide how and, if they choose, what matters are to be placed on the agenda. Thus the democratic process required by the three preceding criteria is never closed. The policies of the association are always open to the change by the members, if they so choose.

Inclusiveness – All, or at any rate most, adult permanent residents should have the full rights of citizens that are implied by the first four criteria.

These criteria are also useful for analysing IPD. This study borrows in particular three of them for assessing internally democratic political parties: inclusion, voting equality at the decisive stage and effective participation.

Thus, before party policies are adopted, all party members must have full rights of membership and all the party members must have equal and effective opportunities for making their views known to other members. Particularly effective participation and inclusiveness criteria are the basis of this thesis. However, when one looks at these conditions, it can easily be seen that only a few countries or organisations would meet all these criteria. It can therefore be concluded that democracy is a question of degree. Analysis of the extent to which a country or political party meets these criteria indicates the degree of democracy. All of these conditions are correlated positively with the degree of democracy, which can range from established or mature democracy to non-democracy. Established democracies should meet most of these conditions and developing democracies some of them, while non-democracies are lacking all of them. These criteria are also valid for ranking the level democracy level of political parties in the range is mainly between highly oligarchic and somewhat less oligarchic parties.

Moreover, the degree of democracy is clearly associated with the number of political parties in general elections. The existence of many competing parties in elections is usually accepted as an important indicator of a democracy.³⁵ However, although free elections and the

³⁵ Andrew Heywood *Politics* (Macmillan 1997) 66.

number of competing parties are important for democracy, most scholars believe that democracy in modern world means more than simply periodic, free elections and a number of political parties. Now scholars associate democracy with a wide array of concepts, such as human rights, freedom of speech, association and press and the rule of law. This understanding is often expressed in terms of “thin” and “thick” definitions of democracy.³⁶

Indeed, it is now widely agreed that there is more to democracy than elections and governing. Today's understanding of democracy concentrates on an institutional checklist in order to measure the progress of countries toward democracy, such as the election process, political party development, civil society empowerment, legislative strengthening, legal and judicial reforms and free and independent media development. For example, Richard Katz states that: “Once attention shifts from ‘democratic or not?’ to ‘better democracy or not as good?’ the near consensus that democracy is what results when multiple political parties compete for power in free and fair elections is no longer adequate.”³⁷ In this respect, IPD is one of the most important components of a broad definition of democracy and the prerequisites of full democracy.

It is important to note that there is no single theory of democracy. There are many types of democracy discussed in literature, such as direct, representative, liberal democracy, participatory, democracy, social and hybrid. The scope of this thesis does not allow for discussion of the entire range of theories of democracy and every pertinent fact in detail. It will be sufficient to emphasise that, of all the aforementioned labels, probably the most applicable to the study of political parties and IPD are the participatory and representative theories. This

³⁶ Brad Taylor ‘Defining Democracy Through Thick and Thin’ < www.fee.org/the_freeman/detail/defining-democracy-through-thick-and-thin#axzz2hdpaFdPL > accessed 12 January 2014.

³⁷ Richard S.Katz ‘Reform of Parties: Through Legal Regulation’ < www.cepchile.cl/dms/archivo_5011_3160/DOC_RKatz_Reform-of-Parties-Through-Legal-Regulation.pdf > 4 accessed 18 May 2013.

study will focus on these two conceptions of democracy and argue that participatory democracy within political parties is the best form for Turkish IPD.

Representative democracy

Political parties, either in state level politics or within their administration, are at the heart of the process of representation. Thus, this study will briefly analyse the study of representative democracy. In the first sense, it may be appropriate to begin by considering the concept of political representation. As mentioned, in any democracy in the world today, the number of citizens is too large and the political issues too complex to have anything like direct democracy at the state level in which the people all get together and make their decisions as a group. Therefore, almost every democratic country has a system of political representation in which the voters select the people who are to represent them in making decisions on their behalf.

Dario Castiglione observes that political representation has had two different processes throughout history. One is the emergence of the ideas of sovereign and absolute power in the sixteenth and seventeenth centuries, and the other is the establishment of modern parliamentary institutions and constitutional government in the eighteenth and nineteenth centuries.³⁸ For instance, there was political representation from early seventeenth century to the nineteenth century in England with the House of Commons. This was, however, as Burke characterised it, “virtual representation”: that is, one could speak on behalf of a particular interest without being elected by popular vote.³⁹ In fact, Members of Parliament were at the time chosen by a small number of leading local people.⁴⁰ Burke considered the terms “delegates” and “trustees” and concluded that representatives should not be delegates, but rather trustees who use their best

³⁸ Dario Castiglione ‘Rethinking Democratic Representation: Eight Theoretical Issues’ (Centre for the Study of Democratic Institutions University of British Columbia May 18-19, 2006) < www.hks.harvard.edu/hauser/PDF_XLS/AccountAndRep/5-Castiglione%20&%20Warren.pdf > 3. accessed 24 June 2013.

³⁹ Philip Norton ‘Parliament and Citizen in the United Kingdom’ [2012] 18 JLS 403, 403, referring to Hanna Pitkin, *The Concept of Representation*. (University of California Press. 1967).

⁴⁰ *ibid* 404.

judgment on behalf of those they represent.⁴¹ Richard Katz defines the delegates and trustees as follows:

[T]he delegate serves as the direct agent of his or her constituents, doing what the represented want him or her to do, serving as a conduit for their opinions, following their direct instructions. The trustee, on the other hand, acts for the represented by using his or her own judgement to advance their interest, but not necessarily in accordance with their currently expressed opinions.⁴²

So again, while individual self-government is a democratic ideal, it is difficult, if not impossible, for all of the adult population to take part in the decision-making process when the size of nation states and the complexity of governmental issues in the modern world are given due consideration. Even in the *Spirit of the Laws*, Montesquieu stated that:

As in a country of liberty, every man who is supposed a free agent ought to be his own governor; the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniences, it is fit the people should transact by their representatives what they cannot transact by themselves.⁴³

Direct democracy is not however entirely impossible, for modern direct democracies use referendums as tools for crafting constitutional amendments and resolving important political issues. Scarrow argues that a referendum is an innovation of American “good government” reformers and Populists that enables “the people” to bypass the parties.⁴⁴ In the same vein, a European Council report stated that

⁴¹ Castiglione (n 38) 8.

⁴² Richard S. Katz ‘Party in Democratic Theory’ in Richard S. Katz and William Crotty (eds) *Handbook of Party Politics* (SAGE 2006) 42.

⁴³ Charles de Secondat, Baron de Montesquieu *The Spirit of Laws* (1748) translated by Thomas Nugent (1752) (Batoche Books 2001) < www.efm.bris.ac.uk/het/montesquieu/spiritoflaws.pdf > 176. accessed 12 May 2013.

⁴⁴ Susan E. Scarrow ‘The Nineteenth-Century Origins of Modern Political Parties: The Unwanted Emergence of Party-Based Politics’ in Richard S. Katz and William Crotty (eds) *Handbook of Party Politics* (SAGE 2006) 16, 22.

Representation could no longer be the only expression of democracy. Democracy needed to be developed beyond representation, through the introduction of more sustained forms of interaction between people and authorities in order to include direct democratic elements in the decision-making process.⁴⁵

Besides, most of the advocates of direct democracy have admitted that direct decision-making devices can only modify, but never entirely replace, representative democracy.⁴⁶ For example, Alain de Benoist claimed that it is impossible to escape representative democracy completely owing to insurmountable difficulties in modern societies.⁴⁷ Today, it is clear that the realistically feasible and more practicable democracy model is a representative democracy at a state level. While the significance of representative democracy is often taken for granted in modern societies, without a doubt representative democracy has weaknesses as well as such strengths as simply being more practical.

The main criticism of representative democracy can be summarised as follows. First, as the name implies, representative democracy does not allow citizens to participate directly in the processes of decision-making; they can only give their power to representatives, and most of the electorate has little control over the choice of representative. In many circumstances, political parties make a choice that defies the will of their voters. Therefore, some scholars have accused representative democracy of undermining citizens' rights to make their own political decisions.⁴⁸ For example, Hannah Arendt criticised representative democracy on the grounds that:

⁴⁵ European Commission for Democracy Through Law (Venice Commission) 'Report on Democracy, Limitation of Mandates and Incompatibility of Political Functions' (2013) < [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)027rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)027rev-e) > 4 accessed 23 February 2013.

⁴⁶ Susan E. Scarrow 'Democracy within - and without - Parties: Introduction' [1999] 5 Party Politics 275, 275.

⁴⁷ Alain De Benoist *Democracy: Representative and Participatory* translated by Greg Johson [2008] 22 The Occidental Quarterly 8, 19-21.

⁴⁸ Susan Scarrow 'Parties and the Expansion of Direct democracy. Who Benefits?' [1999] 5 Party Politics 341, 343, referring to Benjamin Barber *Strong Democracy* (Berkeley, CA: University of California Press 1984).

[T]he parties, because of their monopoly of nomination, cannot be regarded as popular organs, but that they are, on the contrary, the very efficient instruments through which the power of the people is curtailed and controlled. That representative government has in fact become oligarchic government is true enough, though not in the classical sense of rule by the few in the interest of the few; what we today call democracy is a form of government where the few rule, at least supposedly, in the interest of the many.⁴⁹

This problem with representative democracy is mostly related to the candidate selection procedure of political parties, which could be improved through legal reforms that will be discussed in Chapter 5. Alain De Benoist has stated that, “In the representative system, once the voter has delegated his political will to his representative by voting, power’s center of gravity inevitably resides in the representatives and the political parties that subsume them, and no longer in the people.”⁵⁰ Additionally, he has argued that representatives will no longer act according to the will of those who elected them, but according to their own will—in other words, each regards himself as authorised by election to do what he judges best.⁵¹ David Judge describes this phenomenon as the paradox of representative democracy: “parliamentary representation serves to include ‘the people’ in decision-making, indirectly and infrequently through the process of elections; yet, simultaneously, it serves to exclude them from direct and continuous participation in the decision-making process.”⁵²

A second problematic issue regarding representative democracy is whether all people are represented proportionately in regard to such characteristics as gender, race and age. Clearly, the shortcomings of this type of democracy include overrepresentation and underrepresentation. Heywood argues that “no system of free and competitive elections can

⁴⁹ Hannah Arendt *On Revolution* (Penguin Books 1965) 269.

⁵⁰ De Benoist (n 47) 20.

⁵¹ *ibid* 20.

⁵² David Judge ‘Whatever Happened to Parliamentary Democracy in the United Kingdom?’ [2004] 57 *Parliamentary Affairs* 682, 683.

ensure that government is a microcosm of society, and in all such systems certain groups are ‘over-represented,’ invariably men, whites, the wealthy and the middle-aged or elderly.”⁵³ So the statement in the will of John Adams that a representative legislature “should be an exact portrait, in miniature, of the people at large”⁵⁴ seems impossible. For instance, it can be said that the Turkish Grand National Assembly, after the 2011 elections, is unrepresentative of the Turkish population, since only 14 per cent of MPs are women, while 22 per cent have law school backgrounds.

The third criticism raised against representative democracy is that, in practice, representative democracy means “government by the representatives of the winner of competitive elections.” Throughout history, scholars of democracy have dealt with the conundrum of the unchecked rule of a minority over the majority.⁵⁵ For representative democracy, generally with the help of electoral laws, tends to concentrate government power in the hands of a few who then can make crucial decisions affecting all citizens. For example, electoral statistics for Turkey make it clear that the turnout for national parliamentary elections is generally around 80% of the electorate, and governments are formed generally by 30-50 per cent of those voting. For instance, although the Justice and Development Party in the 2002 election received only 34 per cent of the overall vote, the party secured almost two-thirds of the parliamentary seats. In this election, in order to validate votes, only 59 per cent of registered voters were represented in the party by the two political parties. In terms of eligible voters, the number is even lower, at 46 per cent.

Different electoral systems such, as first-past-the-post or proportional representation, naturally have different consequences for representative democracy. For instance, while the first-past-the-post-system supports the development of a two party system, the proportional

⁵³ Heywood (n 35) 277.

⁵⁴ Hanna Pitkin, *The Concept of Representation* (University of California Press 1967) 61.

⁵⁵ Katz (n 42) 37.

voting system favours a multi-party system. For Colin Turpin and Adam Tomkins, it is not the object of the first-past-the-post system to produce an elected Parliament that will be a “mirror of the nation” in the sense that it accurately represents the different parties; rather this system works in favour of single-party government.⁵⁶ For a proportional representation system, Arend Lijphart points out, “the basic aim of proportional representation is to represent both majorities and minorities and, instead of over representing or underrepresenting any parties, to translate votes into seats proportionally,” and in the first-past-the-post system, “the candidate supported by the largest number of voters wins, and all other voters remain unrepresented.”⁵⁷ Generally, large parties prefer the first-past-the-post system in single-member districts, whereas smaller parties prefer proportional elections.⁵⁸

Although there is no commonly recognised ideal and best electoral system in practice, it has been argued that proportional voting systems are far better than the first-past-the-post systems as an accurate measurement of a populace’s views.⁵⁹ However, as Nicol observes, different countries accord different degrees of importance to proportionality as an aspect of democracy.⁶⁰ For instance, he states that a violation of proportionality would not be seen as a shocking departure from democratic requirements in some countries, such as the UK.⁶¹ Indeed, as William Hale rightly argues, an electoral system has to reconcile two conflicting objectives: on the one hand, reasonable and fair representation, on the other, to secure stable and firm governments.⁶²

⁵⁶ Adam Tomkins and Colin Turpin *British Government and the Constitution* (CUP 2007) 514.

⁵⁷ Arend Lijphart *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (Yale University Press 1999) 143.

⁵⁸ Jon Elster ‘Forces And Mechanisms In The Constitution-Making Process’ [1995] 45 *Duke Law Journal* 364, 378.

⁵⁹ William Crotty ‘Party Origins and Evolution in the United States’ in Richard S. Katz and William Crotty (eds), *Handbook of Party Politics* (SAGE 2006) 25, 28.

⁶⁰ Nicol (n 1) 510.

⁶¹ *ibid* 510.

⁶² William Hale ‘The Role of the Electoral System in Turkish Politics’ [1980] 2 *Journal of Middle East Studies* 401, 401.

Furthermore, an election system is important from the IPD perspective. Pettit claims that “Electoral reform can create the environment where intra-party democracy has the potential to flourish.”⁶³ He investigates IPD in the first-past-the-post system in the UK and the proportional representation model in Denmark. He concluded that:

[W]inner takes-all approach means that parties fighting for significant Westminster influence are greatly affected by the laws of tactics. They do indeed have to be highly efficient fighting machines, which leaves very little scope for intra-party democracy, and in consensus model or proportional representation systems in the case of Denmark have been shown to better foster IPD.⁶⁴

The fourth problem with democracy is the issue of representation, which is also closely related to the second and third problems. There are two separate dimensions, one explicit and another implicit, to this problem. The explicit dimension is the threshold election criteria, which mostly prevent representation of numerous voters in national Parliaments. Turkey is a good example in this respect. A party in Turkey must secure ten per cent of the votes in order to qualify for a seat according to the electoral law, which is the highest of all such thresholds applied in Europe. Cem Toker summarises the problem as follows:

This means that a political party collecting as much as 9.9 per cent of the popular votes in the general elections, is granted no representation whatsoever in the National Assembly even if it acquires 99.9 per cent of the votes in a given provincial election district.⁶⁵

Pippa Norris defines this kind of regulation as “cartel regulation.”

Cartel regulations respect general human rights but nonetheless they limit party competition through a variety of restrictive practices designed to benefit established

⁶³ Robin T. Pettitt ‘Electoral Reform, ‘New Politics’ and Intra-party Democracy in Post-devolution Scotland’ [2008] 44 Representation 317, 324.

⁶⁴ *ibid* 320-323. It should be observed that members only make policy for the party; they do not make government policy.

⁶⁵ Cem Toker ‘Why Is Turkey Bugged Down?’ [2008] 7 Turkish Policy Quarterly 25, 27.

parties in parliament or in government. This includes the requirements for ballot access, the regulations governing the allocation of public funding, and the rights to free campaign broadcasts and state subsidies. Cartels are designed to skew resources towards insiders, with a high effective vote threshold protecting against outside challengers.⁶⁶

The dominant parties lock up political institutions and hinder third parties' participation in the political system, all of which restricts meaningful discussion as a whole in the political system.⁶⁷ In multi-party systems like Turkey, major parties that have long-time recognition among voters and a seat in Parliament are establishing an oligopoly in the political system like those described in economic theory. Since political parties in parliament have power to regulate the whole system, election laws, party laws and other laws related to political parties, they design regulations for their own benefit. Thus the voters generally vote for the lesser evil, and for the party that has policies to their own views. For instance, in Turkey, it is extremely difficult for emerging parties to enter the system, since there are three big obstacles in front of a new party's entrance to the system: a 10 per cent threshold criteria in general elections in order to gain a seat in Parliament, a 7 per cent threshold in order to receive public funds and the establishment of a party organisation in half of the provinces and two-thirds of sub-provinces in order to compete in elections.

When it comes to the problem implicit within representation, or the lack thereof, sometimes political parties coerce people to vote for the same policies when they might not prefer to do so. For instance, normally in two party systems, as Duverger claimed, political choice usually takes the form of a choice between two alternatives.⁶⁸ Not only in two-party systems, but also in multi-party systems, political parties are expected to provide a range of

⁶⁶ Pippa Norris 'Building political parties: Reforming legal regulations and internal rules' (Report commissioned by International IDEA 2004) 5.

⁶⁷ Jonathan J. Thessin 'Renewing Intraparty Democracy: Assessing Competition, Deliberation, and Associational Rights of Political Parties' <
http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=jonathan_thessin >. accessed 12 June 2013.

⁶⁸ Duverger (n 32) 215.

choices to the electorate. However, what would happen if all parties support the same politics? As Gauja observes, parties are reducing the options available to voters and the diversity across the policy spectrum.⁶⁹ So it is true that current political parties no longer offer sufficiently distinctive policies. This phenomenon limits voter choice, and leads to the non-representation of some ideas in the political arena. Voters have two options in this situation, either to vote for a different party, which is ineffective because other parties also offer same policies, or simply to avoid voting. Anthony Downs claimed that when the citizen cannot see any difference between parties, in order to escape from this deadlock, they alter the basis of their decision to whether or not the officials have done as good a job of governing as did their predecessors in office.⁷⁰ This situation is against the idea of “the will of the people.” According to Katz, “if the parties do not take different positions, or any positions at all, on matters of importance to citizens, the policy-based rationales for party membership or other party activity are diminished.”⁷¹ However, party members who have a meaningful way to be heard can help to change their party’s policies from within the party. IPD is a good solution for diversifying policies among parties. Referring to the work of Peter Mair, Nicol states that “With the policy gap between the parties widened by internal democracy, general elections would involve a more genuine choice than at present between real alternatives of policy and vision, thereby engaging the electorate in a public competition of ideas.”⁷² Alan Ware observes that “In terms of Hirschman’s analysis, party democracy would provide a ‘voice’ mechanism, to complement the ‘exit’ alternative already available to voters, an alternative that by itself does not function effectively under oligopoly.”⁷³ For Ware, IPD can prevent oligopolistic collusion between the

⁶⁹ Anika Gauja *Political Parties and Elections: Legislating for Representative Democracy* (Ashgate 2010) 40.

⁷⁰ Anthony Downs *An Economic Theory of Democracy* (Harper Collins Publishers 1957) 41.

⁷¹ Richard S. Katz ‘Should We Believe that Improved Intra-Party Democracy Would Arrest Party Decline?’ in William P. Cross, Richard S. Katz (eds) *The Challenges of Intra-Party Democracy* (Oxford University Press 2013) 60.

⁷² Danny Nicol ‘Professor Tomkins’ House of Mavericks’ [2006] Public Law 467, 475 refers Peter Mair, ‘Partyless Democracy: Solving the Paradox of New Labour?’ [2000] 2 New Left Review pp.147-170.

⁷³ Alan Ware *The Logic of Party Democracy* (The Macmillan Press 1979) 78.

party elites. Similarly, Saglie and Heider claim that internally democratic parties are less prone to cartelization.⁷⁴

There is on-going debate regarding the shortcomings of representative democracy and how these shortcomings can be minimised. They can, to some extent, be corrected through the implementation of different kinds of democracy. Thus, some countries have found complementary solutions to overcome these weaknesses. This study argues that the state is capable of fostering democracy through public law, at least to some extent. For instance, referendums are one of these supplementary solutions. Supporters of referendums hold that the power of political parties must be counterbalanced, and some scholars believe that national referendums are the only way to cure the shortcomings of representative democracy.⁷⁵ Others argue that referendums enable smaller parties in particular, which in general elections have little chance of winning a seat, to remain influential.⁷⁶

Scholars who oppose referendums claim that the wants of citizens must be channelled through the kind of filtering represented by political parties.⁷⁷ According to Sartori, referendums are a zero-sum mechanism of decision-making in which a majority rules the system to the exclusion of the minority.⁷⁸ It is also argued that “direct democracy attacks fundamental processes of representative democracy by constraining the freedom of manoeuvre and autonomy of political elites.”⁷⁹ The key issue regarding referendums is who determines the agenda; in practice, actual decisions still remain with political parties as to whether an issue will be addressed through a referendum or not. At this point, IPD again comes into play. Party

⁷⁴ Jo Saglie and Knut Heider ‘Democracy within Norwegian Political Parties: Complacency or Pressure for Change’ [2004] 10 Party Politics 385, 386.

⁷⁵ Scarrow (n 46), 278, referring to von Arnim, Hans Herbert (1993) ‘Hat die Demokratie noch Zukunft?’ Frankfurter Allgemeine Zeitung, 27 November.

⁷⁶ Andreas Ladner and Michael Brändle ‘Does Direct Democracy Matter for Political Parties?’ [1999] 5 Party Politics 283, 287.

⁷⁷ Ware (n 73) 7.

⁷⁸ Giovanni Sartori *The Theory of Democracy Revisited* (Chattam House 1987) 115.

⁷⁹ Shaun Bowler and Todd Donovan ‘Direct Democracy and Political Parties in America’ [2006] 12 Party Politics 649, 650.

members, in the context of a meaningful decision-making process, can affect the parties' stands on referendums.

I believe that, while representative democracy is necessary at a state level together with some complementary solutions such as referendums, the case is different when it comes to party administration. Various practical difficulties that exist at the state level or in participatory democracies could easily be encountered in party administration. Thus, we should reconsider the need for classic party congress in political parties. As will be shown in the following chapters, Turkish IPD, which is mostly established on the basis of party congresses composed of delegates who represent party members, is not working well. Although there is an election for the selection of delegates, these latter owe their positions to appointment rather than election, and the relationship between the party leader and the delegates is often substantially based on clientelism.

In addition, the shortcomings of political parties, such as the lack of IPD, are all the more shortcomings of representative democracy because they are its only tools. For instance, Dalton and Wattenberg suggest that “the failure of parties might imply the failure of modern [representative] government.”⁸⁰ This study holds that IPD is another supplementary solution for trying to overcome the shortcomings of representative democracy. Indeed, the solutions proposed here to the lack of IPD in the Turkish context are also applicable to the problems with Turkish representative democracy in general. Thus an alternative normative framework for IPD is proposed in upcoming chapters that can help to counter the shortcomings of Turkish representative democracy.

Participatory democracy

In order to establish the importance of party members' participation in intra-party decision making, it is first necessary to clarify what is understood by the term “participatory

⁸⁰ Russell J. Dalton, and Martin P. Wattenberg (eds) *Parties without Partisans: Political Change in Advanced Industrial Democracies* (Oxford University Press 2000).

democracy.” A participatory democracy is a political system in which the citizens directly make the policy decisions. More recently, participatory democracy has been attracting the attention of a growing number of scholars throughout the world as a means to address directly the problems of representative democracy, increasing distrust in political parties, low voter turnouts and civic disengagement. For instance, some modern democracy theorists, such as Benjamin Barber in *Strong Democracy* (1984) and Carole Pateman in *Participation and Democratic Theory* (1970), see “representative democracy” as merely a thin theory of democracy.

Although this literature mostly focuses on the participation of citizens on state level issues, participation in state level democracy via membership in political parties cannot be separated from participatory democracy. Advocates of IPD argue that the active participation of party members in party businesses has not only great benefits to a party in itself but is also necessary for the success of state level democracy.

As mentioned earlier, classical direct democracy as it was practised in Athens is very difficult because of the complexities of the modern world. This is not to suggest that participatory democracy is impossible. Most recent literature that analyses IPD emphasizes the fact that that the most-used instrument for intra-party democratisation is the enhancement of the participation of ordinary party members in policy-making, candidate selection and leadership selection procedures. For this reason, participatory democracy methods within the parties are always attractive to advocates of IPD.⁸¹ According to Seyd, “the plebiscitarian party is likely to be an increasingly common feature of the future.”⁸² Furthermore, participatory decision-making procedures have been seen as an essential feature for political parties in new democracies by

⁸¹ Juan J. Linz ‘Parties in Contemporary Democracies: Problems and Paradoxes’ in (eds) Richard Gunther, José Ramón Montero, and Juan J. Linz *Political Parties: Old Concepts and New Challenges* (Oxford Scholarship Online 2002) 291, 315.

⁸² Patrick Seyd ‘New Parties/New Politics?: A Case Study of the British Labour Party’ [1999] 5 *Party Politics* 383, 402.

democracy promoting organisations.⁸³ In advanced democracies, such as Canada, the UK and Germany, there is a tendency towards a universal membership vote in every field of decision-making.⁸⁴ Young and Cross emphasize that:

In theory, a party that has adopted the plebiscitary model would involve members directly in a broad range of decisions for the party, including election of the leader and determination of party policy and direction. Members would not be aggregated into groups and each member's vote would have equal weight in determining outcomes.⁸⁵

This thesis argues that the lack of internal democracy within the Turkish parties is one of the main threats to the consolidation of Turkish democracy. I believe that equipping party organisations with participatory democracy tools with the help of public law to facilitate democratic means of policy making and selecting party leaders and candidates will make a positive difference in Turkish democracy.

Conclusion

Political parties in Turkey have long prided themselves on being grassroots organisations committed to participatory democracy. However, as will be seen further in this study, this is not true in practice. The democratic ideal is imperfectly realised in existing political parties: central party organisation is remote from the ordinary members, who participate only indirectly and to a limited extent in party decision-making. I believe that the state by way of regulation should facilitate participatory democracy within parties. Thus, the weaknesses of representative democracy can be compensated for by IPD, which would accord a more active role to the party members. As Paul Clarke puts it, democracy is “unfinished

⁸³ Susan Scarrow ‘Political Parties in Modern Democracies’ (22nd ECPR Standing Group Summer School Brussels 10 – 21 September 2012).

⁸⁴ See Lisa Young and William Cross, ‘The Rise of Plebiscitary Democracy in Canadian Political Parties’ [2002] 8 Party Politics 673-99; Susan E. Scarrow, ‘Parties and the Expansion of Direct Democracy: Who Benefits?’ [1999] 5 Party Politics 341–62; Patrick Seyd ‘New Parties/New Politics? A Case Study of the British Labour Party’ [1999] 5 Party Politics 383–405.

⁸⁵ Lisa Young and William Cross, ‘The Rise of Plebiscitary Democracy in Canadian Political Parties’ [2002] 8 Party Politics 673, 678.

business.”⁸⁶ and the search must continue for ways of consolidating the democracy on both the state level and within political parties.

Part 2: Political Parties

Introduction

Having completed a brief view of democracy in order to assist in understanding the broader context of this study, it is now time to explore political parties themselves. While the idea of democracy and democratic government is much older than parties, in contemporary democratic theory, democracy has a fundamentally political meaning that generally refers to party-based representative democracy. Without political parties, a modern democracy is unimaginable. For example, as James Bryce stated, “parties are inevitable. No free large country has been without them. No one has yet shown how governments could get on without political parties.”⁸⁷

From the beginning of the twentieth century, political scholars have insistently claimed that democracy should be based on organisations. Thus Robert Michels declared that “Democracy is inconceivable without organisation.”⁸⁸ These organisations are political parties; thus Schattschneider asserted that “political parties created democracy and modern democracy is unthinkable save in terms of the political parties.”⁸⁹ It is true enough that modern democracy, especially representative democracy, requires a high degree of party organisation. Today, however, in most modern democracies, electoral turnout and party membership have declined, and citizens are increasingly doubtful of political parties.⁹⁰ This decline has not happened

⁸⁶ Paul Barry Clarke *Deep Citizenship* (1996 Pluto Press) 23.

⁸⁷ Viscount James Bryce, *Modern Democracies* (New York: Macmillan, 1921)

< http://files.libertyfund.org/files/2084/Bryce_1427-01_EBk_v6.0.pdf > accessed 21 March 2013, 88.

⁸⁸ Robert Michels *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (The Free Press, 1962) 61.

⁸⁹ Elmer Eric Schattschneider, *Party Government* (Holt, Rinehart and Winston 1942) 1.

⁹⁰ Russell J. Dalton, Susan E. Scarrow, and Bruce E. Cain ‘Advanced Democracies and the New Politics’ [2004] 15 *Journal of Democracy* 124, 124.

equally in each and every country. For example, in a study of public images of political parties, Dalton and Weldon found that

While 80 per cent of Swedes say parties are necessary to make the political system work, only 23 per cent believe that parties care what ordinary people think. Similarly, 80 per cent of the Germans think parties are necessary, but only 18 per cent of the public believe that parties care.⁹¹

Voters and party members have a growing dissatisfaction with political parties; they believe that parties have been failing to fulfil their core functions, that the parties do not care what they think and that the parties are not sufficiently responsive to public interests.⁹² Dalton and Farrell claim that parties are imperfect institutions, and that the contemporary public is increasingly aware of these imperfections.⁹³ Larry Diamond and Richard Gunther voice similar concerns where they claim “no single institution is held in greater disrepute than the political party.”⁹⁴

Political corruption is one reason for citizens’ increasing distrust of political parties. In an international survey sponsored by Transparency International, it was revealed that, in 17 of the 20 Western democracies, political parties were rated as the institution most affected by corruption.⁹⁵ As Downs stated, “Each political party is a team of men who seek office solely in order to enjoy the income, prestige and power that go with running the governing apparatus.”⁹⁶ Similarly, Peter Burnell claims that, in both mature and emerging democracies, political parties are often held in low esteem because people think that politicians are pursuing their own

⁹¹ Russell J. Dalton, and Steven A. Weldon. ‘Public images of political parties: A necessary evil?’ [2005] 28 *West European Politics* 931, 933-934.

⁹² *ibid* 947.

⁹³ Russell J. Dalton and David M. Farrell *Political Parties and Democratic Linkage: How Parties Organize Democracy* (Oxford University Press 2011) x.

⁹⁴ Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The Johns Hopkins University Press, 2001) ix.

⁹⁵ Dalton and Weldon (n 91) 931, 936.

⁹⁶ Anthony Downs ‘An Economic Theory of Political Action in Democracy’ [1957] 65 *The Journal of Political Economy* 135, 137.

interests rather than those of the people that they seek to represent.⁹⁷ For instance, in Turkey, recent years have witnessed a series of cases of political corruption which have resulted in increasing criticism of the political parties. Although political parties have been falling out of favour with voters and party membership has been declining over time, they are still the only vehicles for deciding the rulers of government.⁹⁸

Another problem with political parties is the dissatisfaction of party members that they do not have sufficient opportunities to take part in internal decision-making procedures.⁹⁹ This study holds that IPD helps party members' participation in the internal decision-making process in a meaningful way and therefore improves the legitimacy of parties and the trust in them. The next part of the study presents the basic concepts of parties, what they are, how they emerged and the functions that they perform.

Definition and roles of a political party

Etymologically, the word “party” comes from Old French *partie*, which means “side,” “part,” “portion,” “share,” “separation,” or “division.” In a political sense, the term gained its current meaning first in early eighteenth centuries.¹⁰⁰ Edmund Burke in the eighteenth century defined a political party as “a body of men united for promoting the national interest upon some particular principle upon which they are agreed.”¹⁰¹

It is obvious that Burke's definition of a “party” bears little resemblance to the modern meaning but rather reflects eighteenth-century English ideas. The main difference is that parties in the modern era are neither only pursuing the “national interest” nor composed only of men. Giovanni Sartori in the twentieth century defined parties as “any political group identified by

⁹⁷ Peter Burnell ‘Building Better Democracies: Why Political Parties Matter’ (Westminster Foundation for Democracy 2004) 1.

⁹⁸ Ingrid Van Biezen, Peter Mair and Thomas Poguntke ‘Going, going, . . . gone? The Decline of Party Membership in Contemporary Europe’, [2012] 51 *European Journal of Political Research* 24–56.

⁹⁹ William P. Cross and Richard S. Katz *The Challenges of Intra-Party Democracy* (Oxford University Press, 2013) 7.

¹⁰⁰ Online Etymology Dictionary < www.etymonline.com/index.php?search=party >.accessed 11 October 2012.

¹⁰¹ Henry Steele Commager ‘American Political Parties’ [1949] *Parliamentary Affairs* 214, 214.

an official label that presents at elections, and is capable of placing through elections (free or non-free) candidates for public office.”¹⁰² More recently, in the European Commission report, a political party is defined as “a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections.”¹⁰³ Definitions naturally have varied widely over time and from country to country and scholar to scholar, and each definition reflects a unique historical development, socioeconomic, cultural context and political background.

Among these different definitions, three themes remain constant. First, political parties are organised bodies; second, they present candidates for elections; and third, they aim at capturing or gaining control of the government through elections. According to V.O. Key, the last two distinguish political parties from interest groups. For Key, interest groups promote their interest by attempting to influence the government rather than by nominating candidates and seeking the responsibility for the management of government.¹⁰⁴

However, some features of political parties are controversial in practice. For instance, Muller and Ulrech claim that “in order to live up to the standard political science definition, political parties need to run in elections.”¹⁰⁵ Although elections are seen as the core activity of political parties, many parties register legally that however never stand for elections or have no realistic chance of winning elections. For instance, while there are about seventy legitimate political parties existing in Turkey today, generally only about twenty of them compete in elections, and most of these have almost no hope of winning elections or any seat in Parliament.

¹⁰² Sartori (n 18) 56.

¹⁰³ Venice Commission ‘Guidelines on Political Party Legislation’ (Strasbourg, 31 August 2010 CDL 2010) 073.)

¹⁰⁴ Vladimir O. Key *Politics, Parties and Pressure Groups* (New York, Thomas Y. Crowell Company, 1964) 18.

¹⁰⁵ Wolfgang C. Müller and Ulrich Sieberer ‘Party Law’ in Richard S. Katz and William Crotty (eds) *Handbook of Party Politics* (SAGE 2006) 440.

However defined, in practice, political parties perform highly important functions that no other organisation could.¹⁰⁶ In order to find out what makes a political party special, more needs to be known about the functions of political parties in modern times generally. The essential roles of political parties are increasingly recognised by such supranational organisations as the Council of Europe, the European Union and the European Court of Human Rights and by national constitutions and their courts around the world. The ECHR states that political parties are a form of association essential to the proper functioning of democracy.¹⁰⁷ In 1961, Turkish Constitution Article 56 was drafted, which stated that “Whether in power or in opposition political parties are indispensable entities of democratic political life.”¹⁰⁸

Political parties are the only means for enabling voters to choose their rulers in nearly every democratic country. Moreover, political parties are one of the main channels for accountable and responsive governments. With the help of periodic elections, political parties know that they have to face the voters from time to time and thus be accountable for their failures.¹⁰⁹ Most scholars also pay special attention to the crucial role of parties. Political parties can ensure that the voice of citizens is heard by government.¹¹⁰ LaPalombara and Weiner claim that “Whether in a free society or under a totalitarian regime, the organisation called the party is expected to organise public opinion and to communicate demands to the center of governmental power and decision.”¹¹¹ According to Sartori, “they are an instrument, or an agency, for representing the people by expressing their demands.”¹¹²

¹⁰⁶ Crotty (n 59) 25.

¹⁰⁷ For Instance *The United Communist Party of Turkey and Others v. Turkey* 19392/92 (ECtHR 30 January 1998).

¹⁰⁸ The 1961 Turkish Constitution (Sadık Balkan, Ahmet E. Uysal, Kemal H. Karpat trans.) <www.anayasa.gen.tr/1961constitution-text.pdf> accessed 12 January 2013.

¹⁰⁹ Gideon Rahat ‘What Is Democratic Candidate Selection?’ in William P. Cross and Richard S. Katz (eds) *The Challenges of Intra-Party Democracy* (Oxford University Press, 2013) 143.

¹¹⁰ Philip Norton ‘National Parliaments and the European Union’ [2003] 45 *Managerial Law* 5-25.

¹¹¹ LaPalombara and Weiner (n 30) 3.

¹¹² Sartori (n 18) 24.

Bartolini and Mair suggest five functions of political parties: the integration and mobilisation of citizens; the articulation and aggregation of interests; the formulation of public policy; the recruitment of political leaders; and the organisation of parliament and government.¹¹³ Gunther and Diamond identify seven functions for parties more or less similar to Bartolini and Mair's suggestions, adding recruiting and nominating candidates for elective offices and representing different social groups; they also argue that political parties recently have performed a more limited set of functions, focused principally around elections.¹¹⁴ Schmitter wryly explains the roles of parties as follows: "If one is to believe the literature, there seems to be almost nothing that political parties have not done, at one time or another."¹¹⁵ Yet in many countries, parties do not play all of these possible roles, nor perform completely all of the functions that they do take on.¹¹⁶

There are three main functions that this study will focus on: the selection of candidates for elections, the recruitment of political leaders and policy-making or laying down a party programme for government. As the analysis progresses, the essence of these functions will be discussed from the IPD view.

Emergence and development of parties

Before delving into the analysis, a brief historical background of political parties will be useful. It is undisputable that the emergence of political parties was closely related to the development of democracy. To begin with, the emergence in Western democracies has taken place step by step, and this form of government was not welcome at the beginning. The reason for referring to "Western democracies" is that most political scholars view Western Europe and the United States as the "heartlands" of political parties.

¹¹³ Stefano Bartolini and Peter Mair 'Challenges to Contemporary Political Parties' in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (Johns Hopkins University Press, 2001).

¹¹⁴ Diamond and Gunther (n 94) xv-xvi.

¹¹⁵ Philippe C. Schmitter 'Parties Are Not What They Once Were' in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (Johns Hopkins University Press, 2001) 67, 72.

¹¹⁶ Giovanni Sartori 'Party Types, Organisation and Functions' [2005] 28 *West European Politics* 5, 21.

There are different theoretical approaches that can be identified in political science literature to the emergence of political parties, but it is mostly explained as the result of such factors as the establishment of national Parliaments and responsible governments, the extension of the franchise and the rise of urbanisation and industrialisation.¹¹⁷

Thus, for instance, Daalder claims that the modern political party can be described as a product of the Industrial Revolution.¹¹⁸ LaPalombara and Weiner observe that parties emerge when the activities of a political system reach a degree of complexity that requires new political developments.¹¹⁹ They also believe that parties often grow out of a crisis situation.¹²⁰ Several reasons are given for the emergence of parties, and there is a disagreement among scholars over the date when parties first appear. Rather than giving an exact date, John Hoadley analysed parties that were established within the Parliaments and proposed four stages namely; *factionalism*, *polarisation*, *expansion* and *institutionalisation*, to describe development of parties.¹²¹

In the first phase, groups of so called “factions” formed in the parliaments that represented similar positions on a variety of issues and personalities. These factions were not organised permanently, and lasted only until the issues were settled. In the second phase, “polarisation,” these factions began to stabilise into more permanent legislative groups, and also began to oppose each other on a broad variety of issues. However, these groups could no longer secure legitimacy without the support of the masses. Thus, in the third phase, after the extension of suffrage, these groups inside the parliament sought to gain the support of the masses and started to extend their ideologies outside the parliament. This stage can also be seen as the beginning of the development of parties outside of parliament. In the final stage; they

¹¹⁷ Daalder (n 8) 42.

¹¹⁸ *ibid* 52.

¹¹⁹ LaPalombara and Weiner (n 30) 3-4.

¹²⁰ *ibid* 21.

¹²¹ John F. Hoadley ‘The Emergence of Political Parties in Congress, 1789-1803’ [1980] 74 *The American Political Science Review* 757, 758-759.

needed a permanent linkage between their groups in the parliament and their electoral committees.¹²² Thus, they created organisations outside the parliament in order to direct and coordinate the party activities. Duverger suggested similar ideas to those of Hoadley for the origins of parties. He explained this situation as follows:

The more political assemblies see their functions and independence grow, the more their members feel the need to group themselves according to what they have in common, so as to act in concert. The more the right to vote is extended and multiplied, the more necessary it becomes to organize the electors by means of committees capable of making the candidates known and of canalizing the votes in their direction. The rise of parties is thus bound up with the rise of parliamentary groups and electoral committees.¹²³

Similarly, Scarrow claims that the emergence of parties was linked to the two interrelated developments: the transfer of political power to legislatures, and the expansion of the electorate.¹²⁴ As universal suffrage became the rule throughout the Western democracies, political parties evolved into highly organised mass establishments.

As mentioned above, before political parties, precursor organisations, or “factions,” emerged in the United States in the 1780s, and in Britain in the opposition of Tories and Whigs.¹²⁵ In the United States, there were the two political groupings, Federalists and Anti-Federalists, that had divergent views on the ratification of the Constitution, distribution of power and the rights of citizens. While the Federalists assumed that the federal government possessed some implied powers that were not laid out in the Constitution, the Anti-Federalists claimed that government did not have power to do anything that was not specified in the

¹²² *ibid* 758-759.

¹²³ Duverger (n 32) xxiv.

¹²⁴ Scarrow (n 44) 17.

¹²⁵ Carles Boix ‘The Emergence of Parties and Party System’ in Carles Boix and Susan C. Stokes (eds) *The Oxford Handbook of Comparative Politics* (Oxford University Press 2007) 500.

document. At this first stage of party emergence, there was no strong distinction between party and faction.¹²⁶

LaPalombara and Weiner claim that cliques, clubs and small groups of notables that can be identified as the antecedents of the modern political party date back to the early seventeenth century.¹²⁷ However, Sartori points out that factions, secret societies, sects, aristocratic cliques, political clubs and coalitions of notables should be differentiated from parties by speaking of “pre-party” groups.¹²⁸ Sartori distinguishes the concept of “faction” from that of “party”. As far back as 1881, Bolingbroke used these terms separately when he stated that a “party is a political evil, and faction is the worst of all parties.”¹²⁹ For Sartori, there is a slow and tortuous transition from faction to party-both in the domain of ideas and in fact.¹³⁰ He summarises the transition from faction to party as a “transition from intolerance to toleration, from toleration to dissent, and with dissent, to believing in diversity.”¹³¹ However, only a small group of scholars distinguished “parties” from “factions”; scholars and statesmen of the time tended to use “faction” as a synonym for “party.”

For Duverger, in 1850, no country except the United States knew political parties in the modern sense of the word.¹³² Like Duverger, Sartori claims that the first modern party materialised in the United States under the leadership of Thomas Jefferson from the 1790s to the 1820s with the Democratic-Republican Party.¹³³ Another view is that the modern political parties were born in the late 1820s and early 1830s in Jacksonian America.¹³⁴ From a British perspective, McKenzie claimed that “at the end of the third decade of the nineteenth century it

¹²⁶ Hoadley (n 121) 757, 758.

¹²⁷ LaPalombara and Weiner (n 30) 5.

¹²⁸ Sartori (n 18) 11.

¹²⁹ Henry St John Bolingbroke ‘The Idea of a Patriot King’ in *Letters on the Study and Use of History* (London ward, Lock and Co, 1881) 219.

¹³⁰ Sartori (n 18) 3.

¹³¹ *ibid* 12.

¹³² Duverger (n 32) xxiii.

¹³³ Sartori (n 18) 11.

¹³⁴ Boix(n 125) 500.

was still almost impossible to identify within Parliament or outside it anything that resembles the modern party system.”¹³⁵ On the other hand, Sartori argues that, during the eighteenth century, the English were practising party government, but this was not in the modern sense; rather, this was only a responsible government, which means the responsibility of ministers to Parliament.¹³⁶

When the parties first arose, American statesmen were suspicious of them. They did not see “factions” or “parties” as a necessary element of government, but rather thought that parties divide people and undermine and endanger constitutional government.¹³⁷ For them, it was necessary to devise the system of checks and balances contained in the Constitution in order to “break and control violence of faction.”¹³⁸ As Hofstadter has observed, “the creators of the first American party system on both sides, Federalist and Republicans, were men who looked upon parties as sores on the body politics.” Thus even Jefferson, one of the founders of the first modern political party, did not use party terminology.¹³⁹ While these early organisations did not regard themselves as parties in the modern sense, they were acting in the political arena in a manner very similar to that of contemporary parties.¹⁴⁰ However, throughout the nineteenth century, American statesmen moderated their views on political parties. This was not only the case in the United States but also in Europe. Regarding political parties, President Martin Van Buren stated:

Political parties are inseparable from free governments and are highly useful to the country. . . Doubtless excesses frequently attend them and produce many evils, but not so many as are prevented by the maintenance of the organization and vigilance. The

¹³⁵ Robert Trelford McKenzie *British Political Parties: The Distribution of Power within the Conservative and Labour Parties* (Heinemann 1963) 1.

¹³⁶ Sartori (n 18) 17.

¹³⁷ *ibid* 6 refers to Bolingbroke's ideas.

¹³⁸ James Madison, *Federalist*, Number 10 (1787) < <http://legal-dictionary.thefreedictionary.com/Federalist,+Number+10> > accessed 12 January 2013.

¹³⁹ Richard Hofstadter *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780-1840* (University of California Press 1969) 2.

¹⁴⁰ Crotty (n 59) 27.

disposition to abuse power, so deeply planted in the human heart, can by no other means be more effectually checked; and it has always therefore struck me as more honorable and manly . . . to recognize their necessity, to give them the credit they deserve.¹⁴¹

Thus, the emergence, evolution and development of political parties are best understood within the context of the social and historical background of a given country.

Part 3: Development of Democracy and Political Parties in Turkey

Introduction

Democracy, as experienced in Turkey today, is widely perceived as a party-based electoral democracy, which can be characterised as an electoral competition between parties with leader-centred politics. Politics are leader-centred when voters typically choose party leaders rather than party programmes or a party's candidates. In Schumpeter's words, it simply means that the people have the opportunity of accepting or refusing the men who are to rule them.¹⁴²

Many factors, both foreign and domestic, have assisted in consolidating democracy in Turkey, such as the country's membership in the Council of Europe and the European Court of Human Rights and its bid for membership in the European Union. However, political parties still remain the major obstacle to democratic consolidation. Ergun Özbudun, a prominent Turkish constitutional lawyer, has described Turkish democracy as a second-wave democracy similar to those in Latin American, the characteristics of which include a highly personal style of leadership, weak political institutions and a lack of horizontal accountability.¹⁴³ The state apparatuses – namely, the military with frequent *coups d'état*, and the Judiciary with the dissolution of political parties by the Constitutional Court – have obstructed the development of powerful and enduring parties in Turkey. Moreover, from 1961 to 2002, Turkey's civil

¹⁴¹ Martin Van Buren < www.ourwhitehouse.org/prespgs/mvanburen.html > accessed 13 January 2013.

¹⁴² Joseph Schumpeter *Capitalism, Socialism, and Democracy* (Routhledge 2003) 284-285.

¹⁴³ Ergun Özbudun *Contemporary Turkish Politics: Challenges to Democratic Consolidation* (Lynne Rienner Publishers, 2000).

government primarily consisted of coalitions, which can be seen as a source of political instability. Additionally, misuse of public resources for party and personal enrichment is widely acknowledged as a reality within Turkey.

Historical developments, traditions, class struggles, conflicts among social groups and other circumstances unique to each country play a role in shaping the party system of that state.¹⁴⁴ To explain the current situation of legal regulation and IPD within Turkey, and to propose reforms for it, not only is a legal and political analysis of political parties required, but also a historical analysis of the context within which political parties emerged and how they developed. Therefore, before analysing Turkish party law and IPD, a short summary of Turkish political history will serve to deepen understanding of some core features of Turkish political parties and shed light on the IPD debates which will be examined in the following chapters. Although current political parties in Turkey – with the exception of the Republican People’s Party (RPP) – are only several decades old and are thus relatively young compared with political parties in mature Western democracies, Turkey has had a long history with parliamentary participation and political parties.

It is important to note that there has been some disagreement regarding the origins of the Turkish party system. Some date the development of Turkish political parties to the late Ottoman Empire, while others trace it to the foundation of the Turkish Republic. In the transition from Ottoman Empire to Republic, political life in Turkey experienced a radical transformation, and there is an on-going debate among scholars as to whether political culture simply continued or changed qualitatively in the Republic period. Although there were some monumental transitions concerning the constitution of the state, such as from monarchy to republic, or from Sharia law to secularism, the founding fathers of the Republic belonged to cadres who were raised in a period of constitutional monarchy. As a result, most of their ideas

¹⁴⁴ Maurice Duverger *The Study of Politics* (Thomas Y. Crowell Company, 1972) 77.

were inherited from the late Ottoman times, so it will be useful to look at the Ottoman period first.

The Ottoman period

The introduction of several reforms by Ottoman Sultan Abdulmecid in 1839 represents a point of departure for the development of democracy in Turkey. The edicts of Tanzimat in 1839 and Islahat in 1856 granted the Ottoman state a charter of personal liberties for its citizens. This charter was equivalent to the Magna Carta of England and similarly provided judicial guarantees for minorities.¹⁴⁵

Three years after the announcement of Islahat in 1856, a secret organisation, allegedly called the “Society of Self-Sacrifice,” was founded and was accepted as the first political organisation in Turkish political history. This society was established by religious scholars as a reaction to the Westernisation policies of Sultan Abdulmecid. Their aim was to unseat the Sultan in a coup, since they felt that the acceptance of equal citizenship between Muslims and non-Muslims would lead to unacceptable discrimination in favour of the latter. Then in 1865 a group of young bureaucrats along with some members of the army formed another secret organisation called the “Young Ottomans.” Its purpose was to be a defender of the principles of Tanzimat and Westernisation. For Payaslıoğlu, it is not the Society of Self-Sacrifice but rather the Young Ottomans that represents the first political organisation. The latter group was established by 250 members as a secret political organisation with the aim of bringing about a constitutional monarchy.¹⁴⁶ For Payaslıoğlu, this movement played an important role in Ottoman political history for three reasons: first, it was the original political organisation; second,, it was the first group that intended to incite a dramatic change within civic institutions throughout the Empire; and lastly,, the Young Ottomans pointed towards the future in their

¹⁴⁵ Selçuk Akşin Somel ‘Osmanlı Reform Çağında Osmanlıcılık Düşüncesi (1839-1913)’ in M. O. Alkan (eds) *Modern Türkiye’de Siyasi Düşünce I: Tanzimat ve Mesrutiyet’in Birikimi* (İletişim 2001) 88-116.

¹⁴⁶ Arif Payaslıoğlu ‘Political Leadership and Political Parties’ in Robert E. Ward and Dankwart A. Rustow (eds) *Political Modernization in Japan and Turkey* (Princeton University Press 1964) 411, 414.

belief that Western ethics and politics should be embraced in order to respond to European dominance.¹⁴⁷

As a result of these reforms and the efforts of the Young Ottomans in 1876, the first Ottoman constitution (*Kanun-i Esasi*) was announced. Although promulgation of *Kanun-i Esasi* was more the Sultan's condescension than a social contract, it can be regarded as a milestone in the transition to a democracy inclusive of a legislative assembly – one which was at least partly elected by the people. Some Islamic scholars were opposed to the ideas of democracy, liberty and equality. Midhat Pasha, who was the founder of the Constitution, used a Qur'anic surah to show that democracy and Islam are compatible. For example, he spoke of al-Shûrâ [42]:38, which states, “Better and more enduring is God's reward to those who...conduct their affairs by mutual consent.”

The Parliament, or “General Assembly,” was established as a bicameral system with a Senate and Chamber of Deputies. The Senate consisted of 30 male members who were to be appointed by the Sultan for life. The Chamber of Deputies consisted of 120 men who were to be elected by the people through a system of limited suffrage.¹⁴⁸ Although the initial plan was to have popular elections for the Chamber of Deputies, time was limited and the deputies were instead chosen by a handful of electors in each district.¹⁴⁹ The constitution also stated that elections were to be held every four years in order to keep the parliament accountable to the people. Throughout the period of this democratic “experiment,” six parliamentary elections were held in the Ottoman Empire.¹⁵⁰ On February 14, 1878, the first democracy of the Ottomans

¹⁴⁷ *ibid* 414.

¹⁴⁸ Ergun Özbudun *The Constitutional System of Turkey 1876 to the Present* (Palgrave Macmillan 2011) 3. See also Hasan Kayalı ‘Elections and the Electoral Process in the Ottoman Empire, 1876-1919’ [1995] 27 *International Journal of Middle East Studies*, 265, 269. All males above the age twenty-five who paid some direct taxes were entitled to vote indirectly. Eligible voters elected secondary voters, and secondary voters elected MPs.

¹⁴⁹ Timothy R. Furnish ‘Are Islam and Democracy Incompatible? Some Reflections from Ottoman History’ <<http://historynewsnetwork.org/article/27268#sthash.5YmrD1ec.dpuf> > accessed 25 March 2015.

¹⁵⁰ Hasan Kayalı ‘Elections and the Electoral Process in the Ottoman Empire, 1876-1919’ [1995] 27 *International Journal of Middle East Studies*, 265, 265.

came to an end when the Sultan prorogued both Houses of Parliament after a war with Russia broke out.

In July 1908, under pressure and threats from the so-called “Young Turks” – who were officially known as the Committee of Union and Progress (CUP) – Abdulhamid II was forced to restore the Constitution of 1877 and convene Parliament. In November 1908, the CUP secretly decided to organise themselves within the Parliament as a political party. They also jointly defined the terms of “party” and “committee.” When the Committee referred to a “party,” it was understood that this was meant to be the organisation within the Parliament, and when it was referred to as a “committee,” this was understood to be the party on the ground. As a result of the pressure exerted by the Young Turks, the freedoms of assembly and association were incorporated into the Constitution. The subsequent term, which started with the establishment of the second constitution, can also be accepted as the point of emergence for formal political parties. In December of 1908, two political parties ran in the elections for the Chamber of Deputies. The CUP party ended up winning about 60 of the 288 seats in the Chamber of Deputies. Although CUP did not have an absolute majority, it did have the highest number of independent Members of Parliament (MPs). Therefore, since it was the largest party in the Chamber, the whole period between 1908-1918 was dominated by the CUP.

In 1912, the second general election was held. According to Kayalı, the 1912 election was the first true two-party contestation with an empire-wide election campaign.¹⁵¹ Intimidation was the cornerstone of the CUP policy throughout the campaign. In addition to intimidation, many cases of electoral fraud and violence were reported.¹⁵² Due to the highly authoritarian nature of the party, dissent rose within the party, and many left to establish their own parties.¹⁵³

¹⁵¹ Kayalı (n 150) 281.

¹⁵² *ibid* 276.

¹⁵³ Payashoğlu (n 146) 416.

In 1913, one party described the entire association of political parties as consisting of three aspects: a central office (Parliamentary Group), which was similar to what literature had defined as the public office; a central organisation, which consisted of a general council and central committee; and local organisations, which are known in the literature as the party “on the ground.” However, this second constitutional period did not last long and was quickly transformed into a dictatorship by the CUP.¹⁵⁴ Emre Kongar has noted the irony that, despite the democratic promises by the party, and gaining power by promising the end of the absolutism of the Sultan, the CUP quickly turned into an autocracy once it obtained political dominance.¹⁵⁵ The multi-party period in the Ottoman era was only active between 1908 and 1913, after which the CUP governed the country as one party until 1918.

In 1918, the CUP dissolved itself. Parliament remained in effect until the occupation of Istanbul by the Allied forces in 1920. The same year of the CUP’s dissolution, two regional associations were established in the Ottoman State, the Association for the Defence Rights of Anatolia and one in Rumelia the Association for the Defence Rights of Rumelia. In 1919, these two associations merged under the leadership of Mustafa Kemal, from which the first Turkish Party – the RPP – was born.¹⁵⁶

The RPP inherited one particular approach from the CUP, which was to silence the opposition by whatever means available. When the CUP took power from the Sultan, it did not bring a democratic form of government to Turkey, but instead suppressed any form of opposition against itself and implemented restrictions on a range of freedoms.

Republican period

When it comes to the Turkish Republic, there is a difference between the one-party political era and the multi-party era. Turkish political parties emerged from within the non-

¹⁵⁴ Ergun Özbudun *The Constitutional System of Turkey 1876 to the Present* (Palgrave Macmillan 2011) 5.

¹⁵⁵ Emre Kongar, *İmparatorluktan Günümüze Türkiye'nin Toplumsal Yapısı* (Cem Yayınları 1976) 138.

¹⁵⁶ Payashoğlu (n 146) 417.

democratic conditions after World War I. In December 1922, Mustafa Kemal Atatürk declared that his group in the National Assembly would be organised as a national political party.¹⁵⁷ According to Payaslıoğlu, “This organization, first created within the National Assembly during the War of Independence, was initially a parliamentary group designed to assure Kemal a majority in the face of opposition from reactionaries, conservatives and personal rivals.”¹⁵⁸ Atatürk called it a People’s Party upon its official foundation in 1923. His political ideology can be summed up in his own words:

The nation has already suffered much from clashes between political parties. In other lands parties are formed to safeguard class interests. The bitter after-taste which we are experiencing is the direct result of the formation of parties here which emanated from the preconceived idea that we too were divided into classes. In speaking of the People’s Party we must understand a party embracing the whole nation . . . the interests of all, whatever their professions and trades, combine in one perfect harmony and it is impossible to establish class distinctions among the citizens, since all come from the people.¹⁵⁹

For the most part, Atatürk established the party with the aim of national unity. In 1924, the party’s name was changed to the RPP. At that time, the party was a state party, and Atatürk was the leader of both the Party and the Turkish Republic. This meant that one party, the RPP, controlled all of the administration, elections, candidates, newspapers and even the courts.¹⁶⁰ Further, in 1923, party inspection units were established and incorporated into party constitutions. These party inspectors were tasked with controlling local parties to ensure their loyalty to the central party.¹⁶¹ Weiner and Lapalombara claimed that “some one-party

¹⁵⁷ Sarah P. McCally ‘Party Government in Turkey’ [1956] 18 *The Journal of Politics* 297, 304.

¹⁵⁸ Payaslıoğlu (n 146) 418.

¹⁵⁹ McCally (n 157) 305, referring to ‘The (London) Times, Turkish Number,’ (August 9, 1938, p. v.)

¹⁶⁰ *Ibid.* 298.

¹⁶¹ Murat Yanık ‘Parti İçi Demokrasi’ (PhD Thesis Istanbul University 2002) 124.

governments may use the party as an instrument of political recruitment as well as a device for the management of the public.”¹⁶² Atatürk’s party would appear to fit this definition very well. In a similar vein, Frederick Frey stated that “the party was commonly considered to be, and to a considerable extent actually was, a vital instrument of social control, wielded by the party leader and his chief lieutenants.”¹⁶³ For instance, on June 18, 1936, Prime Minister and Vice Leader of the RPP İsmet İnönü (Atatürk was President and Party leader) sent a circular to the all-state organs and the RPP organisation which, in essence, stated:

In order to provide harmony between government and party organisation, after this date Interior Minister was appointed as Party General Secretariat, provincial party leaders appointed as provincial governors, inspectors who are working for government will also work as party inspectors.¹⁶⁴

Frey defined Turkey’s situation as an ultimate amalgamation of party and government in which the leading officials of party organisations and the government are the same people.¹⁶⁵ Furthermore, during those times, being a People’s Party member had a declarative-symbolic nature, and appointment of public jobs became dependent upon party loyalty.¹⁶⁶

At the 1927 Party Convention, Atatürk was made the permanent leader of the Party.¹⁶⁷ According to McCally, since he appointed and controlled both the Vice President and the General Secretary – who, together, make up the Presidential Council – Atatürk’s decisions were binding on all Party members. Additionally, both the electoral candidates and their twelve associated Party inspectors were chosen by the Council.¹⁶⁸ With the permission of Atatürk, two

¹⁶² Myron Weiner and Joseph LaPalombara ‘The Impact of Parties on Political Development’ in Joseph LaPalombara and Myron Weiner (eds) *Political Parties and Political Development* (Princeton University Press 1966) 399, 403.

¹⁶³ Frederick Frey *The Turkish Political Elite* (The M.I.T Press 1965) 304.

¹⁶⁴ Cemil Koçak ‘Siyasal Tarih (1923-1950)’, in (eds) Sina Akşin, *Türkiye Tarihi 4- Çağdaş Türkiye 1908-1980*, (Cem Yayinevi, 2000 7th edn) 156-157.

¹⁶⁵ Frey (n 163) 302.

¹⁶⁶ Ahmet Emin Yalman ‘The Struggle for Multi-party Government in Turkey’ [1947] 1 *Middle East Journal* 46, 48.

¹⁶⁷ Payashoğlu (n 146) 421.

¹⁶⁸ McCally (n 157)306.

other parties were founded in opposition to the People's Party in an effort to establish a democratic system. According to Gülek, while the formation of political parties was not forbidden, it took courage to oppose Atatürk.¹⁶⁹ For while Atatürk permitted, and even encouraged, the foundation of an opposition party, he did so very carefully, keeping the opposition party within his prescribed limits so that it hardly amounted to a democratic opposition. Instead, it can be called a "controlled opposition." The main reason for not introducing this main democratic principle was that the country was steeped in autocratic and theocratic Ottoman traditions; thus, if free opposition were permitted, the result might have been social conflict.

Although Atatürk wanted to be seen as a democratic leader, he decided to make fundamental changes in the social and political life of Turkey first before permitting opposition parties. Frey described Atatürk's revolution strategy as top-down rather than bottom-up: he saw political parties as a "mechanism for social control from above." According to Frey, traditional Kemalists saw the party's duty not as being a policy centre, but rather a nominal implementer of policy, throughout this specifically "single-party" system.¹⁷⁰

The first opposition party was the Republican Progressive Party, which was dissolved after a revolt of Kurdish tribes in the eastern provinces in 1925. Again in 1930, Atatürk considered the creation of a second party as an opposition. The Free Republican Party was founded by Fethi Okyar, a former prime minister, with the approval of Atatürk, to serve as the loyal opposition. The Free Party was later also dissolved by the regime on the grounds that the Turkish people were not ready to govern themselves.¹⁷¹ However, Acemoğlu and Robinson explain the real reason: "Two previous half-hearted experiments with controlled multi-party democracy were cut short by Mustafa Kemal Atatürk, when the loyal opposition turned out to

¹⁶⁹ Kasim Gülek, 'Democracy Takes Root in Turkey' [1951] 30 *Foreign Affairs* 136, 137.

¹⁷⁰ Frey (n 163) 303-304.

¹⁷¹ Yalman (n 166) 49.

attract much more support than could be tolerated.¹⁷² Similarly, Halide Edip claimed that not only were the majority of voters in favour of the Progressive Party, but most of the members of the People's Party promised to join it as well.¹⁷³

It is difficult to speak of both state level democracy and IPD when referring to the Atatürk era. For instance, in 1948, Walter Livingstone described Atatürk and the People's Party thusly:

As a head of the People's Party he selected personally every one of its candidates for the Assembly; as President of the Republic he appointed the officials who operated the governmental machinery in a way to make sure that the Party's candidates would be elected; and the Assembly repeatedly re-elected him to the presidency.¹⁷⁴

After his death in 1938, Atatürk was declared the "eternal leader," and İnönü, his successor, was declared the "National unchangeable leader" of the Party.¹⁷⁵ Until the 1950s, the RPP governed without regular elections for the leadership position. It is therefore difficult to speak of competitive politics in Turkey prior to 1946, since until then the RPP had enjoyed a monopoly, and the government did not allow a rival party to be formed and govern the country as a state party.

However, in 1946, a change was made, and the government allowed the establishment of opposition parties after succumbing to internal pressure for competitive politics. Hofmeister and Grabow insightfully observe that the existence of one party in pre-democratic times has provoked the emergence of at least one other party.¹⁷⁶ Since all the members of the Assembly belonged to the same party – the RPP – in 1946 the Democrat Party (DP) was established inside

¹⁷² Daron Acemoğlu and James A. Robinson 'Reviewing Turkish Political System' <<http://thepeninsulaqatar.com/political-views/248115-reviewing-turkish-political-system.html>> accessed 08 August 2013.

¹⁷³ Halide Edib *Turkey Faces West: A Turkish View of Recent Changes and Their Origin* (Yale University Press, 1930) 220.

¹⁷⁴ Walter Livingston Wright 'Truths about Turkey' [1947] 26 *Foreign Affairs* 349, 352.

¹⁷⁵ Payashoğlu (n 146) 421.

¹⁷⁶ Wilhelm Hofmeister and Karsten Grabow 'Political Parties Functions and Organisation in Democratic Societies' (Konrad Adenauer Stiftung, 2011) 18.

the Parliament by four members of the RPP. Three of the members had been dismissed from the RPP and one had been forced to resign because of opposition to many of the party's policies. Since the demands of these four deputies were not taken into consideration and they were dismissed from the main party, establishing an opposition party seemed the only way to express their differing views.¹⁷⁷ This is a common feature of the Turkish political system. Due to the lack of IPD, rebellions are often initiated within parties by whoever is unhappy with party policies, and the rebels usually attempt to establish a new, opposing party. According to İlder Turan, intolerance and impatience against intra-party opposition within Turkish political parties today have been inherited from the single-party period. For him, the real reason behind the birth of a new party is the vehement opposition to the new ideas within the party.¹⁷⁸ Turan argues that,

The insufficiencies of intra-party democracy and difficulties associated with leadership change, on the other hand, weaken parties. One typical outcome of the absence of intra-party democracy in the past fragmentation of parties. Groups who have failed to make their voice heard or their demands be given consideration, as well as those aspiring to party leadership, have left their party to establish others, a phenomenon which was frequent from 1970-2000, and contributed in a major way to the destabilization of political life.¹⁷⁹

With the help of this opposition, İnönü started to reform the Party. He changed his position from “permanent leader” of the RPP to leader of the RPP with a four-year elected position.¹⁸⁰ The roles of political parties in Turkey increased under the multi-party system after

¹⁷⁷ Kemal H. Karpat *Turkey's Politics: The Transition to a Multi-Party System* (Princeton University Press, 1959) 410.

¹⁷⁸ İlder Turan, ‘Türkiye’de Siyasal Kültürün Oluşumu’, *Türkiye’de Politik Değişim ve Modernleşme* (Alfa Yayınları, 2000) 359.

¹⁷⁹ İlder Turan, ‘Turkey’s Difficult Journey to Democracy: Two Steps Forward, One Step Back’ (Oxford University Press 2015) 201.

¹⁸⁰ John M. Vanderlippe *The Politics of Turkish Democracy: İsmet İnönü and the Formation of the Multi-Party System 1938-1950* (State University of Newyork Press 2005) 141.

this transition. In the 1946 elections, the DP gained a number of members in Parliament, and formed quite an effective opposition. However, it is widely accepted that this election was not free and fair, since the government used a secret counting system and, at the end of counting, the ballot papers were burned.¹⁸¹

Nevertheless, with the victory of the DP, Turkey had transformed into a multi-party electoral democracy, even if intra-party autocracy still went on within the DP. Although the DP crafted a very democratic party constitution and held its first party congress in a democratic way, it morphed into an oligarchy within a short amount of time. Between the first and second party congresses, some MPs were dismissed from the party because of their intra-party opposition, and three new parties were established by the dismissed MPs.¹⁸² According to Ödül Celep,

The institutional structure the DP inherited from the [RPP] back in the 1950s was still authoritarian. In fact, the DP's White Revolution erased the one-man regime of [the RPP] with İsmet İnönü and brought a new one-man regime of the DP this time with Adnan Menderes as the DP's prime minister.¹⁸³

The party system in Turkey

Turkish political parties might be expected to fall into the mass political party model. However, most scholars suggest that they are essentially hybrid parties, containing elements of mass, catch all, cartel and elite cadre parties. For instance, while the TPPL seems to have a mass membership, it also resembles elite cadre parties in which power is reserved for a small party elite or even just the leader. In addition, there is a large number of parties, and the main reason for this is the lack of IPD. Most of the small parties are established as a result of intra-party

¹⁸¹ Tarhan Erdem *Anayasalar ve Seçim Kanunları (1876-1982)* (Celtüt Matbaası 1982) 184-192.

¹⁸² Cem Eroğul *Çağdaş Devlet Düzenleri* (İmaj Yayınevi 1996) 35.

¹⁸³ Ödül Celep 'Intra-party Autocracy of Turkey's Party System' < <http://dspace.epoka.edu.al/handle/1/1000> > accessed 18 May 2015.

conflict: important figures are dismissed from parties easily, and they try their hands at establishing new party.

The Turkish party system has changed too much and too often since the beginning of the Turkish Republic. Every decade or so in Turkey has witnessed a different party system, from a single-party system to a two-party system, from a moderate multi-party system to an extreme multi-party and dominant multi-party system. The main reason for this has been the mechanical effect of the electoral laws. As Duverger saw, the electoral system of each country largely shapes the country's party system.¹⁸⁴ For him, the numbers of parties are mostly dependent on "mechanical: factors that are a function of electoral law. He also noted certain "psychological" effects of the electoral law, such as voters' realisation that they waste their votes if they vote for a small party, that are important for the number of parties.¹⁸⁵ In this regard, the 10 per cent vote threshold in particular has had a very strong mechanical effect on the system and psychological effect on Turkish voters. Pippa Norris, in her recent study examining more than thirty countries, confirms that Duverger's main proposition is valid for most of them.¹⁸⁶

While the Turkish party system hardly conforms any existing party paradigms, in the most recent decade it has resembled a multi-party system with a dominant party in Jean Blondel's definition, where one party obtains about 40 per cent of the vote, which represents about twice as many votes as the second-place party.¹⁸⁷ Certain conditions have to be met for a system to merit description as a "dominant party system": a plurality of legislative seats in parliamentary systems, longevity of the government, winning three or four consecutive elections¹⁸⁸ and weak opposition parties.¹⁸⁹ It has been said that in dominant party systems the

¹⁸⁴ Duverger (n 144) 77.

¹⁸⁵ Duverger (n 32) 256.

¹⁸⁶ Pippa Norris *Electoral Engineering* (Cambridge University Press 2004) 96.

¹⁸⁷ Jean Blondel 'Party Systems and Patterns of Government in Western Democracies' [1968] 1 *Canadian Journal of Political Science* 180, 186.

¹⁸⁸ For Sartorim winning three elections is enough; Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (Cambridge University Press 1976). For Greene, this term is four years; Kenneth F Greene 'The Political Economy of Authoritarian Single-Party Dominance', [2010] 43 *Comparative Political Studies*, 807-834.

¹⁸⁹ Ali Çarkoğlu 'Turkey's 2011 General Elections: Towards a Dominant Party System?' 44.

difference between the party in power and the state becomes increasingly indistinct.¹⁹⁰ Thus, despite the proportional representation electoral formula, the last three Turkish elections resulted in absolute parliamentary majorities for a single party (the JDP) with the help of the 10 per cent threshold criteria. It is for these reasons that some scholars claim that Turkey is moving toward a dominant party system.¹⁹¹

Party organisation and party congresses in Turkey

According to Duverger, a political party is “a community with a particular structure and modern parties are characterized primarily by their anatomy.”¹⁹² Similarly, Lars Bille claims that the organisation of a political party is a reflection of the character and function of a democratic regime: if the organisational structure does not involve participatory citizenship in the decision-making process, then it is unlikely that the regime functions as a democracy.¹⁹³ Therefore, the organisational character of political parties reflects the level of IPD in Turkish parties. Party organisations in Turkey are regulated by the TPPL in a detailed manner. This study will therefore focus on party organisations by relying mostly on the relevant provisions of the TPPL. According to this law, every party must consist of a party congress as the highest decision making body and a central governing body with a minimum of 15 members and disciplinary organs. The members of these bodies are selected by the party congress and parties can give special names to this organ in their own constitutions. For instance, while the JDP calls its governing body the Central Decision and Administrative Committee, the RPP refers to its as the Party Council. Similarly, while the JDP uses the term “Party Congress” in a manner similar to the TPPL, the RPP uses the term “Party Convention.” Under the TPPL, the central governing body is responsible for the management of the party between two party congress

¹⁹⁰ *ibid* 46.

¹⁹¹ *ibid* 43.

¹⁹² Maurice Duverger *Political Parties* (John Wiley and Sons 1954) xv.

¹⁹³ Lars Bille ‘Democratizing a democratic procedure: Myth or Reality? Candidate Selection in Western European Parties, 1960–1990,’ [2001] 7 *Party Politics*, 363, 364.

periods under the framework of its party constitution and party programme. According to Article 36 of the TPPL, parties without a parliamentary group must establish their organisations in at least half of the provinces as well as at least one third of the sub-provinces within these provinces. They must also hold a national congress at least six months prior to elections in order to be entitled to take part. Parties must also submit a full list of candidates in at least half of the provinces to the High Election Board before elections.

The delegatory democracy principle for parties was first established by the Party Law of 1965, and since then party congresses have functioned as the main channels for political participation. Democracy is the most powerful of modern legitimating device; however, as Harlow points out, within the concept of democracy itself there are several variables, from representative and deliberative to popular and participatory democracy, each of which considers its own case as a “benchmark of legitimacy.”¹⁹⁴ Delegatory democracy in a political party is a function of party congresses, with established rules and a network of local sub-units from which representatives can be selected.¹⁹⁵ The literature on parties assumes that party congresses are the main source of democratic legitimacy for political parties in which members elect delegates. For instance, Robin Pettitt claims that, although party congresses are not what they once were, they still serve a major role in the propagation of IPD as a concept.¹⁹⁶ Similarly to the situation in most democracies around the world, party congresses that stand out as the symbol of mass parties and powers traditionally held by delegates are seen as the main mechanism for IPD for party members as well as outsiders in Turkey. However, as Faucher-King and Eric Treille

¹⁹⁴ Carol Harlow ‘The Concepts and Methods of Reasoning of the New Public Law’ (LSE Law, Society and Economy Working Papers 19/2010) 11. <www.lse.ac.uk/collections/law/wps/WPS2010-19_Harlow.pdf> 13. accessed 21 September 2013.

¹⁹⁵ Richard Katz and Peter Mair, *Party Organization: A Data Handbook* (Sage 1992) 4.

¹⁹⁶ Robin T. Pettitt ‘Exploring Variations in Intra-party Democracy: A Comparative Study of the British Labour Party and the Danish Centre-Left’ [2012] 14 *The British Journal of Politics and International Relations* 630-650.

argue, “As parties have moved away from the mass party to an electoral-professional organization or a cartel party, conferences stand out as the remnants of an old era.”¹⁹⁷

Benjamin von dem Berge holds the congress as the central decision-making body responsible not just for the statutory issues, party programmes and the party line, but also for the election of members to party organs at the organisational level and delegates to the congress of the next organisational level as well.¹⁹⁸ Turkish parties have very similar organisational characteristics that are imposed upon them by the TPPL. Party organs at all levels of the party structure are elected by their respective congresses, which are composed of delegates elected by all registered members of that level of the party. There are three kinds of party congresses mentioned in the law, of which these congresses are the highest organ of any given party level. The three kinds of party congresses in which delegation takes place are national, provincial and sub-provincial party congresses. The chain of delegation in party congresses is characterised by at least three steps: from ordinary members to sub-provincial delegates, from sub-provincial delegates to provincial delegates and from provincial delegates to national delegates. The methods of delegate selection to the party congress are prescribed respectively in Articles 14, 19 and 20 in a detailed manner. The prime unit of local organisation is the municipality (Belde) organisation. The law does not permit party organisation below the municipality level. The registered members of the municipality organisation elect delegates to represent them at the sub-provincial congress. The total number of delegates to be elected for the sub-provincial congress cannot exceed 400. The elected delegates in the sub-provincial (İlçe) congresses elect delegates to be sent to the provincial congress. These delegates would, in their own turn, elect the delegates for the national party congress.

¹⁹⁷ Florence Faucher-King and Eric Treille ‘Managing Intra-party Democracy: Comparing the French Socialist and British Labour Party Conferences’ [2003] 1 French Politics 61, 62.

¹⁹⁸ Benjamin von dem Berge, Thomas Poguntke, Peter Obert, Diana Tipei *Measuring Intra-Party Democracy* (Springer 2013) 9.

Internal elections serve two purposes, to select the local party leader and the executive committees at each level and to elect delegates to the upper level party congress. The executive organs at all levels of the parties are elected by and legally accountable to the given party congress. According to Maraval, “internal elections to the organs that monitor party leaders and enforce sanctions are important not only for party democracy but also for the responsiveness of the government.”¹⁹⁹

Delegatory democracy within the parties in Turkey is under criticism both from within the parties and from scholars. According to Yanık, the biggest obstacle to the realisation of IPD in Turkey is the delegate system.²⁰⁰ According to Tarhan Erdem, the party congress in Turkey is a meeting in which the party leader announces who his/her aides will be in next period.²⁰¹ This is a problem in Turkish politics that still exists today. Analysing the RPP party congress in the single party era (1923-1946), Metin Toker states that, “the party congress, composed of provincial party leaders, was convening only for the sake of expressing the party strength and praising the work of the central party organization.”²⁰²

However, although the party congress system can be described as an institutional device designed to keep party elites, and particularly party leaders, accountable to the party congress, in practice, party congresses in Turkey cannot perform this important task of accountability and responsiveness. Rather they work to protect the incumbent leader against intra-party opposition. According to Hannah Arendt, political parties are “very efficient instruments through which the power of the people is curtailed and controlled”²⁰³; in a similar vein, party congresses have similar function where the powers of party members are curtailed and controlled.

¹⁹⁹ José María Maravall ‘The Political Consequences of Internal Party Democracy’ in José María Maravall and Ignacio Sánchez-Cuenca (eds) *Controlling Governments: Voters, Institutions, and Accountability* (Cambridge University Press 2008) 157, 172.

²⁰⁰ Murat Yanık, *Parti içi Demokrasi*, (Beta 2002) 150.

²⁰¹ Tarhan Erdem, ‘Erdoğan’a Teslim’, *Radikal*, 14 Ekim 2003.

²⁰² Pelin Musli Ayan *Authoritarian Party Structures and Democratic Political Setting in Turkey* 40, referring to Metin Toker, *İsmet Paşayla 10 Yıl 1954– 1964* (İstanbul: Akis Yayınları, 1969), 117.

²⁰³ Hannah Arendt *On Revolution* (Viking Press 1965) 273.

In Turkey, delegates at party congresses are assumed to be middle-level elites who are elected from amongst the local party notables. They always pursue their own interests and try to protect their own future electability. The complex organisational structure established by the TPPL means that “those who know and control the structural apparatus have substantial control over both the policy orientation and administration of the party.”²⁰⁴ In this respect, parties suffer from what may be called a representative or democratic deficit, with local party offices operating under the direct, top-down authority of the party hierarchy.²⁰⁵ This feature of Turkish parties gives us an idea of the level of centralization and power of the leadership and of the central party organisation.

Composition of party congresses

One of the main reasons why the Turkish party congress cannot be called democratic bodies is their composition. The nature of membership participation in the party congress offers important clues about the level of IPD. Participation in the party congress does not satisfy the criterion of inclusiveness. In Turkey, the central party has full control over local organisations and membership registration. Consequently, the central party can easily control the composition of the local party congress.

The national party congresses are composed of elected and permanent members regulated by law. Almost one third of the delegates in the national party congress are *ad hoc* members. The number of elected members cannot be more than 1,100 under the current party law. The number of delegates who will represent each province at the national congress is determined in each party’s own constitution. The size of these congresses varies, but generally ranges between one and two thousand members. For instance, in the JDP, 550 delegates (which

²⁰⁴ Leslie Gay Turnbull ‘The Internal Decision Making Structure of the Federal New Democratic Party; Its Impact on Policy and Leadership Selection’ (McMaster University Open Access Dissertations and Theses) 45.

²⁰⁵ Ulaş Bayraktar, Cemal Altan ‘Explaining Turkish Party Centralism: Traditions and Trends in the Exclusion of Local Party Offices in Mersin and Beyond.’ in Elise Massicard and Nicole Watts (eds) *Negotiating Political Power in Turkey: Breaking Up the Party* (Routledge 2013) 17, 21.

is the half of the total number of delegates who are required to be elected), are allocated to the provincial organisation, in proportion to the number of MPs to be elected from each city. The remaining 550 delegates allocated to provinces are proportionate to the total number of votes won by the party during the last general parliamentary elections.

A significant portion of delegates at a party congress is reserved for the central party office as permanent members by law. The party leader, MPs and ministers, members of the central executive committee and members of the central disciplinary committee are automatically given delegate status at the party congress. Furthermore, the founders of parties are permanent members of the congress. However, the number of this kind of membership cannot exceed 15 per cent of the elected members. This means that, if a party has a maximum of 1,100 elected members, it may have an additional 165 permanent members from the party founders' quota. For instance, the ruling party now has 1,490 delegates, approximately 400 of whom are permanent. There is no doubt that this provision of the TPPL is a violation of the equality principle among party members, which is envisaged in Article 68 of the Constitution. The earliest version of the TPPL stated that founding members can only attend the first congress without being elected. With the amendment of 1987, the founding members gained a permanent member status for all party congresses.

The basic idea of membership equality is that the voices of all party members in a political party should be equally taken into account in any decision-making process, such as policy-making, candidate selection or leadership selection. Equality of party members is accepted as the basic prerequisite for IPD.²⁰⁶ However, in reality, elected members of the party such as party leaders, members of executive organs and party delegates have more power than other members. While the Turkish Constitution states that party members are equal and have

²⁰⁶ Von dem Berge (n 198) 8 refers to Scherff, Adalbert: Der Verfassungsauftrag der innerparteilichen Demokratie im Lichte von Parteigerichtsverfahren und staatlicher Gerichtsbarkeit: untersucht anhand von internen Parteistreitigkeiten der im Abgeordnetenhaus von Berlin vertretenen Parteien, (Berlin 1993) 24.

equal rights, party delegates are in privileged positions, being the highest authorities who approve the party constitution and party programme. Thus, in delegative democracy, equality among party members disappears after the election of delegates who receive superior positions.

Another important point is that members of the central executive committee constitute the permanent members in the party congress. Article 16 of the TPPL states that the number of this committee cannot be less than fifteen, though there is no upper limit. If, for example, a party has fifty members on this committee, this will constitute an important portion of all delegates. In the party congress, decisions are taken by a simple majority of attending members. Political parties could write larger majority requirements into their constitutions. Furthermore, there is no proportionate representation of the party members among delegates. In practice, this means that a local party with 100 members in a province may have a single delegate while in other provinces a local party with 1,000 members also has a single delegate. Thus a delegate elected by a 100-member vote has the same influence as one elected by a 1000-member vote. Fehim Üçışık criticises the number of members who have a right to attend the party congress. He argues that the number 1,100 is inadequate in light of the Law of Associations and the Law of Unions. He claims that this provision must not be compulsory and that this issue must be left to each party's own constitution.²⁰⁷

It is important to mention the Law of the Unions here. In the 1983 Law of the Unions, it was stated that, if the members of a union number less than 1,000, then the general assembly is composed of all members, but if the number is more than 1,000, the delegation system is compulsory.²⁰⁸ However, according to the 2012 Law of the Unions, unions have a choice whether to implement grass root democracy or delegatory democracy.²⁰⁹ The general assembly can be composed of all members or of delegates. There is, though, no similar discretion for

²⁰⁷ H. Fehim Üçışık 'Parti İçi Demokrasi Açısından Yasa Değişikliği Gereği' [1999] *Anayasa Yargısı Dergisi* 355, 365.

²⁰⁸ Article 10 of the 1983 Law on Unions No: 2821.

²⁰⁹ Article 10 of the 2012 Law on Unions No: 6356.

political parties in the TPPL. Similarly in the Law of Associations, the general assembly is to be composed of all members without delegates.²¹⁰

There are also legal measures to tackle electoral fraud and irregularities during delegate selection. According to Article 112 of the TPPL, anyone found guilty of fraud in party primaries or in the congress election at any level of a party shall be punished with up to three years' imprisonment. Although the TPPL prescribes the method of delegate selection, which falls under the supervision of the Judiciary, in reality, the selection of party delegates mostly depends on proximity to the central office or party leader. Judicially controlled delegate selections mostly take place as a rubber stamp event in order to fulfil the legal requirements after the delegates' appointment by the central office. Thus, the real issue is not the provincial form of organisation or judicially controlled delegate selection, but rather the authoritarian rules of the party centre with regard to local organisation. Though there is an election for the selection of congress delegates, most are appointed by the party central office on the basis of their loyalty to the incumbent leadership and then elected at the constituency congress.

More recently, Pelin Ayan has observed that the delegate selection practices within the four big parties in Turkey demonstrate that the formal election process of the local party chairs takes place only after they have been appointed to their positions by the central party office or by a party leader, rather than being elected in the local congress. She also states that "first, the appointment from above takes place in the party; second, in order to show congruence with the legal provisions, the local leaders get elected in local conventions."²¹¹ For instance, after the return of Deniz Baykal to the leadership of the RPP, 65 per cent (52 out of 80) of all the RPP provincial leaders were appointed by the central office after than elected in party congress in order to fulfil legal requirements.²¹²

²¹⁰ Article 15 of the Association Bylaws.

²¹¹ Pelin Ayan Musil *Authoritarian Party Structures and Democratic Political Setting in Turkey* (Palgrave Connect 2012) 131.

²¹² Bayraktar and Altan (n 205) 17, 21.

Furthermore, thanks to a closed list system, executive membership selection is organised to ensure that only certain candidates can be elected. Although the TPPL binds parties to a set of democratically elected executive committees, a closed list for elections prevents the delegates from choosing their own committee members. Candidates for the executive committee are being asked to “take it or leave it” by the leader, with party delegates being forced either to accept the list offer or not to vote. What may be seen as democratic in the selection process is that, in some parties, party leaders offer candidates more names than can normally be elected, so delegates can cross some candidates’ names off of the list.

While Turkish political parties are organised on the basis as explained above, the local party organisations are largely dependent on the party or on the central office. In reality, within most Turkish parties, the leadership and executive committees exercise strong control over the agenda of the party congress and the selection of delegates. Delegate selection meetings at the provincial level are often controversial, with local party bosses recruiting a substantial number of new members who will vote for the delegates put forward by the party central office. According to Yanık, in Turkey one of the important tasks of the party leader and his close circle is to control the party congress in order to prevent the emergence of opposition groups, which he does by intervening in delegate selection at all levels.²¹³ In order to do so, party leaders support the candidates (delegate) who will be loyal to them in the party congress and vote for the incumbent leadership. It is true that delegates at the party congress can adopt a different policy than the one proposed by the party leader. According to Yanık, the delegate system ensures that the leadership has control over internal policy-making by controlling a small number of delegates.²¹⁴ For him, the delegate system should be abolished and in its place more inclusive methods adopted that give every member a right.²¹⁵

²¹³ Yanık, (n 200) 136.

²¹⁴ *Ibid.* 150.

²¹⁵ *Ibid.* 151.

Considering that the party congresses along with the delegate system lack any major decision-making role, there is a prevailing observation that they should be reformed. Indeed, most of the local delegate elections of the parties are only organised in order to meet the legal requirements set out in the TPPL. Party leaders become the party bosses with unquestioned authority over the party congress and therefore over party policies and decisions. As a result the party congresses are left as a rubber stamp, the delegates reduced to nothing more than well-disciplined “yes-men.” Since the parties use a collusive appointment system, the patterns of voting in delegate selection will be same. The main problem here is that party delegates do not reflect the ideas of party members but those of party leaders.

This much can be observed in the Party Congress Agenda from 2005, the events of which are described below. The agenda clearly indicates the significance of the leadership selection for the party. Although some other commissions are established, they can be viewed as merely a response to the legal requirements. Mostly, in these commissions, neither do the delegates offer resolutions nor can their concerns be considered.

Party Congress Agenda²¹⁶

14 MAY 2005, Saturday 10.00

01. Registry and Opening

02. Election of Party Congress Presidency Council (1 President, 4 Vice President, 8 Secretary Members)

03. One minute's Silence for Atatürk and the Martyrs

04. Determination of members who will visit Atatürk's mausoleum (one member from each province)

05. Establishment of Congress Commission

a. Party Constitution Commission

²¹⁶ Ahmet İyimaya ‘Siyasal Parti Kongrelerinin Yargısal Denetimi’ [2006] 64 TBB Dergisi, 189, 194.

- b. State Policy Commission
- c. Budget Commission
- d. Wishes and Request Reviewing Commission

06. Speech of Party Leader

07. Preparations for Party Leader Selection (Candidates Application to Congress Presidency Council)

08. Reading of Party Executive Board report, Income and Expense Report, negotiations and voting on reports

09. Reading of commission report, negotiation and voting

10. Leadership Selection

15 May 2005, Sunday 10.00

01. Political Speeches

02. Wishes and Request

03. Elections of Party Executive Organs and Disciplinary Committee members.

04. Closing

Party membership in Turkey

Before proceeding with the main issues, consideration of the party membership and the roles of party members in a specifically Turkish context will facilitate a more complete understanding of the parties and of IPD process. Party members constitute the party's "demos"; thus, according to Duverger, without members, the party would be like a teacher without pupils,²¹⁷ and party membership is one of the major forms of political participation in Turkey. In keeping with the notion of party organisation put forward by Richard Katz and Peter Mair, the party as a membership organisation (the party on the ground) constitutes one facet of the

²¹⁷ Maurice Duverger 'Caucus and Branch, Cadre Parties and Mass Parties' in Peter Mair (ed), *The West European Party System* (Oxford University Press 1990) 41.

party organisation, the other facets being the party as a governing organisation (the party in public office) and as a bureaucratic organisation (the central office).²¹⁸ In theory, a critical mass of members in a party is accepted as a prerequisite for effective IPD.²¹⁹

The important question of why people join political parties in the first place may usefully be approached from the perspective of the members and that of the parties with regard to both participation and recruitment. From the perspective of the members, membership is a way of actively participating in political life for individuals who a more active role in politics than merely voting in general elections. One might also join a party in order to express explicit support for and indeed commitment to its ideals and policies.²²⁰ A further motivation is that membership constitutes a first step towards being a professional politician, since most politicians are nurtured by a party and stand for election only after lengthy party membership. In this regard, a political party can be viewed as a school: increased participation in party affairs leads to a better understanding of politics and can be expected to lead to promotion within the ranks. There is also the fact that, in most countries, party membership is a prerequisite for political candidacy. Thus in Turkey, almost every party limits the candidate selection process for national or local elections to its own members. Finally, it must also be observed that party members often enjoy material rewards and patronage, for which reason people tend to join parties in power in order to benefit from state resources and to avoid potential problems with public administration. These material incentives can include receiving a government job or being awarded a public contract.²²¹ So it is that, in Turkey, appointment to the semi-public companies that are established under private law (in which only the top positions are under

²¹⁸ Richard S. Katz and Peter Mair 'The evolution of party organization in Europe: the three faces of party organization' [1993] 14 *The American Review of Politics*, pp. 593–617.

²¹⁹ Susan Scarrow 'Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy' (National Democratic Institute for International Affairs, 2005) <www.ndi.org/files/1951_polpart_scarrow_110105.pdf> 15. accessed 19 November 2012.

²²⁰ Darren L. Lilleker 'The Impact of Political Marketing on Internal Party Democracy' [2005] 58 *Parliamentary Affairs* 570, 572.

²²¹ Alan Ware, *Political Parties and Party Systems* (Oxford University Press 1996) 68.

governmental control) and success in bidding for government-funded public contracts are both highly dependent on being a member of a ruling party, while the positions in local municipalities are equally dominated by party politics. Such material considerations seem to motivate many, even most party members in Turkey, and this is especially true for a ruling party.

From the perspective of the party, on the other hand, membership is viewed as a measure of democratic legitimacy. Therefore, since the beginning of the mass-party period, parties with few exceptions have generally encouraged citizens to participate, and have been praised for being open to participants from all levels of society.²²² Katz and Mair claim that “membership may not be valued very highly, but a membership oriented tradition cannot easily be dismissed.”²²³ For them, a party in public office cannot ignore the existence of the party on the ground because of the strong tradition of mass membership in which the legacy of the mass party model continues to influence current conceptions of organisational style and legitimacy.²²⁴ According to Patrick Seyd, “members may be a small minority of the general public but, by involving them directly in decision making, leaders are demonstrating a commitment to openness and participation which might help to restore the political legitimacy of parties.”²²⁵ According to Scarrow, “party leaders and organizers have viewed members as a resource for bolstering party legitimacy, instead of merely as a source of funds or of campaign volunteers.”²²⁶ However, a large membership does not contribute to spreading the message of a more democratic party if the members are powerless.

²²² William P. Cross and Richard S. Katz, (eds) *The Challenges of Intra-party Democracy* (Oxford University Press, 2013) 7.

²²³ Richard S. Katz and Peter Mair ‘The Ascendancy of the Party in Public Office: Party organizational Change in Twentieth-Century Democracies’ in R. Gunther, J. R. Montero and J. Linz, (eds) *Political Parties: Old Concepts and New Challenges* (Oxford University Press 2002) 113, 127.

²²⁴ *ibid* 128.

²²⁵ Seyd (n 82) 385.

²²⁶ Susan Scarrow, *Parties and Their Members: Organizing for Victory in Britain and Germany*. (Oxford University Press 1996) 208.

Rather than for purposes of legitimacy, parties are continuing to recruit members for such traditional reasons as having them serve as window dressing in order to attract more support from voters and to enhance their public image and reputation.²²⁷ Parties may also recruit members as manpower during political campaigns for door-to-door canvassing or delivering leaflets.²²⁸

Party membership has always been problematic in Turkey, and has been seen as hampering IPD. Tarhan Erdem, for example, claims that one of the biggest obstacles to IPD in Turkey is the current membership registration system. For him, since none of the parties makes its processes public, regulating membership registration must be the first priority for realisation of IPD.²²⁹ From a membership perspective, the Turkish parties resemble the mass parties that try to recruit as many members as they can. According to the TPPL, political parties have the right to set the terms and conditions under which citizens may become members within a legal framework. They have the discretion whether to accept or reject membership without providing any reason.²³⁰ So while the parties have discretion to recruit members, party leaders at all levels of party organisation seek members who support themselves and their cadres in the party in order to ensure their own leadership positions.

Although in mature democracies participation in parties and their activities is decreasing and many individuals hold themselves aloof from political parties, this is not the case in Turkey. According to official reports, Turkey had 10 million party members in 2014, which means that nearly 20 per cent of all registered voters were registered with a political party (the party membership registers are kept by the Prosecutor General of the Court of Cassation, which provide reliable numbers). This percentage is much higher than is the case in most mature

²²⁷ Aurel Croissant & Paul Chambers 'Unravelling Intra-Party Democracy in Thailand' [2010] 18 Asian Journal of Political Science 195, 207.

²²⁸ For detailed analysis, see Scarrow (n 226)

²²⁹ Tarhan Erdem, 'Partilerde Üye Yazımları', Radikal, 19 Ekim 2006.

<www.radikal.com.tr/haber.php?haberno=201957> accessed 19 October 2013.

²³⁰ Article 12 of the Turkish Political Parties Law.

democracies. However, most party members are inactive, especially since the parties demand little from them apart from the occasional vote to select delegates for party congress and attendance at party rallies at election times. Writing on the JDP party organisation, Hale and Özbudun observe,

Party officials state that about 300,000 of them perform some active party duty, such as being deputies, mayors, city councillors, members of the provincial general assemblies, members of the executive committees at the central, provincial, sub-provincial and municipal levels; village, neighbourhood and polling district representatives; members of the executive committees of women's and youth organisations at all levels, etc. This figure indicates a highly active and vibrant party life, and it does not include ordinary militants who have no official public or party positions.²³¹

Although they have legal rights, most party members have not attended such party events as party delegate selections, and some members do not even vote for their party in elections. As Özbudun states “the loose link between the party and the member suggests that what is meant by party ‘member’ in Turkey is often little more than a party ‘supporter’.”²³² Indeed this opinion holds true for other established democracies. Lisa Young claims that, in recent years, “the boundary between party member and supporter has blurred, with supporters performing many of the traditional functions of members.”²³³ So in Turkey there is no significant distinction between party members and party voters with regard to policy expectations once their own party comes to power. Another important consideration regarding party membership and its relationship to IPD is its composition. Party membership naturally reflects the electoral base, and in this respect at least it can be said that Turkish party members

²³¹ William Hale and Ergun Özbudun *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP* (Routledge 2009) 47.

²³² Ergun Özbudun ‘The Institutional Decline of Parties in Turkey’ in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The Johns Hopkins University Press 2001) 244.

²³³ Lisa Young “Party Members and Intra-Party Democracy” in William P. Cross and Richard S. Katz, (eds) *The Challenges of Intra-party Democracy* (Oxford University Press 2013) 65.

represent the party voters, so that their preferences on policies are not different from or more extreme than those of the electorate.

Also, in some democracies where state funding for parties is limited, ordinary members are responsible for financing party activities; conversely, parties do not see their members as a source of income when they are mostly dependent on public funding. According to İlder Turan, party “membership is a vague concept [in Turkey]. There are no proper membership lists, membership dues are not paid regularly and members are not registered in proper fashion. Who is a member and who is not, is not certain.”²³⁴ Müge Aknur states that

...local party organizations arbitrarily decide on membership registration, so it may be the case that applicants are not getting registered as members when the local officials try to ensure a certain number of members for the selection of specific delegates. Fictitious members are not uncommon and new members are recruited mostly on the eve of party conventions enabling particular people to be selected as delegates. Some party members are registered along with five or six people from the same family; yet family members remain inactive and unattached.²³⁵

William Hale and Ergun Özbudun make a similar argument:

A third factor is the efforts by the local party officials to register their friends and members of families to augment their delegate base. But, perhaps, a more convincing explanation is that most Turkish party members do not clearly distinguish between being a party member and being a mere supporter. Party membership in Turkey entails certain rights, but almost no obligations to the party, including paying membership dues.²³⁶

²³⁴ İlder Turan in Anadolu Stratejik Araştırmalar Vakfı *Parti İçi Demokrasi* (Ankara 1997) 80.

²³⁵ Canan Aslan-Akman ‘Democratic Consolidation and Institutional Challenges for Political Parties and the Party System in Turkey’ in Müge Aknur (eds) *Democratic Consolidation in Turkey* (Universal Publishers 2012) 143, 161.

²³⁶ Hale and Özbudun (n 230) 47.

Regarding the fictitious members, under the old version of the TPPL, if someone in a party registers an eligible citizen as a member without submitting an application, the registrar may be punished with imprisonment for from one year to three years, though in 2014 the law was amended and the length of imprisonment reduced to one to three months.

The main reason that parties fail to give power to their members is the disproportionate influence that elites have over their establishment and organisation processes. Because these elites tend to be senior bureaucrats, wealthy businessmen and other military and civilian leaders, they tend to be uninterested in members' views on policy and to view the rank and file as nothing more than raw votes in internal and general elections. As a consequence, the ordinary citizens have played a very small part in the establishment and organisation of the parties, while elites have treated their parties as their own property, have been reluctant to share their power and have from the start sought to register only those who would not oppose their views.²³⁷ According to Yanık, party members have only two options in Turkey: to obey party leaders unconditionally, or to be forced out.²³⁸ Altan Oymen, former leader of the RPP, related that after he had been elected as a leader he first reformed the membership registration: “we call all our 1.8 million members to renew their membership, we want them a 3 photograph, birth certificate, and 3 TL (equal to 2£ in those times) and give a very long time for renewal and then membership numbers dropped to 149.000.”²³⁹

It can therefore be seen that party membership in Turkey is seldom motivated by a desire to take part in decision-making processes. Although plenty of individuals participate in politics more frequently than in general elections, it is difficult to determine what if anything they are offered or what opportunities they may take part in. It may then be asked why members remain

²³⁷ Yanık, (n 200) 132-133.

²³⁸ Yanık, (n 200) 120.

²³⁹ Saime Müjde Önal ‘Türkiye’de Parti İçi Demokrasi: CHP ve AKP Örneği’ (T.C. Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi 2007) EK 8: The interviewee with Altan Öymen 24 June 2007 Röportaj.

within a party that disregards them and affords them little influence over party affairs other than electing local or sub-local delegates. In Turkey, the link between parties and members is not primarily ideological but instead is substantially clientelistic. In the words of Aknur, “the major motivation for being a party member is to gain material and other kinds of favours from the parties through a clientelistic relationship.”²⁴⁰ The unearned income increment is very common in Turkish society, and the best way to secure one is to be closely associated with a political party. According to Hale and Özbudun, “A majority of party members see their membership as a means to obtain personal, sometimes quite small, sometimes highly substantial, benefits from their parties, particularly when they happen to be in the government.”²⁴¹ Patronage, which is extensive and widely distributed in Turkish parties, is one important reason for the lack of IPD. According to Metin Heper and Fuat Keyman, “political patronage became the basic strategy of obtaining votes, in which religion was frequently used for political purposes.”²⁴² For Suavi Tuncay, so long as membership is based on patronage rather than ideology, parties will easily be dominated by an oligarchy.²⁴³

This does not mean that ideology cannot play a role in party membership. Canan Akman claims that “Personalism and leadership hegemony substituted the ideological weakness of the parties, and instead created bonds of identification with the leaders for the electorate.”²⁴⁴ Party membership tends to be hereditary and to be monolithic within families. Most members regard the party leader primarily from a broadly ideological perspective as a way to express their core beliefs, rather than identifying with their party’s programme or policies. Many citizens participate in whichever party is consistent with their own broad philosophy rather than one that offers them a significant role in making policy and decisions. Members tend to accept a

²⁴⁰ Aslan-Akman (n 235) 143,161.

²⁴¹ Hale and Özbudun (n 230) 47.

²⁴² Metin Heper and E. Fuat Keyman ‘Double-faced State: Political Patronage and the Consolidation of Democracy in Turkey’ [2006] 34 Middle Eastern Studies 259, 259.

²⁴³ Suavi Tuncay, *Parti İçi Demokrasi ve Türkiye*, (Gündoğan Yayınları 1996) 110-113.

²⁴⁴ Aslan-Akman (n 235) 159.

ready-made party programme and election manifestos, or even join in the belief that their party will implement policies that they will like even if they do not take part in decision-making. However, when a party fails to implement its programme, members tend not to look for the kinds of solutions that would make the party more to their liking and would thus provide the impetus for the development of IPD. For although party membership may be sought for ideological reasons, patronage quickly becomes the primary consideration. In this regard, Wauters observed that “people who become members because of the ideology or the programme of a party are those most likely to be interested in guiding policy and, as a consequence, more likely to participate in internal elections.”²⁴⁵ So it can be argued that, so long as their impetus to join a party is primarily ideological, members will wish to participate in decision-making processes, while conversely members who are induced by material enticements to join will be less eager to participate in decision-making processes, and more likely to support whatever policy their party promotes or adopts provided that they continue to receive material incentives from the party. According to Herbert Kitschelt, “The inducements to join mass parties often had little to do with the entrants’ purposive-programmatic incentives and aspirations, but with material incentives and socio-cultural reinforcement within a social network.”²⁴⁶

Yet despite the fact that so many members of Turkish political parties are motivated by material rewards, it is likely that most, if asked, would still express a desire to play a more substantive role in shaping the party’s policies and agenda. Nevertheless, the fact remains that, currently, neither the parties’ laws nor their constitutions offer members meaningful ways to become involved in the decision-making process.

²⁴⁵ Bram Wauters ‘Explaining Participation in Intra-Party Elections: Evidence from Belgian Political Parties’ [2010] 16 *Party Politics* 237, 241.

²⁴⁶ Herbert Kitschelt ‘Citizens, politicians, and party cartelization: Political representation and state failure in post-industrial democracies’ [2000] 37 *European Journal of Political Research* 149, 164.

This brief overview of democracy and political parties has been intended mainly to introduce IPD in Turkey, as has been already widely discussed in the literature. While it is undeniable that political parties continue to play a major role in Turkish democracy, it seems that they all suffer from lack of IPD. In conclusion, it can be said that democratisation of Turkey and democratisation of Turkish parties are linked processes.

CHAPTER 3

INTRA-PARTY DEMOCRACY, PARTY REGULATION AND PARITY FUNDING

Part 1: Intra-Party Democracy

Introduction

From a theoretical perspective, although IPD can be traced back to the origins of political parties, and in the scholarly literature to the classic works of Moisei Ostrogorski¹ and Robert Michels² in the early twentieth century, the concept was particularly influential in the aftermath of World War II with the emergence of mass party ideas, and has again been receiving attention from academics over recent years owing to eroding trust in parties as indicated by declining party membership and voter loyalty. In the early days of representative assemblies, when the institutions of party organisation and membership were just beginning to develop, legislators tended to remain “answerable only to their individual consciences or constituencies, or to the nation as a whole, rather than to their parties.”³

Democracy is widely viewed as the most potent legitimisation device in human societies, which is to say that the legitimacy, and general soundness, of an organisation is often considered to be directly proportional to the extent to which the organisation can be described as “democratic.”⁴ Just as democratic elections are regarded as a fundamental feature of legitimate governments, IPD enhances the legitimacy of the parties: like democracy in general, IPD tends

¹ Moisei Ostrogorski *Democracy and the Organization of Political Parties* (MacMillan 1902).

² Robert Michels *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (London, The Free Press, 1962).

³ Richard S. Katz, ‘Democracy and the Legal Regulation of Political Parties,’ paper prepared for the USAID conference on ‘Changes in Political Parties: United States Agency for International Development,’ Washington, D.C., October 1, 2004, 8.

⁴ Carol Harlow ‘The Concepts and Methods of Reasoning of the New Public Law: Legitimacy’ LSE Law, Society and Economy Working Papers 19/2010 <www.lse.ac.uk/collections/law/wps/WPS2010-19_Harlow.pdf> 13. accessed 21 September 2013.

to be treated as positive in and of itself, especially by those who emphasize the participatory aspects of democracy.⁵

Despite, or perhaps because of, the recent proliferation of literature on the subject, scholars have yet to settle on a precise definition for the concept of IPD, or a delineation of the steps whereby it is implemented. IPD means different things to different people, whether academics or politicians. And indeed, any definition would need to be sufficiently flexible to account for the unique circumstances of individual countries and parties.

Susan Scarrow has formulated one of the most-cited definitions of IPD as “a wide range of methods for including party members in intra-party deliberation and decision making.”⁶ In the more detailed definition of Kenneth Janda, “Intra-party democracy is manifested in internal party procedures that extend, if not maximize, the participation of the party rank and- file in decisions of public policy and party practice.”⁷ On the other hand, some scholars approach the term from a parliamentary perspective, and hold that IPD requires “independent deputies” who speak their mind, do not automatically approve party policies, and remain accountable to the public.⁸ Nevertheless, the prevailing view of the concept stresses the participatory aspect of democracy, equating IPD directly with the amount of influence exercised by rank-and-file members.

So it is that, as mentioned already, rather than defining IPD, some scholars and international organisations focus on measuring the level of IPD, in keeping with Dahl’s

⁵ Susan E. Scarrow, Paul Webb and David M. Farrell ‘From Social Integration to Electoral Contestation: The Changing Distribution of Power within the Political Parties’ in Dalton, Russell J., and Martin P. Wattenberg, (eds) *Parties without Partisans. Political Change in Advanced Industrial Democracies* (Oxford University Press 2000) 130.

⁶ Susan E. Scarrow *Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy* (Washington, DC: NDI) 3 < www.ndi.org/files/1951_polpart_scarrow_110105.pdf > accessed 19 November 2012.

⁷ Kenneth Janda, “Political Parties and Democracy in Theoretical and Practical Perspectives: Adopting Party Law” (NDI 2005) < http://www.ndi.org/files/1948_polpart_janda_110105.pdf > accessed 10 December 2012 23.

⁸ Taha Akyol ‘Parti içi Demokrasi’ *Milliyet Gazetesi* 01.04.2010, referring to Andre Siegfried *France, A Study in Nationality* (Oxford University Press 1930).

suggested five criteria⁹ for a genuinely democratic system. For example, the Netherlands Institute for Multi-Party Democracy (NIMD) asks the following questions in order to measure the level of IPD:¹⁰

- a) Is the party functioning according to established rules and procedures?
- b) Is decision-making democratic and based on party statutes and current laws?
- c) Is there meaningful decentralisation of the party's economic resources?
- d) Can the rank-and-file exercise oversight over the party leadership?

The extent and nature of IPD also depends on other factors, such as a country's political culture and socio-economic institutions, the education levels of party members, the type of electoral system, any legislation on political parties, the nature of party leadership, the system of government, the dominant political ideologies, the number of competitive parties, the amount of state funding that parties receive, and of course whether a party is in government or in opposition. Thus, for example, Robin Pettitt argues that the age, origin, ideology, style of democracy and goals of the government are important factors in order to understand IPD.¹¹

A country's political culture plays an especially important role in shaping IPD. Thus Saime Müjde Önal argues that, among the various factors influencing the degree of IPD in Turkey, elements of political culture inherited from the Ottoman Empire and the early and extended dominance of one party at the foundation of the Turkish Republic carry the greatest significance.¹² Therefore, although factors that have impeded IPD in Turkey are in the main attributable to behavioural particularities rather than legal or institutional problems, this study will for the most part analyse it from this latter point of view.

⁹ Robert A. Dahl, *On Democracy* (Yale University Press 1998) has suggested five criteria, namely inclusion, political equality, enlightened understanding, control of the agenda and effective participation.

¹⁰ Netherlands Institute for Multiparty Democracy- NIMD 'A Framework for Democratic Party-Building' (The Hague: IMD 2004) p.22. <www.nimd.org/upload/publications/2004/imd_institutional_development_handbook-a4.pdf> accessed 10 February 2013.

¹¹ Robin T. Pettitt 'Exploring Variations in Intra-party Democracy: A Comparative Study of the British Labour Party and the Danish Centre-Left' [2012] 14 BJPIR 630–650.

¹² Saime Müjde Önal 'Türkiye'de Parti İçi Demokrasi: CHP ve AKP Örneği' (Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi 2007) iv.

This is perhaps why political parties in mature democracies such as the U.K, though not regulated by the government, maintain a higher level of IPD than Turkey. However, it is important to note that, once a system for IPD takes shape, it will over time become normalised to the larger political culture. Thus, IPD is not a function of the political culture alone: there must also be an appropriate legal framework and an effective institutional structure, especially in relatively less democratic countries. In addition, the extent of IPD varies greatly within a country over time as well as from one party to another, let alone from one country to another. As Ostrogorski observed, “the life of the parties and their organization do not everywhere exhibit the same fullness and the same regularity.”¹³

Some scholars have also approached IPD in ideological terms. Thus, for example, Richard Katz as argues that

...from the perspective of ‘Socialist democracy’ intra-party democracy is essential in order for the party to be able to speak as the authentic voice of the social segment it represents, and this in turn both legitimizes the dominance of the party on the ground over the party in public office and privileges the party manifesto over the individual judgement or consciences of elected officials... from the perspective of the new left, internal democracy allows ordinary party members to become actively involved as participants in policy-making for the party members, and thus in true self-governance as citizens. Finally, all advocates of internal party democracy see it as essential as a way to hold party leaders accountable, or, in the terms of principal agent models, internal democracy is seen as a way of enforcing the control of party members as the principals over both party officials elected under the party’s banner as their agents.¹⁴

¹³ *Ostrogorski* (n 1) iii.

¹⁴ Richard Katz ‘Party in Democratic Theory’ in Richard S. Katz and William Crotty (eds), *Handbook of Party Politics* (SAGE 2006) 35-36.

Katz's exploration of IPD from an ideological point of view suggests that parties of the right can be less meticulous on matters of IPD than those on the left, and Robert Pettit has argued in the same vein that the potential for IPD is much higher in the left-wing than right-wing parties.¹⁵ Moreover, while this area of study has not received much empirical analysis, one empirical study of Spanish parties has demonstrated that there is greater support for IPD in parties of the left and among party members with leftist ideology.¹⁶

In sum, while IPD remains a contested concept, it will for the purposes of this study be defined simply as rule by the party members over significant aspects of the party, all of whom, from the party leader to the rank and file, are given an equal say in important decisions. IPD is conceptualised here on the basis of three criteria: who determines party policies, how the leadership is chosen and how candidates are selected.

Why IPD?

For those who view IPD as a central principle of party politics, the health and character of the parties are among the most important determinants of the health and character of the democracy in which they are found.¹⁷ One of the mysteries that will be explored in this study is why a political party within a democracy would fail to elaborate an internally democratic organisation, and yet be expected to champion and promote democracy. Yigal Mersel claims that "it is arguable that a party that is not internally democratic cannot really be externally democratic."¹⁸ Viewed this way, political parties could contribute to state level democracy positively with their internal democratic practices. Thus Augustine Magolowondo states that "if parties are building blocks of democracy, they cannot afford not to be democratic themselves

¹⁵ (n 11) 647.

¹⁶ Baras, Montserrat, Oscar Barberà, Juan Rodríguez-Teruel, and Astrid Barrio. 'Intra-party democracy and middle-level elites in Spain.' (IPSA/ECPR Joint Conference, Sao Paulo 2012).

¹⁷ Katz (n 3) 2.

¹⁸ Yigal Mersel 'The Dissolution of Political Parties: The Problem of Internal Democracy' [2006] 4 IJCL 84, 97.

for to do so is a contradiction both in terms and in values.”¹⁹ For Michels, if parties are themselves undemocratic in their internal structure, the effort to democratise society completely is doomed to failure.²⁰ Anika Gauja points out that the weakening of political parties is felt to weaken democracies in turn.²¹

IPD naturally provides opportunities for participation in politics and attracts new members to parties. It has also been argued that improved IPD would assist in relinking the party organisation with its supporters.²² According to Caroline Lancaster, “intra-party democracy is seen as a vital aspect of modern democracy and is integral to emerging democracies, for it helps to instil a respectful attitude towards the democratic process.”²³ It bears repeating here that membership in most parties has been declining over the past few decades. Parties may therefore respond to such declines by promoting institutional reforms for IPD, introducing new procedures to give ordinary members a greater say in their internal workings in order to recruit new members.²⁴ Otherwise, they may seek state funding, as happens in most countries, in order to compensate for diminished membership.

Moreover, many parties give special attention to the education and training of their members and citizens with respect to democracy. According to Amy Guttmann, “Political education prepares citizens to participate in consciously reproducing their society, and conscious social reproduction is the ideal not only of democratic education but also of democratic politics.”²⁵ Thus a party that seeks to instil democratic principles in its members

¹⁹ Augustine Titani Magolowondo ‘Understanding Intra-party Democracy in Africa: Issues and Questions’ < www.nimd.org/documents/I/intra-party_democracy-_challenges_and_implications-augustine_magolowondo.pdf. > accessed 25 June 2013.

²⁰ Michels (n 2) 16.

²¹ Anika Gauja ‘Book review: Democracy within Parties: Candidate Selection Methods and Their Political Consequences’ [2012] 65 *Parliamentary Affairs* 478, 478.

²² Florence Faucher-King and Eric Treille ‘Managing Intra-party Democracy: Comparing the French Socialist and British Labour Party Conferences’ [2003] 1 *French Politics* 61, 62.

²³ Caroline Lancaster ‘The iron law of Erdogan: the decay from intra-party democracy to personalistic rule’ [2014] 35 *Third World Quarterly* 1672, 1673.

²⁴ Ruud Koole ‘Promoting Internal Party Democracy: A Selling Point, A Serious Danger, Or A Redundant Exercise?’ (ECPR Joint Sessions of Workshops, Lisbon 2009) 1.

²⁵ Amy Gutmann *Democratic Education* (Princeton University Press 1987) 287.

and citizens, must first practise these principles itself. Practising democracy within the party will improve the trust that society places in the parties as well as in representative democracy generally. Participation in decision-making within the parties has also been cited as a factor that can foster a civic orientation in citizens who need experience with micro-democracies in order to build a macro-democracy.²⁶

IPD and the “Iron Law of Oligarchy”

Democracy has encountered obstacles, not merely imposed from without, but spontaneously surgent from within. Only to a certain degree, perhaps, can these obstacles be surpassed or removed. Robert Michels²⁷

It has been widely argued that political parties are by nature oligarchical. However, like democracy, oligarchy within parties is a question of degree. While some parties may be strongly authoritarian, others may be more democratic. For instance, the Green Parties devised the principle of “grassroots democracy” in order to challenge these oligarchic structures. The Greens have tried to develop a strict set of institutional rules to prevent the emergence of a permanent party elite and to ensure that power is continually delegated to the membership.²⁸

One of the primary aims of IPD, then, is the limitation of oligarchical tendencies in political parties. Michels’ “iron law of oligarchy” theory provides useful insight into this phenomenon. The iron law of oligarchy is a political theory, first developed by the German sociologist Robert Michels in his ground-breaking 1911 work known in English as *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*. Michels’ book investigated the compatibility of organisation and democracy, and his theory has

²⁶ Jo Saglie and Knut Heidar ‘Democracy within Norwegian Parties: Complacency or Pressure for Change?’ [2004] 10 Party Politics 385, 386.

²⁷ Michels (n 2) 7.

²⁸ Frieder Otto Wolf ‘Whatever happened to the German Greens?’ < www.redpepper.org.uk/Whatever-happened-to-the-German/ > accessed 17 May 2013.

dominated the study of political parties for nearly a century, including discussions of IPD. Michels mainly dealt with the problem of internal democracy, particularly the impact of organisations on the democratic political system as a whole.²⁹

Michels wrote that political parties, even when they are formed according to an internally democratic structure, evolve to become controlled by a relatively small elite: “It is organization which gives birth to the dominion of the elected over the electors, of the mandataries over the mandators, of the delegates over the delegators. Who says organization, says oligarchy.”³⁰ So, according to Michels, political parties will necessarily be operated by a narrow oligarchy that has no need to take into account the opinions of the ordinary members. According to Oscar Grusky and George A. Miller, the iron law of oligarchy works as follows:

First, there is always a rather small number of persons in the organization who actually make decisions, even if authority is vested in the body of the membership. ... Second, the leaders who have this delegated authority tend to take on more power than the members who selected them do. Once in power they tend to remain there for a long time and are not influenced by the opinions from below...Third, the leaders gradually develop values that are at odds with those of the members.³¹

Some scholars, on the other hand, defend the “iron law of oligarchy” as a prerequisite for political parties, and claim that, in order to reach democratic ends, political parties themselves must be ruled by oligarchic principles.³² According to William Wright, oligarchic rule within parties is necessary “in order to present a united front to opposing parties and the public in the interest of electoral and governmental success.”³³ Dennis Kavanagh describes such

²⁹ Nikos P. Mouzelis *Organisations and Bureaucracy: An Analysis of Modern Theories* (2009 paperback Routledge 1967) 30.

³⁰ *Michels* (n 2) 365.

³¹ Oscar Grusky and George A. Miller, *The Sociology of Organizations: Basic Studies* (Free Press 1970) 25.

³² Jan Teorell ‘A Deliberative Defence of Intra-Party Democracy’ [1999] 5 *Party Politics* 363, 364.

³³ William E Wright, ‘Party Processes: Leaders and Followers’ in William E. Wright (eds), *A Comparative Study of Party Organization* (Charles E. Merrill Publishing 1971) 439, 446.

thinkers as modern elitist theorists of democracy, for whom IPD is of limited importance because the voters have a choice of parties at general elections, and therefore need not be concerned about intra-party oligarchies.³⁴

Moreover, in analysing Michels' theory, some scholars point to the importance of IPD for state-level democracy. For instance, Jan Teorell states that, "Because the 'iron law of oligarchy' rendered intra-party democracy a mere chimera, Michels held democracy in the political system as a whole to be hopelessly unrealizable."³⁵ Richard Katz claims that, while the iron law is assumed to mean that large-scale democracy is usually impossible, political parties, as crucial institutions of large-scale democracy, are part of the problem.³⁶ This thesis will argue that improvement in party regulations in terms of IPD criteria can contribute to the suppression of rigid oligarchical tendencies inside the party. From this perspective, IPD functions to disperse power and thereby to lessen opportunities for its abuse.

Power sharing conflict

One of the main obstacles to IPD is, obviously, party leaders' reluctance to share power with ordinary party members.³⁷ Indeed, the party hierarchy, leadership, members of the executive board, party delegates and local party officials all tend to seek to increase or at least maintain their power, this being especially true for party leaders. In this climate, demands for increased democracy are viewed as a threat by those who hold power.

It has been argued with respect to relations among ordinary members, activists and party leaders that intra-party plebiscites diminish the power of the delegates at party congresses when they are the ones who constitute the more active and organised layer of the party on the ground

³⁴ Dennis Kavanagh 'Party Democracy and Political Marketing: No Place for Amateurs' < www.politikkampagnen.de/politikkampagnen/documents/pdf/kavanagh-party_democracy-and-political-marketing_voigt.pdf > accessed 15 September 2013.

³⁵ Teorell (n 32) 363.

³⁶ Katz (n 14) 41.

³⁷ Scarrow (n 6) 13.

and are able to challenge the wishes of the party elites.³⁸ Stephen Driver claims, for instance, that the British Labour Party, by granting ordinary members influence over the decision-making process, has “reinforced the power of the leadership and allowed it to exert even greater control over the party.”³⁹ Richard Katz and Peter Mair similarly argue that enfranchising and thereby empowering the ordinary members within the party in the name of IPD erodes the position of party activists and militant critics, which plays into the hands of party leaders.⁴⁰ Mair defines this situation as the “paradoxical role of party members” theory, according to which democratising the party on the one hand, and increasing the autonomy and power of the leaders on the other hand, are two apparently contradictory aims that are pursued at the same time.⁴¹ According to Mair, the empowerment of party members in practice serves the interest of the leadership and that of party members who hold office because the rank and file membership under these circumstances is more likely to approve initiatives that originate with the leadership and those who are in the government.⁴² In this context it again bears repeating that IPD has different meanings for different people at different times. For instance, Florence Faucher-King and Eric Treille have observed that, in the 1970s and early 1980s, IPD often correlated with activists’ influence in party decisions.⁴³ At that time, if activists had a say in policy-making, this meant that the party was internally democratic. Currently, however, IPD is defined in terms of the inclusion of ordinary party members, rather than of activists, in the party decision-making process.

According to Scarrow, the empowerment of activists in a party congress might result in more ideologically-oriented decisions, whereas the transfer of decisions from the party congress

³⁸ Klaus Detterbeck ‘The Rare Event of Choice: Party Primaries in German Land Parties’ [2013] 22 *German Politics*, 270, 271.

³⁹ Stephen Driver *Understanding British Party Politics*, (Polity 2011) 103.

⁴⁰ Richard S. Katz and Peter Mair ‘The Ascendancy of the Party in Public Office: Party organizational Change in Twentieth-Century Democracies’ in R. Gunther, J. R. Montero and J. Linz (eds) *Political Parties: Old Concepts and New Challenges* (Oxford University Press 2002) 113,128-129.

⁴¹ Peter Mair *Party System Change: Approaches and Interpretations* (Oxford University Press 1997) 149.

⁴² *ibid* 149.

⁴³ Faucher-King and Treille (n 22) 63.

to the direct participation of members might shift power toward less ideologically committed “ordinary” members, whose views tend to resemble those of the party’s target voters.⁴⁴ So it can be said that powerful activists may impact the party’s electoral chances negatively, because they may drive voters away by enacting policies that are more ideologically extreme than those supported by ordinary members. An APSA report, however, rejected this kind of argument on the grounds that “the activist would learn to modify their own demands and would take account of the wider interest of the society.”⁴⁵

Arguments about IPD

As mentioned above, scholars disagree as to whether IPD is desirable or not. To be more precise, IPD sounds attractive to most of them, but some believe that it is unimportant in the pursuit of the larger goal of state-level democracy, good examples being the process-orientated approach to democracy applied by some scholars to IPD and the result-orientated approach applied by others.⁴⁶ In the former, the process-orientated approach, the most significant consideration is how political party activities are actually carried out, so that, from an IPD perspective, any action taken in the furtherance of state level democracy must itself involve the active participation of party members. The result-orientated approach to democracy, on the other hand, emphasizes party effectiveness, the efficient and effective achievement of the envisioned political goals.

Other scholars, working outside the process- and result-orientated theoretical framework, have focused their debates on the relative merits of economic and deliberative

⁴⁴ Scarrow (n 6) 4-5.

⁴⁵ Committee on Political Parties of the American Political Science Association, ‘Toward a More Responsible Two-Party System’ [1950] XLIV American Political Science Review 66.

⁴⁶ Blessings Chinsinga and Gerald Chigona ‘The State of Intra-party Democracy in Malawi: A Comparative Audit of Selected Party Constitutions’ (A Report Prepared for the Centre for Multiparty Democracy Malawi (CMD-M) August 2010) 3.

models of democracy supporters.⁴⁷ As Rahat, Hazan and Katz explain, these kinds of arguments are centred on such questions as whether competition among parties and the participation of citizens in general elections is sufficient for effective democracy, and whether competition, widespread participation and inclusive representation within the individual parties are required as well for IPD.⁴⁸ In sum, approaches to IPD usually focus on three complex and interdependent issues: the trade-off between electoral efficiency and IPD, whether political parties will be responsive and accountable to the general electorate or to their party members, and the cohesiveness and efficiency of the party in government and in parliament.

To begin with, some sceptics argue that IPD is incompatible with parliamentary government, since it could lead to a conflict between the internal and external accountability of party leaders.⁴⁹ Within any parliamentary democracy, the fundamental objective is to maintain the accountability of the government to the legislature; thus Robert McKenzie pointed to the importance of representative linkage and argued that government is accountable to parliament as parliament is accountable to the electorate, and accountability to party members would disturb this chain of accountability.⁵⁰ More recently, Paul Pennings and Reuven Hazan claim that a high level of IPD is likely to distort party cohesiveness and as a result to weaken the quality of representative democracy.⁵¹ The analogous point may be made as to whether individual MPs remain accountable to party members who they select them as candidates, or to party leaders or to the voters.

With regard to governmental efficiency, sceptics claim that IPD brings about an undesirable weakening of the party.⁵² After analysing the effect of intra-party politics on

⁴⁷ Nick Anstead 'Internal Party Democracy in Europe and the United States: Different Models in a Changing Environment' (Conference Paper, Political Studies Association, 1 - 3 April 2008, Swansea University) 2-3.

⁴⁸ Gideon Rahat, Reuven Y. Hazan and Richard S. Katz 'Democracy and Political Parties: On the Uneasy Relationships between Participation, Competition and Representation' [2008] 14 *Party Politics* 663, 664.

⁴⁹ Robert McKenzie 'Policy Decision in Opposition: A Rejoinder,' [1957] 5 *Political Studies* 176, 180.

⁵⁰ Robert McKenzie, 'Power in the Labour Party: The Issue of Intra-Party Democracy,' in Dennis Kavanagh (eds) *The Politics of the Labour Party* (Allen and Unwin 1982) 194-198.

⁵¹ Paul Pennings and Reuven Y. Hazan, 'Democratizing Candidate Selection' [2001] 7 *Party Politics* 267.

⁵² Alan Ware *The Logic of Party Democracy* (The Macmillan Press 1979) 1.

government, Hanna Bäck concluded that “A high level of intra-party democracy could also affect a party’s bargaining efficiency, since leaders in highly democratic parties may have to spend a significant amount of time and effort during bargaining seeking their members’ approval before making important bargaining deals,”⁵³ though here it may be noted that this effect might not be so pronounced in the case of winner-take-all elections. She also claims that IPD has negative effects on a party’s chance of getting into government. Furthermore, IPD may impair the party’s ability to work efficiently, not only in government but also in Parliament. Scarrow makes a similar point:

Party cohesiveness in legislatures contributes to efficient government, and politicians within the same party tend to be more responsible to one another than they otherwise would be, because of the shared electoral fate of those voted in on the strength of a shared party label.⁵⁴

Maurice Duverger agreed that IPD is beneficial in principle: “democracy remains the dominant doctrine of the contemporary age, that which determines the legitimacy of power,” so “parties must in consequence take the greatest care to provide themselves with leadership that is democratic in appearance.” However, he concluded that internal democracy weakens authority, so that internally democratic parties are not well armed for the struggles of politics.⁵⁵ According to Jan Teorell, the reason for this belief is that party cohesion is the most important factor for success in a competitive electoral race.⁵⁶ For Duverger, IPD is meaningful only if all parties are organised with a uniform, internally democratic, structure; should one of the parties be organised in an oligarchical manner, the others would be in a position of inferiority.⁵⁷ For Seisselberg, extensive participation by members in the decision-making process and personal

⁵³ Hanna Bäck ‘Intra-party politics and local coalition formation’ in Daniela Giannetti and Kenneth Benoit (eds), *Intra-party Politics and Coalition Governments* (Routledge 2009) 64.

⁵⁴ Scarrow (n 6) 3.

⁵⁵ Maurice Duverger *Political Parties* (Methuen & Co. 1961) 134.

⁵⁶ Teorell (n 32) 364.

⁵⁷ Duverger (n 55) 134.

selection would be counter-productive, as it diminishes the efficacy and flexibility of a party's organisation.⁵⁸ However, it is important to note that, as James Campbell argues, though IPD may be a factor in the weakening of parties, it does not necessarily weaken each party equally.⁵⁹

With regard to accountability, it has been argued that political parties must be responsible both to the public and to their members.⁶⁰ There is an on-going debate among scholars as to whether party leaders and MPs should represent party members, party electorates or the nation as a whole, as well as to which groups they should give precedence, to whom they will be responsive and accountable, and how these conflicting loyalties might be balanced.⁶¹ IPD provides a complementary solution for holding party leaders accountable, since they will feel responsible for implementing the party programme in a manner consistent with the decisions made by the party members. A report dating back to 1950 in the United States found that a sense of responsibility toward the party members could enforce the party's responsibility to the electorates.⁶² According to Alan Ware, "it was assumed that, unless the party leaders were accountable to their membership, there was no guarantee that the clarity of electoral choice needed to make the electoral mechanism effective would be forthcoming from leadership."⁶³ In the same vein, for Teorell, IPD should be seen as an instrument to supplement general elections in making the legislature responsive to public opinion.⁶⁴ However, it is important to note that, as Cross and Katz point out, while democracy is multidimensional, some of its components are

⁵⁸ Jörg Seisselberg 'Conditions of Success and Political Problems of a 'Media-mediated Personality-party': The Case of Forza Italia' [1996] *West European Politics* 718.

⁵⁹ James E. Campbell 'Intra-party Democracy and Inter-party Competition' [1984] 12 *Southeastern Political Review* 33, 40.

⁶⁰ APSA Report (n 45) 2.

⁶¹ Anika Gauja 'The pitfalls of participatory democracy: A study of the Australian Democrats' GST' [2005] 40 *Australian Journal of Political Science* 71-72.

⁶² APSA Report (n 45) 23.

⁶³ Alan Ware *The Logic of Party Democracy* (The Macmillan Press 1979) 71-72.

⁶⁴ Teorell (n 32) 373.

rendered more efficient by the internal workings of political parties and others through general elections.⁶⁵

It is to be expected that political parties will reflect both the wishes of their members and voters and the concerns of those within parliament. There is a natural tendency to blur the distinction between members and voters, and at the same time debate continues as to whether political parties should follow the preferences of voters or those of the members. According to John May's "law of curvilinear disparity," the ideological stances of voters, party members and activists will often differ sharply because voters and party leaders will take a more moderate stand than party members at large or activists who, almost by definition, maintain the most ideologically extreme stances.⁶⁶ For this reason, McKenzie argues, the leader of a democratically organised party would be more motivated to respond to activists or party members than to the more moderate voters.⁶⁷ Similarly, Gijs Schumacher, Catherine E. de Vries and Barbara Vis argue that activist-dominated parties are relatively more responsive to active party supporters, while leader-dominated parties, by contrast, are relatively more responsive to the average voter, and therefore better positioned to win elections.⁶⁸ May's theory has attracted scholarly attention, including the criticism that it can only be counted as one of a number of possible explanations for the real-world relationship between ideological polarization within parties and success at the polls.⁶⁹ Thus Scarrow, by contrast, argues that empowering activists reduces a party's electoral appeal because the more moderate views that they eschew have greater appeal to the electorate:

⁶⁵ William P. Cross and Richard S. Katz *The Challenges of Intra-Party Democracy* (Oxford University Press, 2013) 5.

⁶⁶ John D. May 'Opinion Structure of Political Parties: The Special Law of Curvilinear Disparity' [1973] 21 *Political Studies* 135.

⁶⁷ McKenzie (n 60).

⁶⁸ Gijs Schumacher, Catherine E. de Vries and Barbara Vis 'Why Political Parties Change Their Positions: Environmental Incentives & Party Organization' (2012) <www.catherinedevries.eu/WhyPartiesChangePosition_Manuscript.pdf> accessed 21 December 2012.

⁶⁹ For discussion of the effect of ideological diversity on the law of curvilinear disparity, see Herbert Kitschelt 'The Internal Politics of Parties: The Law of Curvilinear Disparity Revisited,' [1989] 37 *Political Studies* 400-421; Pippa Norris 'May's Law of Curvilinear Disparity Revisited', [1995,] 1 *Party Politics* 29-47.

...moving from elite control to procedures that empower activists in party conventions might produce more ideologically charged decisions, whereas moving decisions from party conventions to postal ballots from the entire membership might shift power from the most ideologically engaged to less active ‘ordinary’ members, whose views are more likely to resemble those of the party’s target electorate.⁷⁰

Mair, on the other hand, views the empowerment of ordinary party members as a strategy used by party leaders in order to gain needed autonomy, in which case the “empowerment of ordinary members” serves as a kind of Trojan horse. This means that the power of the ordinary members is inversely proportional to the power of the activists, while the activists have the potential to present serious challenges to the leadership, a state of affairs that would naturally foster cooperation between the leadership and the rank-and-file membership at the expense of the activists. Nick Anstead argues that, “while recent reforms of British parties might seem to indicate an increased level of democratisation, it in fact seems more appropriate to characterise these changes as the modern manifestation of the party’s oligarchic tendencies, as they actually increase the freedom of action of the leadership.”⁷¹ And indeed, British party leaders may see intra-party democratisation as a way to weaken party activists; Turkish party leaders, however, may see it as a threat to their own power.

The Rational-Efficient Party Model Theory advocated by Anthony Downs, James Wilson and Leon Epstein deserves mention here since it focuses exclusively on the parties’ electoral function (vote-seeking).⁷² (The contribution of Anthony Downs is especially important here because of his reputation as one of the first to apply the logic of marketing to politics and democracy.⁷³) According to this model, political parties in a democracy formulate

⁷⁰ Scarrow (n 6) 4-5.

⁷¹ Anstead (n 47) 3.

⁷² James Q. Wilson *The Amateur Democrat: Club Politics in Three Cities* (University of Chicago Press 1962), Leon D Epstein *Political Parties in Western Democracies* (Transaction Publishers, 1980); Anthony Downs *An Economic Theory of Democracy* (Harper 1957).

⁷³ Kavanagh (n 34).

their policies strictly as a means of maximizing electoral support in order to win elections, while elected officials are allowed to do as they wish once elected, provided that their activities help to win the next election.⁷⁴ Viewed this way, since political parties compete for voters, they should remain accountable to those voters in preference to their membership; and under these circumstances, IPD would be of limited utility.⁷⁵ According to the rational efficient party model, in other words, parties need not be internally democratic, and IPD is incompatible with external cohesion;⁷⁶ as Teorell stated, this model is based on the idea that political parties should compete for voters just as businesses compete for customers.⁷⁷ Alan Ware, to the contrary, argues that vote-seeking is neither the only nor necessarily the most important objective for a party in a liberal democracy, since the party may alternatively be preoccupied with creating policies that can be implemented once it is in government.⁷⁸ Thus, although democratisation of the parties may be desirable for its own sake, it is not achieved without significant costs.⁷⁹

Conclusion

Statesmen and scholars were naturally quite sceptical about democracy and political parties when these institutions were first being elaborated in Turkey. A century later, we can no longer dispute their desirability. The wealth of scholarship discussed above testifies to the increasing focus on the relationship between democracy as it is exercised within political parties and within the polity of which the parties form a crucial part. In the chapters that follow, it will be argued that the inevitable triumph of democracy and the political parties from which it is inseparable over other forms of government will demonstrate the inevitability, or at least

⁷⁴ Anthony Downs 'An Economic Theory of Political Action in Democracy' [1957] 65 *The Journal of Political Economy* 135, 137. And see also John Kenneth White 'What is a Political Party?' in Richard S. Katz and William Crotty (eds) *Handbook of Party Politics* (SAGE 2006) 10.

⁷⁵ Saglie and Heidar (n 26) 386.

⁷⁶ Anthony Downs *An Economic Theory of Democracy* (Harper Collins Publishers 1957) 25.

⁷⁷ Teorell (n 32) 364.

⁷⁸ Alan Ware 'Activist-Leader Relations and the Structure of Political Parties: Exchange Models and Vote-Seeking Behaviour in Parties' [1992] 22 *British Journal of Political Science* 71, 72.

⁷⁹ Campbell (n 59) 40.

desirability, of IPD. Democratisation is not an event but rather an on-going process, both within and without political parties. The differences of opinion highlighted in this chapter make clear that, just as every argument about democracy generates a counter-argument, so it is with IPD, which also remains a highly subjective and contestable concept, and therefore one difficult to quantify and evaluate. IPD certainly remains an imperfect response to system-level democracy. Nevertheless, one of the major aims of this study is to build a strong case that IPD can in fact be fostered—and so of course also impeded—by means of governmental regulations. Political parties are now more subject to the law than ever before, but a carefully considered regulatory regime can lead to desirable outcomes for IPD. In preparation for this argumentation, a first step will be a directed examination of the regulation of political parties in general.

Part 2: Regulation of Political Parties

Introduction

In what follows, I will first provide a brief overview of the nature of the relationship between political parties and the state, and look in particular at the regulation of political parties by public law. I will then discuss these observations in the context of the Turkish political system and conclude by analysing Turkish party law generally.

While the concept of the “state” is a very broad and ambiguous, it is important to describe what this study means by a “state” at the outset of this discussion. First, when we refer to a state, we are not speaking only about a government that is carrying out the day-to-day business of the state and has a short-term life. Rather, we refer here to a more broad meaning of the state, more than the government, such as “the notion of an authority higher than the government of the day.”⁸⁰ Second, the state is here defined as encompassing a wide range of institutions such as a legislature, a treasury, a court, a regulatory authority and a police force

⁸⁰ Peter J. Madgwick and Diana Woodhouse, *The Law and Politics of the Constitution of the United Kingdom* (Harvester Wheatsheaf 1995) 75.

for the implementation of regulations.⁸¹ With respect to the term “regulation,” while wider connotations attach to word “regulation” in the literature of law, the term as used in this study refers to statutory law, such as the constitution and special party law.

As much as political parties are regarded as an essential element of a modern democracy, they are also the most important components of a modern state. A central function of the state is to set up the rules by which the game is to be played. For, example, Lew Rockwell described political parties as quasi-official agencies within the fabric of the state.⁸² In the same vein, Epstein used the term “public utility” as a term for parties, and claimed that political parties are quasi-governmental agencies.⁸³ For him, while being a public utility provides particular legally conferred privileges, these privileges also result in heavy regulation of political parties.⁸⁴ With the categorisation of parties as a public utility, the regulation of IPD can be seen as a normatively desirable thing to do.⁸⁵ In a report addressed to the regulation of political parties, the Venice Commission stated that “it is commonly accepted for states to regulate their functioning insofar as is necessary to ensure effective, representative, and fair democratic governance.”⁸⁶

While political scientists and public lawyers have devoted considerable attention to the regulation of political parties, they largely neglect the regulation of political parties from an IPD perspective. Democracy, at least from one perspective, is also a matter of mind and heart which cannot be regulated with laws. Supporters of IPD legislation claim that using public law instruments, such as the national constitution or special party laws, is much more effective than leaving it to parties themselves, whose leaderships have personal motivations.⁸⁷ Before

⁸¹ Colin Flint and Peter Taylor *Political Geography* (Pearson 2007) 137-138.

⁸² Llewellyn H. Rockwell ‘Libertarianism is a Revolutionary Movement’ <<http://mises.org/daily/2557/Libertarianism-is-a-Revolutionary-Movement>> accessed 25 April 2013.

⁸³ Leon D. Epstein *Political Parties in the American Mold* (The University of Wisconsin Press 1986) 155.

⁸⁴ *ibid* 155.

⁸⁵ Anika Gauja *Political Parties and Elections: Legislating for Representative Democracy* (Ashgate 2010) 12.

⁸⁶ Venice Commission ‘Guidelines on Political Party Legislation’ (Strasbourg, 31 August 2010 CDL 2010)073.) 6.

⁸⁷ Blessings Chinsinga and Gerald Chigona ‘The State of Intra-party Democracy in Malawi: A Comparative

outlining the regulation of political parties by public law, it will be instructive to consider “public utility” term in brief.

Public utility

In the literature on political parties, there is no clear definition as to exactly what is meant by the term “public utility.” it is generally used in order to emphasise the close relation between the state and the party. Political parties are frequently described as constituting a link between the state and civil society. This is also the basic idea behind the mass-party model, where a party is characterised as being a link between civil society and the state through mass membership. However, there is a long-running debate over whether, with the passing of the mass-party era, this linkage was weakened, if not completely destroyed. Van Biezen and Kopecky portray the modern state-party linkage as follows:

[P]arties have traditionally been understood in terms of their *permanent linkage with society* and their *temporal linkage with the state*... parties are now perhaps best understood in terms of their *temporal linkage with society* and their more *permanent linkage with the state*.⁸⁸

Similarly, Lisa Young claims that political parties evolve from membership based participatory organisations into state-supported bodies.⁸⁹ The primary reasons behind the weakening of the linkage between civil society and political parties can be briefly explained as the increasing decline in party membership, growing mistrust of politics and increasing level of state funds. The close relation between the state and political parties has also brought about a

Audit of Selected Party Constitutions’ (A Report Prepared for the Centre for Multiparty Democracy Malawi (CMD-M) August 2010) 27.

⁸⁸ Ingrid van Biezen and Petr Kopecký ‘The State and the Parties: Public Funding, Public Regulation and Rent-Seeking in Contemporary Democracies’ [2007] 13 Party Politics 235, 237.

⁸⁹ Lisa Young ‘Party members and Intra-Party Democracy’ in William P. Cross and Richard S. Katz (eds), *Challenges of Intra-Party Democracy* (Oxford University Press 2013) 74.

new type of party model. Richard Katz and Peter Mair's "cartel part" theory is a product of this relation. In their words:

[T]he state, which is invaded by the parties, and the rules of which are determined by the parties, becomes a fount of resources through which these parties not only help to ensure their own survival, but through which they can also enhance their capacity to resist challenges from newly mobilized alternatives.⁹⁰

According to the cartel party model, in the second half of the century, with the passing of a golden age for the mass parties, Western European political parties adapted to declining levels of participation and involvement in party activities by strengthening their state linkages in a collusive manner for their own support.⁹¹ While political parties have conflicting issues among their policies, they also have co-operative goals such as getting funds from the state and staying in parliament in any position in government or in opposition. So major parties, especially the ruling party and the main opposition party, cooperate closely when it comes to state funding and party regulation. Also, they do not want to share these opportunities with new entering parties. Deborah L. Norden claims that "in practice, collusive party relations often act to prevent new party access and, especially, new party rule."⁹² However, it remains unclear to what extent this trend of becoming closer to the state has really affected the relationship between political parties and civil society. Depending on the state must not lead to the assumption that political parties are completely dissociated from civil society.

One of the most important indicators of being a public utility is being funded by the state. However, I will defer discussion of this issue until the latter part of this chapter. Beyond financial considerations, political parties are now more regulated by the state, which is the second indicator of being a "public utility." The increased involvement of the state in internal

⁹⁰ Richard S. Katz and Peter Mair, 'Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party' [1995] 1 Party Politics 5, 16.

⁹¹ Klaus Detterbeck 'Cartel Parties in Western Europe?' [2005] 11 Party Politics 173, 173.

⁹² Deborah L. Norden 'Party Relations and Democracy in Latin America' [1998] 4 Party Politics 423, 426.

party affairs, with public law, contributed to a transformation of political parties from voluntary private associations to a public utility.⁹³ Therefore, party laws are seen as the most direct way of state intervention in the party system.⁹⁴

The development of parties as a part of the state institution contributed to the regulation of parties both at the constitutional level and the ordinary level. It is now commonplace in most of the democracies to regulate political parties by public law. With this in mind, I will now focus on the regulation of political parties in a theoretical way, and then analyse the Turkish case.

Major problems of party regulations

In the case of political party regulation, the interests of parties are often decisive in shaping laws in which they have a straightforward interest. Law and political parties have a strong relationship when the legislative bodies are comprised of representatives of political parties. Investigating the relationship between “representative democracy” and “the Law,” Andrew Geddis claimed that “it is now commonplace that a legal rule - or, more broadly, ‘the Law’ - must be traceable back to some democratic source if it is to be regarded as a legitimate legal rule.”⁹⁵ However, when it comes to the laws relating to political parties, there is a legitimacy problem, since players of the game establish the rules. The “closeness” between the regulatory (legislature) and regulated body (political parties) encourages cooperative arrangements, and capture can ensue.⁹⁶

⁹³ *van Biezen, Kopecký* (n 88) 239.

⁹⁴ Wolfgang Muller ‘The Relevance of the State for Party System Change’ [1993] 5 *Journal of Theoretical Politics* 419, 421-2.

⁹⁵ Andrew Geddis ‘Representative Democracy: What’s the law got to do with it?’ [2005-2008] 11 *Otago Law Review* 197, 199.

⁹⁶ Peter Grabosky and John Braithwaite, *Of Manners Gentle: Enforcement Strategies of Australian Business Regulatory Agencies* (Oxford University Press 1986).

According to Tabatha Abu El-haj, legislators are problematic as regulators when it comes to the rules governing themselves: they are self-interested and are regularly tempted to use legal rules to entrench themselves.⁹⁷ Likewise, Pippa Norris claims that the law-making process relating to political parties is not neutral or free from partisan bias, since incumbents holding elected office have the power to shape the legal and constitutional rules of the game, along with the courts and judiciary.⁹⁸ Karvonen also argues that “it is the parties who pass the legislation that have already gained representation; they are not likely to introduce reforms that hurt their vital interests.”⁹⁹ Muller and Ulrich state that “it is the parties that breathe life into the formal institutions of government and hence make rules for themselves.”¹⁰⁰ However, it is difficult to escape from this problem in a larger sense.

The second problem with the regulation of political parties is the question of who should enforce and review the implementation of regulations. As mentioned above, not only is the adoption of party law absent individual motives important, but clear provisions are also required for the implementation of such laws. For instance, these powers are given to the courts in Turkey. However, as Dan Avnon observes, making a law in a certain area means that you grant a power to the judiciary to interpret this law. He also states that a judiciary which consists of a small number of unelected and unaccountable judges thereby acquires a right to solve conflicts in a democratic body, namely a political party.¹⁰¹ It may thus be wondered whether judicial review is compatible with democracy, and whether political sovereignty can override legal sovereignty. However, the answer to such questions is as elusive as that to “which twin is the elder?”¹⁰² and is beyond the scope of the present study. With regard to IPD, the implementation

⁹⁷ Tabatha Abu El-haj ‘Changing the People: Legal Regulation and American Democracy’ [2011] 86 *New York University Law Review* 1, 6.

⁹⁸ Pippa Norris ‘Building Political Parties: Reforming Legal Regulations and Internal Rules’ (IDEA 2004) 6.

⁹⁹ Lauri Karvonen ‘Legislation on Political Parties a Global Comparison’ [2007] 13 *Party Politics* 437, 451.

¹⁰⁰ Wolfgang C. Müller and Ulrich Sieberer ‘Party Law’, in Richard S. Katz and William J. Crotty (eds) *Handbook of Party Politics* (Sage 2005) 435.

¹⁰¹ Dan Avnon ‘Parties Law in Democratic Systems of Government’ [1995] *The Journal of Legislative Studies* 283, 285.

¹⁰² Harlow (n 4) 7.

and the substance of party laws must be considered in tandem. The implementation of party laws is a difficult mission, and requires an organisation with significant powers. As Clyde Wilcox states, “Vigorous enforcement of flawed laws may do little good and even perhaps do harm and the best laws will do little good if enforcement is lax.”¹⁰³

In sum, as a solution to these problems, this thesis argues that IPD increases the legitimacy of political parties by fostering increased democracy in such procedures as candidate selection, and it mitigates the alleged legitimacy problem in legislatures. Moreover, selection of the party leadership by all party members would improve the accountability of leaders, which would in turn facilitate the process of implementing regulations on political parties.

Regulation of political parties

These considerations raise still more questions, such as whether the internal activities of political parties should be based on mutual trust between a party’s leaders and its members, or instead on public rules governing their internal activities, whether parties’ own constitutions are sufficient to control them and why some countries regulate the internal affairs of political parties and others do not.

In a comparative study of the special legislation on political parties in 39 countries, Lauri Karvonen determined that the aim of the legislation differs depending on the democratic status of each. For him, in non-democratic states, party laws are adopted in order to restrict the freedom of a party’s opponents, while democratising regimes use the law to reduce oligarchic tendencies, and in mature democracies the party laws are primarily adopted for regulation of the financing of political parties.¹⁰⁴

¹⁰³ Clyde Wilcox ‘Campaign Finance Law Enforcement in Canada and the United States’ in Steven Griner and Daniel Zovatto (eds) *Funding of Political Parties and Election Campaigns in the Americas* (OAS, IDEA 2005)124.

¹⁰⁴ Karvonen (n 99) 437–455.

As was stated in the first part of this chapter, political parties were not accepted as necessary and beneficial institutions until the nineteenth and early twentieth centuries. In those days, parties were voluntarily organised, and operated outside of state regulation or they under the rules governing private associations just like other non-governmental organisations that freely determine their own activities. In this regard, the recognition of political parties as good and essential and the first attempts to regulate them arise in the same periods.

In addition, some countries were suspicious and reluctant to regulate political parties on the grounds that doing so might impede the right of association or the freedom of political expression.¹⁰⁵ However, after the Second World War, it was understood that political power may be abused by parties or by lawless leaders and that this had led to disastrous results. In Germany and in Italy, democratic systems were destroyed by anti-democratic parties that won democratic elections. Hitler, for instance, came to power through democratic methods, and his regime then evolved into an elected dictatorship. Karl Leowenstein claimed that sometimes the mechanism of democracy is a Trojan horse by which the enemy enters the city.¹⁰⁶ This judgment can also be found in one of the EU reports:

Germany and Italy, with their fascist, undemocratic and authoritarian (in the German case: totalitarian) regimes, gave themselves new constitutions after the Second World War, which were intended to represent a response to the undemocratic past and provide for a democratic and pluralist political order with political parties as its components.¹⁰⁷

According to Kaare Strøm and Wolfgang C. Müller, “democracy may require good citizens as well as good politicians, but neither of these conditions, separately or jointly, can

¹⁰⁵ Avnon (n 101) 283.

¹⁰⁶ Karl Leowenstein ‘Militant Democracy and Fundamental Rights I’ [1937] 31 American Political Science Review 417, 424.

¹⁰⁷ Mathias Jopp. ‘Feasibility of a Future European Statute of European Political Parties: Legal Framework and Desirable Provisions’ (Study for the European Parliament, Policy Department C, Citizens’ Rights and Constitutional Affairs 2007) < [www.europarl.europa.eu/RegData/etudes/etudes/join/2007/393249/IPOL-AFCO_ET\(2007\)393249_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2007/393249/IPOL-AFCO_ET(2007)393249_EN.pdf) > accessed 11 May 2014.

guarantee that democracy will actually work.”¹⁰⁸ Consequently, after the war, legislating on parties was started to be perceived as a necessary tool to strengthen the deficits of the political system.¹⁰⁹ A growing number of countries took the German and Italian pattern as a negative example for regulating political parties, and started to revise their constitutions and to enact special laws governing the conduct of political parties.

Furthermore, the growing importance of the roles and tasks performed by parties for the proper functioning of modern democracies has accelerated their regulation. According to Avnon, “the creation of a legal framework regulating the activities of political parties may be perceived as a necessary means to strengthen the democratic underpinnings of the political system.”¹¹⁰ Van Biezen has a different idea for the emergence of party regulation; for her, many of party regulations were first introduced or were substantially extended in the wake of the introduction of public funding for parties.¹¹¹

Recently, legal academics and political scientists have been acknowledging the complementary regulatory role of the state over political parties, with regard to both constitutional texts and special party laws. As Casal-Bértoa and others observe, “The liberal principle of non-intervention in political parties’ internal matters that prevailed across the European continent since the very emergence of political parties as organizations seems no longer to be the dominant paradigm.”¹¹² Moreover, in most modern democracies, states are in favour of the rules prescribed by their constitutions and special party laws in order to ensure the healthy functioning of political parties. This motive is often portrayed by both national

¹⁰⁸ Kaare Strøm and Wolfgang C. Müller ‘Parliamentary Democracy, Agency Problems and Party Politics’ in Daniela Giannetti and Kenneth Benoit (eds), *Intra-party Politics and Coalition Governments* (Routledge 2009) 25.

¹⁰⁹ Avnon (n 101) 284.

¹¹⁰ *ibid* 284.

¹¹¹ Ingrid van Biezen ‘Party Regulation and Constitutionalization: a Comparative Overview’ in Benjamin Reilly and Per Nordlund (eds), *Political Parties in Conflict-Prone Societies: Regulation, Engineering and Democratic Development* (United Nations University Press 2008) 27.

¹¹² Fernando Casal-Bértoa, Daniela Romée Piccio & Ekaterina R. Rashkova ‘Party Law in Comparative Perspective’ (Working Paper Series on the Legal Regulation of Political Parties, No. 16 2012) 1.

legislators and supra-national organisations as a way to restore public confidence in political parties and strengthen their legitimacy within the political system.¹¹³ Richard Katz explains that “with the spreading acceptance of the general principle that important institutions should be governed by explicitly tailored legislation, party laws increasingly can be seen as part of the ‘normal’ corpus of legislation, something that every self-respecting country ought to have.”¹¹⁴ Parties have been regulated differently across countries, according to their historical experiences, political philosophies and social attitudes towards the normative role that political parties should play in representative democracies.¹¹⁵

With regard to the regulation of IPD, while there is a noticeable trend towards the regulation of various aspects of political parties, IPD is still not one of these aspects in most of the countries. It has been claimed that external regulatory intervention into political parties will harm their free functioning with respect to decision- and policy-making processes. Piccio and van Biezen claim that a considerable number of party laws in European democracies do not prescribe every detail of IPD and leave responsibility to the political parties so as not to infringe their autonomy and freedom of association.¹¹⁶ However, this study advocates the idea that the state must not leave the organisation and activities of political parties completely to their own discretion, in particular with regard to IPD, and should instead adopt rules that would make them more democratic.

¹¹³ Ingrid van Biezen ‘Political Legitimacy and the Paradox of Regulation’ Workshop proposal < <http://media.leidenuniv.nl/legacy/1-van-biezen-et-al---contested-legitimacy-paradoxes-in-the-legal-regulation-of-political-parties.pdf> > accessed 23 June 2013.

¹¹⁴ Richard S.Katz ‘Reform of Parties: Through Legal Regulation’ < www.cepchile.cl/dms/archivo_5011_3160/DOC_RKatz_Reform-of-Parties-Through-Legal-Regulation.pdf > 9. accessed 18 May 2013.

¹¹⁵ Gauja (n 85) 3.

¹¹⁶ Ingrid van Biezen and Daniela Romee Piccio ‘Shaping intra-party democracy: On the Legal Regulation of Internal Party Organization’ in William Cross and Richard S. Katz (eds), *The Challenges of Intra-Party Democracy* (Oxford University Press 2013) 38.

Degree of regulation

The central issue regarding the regulation of political parties is the degree of regulation. In practice, regulation by the state can take a variety of forms. Some countries approach political parties in a more liberal way, and do not interfere with their substantive aims and activities, while some have regulated political parties strictly for the sake of preserving democracy in terms of their organisation, aims and activities. Striking a working balance between these tendencies is not easy, and mostly depends on a given country's past experience and its understanding of democracy. Scholars are overwhelmingly positive about legislation that balances the tendencies toward heavy regulation and non-regulation.

According to Kenneth Janda, if governments have no rules stating what parties can do, they risk the onset of ruthless politics with little or no public accountability.¹¹⁷ Party laws essentially sap the autonomy and flexibility of political parties, as well as tying the hands of party leader. So the countries need to set viable regulations in order to get efficient results from party regulation. Yet countries have a choice of approaches as regards the degree of regulation. The classification of Plasser and Plasser on political campaigning regulation is applicable to all kind of party regulations; they distinguish regulation levels as “strictly regulated,” “moderately regulated” and “minimally regulated.”¹¹⁸ For instance, while British parties are subject to little regulation, Turkish parties are subject to a great deal. Hence, one goal of this thesis is to determine how much regulation is good for IPD. Janda, for example, claims that both “too much” and “too little” party law may lead to problems of functioning efficiently.¹¹⁹ But how much regulation is too much or too little? The important point is that party regulation should not be out of balance and place unreasonable burdens on political parties. The choice of alternative ways to regulate parties is a technical matter that can be decided only after defining

¹¹⁷ Janda (n 7) 3.

¹¹⁸ Fritz Plasser and Gunda Plasser *Global Political Campaigning: A Worldwide Analysis of Campaign Professionals and Their Practices* (Praeger 2002) 151.

¹¹⁹ Janda (n 7) 3.

the problems and needs of political systems. Muller and Ulrech have similar ideas when they state that “systems with a long democratic tradition have seen little need to formally acknowledge the important role of political parties in a comprehensive form and mention them only as need occurs in electoral and party finance laws.”¹²⁰ It should also be emphasised that, as the regulations have important effects on the functions of parties, party regulation should take into account the ever-changing climate of political parties as adaptive organisations and be responsive and flexible enough to deal with emerging issues.¹²¹ For instance, Anika Gauja argues that “the changes in party organisation (from cadre, to mass, to catch-all and cartel) over the last century consequently alter the nature of what it is that the laws are seeking to regulate.”¹²²

Although the exact degree of party regulation that is desirable for IPD is subject to debate, this thesis defends more participatory methods on candidate selection, leadership selection and policy-making processes, and argues that these methods should be supported by the external regulation of political parties. However, I also believe that regulating more participatory methods with party law does not infringe on the freedom of association, equality or rights of party members or on leadership autonomy, but rather strengthens the equality and rights of party members, and in some cases the autonomy of the leadership.

National constitutions

National constitutions have a distinct place among the instruments of party regulation. They are often used in comparative studies as evidence of a country’s approach to political parties. Furthermore, it has been said that democracy begins with a country’s constitution.¹²³

¹²⁰ Müller and Sieberer (n 100) 438.

¹²¹ Gauja (n 85) 40.

¹²² *ibid* 41.

¹²³ European Commission for Democracy Through Law (Venice Commission) ‘Report on Democracy, Limitation of Mandates and Incompatibility of Political Functions’ (CDL-AD(2012)027rev) 5. <[www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)027rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)027rev-e)> 4 accessed 23 February 2013

Thus, in order to understand the significance of the regulations of parties, it is necessary to first examine their status in national constitutions or laws commonly referred to as the constitution.

Constitutions are basic documents which provide the important rules of the state that are in some sense more fundamental than others. They often include the regulation of high profile issues such as the rights and duties of citizens, the judiciary, the governmental system and the relations of the state organs to one another, constitutional reform procedures, constitutional review of ordinary laws and the relationship between citizens and the state. Each country evaluates and decides for itself what subjects are necessary for inclusion in the constitution.

While political parties have a long tradition in the life of democratic countries, they have gained constitutional status only since the 1940s. Constitutionalising political parties started with the restoration of democracy after World War II, in Italy in 1947, and in Germany in 1949. Earlier than in Europe, the Brazilian Constitution mentioned political parties in 1946.¹²⁴ According to van Biezen, the “process of democratization and state formation in post-war Europe always went accompanied by the incorporation of parties in the newly written constitutions.”¹²⁵ Most countries then adopted special constitutional provisions concerning the importance and essential points on political parties. Janda refers to a 1976 survey of 142 constitutions, where it was found that at least two-thirds mention political parties.¹²⁶ Another study analysing 52 liberal democracies (22 established and 30 new democracies), revealed that over three-quarters of these countries have a special article regarding political parties in their constitutions.¹²⁷ In addition, within the constitutions of the EU members, only four do not mention political parties (Belgium, Denmark, Ireland and Netherlands).¹²⁸

¹²⁴ Brazilian Constitution 1946 < <https://ia600404.us.archive.org/18/items/ConstitutionOfTheUnitedStatesOfBrazilTogetherWithTheAccompanying/Brazil2.pdf> > accessed 12 December 2012.

¹²⁵ Ingrid van Biezen ‘Constitutionalizing Party Democracy: The Constitutive Codification of Political parties in Post-war Europe’ [2012] 42 *British Journal of Political Science* 187, 198.

¹²⁶ Janda (n 7) 6 refers to Hence van Maarseveen and Ger van der Tang, *Written Constitutions: A Computerized Comparative Study* (Dobbs Ferry, N.Y.: Oceana, 1978) 71–72.

¹²⁷ van Biezen and Kopecký (n 88) 247.

¹²⁸ van Biezen (n 125) 194.

The reason that political parties are not mentioned in the constitutions of some countries, such as the United States, is that when they first adopted their constitutions, political parties had yet to develop. According to Gauja, there are four main reasons for not mentioning political parties in a constitution: the infancy of political parties as organisations when constitutions were drafted, negative social attitudes towards parties, the need to maintain flexibility in constitutional arrangements and the dominance of independent attitudes towards parliamentary representation.¹²⁹ Before political parties took their place in constitutions, or where there is no article in specific constitutions, apart from a special article, protection for the freedom of association, assembly and expression is included, which rights constitute a legal basis for political parties.

There are many aspects of granting constitutional status to political parties. First, recognition of political parties in national constitutions legitimises them and indicates their importance for democracy, and in this regard has important symbolic status and declaratory value. Therefore, constitutional provisions for political parties are excellent indicators of the importance of parties for a given country. Constitutionalising of political parties distinguishes them from other ordinary associations, and grants them rights and privileges that give them a unique position.¹³⁰ Generally speaking, national constitutions not only refer to political parties, but also emphasise the importance of political parties for democracy in the same provisions.

Second, some constitutional provisions related to political parties assign to the national legislature the task of regulating political parties with a special law. Most of the countries use the constitution as a foundation for law-making, and without this special provision, the courts can annul legislation on the grounds that it does not have a constitutional basis. For instance, in Turkey, IPD is a constitutional requirement, and the articles of the TPPL are subject to judicial

¹²⁹ Gauja (n 85) 41.

¹³⁰ Carl J. Schneider 'Political Parties and The German Basic Law of 1949' [1957] 10 Political Research Quarterly 527, 529.

scrutiny by the Constitutional Court on these terms. Moreover, political parties are also subject to judicial scrutiny on the basis of the right to freedom of association, so there must be balance between IPD requirements and a party's right of free association. This balance means that political parties can neither enjoy an unlimited degree of constitutional protection nor direct their IPD matters free from state intrusion.

Third, constitutions are more neutral documents that require more difficult amendment or adoption procedures in which political parties do not have as much control as in the normal law-making process. For instance, in Turkey a referendum is required in some cases; if not, the support of 2/3 of the MPs is required. As mentioned above, regulating a neutral party law is extremely difficult because the political parties control the legislatures.

Fourth, the codification of political parties in national constitutions is one of the displays of the relationship between parties and the state. A close relationship between the state and the parties in modern democracies can be discernible through the incorporation of political parties into the national constitutions.

Special party laws

It is explicit that the constitution does not give all the answers to questions about political parties. The codification of political parties in constitutions is only one aspect of the legal regulation of political parties, one that relates mainly to their importance for the democratic order in a given country. In the absence of a special party law, most of the issues related to political parties will remain uncertain. Hence, in addition to constitutional provisions, most countries have enacted special laws devoted to political parties.

Although there are other laws focused on other aspects of political parties, such as party finance law or election law, this study will mostly focus on special party laws, which are

“specifically designed to regulate the life of party organization,”¹³¹ or, to put it differently, regulations concerning the policy-making processes, the selection of party leaders and candidate selection methods for general elections within the party.

As van Biezen and Piccio point out, special party laws inevitably contain a much greater amount of detail on the internal life of political parties than national constitutions.¹³² Such laws are a necessity in the case of some constitutions that require political parties to be regulated exclusively by laws. Turkey is a good example of this kind of special party law, in which political parties are subjected to highly detailed regulation. It is important to note that the absence of an explicit law comparable to the “Turkish Political Parties Law” does not mean that parties are unregulated in other countries. In the absence of special laws, political parties were generally regulated under general laws related to associations, or other laws that contain provisions regarding political parties.

These laws were generally legislated in the period just after the constitutional recognition of political parties following the Second World War.¹³³ The first instances of special legislation on political parties date back to the 1960s. According to one study, the first party laws were the Venezuelan *Ley de Partidos Políticos, Reuniones Públicas and Manifestaciones* (1964) and the Turkish *Siyasî Partiler Kanunu* (1965).¹³⁴

It might be argued that these kind of special laws are the product of party scepticism and have expanded gradually. Indeed, these laws consist of procedures to reduce anti-democratic tendencies, or to address lessons learned from past mistakes in order to guide the design of democratic procedures. Dan Avnon has analysed the countries that were the pioneers of party laws, and explains that all of them experienced the fall of a democratic government and its

¹³¹ Müller and Sieberer (n 100) 435.

¹³² van Biezen and Piccio (n 116) 34.

¹³³ Avnon (n 101) 287.

¹³⁴ Fernando Casal-Bértoa, Daniela Romée Piccio and Ekaterina R. Rashkova ‘Party Law in Comparative Perspective’ (Working Paper Series on the Legal Regulation of Political Parties, No. 16 2012) 4.

replacement by an authoritarian regime, concluding that “It seems that parties laws are an element in a democratic regime's attempt to safeguard its existence in the face of internal threat.”¹³⁵ In the same vein, Cross and Katz argue that these laws were established based on the idea that political parties are powerful actors in politics and potentially subject to capture or perversion by their nominal leaders.¹³⁶ True enough, the TPPL was a product of party scepticism and designed to limit the power of elites within parties and provide democratic governance, at least at the beginning. However, political parties introduced subsequent amendments in favour of party elites.

This study examines the kind of party law that provides fertile ground for IPD in Turkey by analysing the details of the TPPL and asking whether it provides a fertile ground for the IPD and what kind of reforms are necessary. It has been widely acknowledged that the TPPL does not satisfy modern democratic requirements, so it will require reforming in the light of the changing conditions of political parties.

Party regulation in Turkey

Since this study investigates the reform of the TPPL from the perspective of IPD with the help of various positive examples from different countries for the purpose of guiding the application of Turkish party regulation, and since the law determines the extent to which party members can participate in intra party business, it will be useful first to examine Turkish party law. This examination will be followed by a presentation of Turkish Constitution and the TPPL to demonstrate the legal measures and institutions that are envisaged to protect parties from oligarchic tendencies.

Parties in Turkey function according to the rules contained in the Constitution, the TPPL, the election law and their own statutes under the observance of the Constitution Court,

¹³⁵ Avnon (n 101) 284.

¹³⁶ Cross and Katz (n 65) 3.

civil courts and the High Election Board. Disputes about reforming the party law in Turkey have especially occurred over the past three decades. The quality of Turkish party law has been criticised by many academic commentators, who have argued that there is a need for the introduction of a comprehensive legal reform both in the Constitution and in the TPPL. According to Gençkaya “The Party Law also reflects the general characteristics of Turkish political/administrative culture, such as hierarchical party organization, centralization and an exclusive nomination process.”¹³⁷ Indeed, the real issue in Turkish party law is not about the amount of regulation; rather, it is about democratic quality and content. Turkish party law will accordingly be analysed, with an emphasis on provisions related to IPD in particular being taken up in later chapters.

The incorporation of political parties into the constitution and the enacting of special laws in Turkey was mostly a consequence of the widespread distrust towards parties among the military elites. The development of party law in Turkey did not occur as a political consensus among parties; rather it was born suddenly following the regime breakdowns in 1960 and 1980. In contrast to mature democracies that have regulated political parties after they had matured and with the parties’ participation,¹³⁸ in Turkey, political parties were regulated by the military regime when they were still in their infancy and without their participation. For the military regime, regulating political parties by public law was regarded as an essential way to control anti-democratic tendencies in political parties. However, this should not be understood as indicating that the military regime was solicitous of democracy. It merely referred the issue to scholars from law schools and political science departments of the two prominent Turkish Universities at that time and adopted their consensual proposal quickly. According to İlter Turan

¹³⁷ Ömer Faruk Gençkaya ‘Impact of Party Regulation on Small Parties and Independent Candidates in Turkey’ (Working Paper Series on the Legal Regulation of Political Parties, No. 41.2014) 19.

¹³⁸ Janda, (n 7) 23.

The major policy tools available to the military leadership in the structuring of political parties and the party system were legal in nature. In devising new Constitution and electoral laws, party problems received much attention. As had also been the case after the 1960-1961 intervention, a new law specifically dealing with political parties was enacted. A prominent characteristic of these laws is that they are highly detailed, containing similar provisions, often repetitive in nature, reflecting the excessive concern of the leadership that the pre-1980 politics not be restored.¹³⁹

Katz claims that “if there is a problem with democracy in a country, something about the parties is most likely a cause and/or some reform of the parties is most likely a cure, and thus that adopting or reforming party laws is an appropriate means to the end of improved democracy.”¹⁴⁰ Here I will only analyse the Turkish Constitution and the TPPL in general terms; the specific provisions of the TPPL related to the candidate selection procedure, party leadership selection will each be the subject of a later chapter. The more we know about the Turkish legal frameworks under which parties operate, the better our understanding will be of how to reform IPD.

Why should political parties be regulated by statute in Turkey?

In young, less-mature democracies like Turkey, there is always a dominant party that controls and manipulates the state apparatus, which results in inter-party relations becoming largely collusive, so that self-regulation becomes even less effective in regards to IPD. For instance, Panebianco is sceptical about party constitutions; to him, the party constitution is subject to interpretation, manipulation and unpredictable patterns of enforcement. The general efficacy of party constitutions in providing insight into the actual practices of political parties

¹³⁹ İter Turan, ‘Political Parties and the Party System in Post-1983 Turkey’ in Metin Heper and Ahmet Evin (eds), *State, Democracy and the Military Turkey in the 1980s* (W. de Gruyter, 1988) 68.

¹⁴⁰ Katz (n 114) 2.

is highly questionable.¹⁴¹ Similarly, Smith and Gauja argue that “Party constitutions must be treated with caution when describing the actual operation of party, as discrete documents....”¹⁴²

For instance, the ruling party of Turkey, the JDP, has codified intra-party referendums in the party’s constitution; however, they have never used such measures. Article 155 of the JDP constitution states as follows:

If a decision is to be made which involves a significant political choice, then an intra-party referendum may be held in a wide-range through participation of the Party’s members, or in a narrow-range through participation of only those members who are in charge of organizations. The Central Decision and Administrative Committee has the authorization to determine the methods and principles of intra-party referendums, and to decide to hold intra-party referendums.¹⁴³

The Turkish Constitution

In order to gain a more complete picture of Turkish party law, it is worthwhile looking at the Turkish Constitution first. According to van Biezen and Kopecky:

[T]he constitutionalization of parties constitutes a key element of the party–state relationship, because it attests to a conception of democracy in which parties are seen as necessary institutions, and signals that the state is assuming an increasing role in the management of parties as an essential public good for democracy.¹⁴⁴

One of the unique features of the Turkish Constitutions (both from 1961 and 1982) is the attention given to IPD. The Turkish Constitution is especially important for political parties in that it contains the core rules on their behaviour in considerable detail. Like most other

¹⁴¹ Panebianco, A. *Political Parties: Organization and Power*. (Cambridge University Press 1988) 35.

¹⁴² Rodney Smith and Anika Gauja ‘Understanding Party Constitutions as Responses to Specific Challenges’ [2010] 16 *Party Politics* 755, 756

¹⁴³ Article 155 of the JDP Constitution.

¹⁴⁴ van Biezen and Kopecký (n 88) 240.

countries, Turkey has a tradition of written constitutions, in this case dating from the 1876 Ottoman Constitution, which represents the country's supreme law with which other laws may not be in conflict. Under the constitutional arrangements, political parties are an indispensable part of democratic life in Turkey. Although Turkey has had five constitutions (in 1876, 1921, 1924, 1961 and 1982) and the origins of Turkish parties date back to as early as 1865, only the 1961 and the 1982 Constitutions recognised political parties as a separate constitutional element and thus granted them constitutional status. Before the 1961 constitution, although parties had of course been mentioned in various legal documents and in secondary legislation, they hardly existed as constitutional entities and they were operating under an article governing freedom of association. For example, in the 1924 constitution, it was stated that: "Inviolability of person; freedom of conscience, of thought, of speech, of the press; freedom of travel and of contract; freedom of labour; freedom of private property, of assembly, of association; freedom of incorporation, are among the natural rights of Turks."¹⁴⁵

With the adoption of the 1961 constitution, the status of the parties in Turkey changed from exclusively private association to public entities. The reason why political parties were not mentioned in previous constitutions is perhaps associated with the fact that there were only two parties established on the political scene until the 1961 Constitution, and they had not yet matured.

There can be no true understanding of the Turkish Constitution without mentioning its framers. Both the 1961 and 1982 Constitutions were shaped by military regimes, and remained influential even after the resumption of normal democratic life. The framers' distrust of political parties is evident in the texts of both constitutions. According to Ali Çarkoğlu, the military regimes often targeted political parties, which they saw as a major reason for country's

¹⁴⁵ Turkish Constitution (1924) translated by Edward Mead Earle in 'The New Constitution of Turkey' [1925] 40 1 Political Science Quarterly 73-100.

problems.¹⁴⁶ Turkey's Constitutions were designed, in a way to force their will upon the political parties. Their reasoning was based on the view that political parties can harm the unitary and secular system of the country. Their aim, in other words, was solely to protect the status quo. For instance, separatist and religious parties were frequently targets of the military regime and the constitutional court and were excluded from the electoral arena.

Another point to pay attention to while reviewing the constitutions in terms of the recognition of parties is that there are differences and similarities among states and across time. For instance, the Turkish Constitution has reflected the German style with regard to political parties. Western practices often have served as examples in the Turkish legal system. For instance, among the drafters of the 1876 Constitution, Midhat Pasha spoke before the adoption of first Ottoman Constitution as follows:

The Ottoman state being a part of the European community, it has to follow the same methods that they use in order to be on an equal footing with its neighbours in the way of progress; and since a constitutional system is one of the basic conditions of the advancement of nations, I hereby proclaim the adoption of this system of government within the framework of religious law (şeriah) and our national customs.¹⁴⁷

It is worth noting that IPD was one of the central topics in the drafting of the 1961 Constitution. Throughout this process, there were heated debates with regard to the inclusion of IPD in the constitutional text. While one group of scholars thought that control of political parties through the Constitution would in any event be ineffective, and so should be left to individual party constitutions, another group argued that the Constitution must ensure that political parties be democratically governed and/or effectively disciplined.¹⁴⁸ In the end, the

¹⁴⁶ Ali Çarkoğlu 'The Turkish party system in transition: party performance and agenda change.' [1998] 46 *Political Studies*, 544-571.

¹⁴⁷ Arif Payaşlıoğlu 'Political Leadership and Political Parties' in Robert E. Ward and Dankwart A. Rustow (eds) *Political Modernization in Japan and Turkey* (Princeton University Press 1964) 414, 415, citing Recai G. Okandan *Amme Hukukumuzun Ana Hatları* (Istanbul 1957) 138.

¹⁴⁸ C. H. Dodd *Politics and Government in Turkey* (University of California Press 1969) 113-114.

Turkish Constitution made it the duty of political parties to conform to democratic procedures in their internal organisation, and it clearly requires the drafting of secondary legislation on political parties. Article 57 of the 1961 Constitution states:

The statutes, programs and activities of political parties shall conform to the principles of a democratic and secular republic,....Parties failing to conform to these provisions shall be permanently dissolved....The internal affairs and activities of political parties, ...shall be regulated by law in accordance with democratic principles.

Turkey adopted its current Constitution in 1982 following the military coup in 1980. The 1982 Constitution, like most of its European counterparts, also mentioned political parties explicitly. Again, it is worth noting that both the present Constitution and the 1961 Constitution were drafted during periods of military rule, in this case during the period from September 1980 to November 1983. According to Kınıklıoğlu

The absence of intra-party democracy in Turkey is by and large due to the absence of democracy in our daily lives, in other words due to the non-development of “democratic culture”. It is for very reasons that intra-party democracy should be valued and safeguarded by constitutional means.¹⁴⁹

A crucial point closely related to this thesis is that there is again a direct reference to IPD in the Constitution. While the Turkish Constitution says a great deal about political parties, I only refer to the parts related to IPD. One part of Article 67 of the Turkish Constitution read:

Political parties are indispensable elements of democratic political life. Political parties can be formed without prior permission and shall pursue their activities in accordance with the provisions set forth in the Constitution and law. The statutes and programmes, as well as the activities of political parties shall not be in conflict with ...the principles

¹⁴⁹ Suat Kınıklıoğlu ‘The Democratic Left Party: Kapikulu Politics *Par Excellence*’ in Barry Rubin and Metin Heper (eds) *Political Parties in Turkey* (2002 Routledge) 19-20.

of the democratic and secular republic; they shall not aim to protect or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime.

Other than the general expression of democracy in Article 67, the importance attributed to the norm of IPD in Turkey also finds expression in Article 69. In Turkey, it is a constitutional requirement that political parties be internally organised according to democratic principles, though precisely what this means was left undefined. The first paragraph of the Article 69/1 (as amended on July 23, 1995) of the Turkish Constitution reads as follows: ***“The activities, internal regulations and operation of political parties shall be in line with democratic principles. The application of these principles is regulated by law.”***

The attempt to bring about the democratisation of the internal activities of political parties is expressed in the Constitution by saying that the “internal regulations and operation” of political parties “shall be in line with democratic principles.”

Before the 1995 amendment, this article read: ***“The activities and decisions within the political parties shall not be contrary to the democratic principles.”*** The aim of this amendment was to move away from a repressive mind-set. No doubt this provision is interesting and highly significant for the implementation of IPD for the Turkish political parties. The question is whether the article on Turkish constitution is purely declaratory or is rather mandatory.

Besides considering the pure text of the Constitution, it is also important to look at the preamble of the article in which policy objectives and aspirations are expressed in a different text. In the preamble of this amendment (Article 69/1), it was stated that “to incorporate a sentence indicates that political parties shall conform to intra-party democracy is necessary.” Furthermore, while Article 67 of the Constitution emphasises the external face of democracy, Article 69 deals explicitly with internal democracy. As can be seen, the Turkish Constitution goes somewhat further by demanding that not only the activities and operations of parties, but

also their internal regulations, must be democratic. The particular reason behind the introduction of this passage is of central importance for IPD in Turkey. It should be noted that this passage was deliberately added to prevent parties from developing oligarchic tendencies. And with the last sentence, the Constitution requires the state to take reasonable legislative measures to achieve IPD. This article reflects the deep concerns of the drafters about the working of democracy within the political parties; perhaps this was even their chief concern. However, the constitutional articles that require IPD do little good without definition and consistent enforcement. As can be seen from the above article, the Turkish Constitution not only grants a special constitutional status to political parties, but also mandates obligations and restrictions regarding them. Thus, political parties should be required to operate in accordance with this article.

The Turkish Constitution Court and IPD

To date, from an IPD perspective, the Turkish Constitutional Court has undertaken very few statutory and judicial interventions. Since its establishment in 1961, the Turkish Constitution Court has been the only authority on party closure cases. A total of 45 lawsuits has been filed with the Court demanding the banning of a variety of political parties since 1961, of which the Court has thus far banned 27. According to Articles 68 and 69, the statutes and programs as well as the activities of political parties cannot be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, principles of equality and rule of law, national sovereignty or the principles of a democratic and secular republic. Parties which violate these articles have been permanently banned and dissolved.

Moreover, the two most common reasons for banning a political party relate to violations of secularism laws and territorial integrity in the offending party's constitutions and programmes.¹⁵⁰ However, the Constitution and the TPPL cite concerns about violation of

¹⁵⁰ Ödül Celep 'The Political Causes of Party Closures in Turkey' [2014] 67 Parliamentary Affairs 37, 381.

democratic republic principles in the offending party's constitutions and programmes as justification for party closures. Theoretically, the assumption that the Constitution Court cites other reasons as justification for closing parties beyond the lack of IDP allows experts to bring up a broad range of possible interpretations; the Court could use lack of IPD as a basis for closing a party, at least by a very broad interpretation.

Rather, the TPPL has established admonition processes in regard to party investigations. According to law, if a party is in violation of the TPPL (which does not threaten immediate closure), then the Public Prosecution Officer can enter an application to the TCC demanding admonition of the offending party. If the Constitution Court discovers truth in the alleged violations, it sends notices to the offending party demanding correction of the violations.¹⁵¹ If the offending party fails to comply with the Court's decisions regarding the admonition, the Court can decide to deprive it of state funds. If courts decide for deprivation of state funds, the leadership of the offending party can be subject to punishment ranging from 3 to 6 months of imprisonment.

For instance, in 2002 the Public Prosecution Office asked the TCC to admonish the RPP, claiming that Article 55 of the party constitution was in violation of the principles of IPD which are provided for in Articles 4, 16 and 93 of the TPPL. The Prosecution Office gave a two-month notice to the RPP on May 5, 2003 for that the party constitution must be brought into conformity with Article 55 so that it would be in compliance with the TPPL. The RPP chose to ignore the notice, so the Prosecution Office applied to the TCC to admonish the RPP.

According to Article 14 of the TPPL, the members of a party's executive committee must be elected to the party congress by delegates through secret and equal voting (the Executive Committee of the RPP is referred to as the Party Council in its own constitution). In Article 55/11 of the party constitution, it was stated that 12 members of party council were to

¹⁵¹ Article 104 of the TPPL.

be elected from among 18 candidates who are presented by the party leader to the party congress.

The Constitutional Court first stressed the importance of IPD in the face of harmful oligarchic tendencies inside the party. However, it held that there were no violations of IPD principles in the offending party's constitution. The court stated that 12 of 72 members in the party council is a small proportion and that the system implemented democracy when delegates elected 12 representatives out of 18 candidates; the rationale behind this ruling may have been to encourage further participation by under-represented groups because of their social and economic conditions. Although the Court did not say so in its verdict, the general intention was clearly to promote participation of women and minorities.

Turkish Political Parties Law

The mere existence of provisions regarding political parties in the Constitution is not sufficient to understand the principles of IPD in Turkish parties. All political parties are also regulated by a specific law on political parties (the TPPL). The framework of action for the political parties was developed and passed as the TPPL in 1983.

Since the adoption of Party laws in 1965, Turkish Party laws have not only defined the framework within which political parties have to function, but they also coerce political parties to organise in a specific form and behave in the same manner. Thus all Turkish political parties have a uniform organisational model as a result of the special party laws, and they also have more or less the same party constitution. While it may seem contrary to the principle of freedom of association to force parties into conformity with uniform rules governed by public law, this is necessary for a country like Turkey, where political leaders are known to exploit internal party rules to their personal advantage. The goal here is to analyse and evaluate organisational obligations and IPD rules separately. In IPD, the principle objective is democracy, equality and

promoting rights of the members. Thus it can be considered acceptable for the state to adopt external rules in order to improve IPD.

As Janda observes, comprehensive and detailed party laws can prevent political entrepreneurs from starting, building and growing parties.¹⁵² He also points out that “Political parties are necessary for democratic government, and there is a need for legal frameworks to facilitate the emergence and growth of strong, competitive political parties.”¹⁵³ From this perspective, the TPPL has failed to facilitate the emergence and growth of strong, competitive political parties; rather, it fosters and promotes the current large and influential parties. Therefore, it can be concluded that reforms are required in the TPPL from an organisational point of view. According to Cem Toker, “Clauses of the current political party law make it virtually impossible for a newly established political party to emerge, expand and become a nationwide viable alternative in the political system.”¹⁵⁴

Our aim here is to improve our understanding of how the TPPL operates in regard to IPD and what position it takes in facilitating further improvements in the IPD system. Moreover, without proper understanding of the TPPL’s current position on IPD, we cannot determine whether the current law is sufficient for uninterrupted and corruption-free growth in IPD, or whether more effective legislation is required to satisfy decent IPD standards. As Janda argues, special party laws provide more nimble vehicles than the party constitution for accomplishing the needed regulations.¹⁵⁵ In the general preamble to the TPPL, it is easy to see that the main objective of lawmakers with special party laws was to provide the necessary framework for IPD. The preamble begins by referring to the studies of Ostrogorski (1903) and Michels (1908), insisting on a true assessment on the oligarchic tendencies of political parties. The preamble of the 1983 TPPL states that, after adoption of first TPPL (648) in 1965, political

¹⁵² Janda (n 7) 19-20.

¹⁵³ *ibid* 7.

¹⁵⁴ Cem Toker ‘Why Is Turkey Bugged Down?’ [2008] 7 *Turkish Policy Quarterly* 27.

¹⁵⁵ Janda (n 7) 20.

parties had continued their oligarchic tendencies, violating the equality principle among party members.¹⁵⁶

However, before further exploring facts on the relations between IPD and the Party Laws, it will be useful first to consider Turkish legislation regarding parties in general. The relationship between the Turkish legal system and political parties resolves naturally into two historical stages, the less regulated era before the 1960's and the more regulated era afterward.

Before the adoption of special laws regarding them, the Turkish political parties were viewed mostly as private and voluntary associations and were subjected to laws governing associations. For instance, in the last few decades of the Ottoman state, parties often associated freely according to the 1909 Ottoman Law on Non-Profit Associations. At that time, political parties were treated as if their status was akin to the Red Crescent or similar welfare associations. Moreover, a provision for the right to Freedom of Association was inserted into the text of the 1876 Ottoman Constitution in 1909 in order to allow and protect political parties.¹⁵⁷ However, following the foundation of the Turkish Republic, the legal status of associations changed with the amendment of the Non-Profit Associations Law in 1923 and the adoption of the new Constitution in 1924. While citizens had the legal right to establish a political party, this right was mostly restricted until 1945. Moreover, in 1938, a new Law of Association was adopted that, for the first time, explicitly mentioned political parties, in its Article 15.

According to this article, "Associations, except political parties, shall not pursue more than one goal." The first official recognition of parties as political organisations, rather than associations, happened in 1947, just after the transition to the multi-party system, with the amendment of *The Rules of Procedure of The Grand National Assembly of Turkey*, often

¹⁵⁶ Millî Güvenlik Konseyi S. Sayısı : 562 Siyasî Partiler Kanunu Tasarısının Danışma Meclisince Kabul Olunan Metni ve Millî Güvenlik Konseyi Anayasa Komisyonu Raporu. (D. Meclisi : 1/624; M. G. Konseyi : 1/486),

¹⁵⁷ Burhan Kuzu *Türk Anayasa Metinleri ve İlgili Mevzuat* (Filiz Kitapevi, 1990) 274.

regarded the country's most important step toward regulation of its political parties.¹⁵⁸ However, Turkey lacked any sort of special legislation regarding political parties until 1965. The first party law was enacted in that year with the intention of regulating the foundations of present and new political parties within the framework of the 1961 Constitution. When Turkey regulated political parties for the first time, the biggest issue turned out to be IPD; as C. H. Dodd observed, "It is doubtful if the new legislation will much hinder the operation of the 'iron law of oligarchy'; and the tradition of centralization that is long established in Turkish political parties."¹⁵⁹

The current law on political parties was legislated in 1983 by the military government after the 1980 coup d'état based on Articles 67 and 69 of the 1982 Constitution. The most obvious feature of the 1983 TPPL is that it was adopted by the military regime, similar to the 1982 Turkish Constitution. The law thoroughly reflects the attitudes and concerns of the military leadership towards political parties. The TPPL was drafted by the Privy Council, which comprised 160 members appointed by the military regime itself. From an outside perspective, it is observable that the TPPL was not enacted by self-interested political actors, a favourable situation for any sort of legislation. Indeed, from an IPD perspective, the original version of the TPPL enacted by the military was much better than the current civilian modified version. In order to understand the concerns of involved drafters more fully, it is necessary first to understand general preamble of the TPPL, which reads as follows:

In the past, activities of political parties were regulated by the Law on Political Parties (13.07.1965 date 648 number) in accordance with 1961 Constitution. The constitution required political parties to function within undefined democratic principles. However, it has been observed during the law's implementation that the equality principle, which formed the basis of democracy, was violated. Party members who had little or no

¹⁵⁸ Erdoğan Teziç *Anayasa Hukuku* (Beta Yayınları, 2003) 317.

¹⁵⁹ Dodd (n 148) 132.

connection to party oligarchs were relegated to secondary importance. We do not believe that new regulations are specifically designed to hinder oligarchic tendencies. Our intention is only to remind party leaders of democratic realities, those political leaders who are establishing oligarchic structures in their political parties, such structures are thoroughly incompatible with democracy. We are attempting to enact stronger legislation which incorporates offensive sanctions more effectively than previous incarnations. However, the actual realisation of these desired objectives is highly dependent on the attitude of the individuals who are charged with implementing the law. If party leaders become more respectful towards members of their party, then our aims of facilitating democratic values are accomplished; otherwise, stronger solutions will be sought.¹⁶⁰

It is sufficient to say that the genuine purpose of the current TPPL is, like that of the previous one, to regulate the Turkish parties in an internally democratic manner. IPD is also legally mandated by Article 4/2 of the TPPL. Article 4 reads as follows: “Establishment of political parties, the elections of party organs, functions, activities and decisions shall not be contrary to the principles of democracy with the qualifications specified in the Constitution.” In the preamble to Article 4, it was stated that the aim is to prevent oligarchical tendencies within the political parties.¹⁶¹ Article 93 of the TPPL is also very interesting with regards to IPD. The heading of the article is “The obligation of the democracy principle of internal working of parties.” The article reads as follows:

The activities of political parties, party administration, auditing of the party, elections for party organs and decisions and the actions taken by the head of the party, the party

¹⁶⁰ Author’s own translation.

¹⁶¹ Siyasi Partiler Kanunu Tasarısı ve Anayasa Komisyonu Raporu (1/624) T.C Danışma Meclisi Anayasa Komisyonu (4 Şubat 1983 Karar No: 11) 23.

headquarters bodies and party groups shall not be contrary to party statute, the principles of democracy or the principle of equality between the members of the party.

These two articles are similar. In Article 93, the principle of equality is added, and in Article 4, the definition of democracy is limited to that provided in the Constitution. While the first form of the TPPL was designed to secure IPD with some safeguards, such as compulsory primaries and limited consecutive party leadership, these measures were amended subsequently, resulting in a more structure more favourable to oligarchy.

Nevertheless, though the TPPL in principle requires political parties to be democratic, it actually leaves the mandate of interpreting democratic values to the political parties themselves. The terms of the law are vague and generally open to interpretation, making it difficult to enforce and regulate legally. Writing about the TPPL, Kınıklıoğlu states that “although it tries to promote internal democracy within political parties, its implementation actually served the exact opposite purpose”; for him, the main reason for this is that political parties are rarely held accountable for their breach of the TPPL.¹⁶² And it is certainly true that, based on some of its articles, the TPPL plays a prominent role in protecting the vested interests of the party elites and oligarchs rather than serving all of the party members.

The TPPL also imposes other requirements on political parties and their members, such as registration, being a Turkish citizen or such public funding requirements as receiving at least seven per cent of the votes in the most recent general elections. Similar to the majority of party laws in other countries, the TPPL requires the registration of political parties with the Ministry of Interior. There is also a need when registering a political party for a minimum of at least 30 signatures of founding members; this seems a reasonable number, but less reasonable is the requirement that the centre of a party must be in the capital city. Further, while the minimum membership threshold for the registration of new parties is low, the threshold minimum required

¹⁶² Kınıklıoğlu (n 149) 20.

for running in the elections and receiving public funds is extremely high. The TPPL also requires that certain positions at the party level be only be decided through regular internal party elections held at party conventions or congresses. The national party congress is the supreme decision-making body of a political party organisation.¹⁶³

Conclusion

After this brief examination of the Turkish Constitution and the TPPL, it can be concluded that public law plays a very important role in defining the policies and characteristics of Turkish political parties. However, since it was introduced in 1983, the TPPL has never come close to fulfilling its constitutional goal of enacting fair IPD. One of the core problems with the TPPL is that, while political parties openly criticize it in strong words, they only do so when they are in opposition; parties in government seem to be complacent about current TPPL policies. I believe that a new level of regulation and legislation is required for improving IPD.

The core focus of this research is concerned with three fundamental points of IPD, and in the following chapters we take a detailed look at the Turkish Party Law and focus on possible ways to improve IPD, considering such important topics as the importance of competent policy-making, leadership selection and candidate selection policies and identifying other weak aspects of the legislation that require supplement or further strengthening in regard of IPD.

In later chapters, the focus goes beyond formal mechanisms, and the actual situation inside political parties is examined. More participatory parties and systems in mature democracies will also be examined as other visions of participatory democracy.

¹⁶³ Article 14 of the Turkish Political Parties Law.

Part 3: Funding of Political Parties and Intra-Party Democracy

Introduction

No assessment of Turkish political parties is complete without conclusive analysis of the funding behind them. Funding of political parties represents an important factor in party regulation. According to Poguntke, “The most important aspect of the party law has been the regulation of public subsidies for political parties; ever since, it has also been the most problematic.”¹⁶⁴ He also claims that public subsidies “are likely to strengthen the central office and the party in public office, but may further weaken the party on the ground.”¹⁶⁵

Funding is a crucial requirement for political parties, as parties require money to carry out their ordinary functions in name of democracy. Richard Katz has stated that “Because political parties gradually came to be seen as a *sine qua non* of a modern democracy, the state would assume a legitimate role in supporting the provision of parties as an essential public good by directly furnishing them with financial support.”¹⁶⁶ On the other hand, this money and those who donate it are widely seen as problematic, even as a threat to democracy.¹⁶⁷ According to Elise Massicard and Nicole Watts, “Money is another, invisible, illegitimate, and informal dimension of party politics, playing a key role in creating dependence on particular individuals within the party and therefore in shaping power relations.”¹⁶⁸ Therefore, regulations and IPD are fundamental from the perspective of party finance. This is why Van Biezen claims that party financing paved the way for the legitimation of direct state involvement in the internal and external affairs of political parties.¹⁶⁹

¹⁶⁴ Thomas Poguntke ‘Parties in a Legalistic Culture: The Case of Germany’, in Richard S. Katz and Peter Mair (eds) *How Parties Organize: Change and Adaptation in Party Organizations in Western Democracies* (Sage 1994) 191.

¹⁶⁵ *ibid* 186.

¹⁶⁶ Ingrid van Biezen ‘Political Parties as Public Utilities’ [2004] 10 *Party Politics* 2004 701, 705, referring to Richard S. Katz ‘Party Organizations and Finance’, in Lawrence LeDuc, Richard G. Niemi and Pippa Norris (eds) *Comparing Democracies: Elections and Voting in Global Perspective*, (Sage 1996) 107–33.

¹⁶⁷ Michael Johnston ‘Political Parties and Democracy in Theoretical and Practical Perspectives: Political Finance Policy, Parties, and Democratic Development’ (NDI 2005) 3.

¹⁶⁸ Elise Massicard and Nicole Watts (eds) *Negotiating Political Power in Turkey: Breaking Up the Party* (Routledge 2013) 7.

¹⁶⁹ van Biezen (n 166) 702.

Traditionally, political parties have depended on private contributions to finance their activities. However, in the post-war period, party funding has increased dramatically across the democracies of Western Europe.¹⁷⁰ The reason behind the increase is that political parties seek state funds to finance their own activities whenever they run low on private contributions. This is a desirable situation for party leaders, since state funds allow greater manoeuvrability in political issues in comparison to privately collected funds. For instance, Bartolini and Mair assert that “the shift of parties from society to the state can also be interpreted as a strategy of survival.”¹⁷¹

Van Biezen offers three reasons as to why the state allows political parties to utilise public funds. First, political activities have become far too expensive to sustain through private contributions alone. Second, public funding ensures healthy electoral competition because most small parties receive very little private funding, and a well-funded campaign is a pre-requisite to winning elections. Third, private contributions to political parties are often associated with corruption, so allocation of state funds gives the state greater influence over the budgets of political parties while limiting corruption that could distort the principles of fair democracy.¹⁷²

It is widely acknowledged that the governing parties in developing countries often withhold state funds from small, new or opposition parties in an effort to preserve the status quo. It is important to consider that the populace of developing countries often distrusts political parties, and this biased approach may help to preserve their popularity in the short term, but may also erode their legitimacy in long term.¹⁷³

Furthermore, allocation of state funds to political parties increases the gap between party members and party elites. According to Mair, “as the party leaderships increasingly turn

¹⁷⁰ van Biezen and Kopecký (n 88) 238.

¹⁷¹ Stefano Bartolini and Peter Mair ‘Challenges to Contemporary Political Parties’ in Larry Diamond and Richard Gunther (eds) *Political Parties and Democracy* (The John Hopkins University Press 2001) 336.

¹⁷² van Biezen (n 166) 706-707.

¹⁷³ Peter Mair *Party System Change* (Oxford University Press, 1997) pp. 120-54.

towards the state for their resources, the relevance of linkage which are based on trust, accountability and above all, representation, tends to become eroded, both inside and outside the parties.”¹⁷⁴ He also argues that

Indeed, this increased dependence of parties on the state can also be interpreted as the increased dependence of parties on themselves, since it is the parties themselves which, to all intents and purposes, are the state, or, at least, are those who devise the rules and regulations promulgated by the state, and who inevitably privilege their own position.¹⁷⁵

Turkey and state funding of political parties

The principle of state funding was introduced in Article 74 of the first Political Parties Law in 1965. The article stated that a party which secured more than five per cent of the vote in general elections was entitled to receive state funding. This law was later annulled by the Turkish Constitution Court in 1969 because of concerns from smaller opposition parties. The reason provided for the annulment was that, while allocation of state funds to political parties was constitutional, all parties should be entitled to state funds without any electoral requirements. The Court also declared that state funds allowed ruling parties to modify the political system to their advantage owing to the fact that ruling party could pass any law easily in Parliament.

In 1970, the Turkish parliament passed another similar law. The new law maintained the former requirement of five per cent of the popular vote in the most recent elections to be eligible for state funding. Furthermore, this new legislation provided for proportionality in funding allocation, unlike the former incarnation. However, in an unprecedented turn of events, the Court once again annulled the law, on the grounds that allocation of state funds was

¹⁷⁴ Peter Mair ‘Party Organizations: From Civil Society to the State’, in Richard S. Katz and Peter Mair (eds) *How Parties Organize: Change and Adaptation in Party Organizations in Western Democracies*, (Sage 1994) 1,18

¹⁷⁵ *ibid* 1-18

unconstitutional and that political parties should depend only on private contributions (such as membership fees) to sustain their campaigns and activities. Furthermore, political parties were held not to be public interest associations; thus permitting them state funds could not be considered as public expenditure for which taxes can be raised.¹⁷⁶ In 1974, the Turkish Parliament passed a bill that amended the Constitution by inserting a clause that made it legal for political parties to receive state funds, and an identical clause was added to the Turkish Party Law, solving the issue entirely.¹⁷⁷

Both the original TPPL of 1983 and the Constitution of 1982 had lacked provisions for public funding, but it was made possible when the Parliament passed an amendment bill in 1984 for the TPPL and constitutional amendment bill in 1995. The constitution amendment of 1995, more specifically Article 68, states that “the State shall grant political parties sufficient and equitable funding.” Furthermore, the law bestowed authority on the TPPL to regulate the allocation of public funds to political parties.

Article 69 of the Constitution explicitly bans the involvement of political parties in any commercial activity. The article requires the income and expenditure of political parties to be consistent with their objectives. To ensure compliance with this article, regular audits of political parties’ fundraising, revenue and expenditure are held and passed through the Court of Accounts and the Constitution Court, which ascertain whether a party is functioning according to law; in cases of where violations are found, sanctions are prescribed by the law. The judgments rendered by the Constitution Court regarding the audits are final. Moreover, political parties that accept contributions from foreign states, international institutions and persons or corporate bodies of non-Turkish nationality are subject to being dissolved permanently.

¹⁷⁶ Turkish Constitutional Court E: 1970/12 K: 1971/13 2/2/1971.

¹⁷⁷ For detailed analyses see Atakan Hatipoğlu ‘Siyasi Partilere Hazine Yardimi: Sosyolojik Bir Değerlendirme’ [2009] 41 İ.Ü. Siyasal Bilgiler Fakültesi Dergisi pp.233-250.

The TPPL states that political parties represented in the Parliament are to receive state funds in proportion to the number of seats they hold. Political parties that obtain at least seven per cent of the votes cast in the preceding election but that are not represented in Parliament because of the ten per cent threshold are also entitled to these funds. Political parties below the threshold are not eligible to receive any public funds. According to Cem Toker, this kind of state funding clearly violates the “fair elections” clause of the Constitution, and creates a lopsided situation in which state funds play a decisive role in the outcome of elections.¹⁷⁸

The overall amount of funding allocated to political parties is equivalent to 0.04 per cent of “B” section of the state budget, which is essentially the total income of Turkey in a given year. According to the law, the allocation percentage is subject to being doubled in years when local elections are held and tripled in years when general elections are held.

Today, Turkish political parties rarely make the effort to collect membership fees from their members; instead they are dependent on state funding to sustain the cost of their activities. As very few memberships are paid for, they do not constitute a significant portion of party income.¹⁷⁹ If there are no membership fees, then intra-party business does not represent a major concern to party members, as they consider themselves mere supporters, which makes it substantially more difficult for their parties to represent them on IPD. William Hale and Ergun Özbudun argue that “Party membership in Turkey entails certain rights, but almost no obligations to the party, including paying membership dues. Thus, in all Turkish parties, only a very small portion of party income comes from membership dues.”¹⁸⁰

Though the TPPL does not entertain full state funding of political parties, anyone who observes the income of political parties will certainly notice that state funding amounts to a

¹⁷⁸ Toker (n 154) 28.

¹⁷⁹ Ergun Özbudun ‘The Institutional Decline of Parties in Turkey’ in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The Johns Hopkins University Press, 2001) 245.

¹⁸⁰ William Hale and Ergun Özbudun *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP* (Routledge, 2009) 47.

significant portion. The lack of revenue from membership fees and over-reliance on state funding plays a key role in diminishing intra-party relations that ultimately hampers IPD. Turkish party leaders, especially leaders of parties that are entitled to considerable public funds to be used for election purposes, operate free from the members' control and as if they have no particular obligation to the party members.

The current regulatory procedures concerning the allocation of state funding are actually designed to protect large and established political parties. Parties that hold government offices legislate the regulation procedures to meet their own interests and to deter smaller parties from receiving significant state funding. It can be concluded that the current state funding laws effectively bar new or small parties from entering the electoral competition. Thus new parties are incapable of securing the seven per cent popular vote to receive state funding, since they need the state funding to secure the required popular vote in the first place. Although public funding has not affected the number of parties on the ballot, its availability increases the success of parties.

Thus, the lack of financial contributions from ordinary members weakens their influence. According to İlter Turan

Ostensibly serving to prevent the domination of political parties by private interests, these grants [of state funding] render parties less dependent on fundraising from supporters, free the national leadership from relying on local party organizations for financial assistance, and also make the latter dependent upon national organs as a source of funds.¹⁸¹

Similarly, Gençkaya argues that “unequal and unfair public funding system...naturally and/or intentionally support[s] the bigger and more central parties *vis a vis* small parties and

¹⁸¹ İlter Turan ‘Party Oligarchy: Why Turkish Political Parties Fail to Change Their Leaders’ [2010] On Turkey < http://www.gmfus.org/galleries/ct_publication_attachments/turan_parties_nov10.pdf >accessed 12 May 2015.

independent candidates.”¹⁸² He further argues that “the state aid to political parties increases the leadership domination and cartelization in the party system. This leads to a less competitive, less pluralist and less representative party system.”¹⁸³ According to Aengus Collins

Parties that have had recent electoral success are rewarded with funding that makes it easier for them to sustain their success in the future. Conversely, parties that fall below the 7 per cent threshold—new parties, too—are set at a financial disadvantage that makes it relatively harder for them to cross either the funding or parliamentary thresholds in subsequent elections.¹⁸⁴

Furthermore, control over state resources often leads to the overgrowth of political power by clienteles and a tendency towards patronage. According to İlter Turan, “the new parties do not possess as extensive a body of sympathizers as the old parties. Hence, their reliance on the distribution of patronage is greater than the old, established parties in achieving internal cohesion to ensuring further growth.”¹⁸⁵ In Turkey, contractors with which the government does business are a significant source of income for ruling parties. However, mature democracies are very strict on party finance issues. For instance, the UK Electoral Commission, the Political Parties, Elections and Referendums Act 2000 states that:

A person authorised in writing by the Commission may, for the purposes of the carrying out by the Commission of their functions, enter at any reasonable time premises occupied by a supervised organisation or individual and having entered any such premises may- (a) inspect any books, documents or other records relating to the income

¹⁸² Ömer Faruk Gençkaya ‘Impact of Party Regulation on Small Parties and Independent Candidates in Turkey’ (Working Paper Series on the Legal Regulation of Political Parties, No. 41 2014) 3.

¹⁸³ *ibid* 19.

¹⁸⁴ Aengus Collins ‘State funding for Turkey’s political parties’ <<http://istanbulnotes.wordpress.com/2010/12/16/state-funding-for-turkeys-political-parties/>>.

¹⁸⁵ İlter Turan, ‘Political Parties and the Party System in Post-1983 Turkey’ in Metin Heper and Ahmet Evin (eds), *State, Democracy and the Military Turkey in the 1980s* (W. de Gruyter, 1988) 66.

and expenditure of the organisation or individual, and (b) make copies of, or records of any information contained in, any such books, documents or other records.

According to Keith Ewing, the police lack such strong authority even for murder investigations. Only the most robust independent bodies can exercise these powers while taking caution against their abuse.¹⁸⁶

Political corruption is one of Turkey's most insistent and seemingly entrenched problems. Similar to other developing countries, one of the main explanations of distrust towards political parties is the frequent misuse of public resources by power-seeking party elites who are fuelled by goals of personal enrichment and an ideology of establishing themselves among the privileged class in society. As Jean Blondel defined, shady dealings and corrupt practices are common in Turkey; parties can extract advantages from the state as "jobs for the boys" or contracts for businessmen willing (and obliged) to give funds to parties.¹⁸⁷ Therefore, state funding has become sort of a remedy against political corruption in Turkish politics.

Alternative methods

It can be concluded that the current political funding system renders IPD unviable. According to Yanık, some sort of state funding to political parties is a prerequisite for realisation of IPD because parties which depend on private contribution and membership fees cannot afford the procedures required for IPD elections.¹⁸⁸ He argues that, if parties do not receive funding from the state, they will look towards other, more questionable sources of funding, but that this issue can be solved through effective legislation. The choice of the appropriate party-funding regime is a technical matter that can be decided only after giving participatory rights

¹⁸⁶ Keith D. Ewing, *The Cost of Democracy* (Hart Publishing 2007).

¹⁸⁷ Jean Blondel 'Party Government, Patronage, and Party Decline in Western Europe' in (eds) Richard Gunther, José Ramón Montero and Juan J. Linz *Political Parties: Old Concepts and New Challenges* (Oxford Scholarship Online 2002) 235.

¹⁸⁸ Murat Yanık, *Parti İçi Demokrasi*, (Beta Yayınları, 2002) 110-111.

to party members on decision-making processes. Furthermore, introducing limits on state funding may encourage parties to collect membership fees from party members, ultimately leading the members to demand decentralization of power away from party elites.

A possible alternative is to legislate a proportional method for funding political parties. The new legislation would provide incentives for encouraging membership participation by providing state funding for half the expenditure on internal ballots.

The funding of European Union parties is an interesting example. According to EU rules, “each party must fund at least 25 per cent of its annual budget from its own resources to avoid over reliance upon public finance. 15 per cent of the annual amount is to be distributed in equal shares among the parties that satisfy the conditions and make a request. The remaining 85 per cent is to be distributed in proportion to the number of members elected to the European Parliament.”¹⁸⁹ Furthermore the 25 per cent “own resources” rule was drafted to ensure that the political business of the parties would not be funded solely by the state.¹⁹⁰ Although party members in Turkey do not pay membership fees, they finance their parties as taxpayers. Thus, if they are made aware that the party functions on their contributions, they might become more interested in participation in IPD.

Recently, some political parties elsewhere in the world have managed to secure significant funding through private contributions. In October 2011, nearly 2.8 million French citizens elected the French Socialist Party’s presidential candidate by voting for the nominees and paying €1 or more for their vote, securing a considerable amount of contributions to be used in the party campaign.¹⁹¹ Similarly, during the 2015 UK election season, the Labour Party invited its registered supporters to take part in the nomination of the party’s candidate.

¹⁸⁹ Simon Lightfoot ‘The Consolidation of Europarties? The ‘Party Regulation’ and the Development of Political Parties in the European Union’ 42 *Representation* 303-308.

¹⁹⁰ *ibid* 308, referring to Martin Morlok ‘Constitutional framework’ in Karl Magnus Johansson and Peter Zervakis (eds), *European Political Parties between Cooperation and Integration* (Nomos, 2002) 29, 39.

¹⁹¹ Chuka Umunna < www.theguardian.com/commentisfree/2014/jan/05/political-parties-must-be-reformed-chuka-umunna > accessed 5 January 2014.

Registered supporters of the labour party paid a fee of £3 to be eligible to vote in the candidate selection procedure.¹⁹² So also the Italian Union Party charged its supporters €1 to vote in its 2005 leadership selection. These contributions may appear to be insignificant at an individual level, but when millions of them quickly add up to a significant amount.¹⁹³

Conclusion

This thesis argues that all members of political parties should be entitled to vote in intra-party voting, while also being subject to paying membership fees. Clear rules and punishments should be incorporated in the TPPL to ban the payment of membership fees on behalf of others who would otherwise be unwilling to pay for their own subscriptions. This issue can be solved by forming an independent body dedicated to collecting membership fees from party members and then transferring those funds directly to the party's finance committee.

¹⁹² < www.labour.org.uk/blog/entry/how-to-vote-for-our-next-leader-and-deputy-leader > accessed 31 July 2015.

¹⁹³ Susan Scarrow 'Intra-party democracy and party Finance' in (eds) William P. Crossand Richard S. Katz. *The challenges of intra-party democracy* (Oxford University Press 2013) 153.

CHAPTER 4

THE POLICY-MAKING PROCESS

Introduction

One of the key functions of political parties is to develop policy proposals through their internal processes. That is why Maurice Duverger defined political parties as vast popular organisations that help to shape public opinion in modern democracies.¹ In democratic political parties, it is expected that party members will have a say in the formulation and approval of party policies. The extent to which the membership decides these policies in a given party is therefore an indication of the extent to which the party is administered democratically. While it may be argued that modern political parties worldwide have traditionally been reluctant to give any real power to their members in the policy-making (PM) process, it has been seen in earlier chapters that more recently parties around the world, but especially those in established democracies, have been expanding opportunities for their members to have a say in policy formulation. For instance, the “Your Britain” campaign launched by the UK Labour Party, and the “Have Your Say” campaign launched by the Liberal Party of Canada have called on their party members to contribute to PM either directly or indirectly. This kind of participatory democracy seems to be a response to the perception that political parties are governed by a narrow class of party elites. Moreover, there is a common belief that greater participation means more democracy, which in turn bolsters the legitimacy of political parties. At the same time, democracy-promoting organisations such as the National Democratic Institute have put forward the idea that participatory decision-making procedures are a crucial feature of political parties in new democracies.²

¹ Maurice Duverger *Political Parties* (Methuen & Co. 1961) 13.

² Susan Scarrow ‘Internal Democracy: Important for Whom?’ (22nd ECPR Standing Group Summer School “Political Parties in Modern Democracies” Brussels 10 – 21 September 2012).

The purpose of this chapter is to explore a set of interconnected issues regarding the proper roles and mechanisms for the participation of members in PM within political parties, and more specifically the efficacy of the Turkish Political Parties Law (TPPL) as currently formulated in promoting this kind of participation.

I will be arguing that all party members must be granted the opportunity to play a significant role in the PM process if IPD is to be a meaningful concept, and that the law should ensure that appropriate and workable procedures are enacted by the parties in order to protect this fundamental right of party members to have a say in party policy.

Part 1

Definition of the policy-making process

For Michael Hill, PM consists of three elements: a party's political commitments or programmes, its bargaining with pressure groups and the activity of civil servants in providing data, drafting legislation and/or interfacing among members of the party in power within and outside the government. He emphasises that these elements intermingle in varying combinations at various stages of the process.³ Building on Hill's insights, this study will be using the term "policy-making" to denote, first, the setting of a party programme, second, the drafting of election manifestos for the government and third, communication or consultation with party members through alternative methods regarding important issues that are not addressed in party programmes or in election manifestos.

The importance of these latter documents from the perspective of IPD has received significant attention from various organisations and scholars. For instance, the APSA report cited in earlier chapters states that "Those who suggest that elections should deal with personalities but not with programmes suggest at the same time that party membership should

³ Michael Hill *The Policy Process in the Modern State* (3rd edn Pearson 1997), Chapter 5.

mean nothing at all.”⁴ Similarly, Hans-Dieter Klingemann is just one of the scholars who locates the heart of the representative democracy in what parties say (promise) and what governments do (performance).⁵

In theory, it is to be expected that political parties will make clear their policies to their electorates, by means of party programmes and election manifestos that are produced internally, and will implement these policies, should they come to power, and thereby satisfy the expectations of individuals, families, firms, associations, movements and any other constituencies.⁶ Through programmes and election manifestos, parties articulate stances on a range of domestic, foreign, economic, social and judicial issues for which the fundamental positions of the party are known. By capitalizing on the legitimacy of elections, the political parties expect to convert their party programmes and election manifestos into state policies through legislation.

Party programmes and election manifestos are also significant as ways to explore different policy alternatives that may be presented to voters by the various parties and may be greeted by the voters with greater or lesser enthusiasm. As the APSA report puts it, “The proper function of the parties is to develop and define policy alternatives on matters likely to be of interest to the whole country, on issues related to the responsibility of the parties for the conduct of either the government or the opposition.”⁷

Party programmes and election manifestos provide what is from the perspective of the electorate an “external responsibility,” and from the perspective of party members an “internal responsibility”. Through these accountability mechanisms, ordinary party members should in

⁴ APSA ‘Toward a More Responsible Two-Party System: A Report of the Committee on Political Parties’ [1950] 44 *American Political Science Review* 3.

⁵ Hans-Dieter Klingemann, Richard I. Hofferbert, Ian Budge, Hans Keman, Torbjörn Bergman, Francois Petry, and Kaare Strom. *Parties, Policies, and Democracy* (Westview Press 1994) 1.

⁶ Philippe C. Schmitter ‘Parties are not what they once were,’ in Larry Diamond and Richard Gunther (eds) *Political Parties and Democracy* (Johns Hopkins University Press 2001) 73.

⁷ APSA (n 4) 20.

theory be empowered to hold a party to its programme and election manifesto. Thus, in the words of Danny Nicol, “Through mechanisms of accountability, the party grass roots and parliamentarians would keep the government to the party programme; the electorate would verify whether the party programme remained acceptable to them.”⁸ A participatory PM process, in other words, makes parties more likely to try to keep their promises. In countries like Turkey, however, where a party programme is adopted by delegates in the party congress, these delegates alone have the power to assess their own fidelity to the party program. Turning again to the APSA report, “Widespread political participation fosters responsibility as well as democratic control in the conduct of party affairs and the pursuit of party policies. A more responsible party system is intimately linked with the general level as well as the forms of political participation.”⁹

Party programmes and election manifestos are also important in terms of the loyalty of MPs to the party leaders in a parliament. Although MPs are in practice loyal to party leaders rather than to party policies, the boundaries of loyalty remain circumscribed by the party policies that were adopted in party programmes and election manifestos that were produced by authorised party organs.

It is worth noting that party programmes and election manifestos cannot cover those issues that arise incidentally on a day-to-day basis, for which the importance of a parliamentary party and party leadership cannot be underestimated, since, in politics, matters are subject to quick and constant change and a party may need to take a position without consulting its members. My argument here is that the parties’ main policies on education, health, security and justice and so on need to be spelled out in the party programme and approved by all party members if these policies are to be enforceable. Routine business, of course, which can be both time-consuming and risky to disclose to ordinary party members, remains the province of the

⁸ Danny Nicol ‘Professor Tomkins’ House of Mavericks’ [2006] Public Law 467, 475.

⁹ APSA (n 4) 9.

leadership and the parliamentary party. Anika Gauja well assesses these competing pressures: “Difficulties include the primacy of the parliamentary party in everyday political decision making, and the importance of leadership and strong personalities, which sit uneasily with the formal democratic power accorded to the membership.”¹⁰

While a full accounting of PM would take into consideration setting the agenda, formulation and implementation, I will restrict my analysis here to the first two of these stages, since implementation has much more to do with the selection of leaders and candidates than it does with the actual policies themselves.¹¹ Party members can, at least in theory, control the implementation of the approved policies by contesting the leadership, or through candidate selection before general elections.

Intra-party democracy and policy-making

The participation of members in a party’s PM process is, then, one of three defining features of IPD, along with the selection of leaders and of candidates. Thus, for Scarrow, “One of the ways to assess the degree of internal democracy in a party is to ask who helps determine the content of the party’s electoral promises.”¹² In this respect, a political party gains legitimacy when it ensures that ordinary party members will be able to voice their opinions about and inevitably to decide the fate of the party’s policies, a point that has been made by Fritz Scharpf.¹³ Otherwise, as V.O. Key puts it, “Unless mass views have some place in the shaping of policy, all the talk about democracy is nonsense.”¹⁴ So also Karl Loxbo argues that, while IPD depends to some degree on the inclusion of party members in candidate and leadership selection, genuine

¹⁰ Anika Gauja ‘The Pitfalls of Participatory Democracy: A Study of the Australian Democrats’ GST’ [2005] 40 Australian Journal of Political Science 71, 71.

¹¹ E. James Anderson *Cases in Public Policy-Making* (Praeger 1974); O. Charles Jones *An Introduction to the Study of Public Policy* (Wadsworth 1970).

¹² Susan Scarrow, ‘Political Parties and Democracy in Theoretical and Practical Perspectives, Implementing Intra-Party Democracy (NDI 2005)

< www.ndi.org/files/1951_polpart_scarrow_110105.pdf > accessed 19 November 2012 10.

¹³ Fritz W. Scharpf, *Governing in Europe: Effective and democratic?* (Oxford University Press 1999).

¹⁴ V. O. Key *The Responsible Electorate* (1966 Vintage).

empowerment of members from an IPD perspective means giving them the rights to supervise and even exercise control in formulating policies.¹⁵ Nicol concurs: “with policy initiatives filtering from rank and file upwards rather than from top downwards, such parties would encapsulate virtues of democracy, solidarity, mass participation and idealism, since policy would be made by ‘the many’ at the base of the party and implemented by ‘the few’ at the top.”¹⁶ International organisations such as the National Democratic Institute have come to the same conclusion: “Participatory and inclusive policy development processes have direct, long-term benefits to political parties and to systems of government. These include more sustainable policies and stronger, more competitive political organizations.”¹⁷

The reason that many scholarly discussions of IPD have directed less attention to PM than to leadership and candidate selection is in part attributable to the sheer difficulty of democratising the PM process. Thus, in reference to the work of Michels and McKenzie, Anika Gauja claims that “the theory behind party government and policy linkage is not so straightforward when put into practice and numerous authors have argued that ‘democratic’ policy-making, based on the principles of participation and representation, is impossible to achieve in reality.”¹⁸ Likewise, Katz and Mair argue that, in contemporary party organisations, the party in public office and the party in the central office assume a greater role in the PM process at the expense of the party on the ground.¹⁹ The party on the ground, conversely, determines who will become the party leader and MPs through internal selection procedures, which, according to some scholars, in particular those who advocate a stratified party

¹⁵ Karl Loxbo ‘The Fate of Intra-Party Democracy: Leadership Autonomy and Activist Influence in the Mass Party and the Cartel Party’ [2011] 19 *Party Politics* 1, 3.

¹⁶ Nicol (n 8) 470.

¹⁷ National Democratic Institute ‘Political Parties, Public Policy and Participatory Democracy’ (NDI 2011) 7.

¹⁸ Anika Gauja *The Politics of Party Policy: From Members to Legislators* (Palgrave MacMillan 2013) 2.

¹⁹ Richard S. Katz and Peter Mair ‘The Ascendancy of the Party in Public Office: Party organizational Change in Twentieth-Century Democracies’ in R. Gunther, J. R. Montero and J. Linz (eds), *Political Parties: Old Concepts and New Challenges* (Oxford University Press 2002) 122.

organisation, is the most effective way for ordinary members to control the policy direction of their party.²⁰

As has just been seen in the case of the argumentation of scholars like Scarrow and Key, however, this view is not universal. Pettit, for instance, citing surveys of party members in Canada, Denmark and Norway, argues to the contrary that selecting party leaders and determining candidates for general elections are ineffective means of influencing party policy, since party members also want to have a direct say in the shaping of party policies.²¹

Returning to the party responsibility theory, active participation of party members in PM encourages them to monitor the implementation process to and defend their party's policies. In the words of José María Maravall, "Weak internal voice means little monitoring, a poor system of early warning, and growing policy inertias."²² Engaging party members in the PM process allows parties to respond to their expectations and, in the meantime, helps them to design better policies and to improve the implementation of these policies. Parties have a responsibility not only to their electorates for their policies, but also to their members. If involvement in the PM process is granted to party members, they will become more cautious about controlling the party because they will have incurred responsibility to implement the policies. In addition to this, party leaders will be forced to be responsive to the party members as well as to the voters.

²⁰ R. Kenneth Carty and William Cross 'Can Stratarchically Organized Parties be Democratic? The Canadian Case' [2006] 16 *Journal of Elections, Public Opinion and Parties* 93, 98; Robin T. Pettitt 'Exploring Variations in Intra-party Democracy: A Comparative Study of the British Labour Party and the Danish Centre-Left' [2012] 14 *BJPIR* 630, 631, referring to Austion Ranney, 'Candidate selection', in D. Butler, H. R. Penniman and A. Ranney (eds), *Democracy at the Polls* (Washington DC: American Enterprise Institute 1981), 75–106; cf. Hazan, R. Y. and Rahat, G. *Democracy within Parties: Candidate Selection Methods and Their Political Consequences* (Oxford University Press 2010).

²¹ Robin T. Pettitt 'Exploring Variations in Intra-party Democracy: A Comparative Study of the British Labour Party and the Danish Centre-Left' [2012] 14 *BJPIR* 630-632.

²² José María Maravall 'The Political Consequences of Internal Party Democracy' in José María Maravall and Ignacio Sánchez-Cuenca (eds) *Controlling Governments: Voters, Institutions, and Accountability* (Cambridge University Press 2008) 157, 184.

Other countervailing arguments against inclusivity in PM have approached the subject from the standpoint of efficiency. According to Seisselberg, “extensive participation of members in formulation of policies tends to be counter-productive, as it reduces the efficiency and flexibility of a party’s organization.”²³ Similarly, Engellman holds that “political parties demand in their operations secrecy, flexibility, and unity, none of which permits the kind of open policy-making in which lay members can freely participate,”²⁴ and again Maria Maravall argues that “an oligarchic and disciplined (party), can increase the political capacity of its government; a democratic party, with internal debates and disputes over policy, can limit this capacity.”²⁵ Indeed, some scholars question the idea of even allowing party members to attend party meetings, let alone take part in an open PM process, since they do not have sufficient responsibility for the consequences of the decisions taken. These ideas reflect more or less the Schumpeterian understanding that puts elections at the heart of democracy, which is reduced to a leadership competition in national elections, since voters “must understand that, once they have elected an individual, political action is his business, not theirs. This means that they must refrain from instructing him what he is to do.”²⁶

Such advocates of stratarchical party organisation defend IPD from this perspective. Stratarchical parties are organized according to the principle of a division of labour, “in which different and mutually autonomous levels coexist with one another, and in which there is a minimum of authoritative control, whether from the bottom–up or from the top–down.”²⁷ Thus, in the context of Canadian parties, Carty and Cross argue that party policies are in reality decided by the party that is in public office, while the party on the ground can try to use its

²³ Jörg Seisselberg ‘Conditions of success and political problems of a ‘media-mediated personality-party’: The case of Forza Italia’ [1996] 19 West European Politics 715, 718.

²⁴ Frederick C. Engelmann ‘Membership Participation in Policy-Making in the C.C.F.’ [1956] The Canadian Journal of Economics and Political Science 161, 161.

²⁵ Maravall (n 22) 162.

²⁶ Joseph A Schumpeter *Capitalism, Socialism and Democracy* (Harper and Row 1942),

²⁷ Katz and Mair (n 19) 129.

control over personnel to shape policies indirectly. For them, party members demonstrate their policy preferences by nominating a parliamentary candidate or selecting a party leader indirectly.²⁸

While acknowledging the significance of the party leader and parliamentary party in the PM process, I hope to demonstrate in the remainder of this chapter that the PM process in Turkey is in particular bedevilled by the manner in which almost every party policy is developed and implemented by small party elites, or even by the party leader alone. Despite the professed desire of Turkish party leaders to attract more members, they remain wary of giving their members any influence over the PM process beyond the indirect means of candidate and leadership selection.

I will therefore proceed to describe the PM process from a theoretical point of view, and then to analyse the provisions of the Turkish Political Parties Law (TPPL) as they relate to the subject from an IPD point of view and actual practice. My perspective here is institutional, the main question being whether the party congress, which is envisioned in the TPPL as a PM body, is an adequate institution for the desired level of IPD, or should instead be replaced with legislation that does more to encourage participation. Two possible models for supplementing or replacing the TPPL are ready to hand. The first is the party policy forum – which as mentioned already plays a significant role in overall PM in major British Parties such as the Labour Party, Liberal Democrats and the Conservative Party – and represents a pre-existing participatory and deliberative PM body. I will then consider the direct democracy model, in which party members exert power only by approving or rejecting by internal ballot those policies that are put before them. The aim of these comparisons is to explore how the TPPL might be reformed in order to increase ordinary party members' participation in drafting party policies.

²⁸ Carty and Cross (n 20) 100.

As most scholars and politicians are aware, PM is more than a matter of political parties, involving as well parliaments, bureaucracies, universities, civil organisations and unions. Nevertheless, by privileging the perspective of party membership, focus can be maintained on legislative means to empower ordinary party members, and due consideration can best be given to the particular political culture of Turkey. For, as Canan Akman observes, “Today in Turkey, political parties remain the major channel to integrate citizens into a political system that is given to notorious feebleness of civil society, and is characterised by a very low degrees of association membership among citizens.”²⁹ An interview conducted by Semanur Karaman with some members of civil society organisations in Turkey sheds much light on this issue; one interviewee claimed that, “There are no egalitarian criteria which determine who will be consulted, when and how. The government gathers a group of government friendly CSOs (Civil Society Organisations) and consults them on a recent draft law. Since such CSOs don’t oppose any government action, the draft law passes as if there was a public consensus to begin with,” while another stated that, “Since they [the government] are not legally bound to ask our opinion, some Ministries invite us for public consultation, whereas others don’t bother at all. There are no common standards at all.”³⁰ These findings are consistent with the claim by Gülgün Erdoğan Tosun that

Civil society institutions in Turkey have been forced to cooperate with the state as a result of the centralized funding that has transformed them into rent-seeking organizations. While these civil society organizations have defended democratization in general, they themselves have not succeeded in getting democratic values put into

²⁹ Canan Aslan-Akman ‘Democratic Consolidation and Institutional Challenges for Political Parties and the Party System in Turkey’ in Müge Aknur (ed), *Democratic Consolidation in Turkey* (Universal Publishers 2012) 143,173.

³⁰ Semanur Karaman ‘How do Turkish citizens participate in decision-making?’ < www.opendemocracy.net/can-europe-make-it/semanur-karaman/how-do-turkish-citizens-participate-in-decision-making > accessed 4 November 2014.

practice. The lack of trust of Turkish society in their political institutions and politicians has also contributed to the weak structure of civil society in Turkey.³¹

It should further be noted that political participation in party affairs can be seen as a low-level problem to be solved by reform of party laws, while PM at the level of governing institutions is a matter for the national constitution and for extensive legislation that may involve reform of existing laws. Given that the ruling party has dominated the political arena for so long, other channels for political participation, such as CSOs and other pressure groups, are limited and constrained by the ruling elite. These pressure groups function almost as auxiliary wings of the ruling party, so that, according to Ersin Kalaycıoğlu, “A relatively small minority of Turkish society appears to be committed to organising and mobilising, while the overwhelming majority fail to do so at all,”³² while according to Şaban Tanıyıcı “The dearth of civil societal organizations in Turkey has made parties more important to individuals.”³³

What is democratic policy making in the context of political parties?

The first issue regarding the democratic conduct of PM concerns who will be allowed participate in the process, whether the party elites alone, the delegates or all party members.³⁴ Scarrow, Webb and Farrell distinguish seven stages in the inclusiveness of the decision-making process. In the first, the leaders decide party policies themselves. Second, matters are decided by the legislative party at large, say the ministers and MPs, which is known as the party in public office, a situation that is more likely to result from, or in, a concentration of power at the top of a parliamentary party, since rank and file MPs will have less power than top party

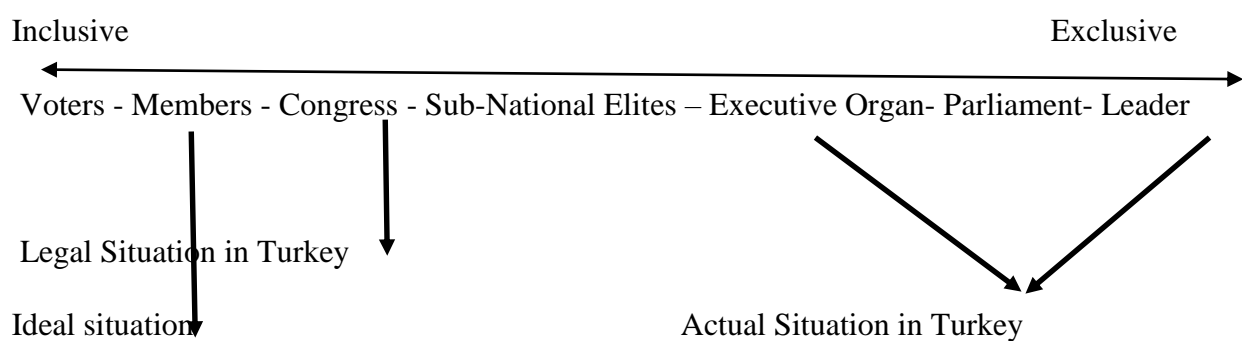
³¹ Gülgün Erdoğan Tosun ‘Civil Society and Democratic Consolidation in Turkey’ in Müge Aknur (ed) *Democratic Consolidation in Turkey* (Universal Publishers 2012) 179, 187.

³² Ersin Kalaycıoğlu ‘State and Civil Society in Turkey: Democracy, Development and Protest’ in Aryn B. Sajoo (eds), *Civil society in Muslim world: Contemporary perspective* (Islamic Publication 2002) 268.

³³ Şaban Tanıyıcı ‘Transformation of Political Islam in Turkey Islamist Welfare Party’s Pro-EU Turn’ [2003] 9 Party Politics 463, 469.

³⁴ Scarrow (n 12) 6.

officials. In the third stage, party executive organs, such as, in a Turkish context, the Central Decision-Making and Administrative Committee and Central Executive Committee, which is known as the party in the central office, make the decisions. The fourth stage involves sub-national elites such as leaders of provincial or local party units, and the fifth the national party congress, which consists of delegates from various party levels. The sixth and the more inclusive stage gives a direct voting role to all party members, and the seventh and most inclusive allows the parties to offer a role to party voters and sympathisers. As discussed above, more inclusive PM is often seen to correlate with greater democracy within the party in general.³⁵ Looked at schematically, in inclusive political parties, all members are entitled to participate in the articulation and selection of party policies through institutionalised forums of consultation and plebiscitary PM methods. In exclusive parties, by contrast, a single party leader determines party policies, as is now the case in Turkey. It is a leitmotif of the present study that, despite some negative aspects, in particular the difficulties involved in their implementation, more inclusive methods yield more democratic and beneficial outcomes to Turkish democracy in general.



The second issue to be considered after inclusiveness concerns the procedures by which participation takes place, which has been a particular source of debate among advocates of

³⁵ Benjamin von dem Berge, Thomas Poguntke, Peter Obert, Diana Tipei *Measuring Intra-Party Democracy* (Springer 2013) 11.

participation by ordinary party members in PM with regard to whether ordinary members will play role in every stage from proposal through approval, or will only have a ye-or-nay vote on previously-drafted policies. According to Gauja, participation by party members occurs in two arenas, “during the development process by drafting policy proposals in a local branch, or by being a member of, or consulting with, a working group; and second, by participating in (or being represented in) a vote to adopt, reject, or amend party policy.”³⁶ A third issue with respect democratic PM concerns whether political parties will represent the views of their members, their voters or all citizens, which is an especially difficult question for governing parties.

The deliberative model of policy-making

In the deliberative model of PM, political parties are expected to grant ordinary members an opportunity to share their opinions during the development of party policies. According to Ron Levy, while there is no standard model for ideal deliberation, deliberation should be widely inclusive of party members, and should take place on equal terms.³⁷ Likewise, for John Gastil, “the more often a system deliberates, the more readily it can meet the criteria for the democratic process,”³⁸ and Jo Saglie and Knut Heider concur that “the deliberative argument points to parties as arenas for formation of preferences through public discussion and debate. Particular interests may be reconciled with more general interests through intra-party deliberations.”³⁹

The deliberative model imagines party members who are actively involved in the PM process in working groups and policy commission, on either a local or a national level, since, as Jeroen Mimpen asserts, “democratic policy making involves a participative process of policy development in forums, debates, consultation meetings and other platforms, and decentralizes

³⁶ Anika Gauja ‘Policy Development and Intra-Party Democracy’ in William P. Cross and Richard S. Katz (eds) *The Challenges of Intra-party Democracy* (Oxford University Press 2013) 118.

³⁷ Ron Levy ‘The Law of Deliberative Democracy: Seeding the Field’ [2013] 12 *Election Law Journal* 355, 358.

³⁸ John Gastil *Political Communication and Deliberation* (Sage 2008) 8.

³⁹ Jo Saglie and Knut Heider ‘Democracy within Norwegian Political Parties: Complacency or Pressure for Change’ [2004] 10 *Party Politics* 385, 386.

the mandate of decision-making to the rank and file of political parties.”⁴⁰ So even though it is the most difficult model to implement, deliberation represents the most desirable PM method for advocates of IPD. Naturally, the success of this kind of PM is directly proportional to the size of a political party, since, as mentioned above, the deliberative model of democracy necessitates institutions such as forums for both discussion and decision-making.

Nevertheless, some scholars oppose deliberative PM, among them John Hibbing and Elizabeth Theiss-Morse, who argue that deliberative decision making “is ill-suited to many issues, and can lead to worse decisions than would have occurred if no deliberation had taken place.”⁴¹ Similarly, the NDI argues that “Some policy issues move so quickly they do not allow for a deliberate consultation process to take place, so not every decision can be taken using broad consultation.”⁴²

Hibbing and Morse also argue that “getting people to participate in discussions of political issues with people who do not have similar concerns is not a wise move,”⁴³ and they raise an important issue, namely that formulating party policies usually demands technical knowledge, for which reason special committees need to be established and the PM activities of party members limited to those policy forums in which they are most interested and are best educated.

Deliberative democracy is also called “strong democracy” by some scholars, such as Benjamin Barber, who defines it as follows:

It is literally self-government by citizens rather than representative government in the name of citizens. Active citizens govern themselves directly here, not necessarily at every level and in every instance, but frequently enough and in particular, when basic

⁴⁰ Jeroen Mimpen ‘Intra-party Democracy and its Discontents: Democratization in a Volatile Political Landscape’ < www.nimd.org/conferencedocument/247 > accessed 27 June 2008.

⁴¹ John Hibbing and Elizabeth Theiss-Morse *Stealth Democracy: Americans’ Beliefs About How Government Should Work*. (Cambridge University Press 2002) 190-191.

⁴² National Democratic Institute (n 17) 11.

⁴³ Hibbing and Theiss-Morse (n 41) 190-191.

policies are being decided and when significant power is being deployed. Self-government is carried on through institutions designed to facilitate ongoing civic participation in agenda setting, deliberation, legislation, and policy implementation (in the form of common work).⁴⁴

Although Barber's attention here is directed towards state level democracy, his remarks are also applicable to IPD in three important ways. The first concerns the level of participation: all party members in a strong democracy may participate in policy issues relating to the policy as a whole, while those relating to local issues can be decided in local policy forums by local party members. The second point to be taken from Barber is that the party members are not included in the PM process in day-to-day affairs, but do take part in such significant policy debates as those surrounding education, health, economy and security. Third, the establishment of institutions in order to facilitate participation of all party members in the PM process brings to mind national and local policy forums, policy commissions and so on, even if such issues remain within the purview of local officials.

My reading of the theories and of the evidence suggests that party laws can have some efficacy with regard to these three issues by leading to the formation of executive organs that can establish necessary institutions, consult party members throughout the PM process and establish effective criteria for gauging the level of consultation. One approach to bringing about these goals could be the formation of a compulsory policy forum and of policy commissions. Although these bodies could not necessarily be counted on to carry out the members' wishes in preference to those of the leader, they cannot help but strengthen members' positions with respect to those of the leaders in the context of a system like that in Turkey, where nearly every policy issue remains under the control of the leadership.

⁴⁴ Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age*, (University of California Press, 1984) 151.

The direct democracy model of policy-making

A further consideration regarding internally democratic PM relates to direct democracy theory. As discussed, there is a trend in mature democracies to make their PM processes more open to ordinary members; thus, as Patrick Seyd observes, the “plebiscitarian party might be an increasingly common feature in modern democracies.”⁴⁵ Although some scholars distinguish plebiscitary democracy from direct democracy, here these terms will both be taken to mean that significant decisions are made by the party members, in a manner like that of the Green Parties, who declare that “we will increase the use of referenda and plebiscites to strengthen direct democracy.”⁴⁶ I will also use the terms “one member one vote” (OMOV) and “intra-party referenda” in the same context.

A direct democracy model, then, can be defined as a process that allows the party members to approve or reject a policy proposal (which may take the form of a party program or election manifesto) that is prepared by incumbent party organs. The most efficient form of this kind of PM is when alternative policies are presented to party members for approval piecemeal rather than as whole programmes or manifestos.

Again, it must be observed that some scholars defend the voting rights of party members but nevertheless reject the deliberative PM, on the grounds that it tends to generate protracted and fruitless discussion.⁴⁷ Robert Goodin claims that “giving everyone a vote might be quicker than giving everyone a say, so long as you were prepared to cut off debate sharply and press the issue to a vote.”⁴⁸

Currently, some parties use a kind of plebiscitary democracy in the PM process that limits expression of members’ opinions to a simple yea-or-nay vote on proposals drafted and

⁴⁵ Patrick Seyd ‘New Parties / New Politics? A Case Study of the British Labour Party’ [1999] 5 Party Politics 383.

⁴⁶ German Green Party Manifesto 1983 sec. 5,37 quoted in Robert Goodin *Green Political Theory* (Polity Press 1992) 123.

⁴⁷ Werner Hülsberg *The German Green A Social and Political Profile* (Verso 1988) 123.

⁴⁸ Robert Goodin *Green Political Theory* (Polity Press 1992) 141.

presented by party elites. This kind of participation has come to be known as *elite-directed* participation, “where the individual simply chooses between alternative political packages that are usually presented by political elites,” in the words of Thomas Poguntke.⁴⁹ Dennis Kavanagh similarly defines this kind of procedure as “plebiscitary democracy in which democracy is combined with elitism.”⁵⁰

The main drawback to this form of PM relates to setting the agenda. For when the political parties open the PM process to ordinary members only to the point of allowing a year-or-nay vote on previously drafted resolutions, the situation resembles that of a business contract in which the terms are decided upon by one party and the other party is simply asked to “take it or leave it.” This is especially the case where no alternative programme is offered, so that members are effectively blackmailed into approving a programme in order to avoid the creation of a gaping policy “hole” in the run-up to a general election. Realistic alternatives, however, are difficult to envision; members may be presented with a false choice between the programme favoured by the leader or a policy void that would represent electoral suicide.

The minimal level of participation required for effective PM in the context of IPD, then, would be to grant some power to all party members over the approval of these documents and over the initiation of the amendment procedure on these documents. Anstead, however, argues that “direct vot[ing] offer a very limited form of participation... [it] does not offer members the chance to enter into a discourse on policy, but instead offers binary options,”⁵¹ and it is certainly true that the level of participation that he describes does not bear directly on PM and could be considered as a procedural safeguard.

⁴⁹ Thomas Poguntke ‘The Organization of Participatory Party: the German Greens’ [1987] 15 *European Journal of Political Research* 609.

⁵⁰ Dennis Kavanagh ‘Party Democracy and Political Marketing: No Place for Amateurs?’ (Conference on Political Communications in the Global World, at Mainz. 2003) 5.

⁵¹ Nick Anstead ‘Internal party democracy in Europe and the United States: different models in a changing environment’ (1 - 3 April, 2008 58th Political Studies Association Annual Conference “Democracy, Governance and Conflict: Dilemmas of Theory and Practice”) 12.

Actual arguments against plebiscitary democracy in the parties in this context are parallel to those proposed by the opponents of national referenda in which policies are usually proposed by the ruling parties and presented to the citizens either to adopt or to reject. Ideally, discussion should culminate in a vote, and these steps might be facilitated through such regulations as assigning limited speaking periods to individual members during policy deliberations. In my view, given current conditions in Turkey, the best system for PM would be a hybrid democracy that combines deliberative forums with approval of the party program by all party members. Such a system could be achieved through the implementation of expert commissions responsible for policy development and for drafting the party's programme and election manifestos that must be presented to a vote of all party members for approval. Most of the countries in the world today practice some form of hybrid democracy along these lines, combining representative democracy through political parties with the popular democracy represented by referenda. At the very least, such a system makes sense for intra-party government.

The initiative process can also be brought within the purview of party law. Some parties also use the initiative process in the context of plebiscitary democracy, under which circumstances party members may introduce policy resolutions for approval by collecting a set number of signatures from fellow members. Thus, if an unexpected matter that is important for the country arises, party members can summon other party members to participate in internal ballots. As an example, among the Australian Democrats as described by Gauja, "ballots to adopt or change policy can be initiated in one of three ways: either by decision of the National Executive, one Division, or petition by five Branches or 50 members."⁵²

⁵² Gauja (n 10) 74.

Issues to be considered in policy-making

A significant factor relating to PM is the number of party members involved. Saglie and Heidar assert that the quality of IPD may depend not only on the actual level of participation, but also on the number and nature of the opportunities that are provided for the members.⁵³ As mentioned in previous chapters, direct and deliberative democracy methods are extremely difficult to implement, mostly owing to the size of parties and the ever-widening range of issues with which they must engage. The determination of party policies by the internal process of democratic discussion within the party organisation is important especially from the perspective of deliberative democracy.

Gauja argues that, given the difficulties inherent in direct participation in the PM process, its achievement depends primarily on party size, the smaller the better.⁵⁴ Analysing the quantitative and qualitative aspects of party membership, Elin Allern and Karina Pedersen suggest that declining membership may be a fertile ground for IPD, since smaller memberships can more easily find extensive and meaningful opportunities for participation in the decision-making process.⁵⁵ Similarly, Giovanni Sartori claims that the quality of participation is inversely related to the number of participants.⁵⁶ It is to be noted that the number of party members is especially significant for socialist and leftist parties, which generally seek to recruit large numbers of members. Saglie and Heidar, however, claim in a response to Michels that “we would expect lack of democracy to be more widespread in large parties, where the organization is complex and the distance between the individual member and the leadership is greater.”⁵⁷

⁵³ Saglie and Heider (n 39) 389.

⁵⁴ Gauja (n 36) 128.

⁵⁵ Elin H. Allern and Karina Pederson ‘The Impact of Party Organizational Changes on Democracy’ [2007] 30 *West European Politics* 68, 79-80.

⁵⁶ Giovanni Sartori, *The Theory of Democracy Revisited Part I and II*. (Chatham House Publishers, 1987) 113.

⁵⁷ Saglie and Heider (n 39) 392.

Although Richard Katz argues that expanded membership may also come with some costs, as members can, for example, make policy demands on the party and constrain the leadership's freedom to manoeuvre,⁵⁸ this is not the case in Turkey, since not all party members have an interest in or commitment to participation in the PM process. Even if parties open PM to ordinary members, relatively few are likely to participate, since most join a party primarily to receive incentives rather than out of any real desire to determine the party's policies. Participation requires time, knowledge and energy, and these resources are not distributed equally among all the members; moreover, participation is bound to suffer if it is limited to dues-paying members.

According to statistics from 2011, Turkey has nearly 50 million voters, while those from 2013 count 10 million party members. Such numbers all but preclude traditional forms of direct democracy, though modern communications technologies may eventually offer workable alternatives.

Conflict generated by power sharing is a significant issue both in PM and for the other components of IPD. Put simply, conflict comes about when some party members wish to have a say in the PM process, but the leaders of their party are opposed. As Paul Webb sees it,

Thus, it is not hard to find examples of organizational changes which have served to empower members in recent years, but it is important to understand that such reforms have rarely enhanced membership power in the sphere of policy-making. Party leaders wish to reserve this domain to themselves as far as possible, in order to maximize their scope for strategic manoeuvre when playing the game of party competition.⁵⁹

⁵⁸ William P. Cross, and Richard S. Katz (eds), *The Challenges of Intra-party Democracy* (Oxford University Press, 2013) 8 refers Richard S. Katz, 'Party as linkage: A vestigial function?' [1990] 18 *European Journal of Political Research* 143-161.

⁵⁹ Paul Webb 'Party Responses to the Changing Electoral Market in Britain' in Peter Mair, Wolfgang C. Müller and Fritz Plasser (eds), *Political Parties and Electoral Change: Party Responses to Electoral Markets* (Sage 2004) 29-30.

Party leaders are faced with a dilemma in this context. On the one hand, it is important for them to meet the expectations of party members, especially if the members have a say in leadership selection. On the other hand, it is not easy to predict party members' behaviour once they are granted a say in PM. One response to this problem would be for party leaders to grant different kinds of powers to individual members, such as involving them in candidate selection and leadership selection.

Conclusions

The issues and arguments discussed in this chapter suggest that, despite logistical and other challenges, one of the most significant means of promoting IPD is to expand access of ordinary party members to formulating party policies. By contributing to election manifestos and party programs, members take on responsibility for policies and thus become invested in their successful implementation.

It has been seen that traditional models of direct participation are unlikely to be workable in the context of modern Turkish politics, but there exist a number of alternative methods that could be implemented in order to ensure that ordinary party members feel that they have a stake in determining and implementing a party's stated goals. Thus, while a simple ye-or-nay vote on pre-existing policy will probably be insufficient to foster real democratisation, such procedures as granting each member the right to offer an opinion about proposed policies, the creation of expert boards and the parcelling out of individual powers to defined groups within the membership have the potential to foster inclusivity within the parties and thereby to contribute to the consolidation of democracy in the nation as a whole.

Part 2: Policy-Making in Turkish Political Parties

Introduction

It is generally accepted that Turkish political parties have a lack of democracy in respect to their PM processes, such as candidate and leadership selection. It is clear that, despite the necessity for IPD set out in the Turkish Constitution and in the TPPL, the current system only allows ordinary members to participate in the PM process indirectly, through electing their delegates. Even then, the role given to the party congress in PM is merely to adopt the party programme. Thus, Turkish political parties do not conduct their PM in a democratic manner with a party congress system. Though party elites are reluctant to share power, I will argue that the law should provide opportunities to ordinary members. Through legal reform, the state should take some power away from party elites and hand it back to ordinary members, where it really belongs. I posit that establishing more participatory democracy in PM can help in addressing the lack of IPD endemic to Turkish parties. Similar to the national constitution, which adopts referendums as a way to supplement representative democracy, party law can combine delegatory democracy and plebiscitary democracy within the party as well.

There are several reasons for the elite-driven policy process in Turkish parties. Supply side (party elites) and demand side (party members) factors have been identified as having an influence on the ability of party members to participate in PM. As just mentioned, party elites are reluctant to share their power with party members. The demand side is also problematic. Historically, party members in Turkey have been reluctant to participate in the policy forming process of political parties. This situation is not unique to Turkey, but is mirrored in the parties of many mature democracies. Explanations for this reluctance are several and diverse, and it is outside the scope of this chapter to identify and analyse them in depth. This part of the chapter considers whether the TPPL has been able to meet democratic PM criteria and, if not, how it could be reformed. In this study, I am looking at the problems from the institutional and

procedural point of view. Particular attention is paid to establishment of policy forums, such as in the UK with the use of internal ballots.

Party Programmes and Election Manifestos in Turkey

In Turkey, politics centres on parties and their leaders, not on party programmes or party policies. Although Turkish parties prepare programmes and election manifestos, these are rarely consistent with what they do in the long run. Most legislation enacted by the ruling party is not mentioned in that party's programme or in election manifestos. It is largely the result of a broad interpretation of general terms in party programmes, such as commitments to democratic consolidation of the country, rule of law, better economic conditions etc., and is mainly adopted when an issue arises. For instance, every party has a sentence in its programme such as "our party is committed to the consolidation of democracy," or "steps must be taken for economic recovery." According to Keyman and Heper "the party programmes in Turkey turned out to be nothing more than window dressing. They, in fact, very much resembled each other, consisting of long lists of promises with no mention of how those promises were going to be fulfilled."⁶⁰

Nor do parties have a good record of delivering on election manifesto promises. Although they publish election manifestos, it is difficult to say whether the winner of an election will pursue them. Office-holders are relatively unrestrained in advancing detailed election platforms to the electorate; fulfilling the promises of those platforms is often an entirely different matter.

The legal context of policy-making in Turkey

Any analysis of the PM process in Turkish parties must begin with a review of the legal context in which it is set. Thus, before describing the actual situation, it may be helpful to

⁶⁰ Metin Heper and E. Fuat Keyman 'Double-faced State: Political Patronage and the Consolidation of Democracy in Turkey' [2006] 34 Middle Eastern Studies 259, 262.

summarise the legal background. First of all, the TPPL accords special importance to party programmes. According to Article 90, party programmes cannot be contrary to the Turkish constitution or the TPPL, while political parties are not to act in contradiction with their party programmes.

It is difficult to say that the TPPL explicitly guarantees a role for members in developing or making party policies. Although the Law mentions the party congress as the supreme decision-making body, this neither means that ordinary party members have a say in the policy process directly, nor does it outline a specific process. The main systems in the law are as follows.

First, according to the TPPL, only the party congress can make changes in the party programme. Between two national congresses, a party's executive organs are tasked with implementing the policies of the party in order to comply with party programmes enacted by the party congress.⁶¹ Second, the party congress can make a binding decision on public policies and party policies, provided that these issues are general in nature and within the framework of the country's laws, the party constitution and the party program.

The TPPL also states that an amendment to the party constitution, party programme or other issues related to party policies should be proposed by one twentieth of the members of the party congress, by the party leader or by the party executive organ. It is also laid down in the Article that, in the case of issues related to state or public policies, proposals shall be approved by one third of the delegates attending the party congress. Thus a distinction is made between more and less important policies without mentioning who will decide the level of importance. If one-third of the participants of a party congress demand a new policy related to an important issue, the party is obligated to discuss this issue in the congress. The TPPL states that the party congress should establish a commission whose members are elected by delegates

⁶¹ Article 16 of the Turkish Political Parties Law.

in order to discuss these issues and prepare a report. In the end, the discussion should be held by the commission, which should report and put the proposal to a vote. There are two problematic issues here. One is that the threshold for the proposal is very high. According to Üçışık, such a high proposal threshold, especially in important matters, is incompatible with internal democracy.⁶² The second concern is who will decide whether the subject is important for the country or not. Giving substance to this distinction is extremely difficult. The threshold was one twentieth both in the 1965 law and in the early version of the 1983 law.

Another problem with party congress is that there is no actual proposal of a resolution mechanism from local parties or party members. The PM legwork is performed by a small number of party elites before the congress, and the proposal is then presented to the delegates.

The actual situation in Turkey

When it comes to the actual situation in Turkey, there is a huge gap between what party laws and party constitutions say and what is actually practised. Party members are not influential in forming party policies, whether via congresses or other mechanisms. Although party members in mature democracies have found varying levels of influence in their parties, Turkish party members display the least sway over policy.

The party leader has traditionally been seen as having the power and authority to decide policy, while the members have never been assigned any important role in it. Although all parties hold occasional delegate congresses, at which party policies and programmes should be debated and approved according to the TPPL, and the decisions should be binding on every level of the party, these decisions are in fact mostly ignored by the leadership. Power is concentrated in the hands of the party leader and a small oligarchic cadre, which makes real

⁶² H. Fehim Üçışık 'Parti İçi Demokrasi Açısından Yasa Değişikliği Gereği' [1999] Anayasa Yargısı Dergisi 355, 366.

decisions behind closed doors. Party leaders also enjoy autonomy over the production of the party programme and election manifestos. According to Semanur Kahraman:

Turkish political and legal structure, and consequently the entire bureaucracy, has no concrete public policy mechanism which ensures citizen and/or civil society participation in its policy and decision-making processes. The elected government perceives the result of the ballot box as a ticket to rule the country however it likes for four years (unless there is an early election).⁶³

Major parties in Turkey neither have a real PM capacity, nor do they have the ability to advance and implement properly detailed plans for governing. Moreover, PM in Turkish parties has traditionally been such that parliamentary parties are responsible for the initiation and execution of policies with the well-disciplined support of MPs for the leadership. The party in the public office is responsible for the drafting and implementation of policy, with the help of the party leader's special advisers and civil servants. Parliamentary committees (especially permanent committees) provide the means for some MPs, if not all of them, to have some input into PM. According to Bilir, Turkish parties do not have any tradition of democratic PM function with the participation of their members, experts and civil society organisations.⁶⁴ According to Haluk Özdalga, former MP of the RPP and the JDP, it is the privilege of the leaders alone to determine party policies. The leader may decide binding policies alone in all areas, including the most vital ones for a party, without consulting anyone. It is even common for party elites to hear new policy statements from the media, just like other citizens.⁶⁵

Although all Turkish parties hold weekly party group meetings in Parliament, these meetings are no more than the announcements of the new party policies by the leader to the MPs, most of whom are not involved or know anything about them. According to İlter Turan:

⁶³ Kahraman (n 30) .

⁶⁴ Faruk Bilir *Anayasanın Güncel Sorunları ve Çözüm Önerileri Yeni Anayasa Yeni Mutabakat* (Adalet Yayınevi 2012) 246.

⁶⁵ Haluk Özdalga, *Kötü Yönetilen Türkiye: Örnek Vaka DSP*, (Kitap Yayınevi 2005) 50.

The enhanced powers of the party leader have transformed the function of the party group meetings in the parliament. Presumably, these meetings are to provide a forum where deputies discuss and debate party policies, and question and criticize the leadership. Over the years, they have evolved into ritualistic occasions where the party leader (who is at the same time leader of the party group) enters as deputies stand up and applaud. He then renders a speech defending what they have been doing and criticizing other parties. Usually there is no discussion or debate.⁶⁶

As was mentioned earlier, the party organisational model, which is imposed by the TPPL, is more or less the same for all Turkish political parties. Thus, the role of the party congress in determining party policy is the same in all Turkish parties.

Similar to established Western democracies, political parties in Turkey are an important source of PM capacity. However, this capacity is mostly used, first, by the party in the public office, which means ministers and MPs; and second, by the party in the central office, which means party executive organs. PM is not a concern of the party on the ground. Cabinet ministers, especially, play a very important role in Turkish PM. Fredrick Fray describes them as “an elite within an elite,”⁶⁷ so much so that they need no party programme or election manifesto to win elections. According to Heper and Bilgin:

the ministers who serve in the cabinet have two important roles. First, they are involved in the policy-making process, since most decisions on key political issues have to be approved collectively by the cabinet. Second, each cabinet minister also serves as the head of a government department where he/she plays an important role in the formulation and implementation of its policies.⁶⁸

⁶⁶ İltar Turan, ‘Turkey’s Difficult Journey to Democracy: Two Steps Forward, One Step Back’ (Oxford University Press 2015) 201.

⁶⁷ Frederick W. Frey *The Turkish Political Elite* (MIT Press 1965) 269.

⁶⁸ Sabri Sayari and Hasret Dikici Bilgin ‘Paths to Power: The Making of Cabinet Ministers in Turkey’ [2011] 64 *Parliamentary Affairs* 737, 737.

Heper and Keyman analyse the PM role of Turkish parties and argue that:

in any case, political parties have remained indifferent to rational policy-making. They did not have research bureaux let alone think tanks for this purpose. Also, they hardly paid attention to carefully prepared and debated policy proposals by independent research foundations and think-tanks.⁶⁹

For some members, it is taken for granted that the party leadership is in a better position to see and meet the different needs that exist in society, and that they alone should decide party policies according to the country's circumstances. They are also content with the party's broad philosophy rather than demanding a policy role. Most of the members are reasonably satisfied with the leadership and follow their leaders emotionally and, in most cases, unconsciously. They do not join political parties in order to participate in PM; they simply trust their leaders. For the realisation of IPD party members' interest in party affairs, a willingness to engage in the PM process is highly important. The absence of such a demand increases the impediments to the implementation of desirable reforms. However, if party members take part in PM, this will help in keeping a party in line with its overall philosophy. A party's failure to implement these policies provides the impetus for the development of IPD.

The Justice and Development Party

Like most other party rules, it is easy to find a commitment to internal democratic practices in the PM process of the JDP as described in its party constitution and program. However, the JDP has never granted its members any real influence over the policy process, which has generally been the preserve of senior party elites. Although the party constitution declares that "We shall ensure that party members will be able to freely express their opinions

⁶⁹ Heper and Keyman (n 60) 262.

within the framework of the Regulations and the program of the Party,”⁷⁰ party members only have power to vote in delegate selections. Furthermore, the party constitution addresses the participatory aspect of PM as follows:

Our party shall ensure for the collective will to replace the singular wills not only within the party but also in the Parliament and society. Laws shall be the expression of the common will of the society, not just the majority in the Parliament. For this reason, our Party shall draft the bills it will prepare, by taking suggestions from non-governmental organizations.⁷¹

This wording is vague and therefore gives a great deal of leeway to party leaders. Also, in their actual practices, Turkish political parties show that there is a sharp counter-reaction to both constitutions and party laws. According to Akman, “democratization in Turkey remains a flashy word in the party programmes and in the rhetoric of leaders amidst the unresolved institutional deficiencies of the major parties, which makes democratic consensus and consolidation of democracy still elusive.”⁷²

Democracy in the JDP functions best during its grand party congress. According to the JDP constitution, the Grand Congress, held at least every three years, decides and determines policies and programmes and elects the party leadership and 50 members of the Central Decision and Administrative Committee. In addition to the Party Congress, the Central Decision and Administrative Committee is also responsible for policy issues according to Article 74.1 of the party constitution, which states that:

to use such powers and authorities, and to make, implement, or cause to be implemented, such decisions that are necessitated by the interests of the Party and thus of the Country during any period of time elapsing between two meetings of the Grand Congress, in

⁷⁰ The JDP party programme <www.akparti.org.tr/english/akparti/parti-programme#bolum_> accessed 4 November 2014.

⁷¹ *ibid.*

⁷² Aslan-Akman (n 29) 174.

each field which is not forbidden by laws on political parties and elections or other applicable laws and regulations, or by the Bylaws and programs of the Party.⁷³

Moreover, the CDAC has the authorisation to form a government on its own or in coalition with other parties, and to leave the government or the coalition whenever it considers it necessary.

The party also has a Central Executive Board to which members are nominated by the party leadership from among members of the Central Decision and Administrative Committee.⁷⁴ The CEC conducts the daily functioning of the party. It is composed of the Party Leader, Deputy Chairpersons (at present there are eleven), the General Secretary, and the Deputy Chairpersons of the Party Parliamentary Group (at present there are four). According to Hale and Özbudun, together with the party leader, the Central Executive Committee is the most powerful body in the party.⁷⁵ However, the Grand Congress and the CDAC do not play any significant role in policy-making other than to endorse leadership positions, which generally cannot be challenged because of the JDP's absolute party discipline and democratic centralisation.

Among the most important events of the JDP for PM are its regular consultation and evaluation meetings with MPs. However, the aim of these meetings is to bring the MPs and ministers closer together and to discuss policy issues. Another important event is the party leaders' meeting with the leaders of provincial party organisations to listen to their problems. However, none of these consultation meetings represent real PM.

According to Sultan Tepe, "The JDP sponsored reforms emphasize the urgent need to eliminate the state's ineffective structure and authoritarian policies, while the party itself

⁷³ Article 74 of the JDP constitution.

⁷⁴ Article 79 of the JDP constitution.

⁷⁵ William Hale and Ergun Özbudun *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP* (Routledge 2009) 47.

continuously limits its internal democracy and develops a hierarchical party organization.”⁷⁶ For instance, she observes that “when the [party’s] policies fail, the party points to the insufficient involvement by civil society or traditional groups as a reason for the failure, even though the party allows the civil society only a limited role in the policy-making process.”⁷⁷

The Republican People’s Party

Similar to the Central Decision and Administrative Committee in the JDP, the RPP has a policy body, the Party Council, which has 60 members selected by the Party Congress. Among the functions of this body, the most important one is the “determination of party policies related to internal and external issues, within the framework of the party programme, congress decisions and election manifestos.”⁷⁸

The RPP accepts IPD as a prerequisite for democratic consolidation in the country and promises IPD and inclusiveness both in party organisation and functioning.⁷⁹ However, the actual situation does not resemble the text. According to Levent Önen, if the party leader deems consultation with the party organs necessary for PM, he asks for their opinion, but he has no such obligation. He summarises the process as follows:

The amount of debate taking place in the party organs of the CHP [the RPP] is very low. Party organs do not meet on a regular basis and are not venues for debate. The character of debate is not issue-focused, but scattered determined by daily developments. Only the leader and his circle are involved in the policy-making process.⁸⁰

⁷⁶ Sultan Tepe, ‘A Pro-Islamic Party? Promises and Limits of Turkey’s Justice and Development Party’ in M. Hakan Yavuz (eds), *The Emergence of a New Turkey: Democracy and the AK Parti* (University of Utah Press, 2006) 107, 108-109.

⁷⁷ *ibid* 127.

⁷⁸ The RPP Party Constitution Article 38.

⁷⁹ The RPP Party Programme < www.chp.org.tr/wp-content/uploads/chpprogram.pdf > 76 accessed 4 November 2014.

⁸⁰ Levent Önen ‘The Republican People’s Party: Organization and Ideology between 1992 and 2007’ (Master Thesis in Political Science and International Relations University of Bosphorus 2009); Altan Öymen, interview by author, tape recording, İstanbul, Turkey, 25 June 2008, 102.

Altan Öymen, who was a member of the Party Council between 1995 and 1998, as a former party leader succinctly draws the picture of PM in the party:

Often you wake up in the morning and see that a policy is formed. Although it seems that there is a discussion in the party group, at the beginning the general chairman makes a long speech, then time for meal... There is no one staying to listen to speeches of others.⁸¹

The party congress and delegate democracy

It would be mistaken to consider policies adopted by a party congress via delegatory democracy as illegitimate. Mair and Katz explain this situation from the perspective of a mass party model:

This legitimacy depends, in turn, on direct popular involvement in the formulation of the party programme and, from an organizational perspective, this implies the need for an extensive membership organization of branches or cells in order to provide avenues for mass input into the party's policy-making process, as well as for the supremacy of the extra-parliamentary party, particularly as embodied in the party congress.⁸²

However, in Turkey, as has repeatedly been pointed out, political parties have enormous power over party membership registration and dismissal, delegate selection and the composition of party congress. For instance, according to Gençkaya:

The right to dismiss local party organizations (Articles 19 and 20) and party members (Article 53), which is very widespread among the major political parties, provides an

⁸¹ *ibid* 70.

⁸² Richard S. Katz and Peter Mair 'Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party' [1995] 1 *Party Politics* 7.

unlimited power in the hands of the party leadership which leads to leadership domination and weakens the internal party democracy.⁸³

Thus, for instance, in the first version of the JDP constitution, it was stated that, if the local party leader were to be dismissed by the central party, the new leader would be determined by election. However, in the 2006 amendment it is stated that:

If all the full and reserve members of a district or city Administrative Committee resign for any reason whatsoever, then a new board shall be formed through appointment by the Central Decision and Administrative Committee. The new board appointed as such shall use the rights and authorities which have been vested in the former elected board. ...If only the chairman of a grade is dismissed, or if the seat of chairman becomes vacant for any reason whatsoever, then a chairman shall be appointed by the Central Decision and Administrative Committee.⁸⁴

According to the law, the central party office can unseat a provincial party leader and executive board. In such a situation, a new provincial party congress must be held within 45 days and a new local leader and executive board must be elected. However, implementation of this rule is very loose. Most parties have not hold a new party congress within the specified 45 days, and temporary local leader and executive boards have ended up running the local party for long periods of time. On some occasions, if the prosecution office informs the constitutional court, the court cautions the party.

PM under a party congress has advantages, such as being both economically and technically easy. It has been acknowledged that, as mentioned in previous chapters, parties reduce transaction costs and solve collective action problems by establishing an institutional arrangement – party organisation – which allows the party members to contribute to the

⁸³ Ömer Faruk Gençkaya, 'Impact of Party Regulation on Small Parties and Independent Candidates in Turkey', (Working Paper Series on the Legal Regulation of Political Parties, No. 41. 2014) 5-6.

⁸⁴ Article 57 of the JDP Constitution

collective goal in a country-wide democracy.⁸⁵ PM with all party members might be inefficient in terms of being technically difficult and expensive. So a party congress seems to be an organisation which reduces transaction cost and collective action problems within the parties. However, as stated before, the party congress system itself creates its own elites and destroys the equality of the membership since delegates are in a more important position. While the TPPL claims that all party members are equal, this is true only on the paper. Moreover, this kind of PM has been highly criticised as being mostly a rubber stamp event and does not give party members a meaningful role. For Mair and Katz, “while a party congress is the official policy-making forum, its influence ‘in reality’ is severely limited.”⁸⁶ In a survey of congress delegates and party members in Norway, it was revealed that the delegates are happy with IPD based on the congress system.⁸⁷ It is not surprising that the party delegates do not wish to replace their PM process with a system that would diminish their powers. According to Saglie and Heidar, “Delegatory democracy is often regarded as unsuitable for the new information society, where individualization, decentralization and flat structures are required. This may lead to experiments with new structures and procedures, regardless of current member satisfaction.”⁸⁸

Case Study: The British Labour Party

The use of policy forums is widespread among the British parties for the involvement of party members in the generation of party policies. In the Labour Party, a special PM body was established, the National Policy Forum. The importance of the Policy Forum is mentioned in Rule Book Clause V.2, which states that “Party conference shall decide from time to time

⁸⁵ Wolfgang C. Müller ‘Political Parties in Parliamentary Democracies: Making Delegation and Accountability Work’ [2000] *European Journal of Political Research* 312, 316.

⁸⁶ Richard Katz and Peter Mair, *Party Organization: A Data Handbook* (Sage 1992) 7.

⁸⁷ Saglie and Heider (n 39) 391.

⁸⁸ *ibid* 402.

what specific proposals of legislative, financial or administrative reform shall be included in the party programme. This shall be based on the rolling programme of work of the National Policy Forum.” Perhaps the main difference between the party congress and policy forums lies in the quality of the debate, which is expected to be higher in the latter, and the fact that the members have more opportunity to talk over proposing resolutions. These bodies are specially designed for this purpose.

Using the Labour Party as a case study, I will explore the extent to which policy forums have a positive effect on democratic PM. There are several reasons for choosing this party as a case study. First of all, the Labour Party has a distinct place in IPD literature: most of the scholars studying IPD have given special attention to IPD debates in the British Labour Party throughout its history. Second, it is one of oldest major parties, with a long experience in government and as the main opposition experience and a world-wide reputation. Third, there is the 2010 version of the provision mentioned provision:

Party Conference shall decide from time to time what specific proposals of legislative, financial or administrative reform shall be included in the party programme. This shall be based on the rolling programme of work of the National Policy Forum and shall be subject to approval by an OMOV ballot of the eligible membership once in each Parliament.⁸⁹

This provision combines an understanding of both deliberative and direct democracy in a way that some call hybrid democracy, and as such is what this thesis believes to be the best model for PM, and the one that should be incorporated into the TPPL.

In the 1990s, the Labour Party underwent important changes and started reforming its party organisation. In 1990, the party’s General Secretary, Larry Whitty, prepared a document titled Democracy and Policy Making for the 1990’s arguing that there was a need for a change

⁸⁹ The British Labour Party Constitution 2010 < www.leftfutures.org/wp-content/uploads/2011/02/Labour-Party-Rule-Book-2010.pdf > 10. accessed 8 March 2014.

in the whole PM process. This resulted in the establishment of a national policy forum in 1993. Party leaders at this period, such as John Smith and Tony Blair, believed that improving IPD would help reconnect the organisation with its supporters. Thus the party moved away from a model of delegate democracy and introduced OMOV for the election of the leadership and some intra-party PM processes.⁹⁰ According to Faucher-King and Treille, the Labour Party used two different methods for solving some of the problems emerging from the party congress system, which they identified as individual member ballots and policy forums.⁹¹ For them, the Labour party in this way tries “to balance pluralism and unity, input from below and efficient policy-making.”⁹²

The first step of PM is the Joint Policy Committee, which is composed of members of the shadow cabinet, the National Executive Committee (NEC) and the National Policy Forum. Once they set the priorities for the PM process, the policy commission’s role starts. The NPF is one of the key institutions in the PM process and is responsible for the administration of policy development work in the party. The NPF is composed of 199 members who together represent all of the 14 major groups in the party such as Constituency Labour Parties, Trade Unions, and MPs. Each group has the power to select its members for the NPF. The NPF receives reports from eight Policy Commissions, whose work is coordinated by a Joint Policy Committee.

There are 8 policy commissions:

- Stability and Prosperity Policy Commission
- Work and Business Policy Commission
- Living Standards and Sustainability
- Stronger Safer Communities
- Education and Children

⁹⁰ Florence Faucher-King and Eric Treille ‘Managing Intra-party Democracy: Comparing the French Socialist and British Labour Party Conferences’ [2003] 1 French Politics, 61-63.

⁹¹ *ibid* 64.

⁹² *ibid* 68.

- Health and Care
- Better Politics
- Britain's Global Role

The Party Conference is the official PM body, approving the policies presented by the NPF. Every party member has a right to make submissions to the policy commissions via the Your Britain website.⁹³ This website is devised for ordinary party members to have a say on policy and to make a contribution to the party's election manifesto. Members can get involved by commenting on policy proposals, proposing new policies or joining in on online debates. Policy Commissions meet regularly to consider the submissions made through the website or from other channels. For instance, between 2010 and 2014, about 200,000 policy submissions were received by the policy bodies.⁹⁴

For many scholars, the reason for the introduction of direct democracy and the adoption of such inclusive policy forums is to exclude activists from PM, thus strengthening the party leadership.⁹⁵ According to Mike Simpson, policy forums can be regarded as token gestures from the leadership to enhance the appearance of internal party democracy.⁹⁶ For him, they remain under the control of the leadership and strengthen his grip over the party. According to Turpin and Tomkins of the Labour party, "in the process of consultation and debate through which policies are filtered to the party conference, the leadership has a commanding role."⁹⁷

⁹³ For more detailed information < www.yourbritain.org.uk/ >. accessed 10 January 2015.

⁹⁴ Andrew Sparrow 'Labour leaders win crucial policy forum vote on spending plans' < www.theguardian.com/politics/2014/jul/20/labour-leaders-policy-forum-vote-spending-plans >. accessed 20 September 2014.

⁹⁵ Peter Mair, *Party System Change: Approaches and Interpretation* (1997 Clarendon Press) 113–14, 146–52; Richard S. Katz and Peter Mair 'The Cartel Party Thesis: A Restatement', [2009] 7 *Perspectives on Politics* 753–66.

⁹⁶ < www.tutor2u.net/blog/index.php/politics/print/revision-update-uk-politics-are-labour-the-tories-democratic-organisations >. accessed 21 September 2014.

⁹⁷ Adam Tomkins and Colin Turpin *British Government and the Constitution* (6th edn Cambridge University Press 2007) 542.

According to Seyd, “internal ballots may provide the means by which leaders can demonstrate to the public that they are in control of their party.”⁹⁸ For him, “balloting the entire membership is a means of bypassing the activists if they appear to be unrepresentative of party voters.”⁹⁹ According to Paul Webb, although the new PM process in the Labour Party “certainly allows for input by individual members, local branches and their representatives, the rolling programme approach enshrines a powerful role for the leadership.”¹⁰⁰

Furthermore, the Labour Party has used members’ ballots to accept major constitutional change (the reform of Clause 4), to approve its 1997 general election manifesto and to elect one division of its National Executive Committee.¹⁰¹ According to Webb, “In 1996, Blair introduced a referendum of all party members on what he promised would become the main features of the forthcoming election manifesto. This device, rarely deployed hitherto, offered members the chance to state a simple ‘yes/no’ answer to the question of whether they would support the overall package of policies likely to be included in the formal manifesto.”¹⁰² Nick Anstead offers a similar critique: “The development of membership referenda is even more antithetical to deliberative democracy, as it ensures that political decisions become a private, rather than a cooperative, matter. The simple binary options offered on a ballot paper offer little scope for deliberation.”¹⁰³

Conclusion: What can be done within the law?

After outlining the theoretical framework, the actual and current legal situation in Turkey and the case study, it is now time to discuss whether legislation can set some of the

⁹⁸ Seyd (n 45) 385.

⁹⁹ *ibid* 385.

¹⁰⁰ Webb (n 59) 30.

¹⁰¹ Seyd (n 45) 385.

¹⁰² Webb (n 59) 31.

¹⁰³ Nick Anstead *Internal Party Democracy in Europe and the United States: Different Models in a Changing Environment*, (Conference Paper, Political Studies Association, 1 - 3 April 2008, Swansea University 2008) 20.

conditions for deliberative or direct democracy. In the words of Ron Levy, “in spite of its genuine limitations, law may yet directly or indirectly aid deliberative democratic design projects.”¹⁰⁴ Similarly, Saglie and Heider claim that “The abstract principles of democracy must be embodied in concrete institutions and procedures.”¹⁰⁵ The role of laws in deliberative democracy is less studied by legal scholars. According to Ron Levy, “legal scholars have been slow to join this turn. Only a handful have examined law’s roles in contributing to and constructing—or at times frustrating—more deliberative forms of democracy.”¹⁰⁶

As mentioned in previous chapters, those who write the democratic party laws are those who stand to lose power as a result. Scholars often recognise the likelihood of this recursive pattern, according to which parties entrench themselves in power despite voter demands.¹⁰⁷ For Mair, “democratization on paper may actually coexist with powerful elite influence in practice.”¹⁰⁸ Mair has also argued that, with direct democracy “it is not the party congress, or the middle-level elite, or the activists, who are being empowered, but rather the ordinary members, who are at once more docile and more likely to endorse the policies (and candidates) proposed by the party leadership.”¹⁰⁹ In my view, this paradox is not necessarily valid for all parties. While there is no real activism or IPD in Turkey, we cannot say such a reform will result in the further empowerment of the already powerful party leader.

The legislation on Turkish political parties hardly seems fertile ground for democratic PM. Internal democracy is an increasing trend among parties, with more and more parties introducing provisions to elect their candidates and leadership on a OMOV basis, and it is easy

¹⁰⁴ Levy (n 37) 361.

¹⁰⁵ Saglie and Heider (n 39) 386.

¹⁰⁶ Levy (n 37) 356. Legal scholars who engage with deliberative democratic issues include Cass Sunstein (e.g., *Designing Democracy: What Constitutions Do* (Oxford University Press, 2001)); Bruce Ackerman (e.g., *We the People*, Vol. 1: *Foundations* (Belknap Press of Harvard University Press 1991)).

¹⁰⁷ Michael Klarman, ‘Majoritarian Judicial Review: The Entrenchment Problem’ [1997] 85 *Georgetown Law Review*.

¹⁰⁸ Peter Mair ‘Party organization: from civil society to the state’ in: Richard S. Katz and Peter Mair (eds), *How parties organize. Change and adaptation in party organizations in Western democracies*, (Sage 1994) 1-22.

¹⁰⁹ Peter Mair *Party System Change* (Clarendon Press 1997) 149.

to regulate this process through legal reform. By contrast, the prescription of democratic PM by law is difficult. Despite Turkey's passive political culture, having PM structures which are more democratic might in the long run gradually lead to less passivity. Establishment of policy forums for policy development and OMOV system for the approval of party programmes and election manifestos can be provided by law. However, just like the current party congress system, it is doubtful whether such a scheme would work properly. Party reform will not necessarily have the direct and immediate impact required to change the way policies are made. The purpose of the reform is to encourage political parties to take positive action towards the participation of ordinary members in the PM process, and thus to improve their participation in intra-party business. However, in the Turkish context, while the rank and file do not have any input into the policy process, giving them a voting right might be a good start. As Steven Griner and Daniel Zovatto rightly argue, "each country needs to design and enforce its own system in accordance with its political values and culture, its political party system, institutional capabilities and the overall extent of democratic development."¹¹⁰

Since party constitutions are silent on this subject, and party leaders and elites are reluctant to share PM power with party members, the best way to encourage power-sharing is to regulate PM through party laws, at least in Turkey. As mentioned above, Turkish political parties have not been programmatically coherent or much concerned with PM. They do not have well-defined party programs or election manifestos. The current system of PM, which only gives to delegates an opportunity to vote in PM, is both inefficient and incompatible with the equality of the party members. Although participation in the nationwide PM process is necessarily indirect because of some difficulties, grassroots democracy can be implemented in political parties more easily. According to the National Democratic Institute:

¹¹⁰ Steven Griner and Daniel Zovatto 'From Norms to Good Practices: A Comparative Regional Analysis of the Funding of Political Parties and Election Campaigns in Latin America' in *Funding Of Political Parties And Election Campaigns In The Americas* (International IDEA 2005) 22.

In some systems, the move towards participatory or consultative policy development is an initiative of party leaders trying to keep members more engaged and deliver policy which is more meaningful to voters. In other cases, the movement towards participatory policy development is coming from the members themselves, or even from external organizations with a special interest in policy who are demanding that political parties become more open and inclusive in their policy development.¹¹¹

Again, the paradox of the closeness issue comes to mind: the lawmakers and party elites are the same people. Formally, the degree of access to party PM permitted *ad hoc* and constituency party delegates in party congress that were held only on a biannual basis.

This issue may be overcome in several ways. First, parties such as the Greens that have a commitment to grass-roots PM could acquire the legislative power to amend the law. However, as mentioned above, the actual practice is contrary to what parties promise for IPD. Second, party members could demand more powers from party elites and push party elites to legislate in this matter, a move that is related to the educational level and democratic understanding of party members. As Harmel argues, new generations of party members are “less willing to take direction from leaders and more demanding of opportunities for meaningful participation than the established parties would provide.”¹¹² Dalton and Wattenberg similarly argue that the modernisation process leads to the emergence of post-material issues such as environmental quality, lifestyle choices and consumer rights, which have participatory aspects. Thus, this post-materialist generation “eschew[s] the hierarchic and structured nature of partisan politics in favour of methods of direct democracy.”¹¹³ As Ronald Inglehart finds in his analysis

¹¹¹ National Democratic Institute (n 17) 7.

¹¹² Robert Harmel ‘Party Organizational Change: Competing Explanations?’ in Richard Luther and Ferdinand Muller-Rommel (eds), *Political Parties in the New Europe: Political and Analytical Challenges* (Oxford University Press 2002) 125.

¹¹³ Dalton, Russell J. and Martin P. Wattenberg ‘Unthinkable democracy: political change in advanced industrial democracies’ in Russel J. Dalton and Martin P. Wattenberg (eds). *Parties without partisans: political change in advanced industrial democracies* (Oxford University Press 2000) 11.

of forty-three societies, post-materialist generations do not welcome the “hierarchical, oligarchic” structures of old-style centralised political parties.¹¹⁴

The third way to deal with the problem of closeness between legislation and the party elites is judicial activism. According to Gary Thomas Johns, “Legal intervention could have a democratic impact, by transferring power from the leaders to the members.”¹¹⁵ The Turkish Constitution could mandate the equality of party members and intra-party democracy. If party members appeal to the courts for the annulment of provisions related to PM in the TPPL, a broad interpretation of the law is possible what would allow lawmakers to legislate regarding IPD in a more participatory way.

Although the TPPL needs reform, this reform should be focused mostly on the quality and the quantity of membership participation. In my view, it is the former where improvement is particularly significant. Party members should take part in PM instead of merely selecting the congress delegates, who are in practise close friends of party leaders and are appointed because of their loyalty in party congress. Reform of the TPPL that at least allowed for the use of direct democracy in PM would increase the interest of members in party issues.

Reforming legislation alone is unlikely to make important changes in the levels of participation in PM overnight. The amendment of practices by law, which have developed over the years and have become part of the political culture of the country, is difficult. Steven Griner and Daniel Zovatto argue that

The argument that – together with a dynamic and gradual process of legal reform – a change in the political culture of citizens and political leaders is critical, has gained relevance. Consequently, in addition to the political consensus needed to approve legal

¹¹⁴ Ronald Inglehart *Modernization and Postmodernization: Cultural, Economic and Political Change in 43 Societies* (Princeton University Press 1997) 311.

¹¹⁵ Gary Thomas Johns ‘A Study in Democracy- Candidate Selection for the Parliament of the Commonwealth of Australia’ (Phd Thesis School of Political Science and International Studies University of Queensland 2001) 175.

reforms, political leaders must necessarily make a true commitment to abide by the new rules of the game, and such commitment must reflect in their coherence between discourse and political practice.¹¹⁶

According to Caroline Lancaster, “in emerging democracies, the need to entrench a democratic spirit and culture is of paramount concern.”¹¹⁷ Inge Amundsen sees IPD as a “school of democracy.” For her, “parties should be the incubators that nurture citizens’ political learning, socialization and competence. Opportunities for participation in decision making within the political parties can help citizens expand their civic skills.”¹¹⁸

Despite the fact that legal intervention should, at least theoretically, be useful in countering such difficulties as power sharing among party elites, finding solutions which will help party members to participate in PM is difficult.

Regulation of party finance can also help improve participation in PM. For instance, Policy development funds can be introduced in parties in order to establish the PM process and open it up to ordinary members. In the UK, this system is already being used. Policy development grants are regulated under the Political Parties, Elections and Referendums Act of 2000. These grants are given to help parties in developing their policies.¹¹⁹

Most of the parties’ own programmes are clearly acknowledging that the TPPL must be reformed. While this cannot be disputed, and new practices and procedures must be introduced, it is important that the existing party members, within all levels of the party, be educated in democracy.

¹¹⁶ Griner and Zovatto (n 110) 9.

¹¹⁷ Caroline Lancaster ‘The iron law of Erdogan: the decay from intra-party democracy to personalistic rule’ [2014] 35 *Third World Quarterly* 1762, 1677.

¹¹⁸ Inge Amundsen ‘Democratic Dynasties? Internal Party Democracy in Bangladesh.’ [2012] *Party Politics* 1, 2.

¹¹⁹ www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/public-funding-for-parties > accessed 5 June 2014.

The existence of party programmes and election manifestos drafted by ordinary members should at least gradually help the intra-party democratisation of Turkish parties. However, some scholars advocate this kind of deliberative and plebiscitary democracy mixture on the grounds that including party members in the very process of PM means more discussion before political decisions are legislated. For them, party policies should emanate from lower levels of parties upwards towards the party congress. For instance, Maravall argues that:

Internal debates and disputes are greater, by definition, in democratic parties: activists and competing politicians can demand information from the leadership and discuss alternative strategies. Whether explanations are accepted or not is irrelevant: what matters here is that useful information flows within the party under conditions of internal democracy.¹²⁰

In conclusion, if the opinions of regular party members are taken into account, the democratic values and the benefit to Turkey will greatly increase. The only possibility of a fair accounting for party members' opinions is through bringing broader legislation into effect, and for this to happen there must first be reformation of the existing TPPL and an increase in democratic education. In essence though, it is the responsibility of party members themselves to demand that their opinions be taken into account. If the party leadership and elites consistently deny them their rights, then the party members should understand that there are legal alternatives through which reform can be effected, and that such alternatives should be exercised thoroughly whenever applicable to ensure that their voices are heard.

¹²⁰ José María Maravall 'The Political Consequences of Internal Party Democracy' in José María Maravall and Ignacio Sánchez-Cuenca (eds), *Controlling Governments: Voters, Institutions, and Accountability* (Cambridge University Press 2008) 157, 161.

CHAPTER 5

LEADERSHIP SELECTION AND INTRA-PARTY DEMOCRACY

Introduction

One of the most important indicators of IPD is how a party selects its leaders. The inclusion of all party members, on a one-member-one-vote basis, in selecting a party leader has been an increasing trend among the parties in mature democracies over the last two decades.¹ It has been argued that parties have opened their leadership selection procedure to all party members in an effort to reduce their elitist and oligarchic tendencies by attracting more aspirants to leadership and producing more competitive contests, and therefore more IPD.² The methods used by parties to elect and remove leaders thus represent a measure of their democratic ethos.³

Leadership selection is of course important, not only for party politics, but also for the state as a whole, especially when a party in government chooses a new leader who will also be a new prime minister. For instance, six of the last eleven British prime ministers came to office following an intra-party leadership election held in a period between two general elections. Similarly in Japan, nine of the prime ministers who served between 1996 and 2012 came to office following a party leadership contest between one general election and the next.⁴ In

¹ For Instance William Cross and A. Blais 'Grassroots Participation and Party Leadership Selection: Examining the British and Canadian Cases', in J. DeBardeleben and J. Pammett (eds), *Activating the Citizen: Dilemmas of Participation in Europe and Canada* (Palgrave Macmillan 2009); Braum Wauters, 'Democratising Party Leadership Selection in Belgium: Motivations and Decision Makers', [2013] *Political Studies*, DOI: 10.1111/1467-9248.12002; Marco Lisi, 'The Democratization of Party Leadership Selection: The Portuguese Experience', [2010] 9 *Portuguese Journal of Social Science*, 127-49.

² Ofer Kenig 'Democratization of party leadership selection: Do wider selectorates produce more competitive contests?' [2008] 28 *Electoral Studies* 240.

³ William P. Cross 'Party Leadership Selection and Intra-Party Democracy' in William P. Cross and Richard S. Katz (eds), *Challenges of Intra-Party Democracy* (Oxford University Press 2013) 100, 115.

⁴ Ofer Kenig, Gideon Rahat and Reuven Y. Hazan 'Leadership Selection Versus Candidate Selection in Parliamentary Democracies: Similarities and Differences' (Democratising Party Leader Selection Primaries: Challenges and Opportunities Beyond Intra-Party Democracy" 7th ECPR General Conference Sciences Po, Bordeaux, 4-7 September 2013)

Canada too, four of the country's last eight Prime Ministers assumed office by winning a party leadership contest rather than through a general election.⁵

The ascensions of Yıldırım Akbulut and Ahmet Davutoğlu to the office of prime minister in 1988 and 2014, respectively, are similar examples from Turkey. These figures came to power in the following way. Turgut Özal was prime minister and the leader of the Motherland Party when he was elected president in 1988. After this election, he engineered the election of Yıldırım Akbulut as the new party leader, who later became prime minister. More recently, Recep Tayyip Erdoğan was elected to the presidency, and after officially resigning from the leadership of the JDP, managed to secure the election of Ahmet Davutoğlu as the new leader of the party.

As discussed in previous chapters, there has been much criticism and debate about the undemocratic nature of party leadership selection in Turkey and the heavy concentration of power in the leadership, especially in the case of the party in power. This is because it is understood that the capture of state power and authority brings with it control of state resources, which can be utilized for the leadership's personal benefit. There is also a generally accepted perception that Turkish parties are highly oligarchical institutions controlled by a handful of uncompromising leaders who are unable to produce solutions to the country's pressing problems.⁶ In the words of Sabri Sayari,

The importance of leaders in shaping political outcomes in Turkey stems largely from [their] near absolute control that they exercise over party organisations. By controlling the nomination of candidates in the elections, serving as the principal gatekeepers in the distribution of political patronage, and enjoying extensive authority (such as legal means to abolish local party units that oppose the central executive leadership and expel

⁵ R. Kenneth Carty and William Cross 'Can Stratachically Organized Parties be Democratic? The Canadian Case' [2006] 16 *Journal of Elections, Public Opinion and Parties* 93, 102.

⁶ Ergun Özbudun 'The Institutional Decline of Parties in Turkey' in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The Johns Hopkins University Press, 2001) 260.

dissident party members from the organisation), party leaders have managed to amass a great deal of personal power at the expense of organisational autonomy.⁷

This chapter examines the formal and informal aspects of leadership selection in Turkey, with particular focus on its undemocratic nature and ways in which it might be reformed. The main question about the election of party leaders in Turkey is whether the choice should be made through a more delegatory system of democracy, or one that is more participatory. Since, as mentioned, political parties worldwide have been granting party members increasing power in the selection of their party leader, the TPPL might accordingly be reformed so that party members are granted direct influence in the process of leadership selection. As will become clear, ordinary party members currently have only an indirect say in the selection of their leaders in Turkey, a situation that could be remedied through reform of the law relating to political parties so as to shift power away from party delegates and toward ordinary party members.

Party leadership and IPD

Max Weber's observation that political organisations are necessarily managed by a person who is interested in the management of politics is consistent with the fact that, generally speaking, few people are interested in political life or having a share of political power.⁸ Brian Farrell has aptly observed that "in almost all political systems, executive dominance and the personification of this domination in a single leader is a central fact of political life."⁹ The autonomy of the leadership, however, has always been defended in the name of healthy

⁷ Sabri Sayarı *Political leaders and Democracy in Turkey* (Lanham 2002) 3.

⁸ Max Weber 'The Advent of Plebiscitarian Democracy' in Peter Mair *West European Party System* (Oxford University Press 1990) 31.

⁹ Brian Farrell, *Chairman or Chief? The Role of the Taoiseach in Irish Government*. (Gill and Macmillan 1971). See also Thomas Poguntke, and Paul Webb *The Presidentialization of Politics: A Study in Comparative Politics* (Oxford University Press 2006) 1.

democracy.¹⁰ For instance, Robert McKenzie argued that “oligarchical control by the party leaders of the party organization is indispensable for the well-being of a democratic polity . . . intra-party democracy, strictly interpreted, is incompatible with democratic government.”¹¹ For McKenzie IPD, could lead to a conflict between the internal and external accountability of party leaders. Similarly, Robert Michels argued that

In theory, the leader is merely an employee bound by the instruction he receives. He has to carry out the orders of the man, of which he is no more than the executive organ. But in actual fact, as the organization increases in size, this control becomes purely fictitious. The members have to give up the idea of themselves conducting or even supervising the whole administration, and are compelled to hand these tasks over to trustworthy persons specially nominated for the purpose, to salaried officials.¹²

Some scholars, on the other hand, are in favour of internal accountability, and they see leadership selection by party members as a complementary form of accountability. According to José María Maravall, the accountability of the party leaders and the ability of the party members to replace them if they become dissatisfied with their policies or distrustful of their electoral prospects is highly important for IPD,¹³ and both are severely lacking in Turkish parties. Similarly, the APSA report that has been cited repeatedly in this study states that “party responsibility includes also the responsibility of party leaders to the party membership.”¹⁴ Ron Lehrer also argues that “inclusive parties, which rely on rank-and-file membership to select their leaders, will respond to their members” because “candidates are motivated to respond to

¹⁰ José María Maravall ‘The Political Consequences of Internal Party Democracy’ in José María Maravall and Ignacio Sánchez-Cuenca (eds), *Controlling Governments: Voters, Institutions, and Accountability* (Cambridge University Press 2008) 157, 179.

¹¹ Robert McKenzie, ‘Power in the Labour Party: The Issue of Intra-Party Democracy’ in Dennis Kavanagh (eds), *The Politics of the Labour Party*, (Allen and Unwin 1982) 191, 195.

¹² Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*. (The Free Press 1949) 31.

¹³ Maravall (n 10) 178.

¹⁴ Committee on Political Parties of the American Political Science Association, ‘Toward a More Responsible Two-Party System’ [1950] XLIV *American Political Science Review* 1-2.

rank-and-file party members to the extent that these members have influence in selecting them.”¹⁵ In the same vein, James Wilson argues that “in order to insure that party leaders are responsive to the rank-and-file, the parties would be internally democratic, with party members choosing party leaders and holding them accountable.”¹⁶ In sum, it has become widely recognized that the manner in which leaders are elected and the means by which they may be removed are vital control mechanisms for the exercise of power within the party by members at large. In my opinion, though the exercise of this power is strictly limited situations in which there is a broad consensus, proper implementation of IPD would force party leaders to display caution and greater wisdom in their decisions, lest they lose the next selection.

Formal leadership selection in Turkey

Before proceeding, it is of course necessary to take into consideration the way in which leaders are selected in Turkey. At first, every party was free to select its own leaders in its own way in accordance with its own constitution, but as the importance of leadership selection became clear to lawmakers, they were prompted to pass the 1965 first Party Law, which gave this task specifically to the party congresses.¹⁷ Since then, the party congress has served as the official mechanism for the selection of party leaders, which is carried out under the auspices of the judiciary. Theoretically, party delegates control their leaders by replacing them through internal elections. Turkish party congresses thus give the appearance of a democratic process of leadership selection, but the reality, as will be seen, is very different.

Another important factor in leadership selection in Turkey is the number of candidates that take part in the leadership contest. Although the TPPL requires that the parties select their

¹⁵ Ron Lehrer ‘Intra-Party Democracy and Party Responsiveness’ [2012] *West European Politics* 1295, 1295.

¹⁶ James Q. Wilson *The Amateur Democrat: Club Politics in Three Cities* (University of Chicago Press 1962) 341.

¹⁷ Article 10 of the Law on Political Parties (SPK—Siyasi Partiler Kanunu No: 648), Turkish Official Gazette 16 July 1965.

leaders in a particular manner, it does not specify how leadership candidates may gain access to the ballot at the party congress in the first place; and in fact the difficulty of gaining such access represents a significant obstacle to IPD. For in the absence of regulations regarding access to candidacy, incumbent party elites have found ways to prevent potential candidates from participating in leadership contests by imposing a high threshold for the number of signatures required from delegates in order for a candidate to stand for election. For instance, in the second grand party congress, the JDP amended its constitution so that the support of a minimum of twenty per cent of the delegates was necessary in order for a leadership candidate to gain access to the ballot.¹⁸ Such restrictions have meant that, in most parties, only current leaders are presented as candidates to the delegates.

The nature of the body responsible for choosing candidates is generally considered the most important dimension of leadership selection.¹⁹ For Maurice Duverger, “the election of the leaders of a party by a small group of delegates is not the same in character as their direct election by the mass of the members.”²⁰ Similarly, Bram Wauters states that “There is a difference between an election in a small circle of decision-makers and an election by all party members.”²¹ Duverger criticises two aspects of the delegation system. First, he cites Rousseau when he observes that: the mentality of the delegates is never the same as that of those who delegate them, with the result that every additional stage of delegation increases a little more the gap between the will of the base and the decision of the apex”; second, he argues that, in situations where the number of voters is restricted, as in a delegation system (as opposed to grass roots voting), it is easier to manipulate elections.²²

¹⁸ < www.sondakika.com/haber-ankara-ak-parti-2-olagan-kongresi-3/ > accessed 10 October 2014.

¹⁹ Kenig (n 2) 243.

²⁰ Maurice Duverger *Political Parties* (Methuen and Co., 1961) 140.

²¹ Bram Wauters ‘Explaining Participation in Intra-Party Elections: Evidence from Belgian Political Parties’ [2010]16 *Party Politics* 237, 239.

²² Duverger (n 20) 140.

Turkish political parties, then, use a delegate-centred model of leadership selection in which rank-and-file party members almost never have a say in the selection of the leader, since the law dictates that they may only take part in the process through the selection of congress delegates. Moreover, as mentioned earlier, generally thirty per cent of the delegates enumerated in the TPPL are granted delegate status *ex officio*, for which reason party members can influence seventy per cent of the delegates only indirectly. This category of *ex officio* delegates includes members of Parliament, ministers, founders of the party, and members of the central executive office.

According to the TPPL, the party leader is to be elected by the absolute majority of members of the party congress and by secret ballot. If the candidate does not receive the necessary vote in the first two rounds of voting, the one who receives the most votes in the third round is selected.²³ Under the current form of the TPPL, a party leader may be elected for a maximum of three years, and may stand for re-election. The first form of the TPPL, however, stated that a party leader could be elected for a maximum of two years, and that the same person may serve a maximum of six consecutive terms, after which a four-year hiatus is required before running again.

Actual practice in Turkey

According to Ofer Kenig, Gideon Rahat and Reuven Hazan, leadership is important for some parties because “parties grant their leaders the authority that they do not grant to anyone else in the party. In some parties, the leader is the party; he or she makes all the important decisions, including those that concern candidate selection and policy making.”²⁴ Their observations here well describe the current position of the party leaders in Turkey.

²³ Article 15 of the Law on Political Parties (SPK—Siyasi Partiler Kanunu No: 2820).

²⁴ Kenig, (n 4) 5.

As is the case in most developing democracies around the world, political parties in Turkey are built around a charismatic style of leadership, with an attendant lack of accountability to the party members. For the fact is that general elections in Turkey are often decided by the nature – or at least the image – of the party leaders, a phenomenon that has been termed the “presidentialization” or “personalization” of politics, and has been heavily criticised by scholars.²⁵ Susan Scarrow, for instance, claims that

In the short term, this may not be a concern, because having a charismatic leader gives a party a memorable “brand” that is easy to promote, and such a leader can define the direction of the party. In the long term, however, the lack of formal decision-structures often leads to problems with leadership succession and policy definition.²⁶

Most of the party leaders in Turkey have held their positions largely as a result of their roles in the formation of their respective parties rather than on account of any demonstrable vote-winning qualities. A brief glance at the scholarly literature on Turkish politics reveals that almost all parties have been identified with leaders who want to reserve all political power for themselves, so that parties tend not to outlive their founders.

This kind of charismatic leadership is one of the main obstacles to the realisation of internal democracy in Turkey, a problem that is exacerbated by the fact that it emerged directly from the country's political culture. Turkey came from a tradition of Ottoman “sultanism.” Under Ottoman rule, the ruler had two different offices and titles, that of sultan and that of caliph, both of which refer to religious authority.²⁷ The political term “sultanism” was used by Max Weber to refer to sultanates in which the power of the leader is not restricted by law.²⁸

²⁵ Kenig (n 2) 241.

²⁶ Susan Scarrow ‘Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy’ (NDI 2005) 16.

²⁷ Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*, (Johns Hopkins University Press 1996) 52.

²⁸ Talcott Parsons, *Max Weber: The theory of social and economic organization*. (Free Press 1968).

This model of powerful leadership is one of the most influential political traditions that Turkey inherited from the Ottoman Empire. According to Ödül Celep,

Leader-worshipping and leader-idolization are inherent components of Turkey's political culture also stemming from not only the early Republican years led by Mustafa Kemal but also the late Ottoman years of late padishahs. ... The political culture of Turkey still tolerates one man-driven, charismatic leader parties administered with excessively centralized and authoritarian leadership structures.... What they differ on is not the presence or absence of intra-party democracy, but their type of intra-party autocracy.²⁹

A party's conception of leadership is more important than even its policies on most issues, for, rather than being seen as the source of a party's programs or policies, its leaders come to be seen as the country's saviours in times of difficulties. This is because it is the privilege of the leaders alone to create party policies and to make binding policy statements in almost all areas, and especially the most vital ones, sometimes without even consulting anyone else in the party. On some occasions, important party figures have been introduced to new policy statements through declarations by the party leader in the media. Thus, for instance, in analysing Turgut Özal, who was accepted as one of the more democratic party leaders in Turkish political history, Metin Heper and Fuat Keyman find that:

...compared to such previous leaders as Menderes and Demirel, Özal seems to have consulted others more frequently before making decisions. ... However, Özal used others basically as suppliers of data; otherwise, he made all the critical decisions himself.³⁰

²⁹ Ödül Celep 'Intra-party Autocracy of Turkey's Party System' < <http://dspace.epoka.edu.al/handle/1/1000> > 11, 2. accessed 18 May 2015.

³⁰ Metin Heper and E. Fuat Keyman 'Double-faced State: Political Patronage and the Consolidation of Democracy in Turkey' [2006] 34 Middle Eastern Studies 259, 267.

According to Ali Yaşar Sarıbay, there are three main problems regarding the party leadership issue in Turkey. First, the majority of party leadership positions in Turkey have been held by the same people for a considerable period of time. Second, Turkish parties tend not to foster future leaders since to do so would endanger the position of current leaders. Third, in almost all parties, the same elite group governs the party through co-optation, which means that all the party elites are happy with their current positions, and so have no incentive to change the system.³¹ In a survey conducted in Turkey by four political scientists, Turkish voters were asked whether Turkish parties were led by oligarchies, to which 55 per cent of participants responded in the affirmative, with 75 per cent describing the leadership of parties other than the one to which individual respondents belonged as oligarchical and 43 per cent thus describing their own parties.³²

The main criticism of the Turkish system of leadership elections is that party leaders appoint those delegates by whom they themselves will be chosen, so that the delegates remain beholden to their leaders in a kind of vicious cycle. Accordingly, one of the chief concerns of a party leader is to design the party congress in a manner that will ensure his or her own re-election. As long as the party organisation and delegate selections are under the absolute control of the party leader, it is, not surprisingly, almost impossible to change party leaders in the context of a party congress. According to İlder Turan, “Criticizing the leader is the topic of disciplinary action, while becoming a candidate for leading the party is often seen as an act of betrayal and constitutes a prelude of leaving the party.”³³

Haluk Özdalga, who was a MP for both the RPP and the JDP, claimed that, despite democratic provisions contained in both parties’ constitutions, a party leader who does not want

³¹ Ali Yaşar Sarıbay, *Türkiye’de Demokrasi ve Politik Partiler*, (Alfa Yayınları 2001) 94.

³² Saime Müjde Önal ‘Türkiye’de Parti İçi Demokrasi: CHP ve AKP Örneği’ (T.C. Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi 2007) 46, citing Ali Çarkoğlu, Tarhan Erdem, Ömer Faruk Gençkaya and Mehmet Kabasakal, *Türkiye’de Yeni Bir Parti Sistemine Doğru*, 2000, (TESEV Yayınları 2001).

³³ İlder Turan, ‘Turkey’s Difficult Journey to Democracy: Two Steps Forward, One Step Back’ (Oxford University Press 2015) 199.

to work with one party local organisation, or who is suspicious of opposition by local leaders to his or her views of local party organisations, cannot remain in office without the appearance of having come to power through the votes of local party members in a local congress.³⁴ Thus it is common for party leaders to follow the lead of provincial party congresses and to exert an influence over provincial delegate selection. This being the case, the party congress system can be described accurately as an institutional device that has been designed to protect party elites, and particularly party leaders, against intra-party opposition. Erol Tuncer argues in like manner that party leaders design party membership, delegate selection, and party organisation in a way that secures future leadership selections, for which reason party leaders are unlikely to support IPD.³⁵ Similarly, Özge Kemahlioğlu claims that, “If there is a real competition for party leadership positions, one of the key determinants of this being open and participatory selection mechanisms, the party leader feels threatened by potential challengers to her power in the party.”³⁶

An incumbent party leader can also influence who becomes a candidate for leadership by seeing to it that aspirants are disqualified before leadership contests for a violation of party rules, even if the alleged violations have not actually happened. Ümit Özdağ’s dismissal from the Nationalist Movement Party in 2006 is a good example. Before the 2006 party congress, Özdağ announced his candidacy for a leadership position. However, before the election, he was dismissed from the party and his path to the candidacy was blocked. Although he appealed his dismissal decision to the Civil Court, the court dismissed his appeal on the grounds that he should first exhaust the party’s internal dispute mechanism. Similarly, Ahmet Reyiz Yılmaz was dismissed from the party during a 2009 party congress after he announced his candidacy.

³⁴ Haluk Özdalga, *Kötü Yönetilen Türkiye: Örnek Vaka DSP*, (Kitap Yayınevi 2005) 50.

³⁵ Erol Tuncer, *Sosyal Demokrasi ve CHP: Sosyal Demokrasi Belini Düzeltilebilir mi?: Ne Olacak Bu CHP'nin Hali?*, (Dönence Yayınları 2004) 165-166.

³⁶ Özge Kemahlioğlu, *Agents or Bosses?: Patronage and Intra-party Politics in Argentina and Turkey* (ECPR Press 2012) 128.

Most often, incumbent party leaders are the only candidates offered to the congress delegates, a practice that leads to unchanging, and domineering, party leaders. Compared to the means by which established democracies choose party leaders, Turkish methods seem quite unusual. For while party leaders in mature democracies may be replaced for moral or ethical reasons, or for such practical reasons as defeat in general elections, leaders are much less likely to step down for such reasons in Turkey, where change instead comes about owing to a leader's death, promotion to the presidency, which requires resignation from party leadership, or forcible removal in the context of a military coup. Thus, for instance, former political party leaders were banned from politics through a temporary law during the 1960 and 1980 coups, while Turgut Özal, Süleyman Demirel and Recep Tayyip Erdoğan left the party leadership after becoming president in accordance with the constitutional mandate; Bülent Ecevit stepped down as party leader and left active politics because of health problems just two years before his death in 2006, in like manner as Alpaslan Türkeş, the influential founder and former leader of the Nationalist Movement Party, died while still serving a leadership role in 1997, and Necmettin Erbakan, another prominent party leader, died in office in 2011.

In Turkish political history, there has been a small number of party leaders who have lost a leadership challenge. Bülent Ecevit is one example; as mentioned above, he won leadership elections in 1972 in the RPP over İsmet İnönü, who was 88 years old at the time. Another example occurred in a party congress in 1991, when Mesut Yılmaz drove the then prime minister Yıldırım Aktuna from the leadership of the Motherland Party.

Turkish political parties have been in the grip of unchanging, dominant party leaders since the beginning of their existence. According to İlter Turan, from the early times of the one-party era, intolerant and hostile attitudes towards internal dissent have been one of the main problems of Turkish parties.³⁷ It is often and justifiably said in Turkey that, because of the lack

³⁷ İlter Turan, *Türkiye'de Siyasal Kültürün Oluşumu*, *Türkiye'de Politik Değişim ve Modernleşme*, (Alfa Yayınları 2000) 359.

of IPD, challengers to the established leadership are forced to resign from the party, often resulting in the establishment of a new party that takes part in elections. Turkish parties are not always congenial places, and moments of crisis often bring to light factions that remain hidden when a governing or opposition party is faring well.

Since political parties and their leaders have been willing to limit the terms of the president, prime minister and judges on the constitutional court, the question arises whether the terms of party leaders should be similarly limited. It is widely accepted that, the greater the seniority in party leadership, the greater the risk, since party leaders seem to equate length of service with competency and wisdom.

Party leaders increasingly bypass the members of their parties for fear of diluting their own power. Comparing the authoritarian structures of the two biggest Turkish political parties, the Republican People's Party and the Justice and Development Party, Pelin Ayan concluded that the RPP resembles an oligarchic type of authoritarianism in which the voices of party activists are coercively dominated by the party leadership through negative incentives such as the threat of marginalization, while the JDP resembles a hegemonic type of authoritarianism in that party activists remain indifferent to the authoritarian party structure because they receive incentives that encourage ideological commitment and loyalty to the party leader.³⁸

These considerations will serve to introduce a closer consideration of how the two major parties in Turkey choose their leaders, which method of choice is in turn a measure of how internally democratic they are. It is fortuitous that each of these parties, at the time of this study, went through the process of selecting a leader in a party congress.

³⁸ Pelin Ayan 'Authoritarian Party Structures in Turkey: A Comparison of the Republican People's Party and the Justice and Development Party' [2010] 11 Turkish Studies, 197-198.

The Justice and Development Party

The JDP is a leader-centred party, rather than a member-centred party, with considerable power heavily concentrated in the hands of one person, which tends to be the case in other Turkish parties as well. The leader of the JDP has enormous authority over the MPs, ministers and provincial leaders. According to Smith and Gauja, leader-centred parties also involve democracy; this, however, is an elitist understanding of democracy, in which trusted leaders are authorised by election to act on behalf of the party as a whole.³⁹

Competitive leadership elections have not been held by the party since it was established in 2001. Although it has been assumed that a greater number of contested leadership elections will result in a higher level of IPD,⁴⁰ in the five national congresses in the period from 2003 to 2015 there was only one candidate in all of the elections within the JDP.

All of this is despite the fact that the JDP was when it was established opposed to the idea of charismatic leadership. For while it has not once held a truly democratic election, the party actually emerged from a competitive election process within the now defunct Virtue Party. During the Virtue Party congress of 2000, the reformist candidate Abdullah Gül challenged Recai Kutan, the incumbent leader and candidate of the traditionalist group, for leadership. Although Gül lost the contest, he gained 521 votes against Kutan's 633, which was an unprecedented situation in the history of Islamist parties.⁴¹ After the Virtue Party was dissolved by the Constitution Court in 2001, its reformist wing established the JDP, while the other wing established the Felicity Party. According to Quinn Meacham,

[the reformist group] asserted that Erdogan's style of leadership was increasingly out of touch with the Turkish electorate, and argued that Virtue should redefine itself as a

³⁹ Rodney Smith, Anika Gauja 'Understanding Party Constitutions as Responses to Specific Challenges' [2010] 16 Party Politics 755, 769.

⁴⁰ Montserrat Baras, Oscar Barberà, Astrid Barrio and Juan Rodríguez 'Are Parties Democratizing Themselves? The Evolution of Leadership Selection in Spain (1977-2008)' (the ECPR Joint Sessions Workshop 21, Lisbon, 14th-19th April 2009) 5 <www.icps.cat/archivos/Workingpapers/wp285.pdf?noga=1> accessed 17 March 2014.

⁴¹ William Hale and Ergun Özbudun *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP* (Routledge 2009) 5.

contemporary political group with internal party democracy and European-style sensitivities. ... A fundamental tenet of the party was internal party democracy, a legacy of the reformists' reactions to Erbakan's personalistic leadership style. This was to be guaranteed by primary elections for the party list, transparency in decision making, and extensive debate on policy-formulation issues.⁴²

When the party was first established, it accepted principles of democratic leadership and rejected leader hegemony. However, this changed very quickly.⁴³ There are two decision-making bodies in the JDP, the Central Decision-Making and Administrative Committee (CDAC) and the Central Executive Committee (CEC). According to the party's constitution, members of the CEC are appointed by the party leader from among the members of the CDAC, who are elected in the party congress. Sultan Tepe claims that the JDP, when it was first established, sought to distinguish itself in this respect and so formed a more democratic decision-making body. When the party was first established, members of the CEC were accordingly not appointed but elected from among the members of the CDAC by a secret ballot. In 2003, however, in the wake of the previous year's elections, the party constitution was changed so that the party leader gained the power to choose the members of the CEC.⁴⁴

After serving for 13 years as leader of the ruling JDP, Recep Tayyip Erdoğan handed over this role to Ahmet Davutoğlu. Among politicians and academics, the selection of Davutoğlu was described in such terms as “the appointment of Ahmet Davutoğlu to head of the JDP,” and “Erdoğan's selection of Davutoğlu as his successor.”⁴⁵ The CEC meeting that was convened under Erdoğan's leadership decided to propose Davutoğlu's name for leadership of

⁴² Quinn R. Mecham, 'From the Ashes of Virtue, a Promise of Light: The Transformation of Political Islam in Turkey.' [2004] 25 *Third World Quarterly* 339, 351.

⁴³ Canan Aslan-Akman “Democratic Consolidation and Institutional Challenges for Political Parties and the Party System in Turkey” in Muge Aknur edn *Democratic Consolidation in Turkey* (Universal Publishers 2012) 168.

⁴⁴ Sultan Tepe 'Turkey's AKP: A Model “Muslim-Democratic” Party?’ [2005] 16 *Journal of Democracy* 69,74.

⁴⁵ Halil Karaveli 'Looking Strong but Fragile: A New AKP and a “New Turkey”' [2014] 7 *the Turkey Analyst* < www.turkeyanalyst.org/publications/turkey-analyst-articles/item/340-looking-strong-but-fragile-a-new-akp-and-a-%E2%80%9Cnew-turkey%E2%80%9D.html> accessed 18 October 2014.

the party during the JDP's extraordinary congress in Ankara on August 27, 2014. Many members of the party elite wanted to be candidates at the party congress, so a democratic selection might have been more fitting, but such a scenario was not even discussed. The retiring President, Abdullah Gül, made a bid to return to the party as leader, but Erdoğan, by deciding to convene the party congress on the day before Gül would hand over the presidency, effectively blocked Gül's bid for leadership. As regards party leadership, the JDP's Statute introduced a novelty by limiting the tenure of the leadership position to four terms in Article 75 of the party constitution.

The People's Republican Party

In the 80-year period from 1923 to 1980, and again from 1992 to the present, the RPP has had only five real party leaders. (The RPP was shut down during the military coup of 1980, along with all other political parties of the time.) In contrast to the JDP and its early periods, the RPP has witnessed more opportunities for leadership selection in its second period, though the standard oligarchic tendencies have prevailed, as exhibited through incumbent leaders usually emerging victorious.

According to the first RPP party constitution of 1923, the party leader was elected by the party congress from among the members of the TGNA (Turkish Grand National Assembly). In 1927, however, the constitution was amended and in Article 6 Atatürk was the permanent leader. Furthermore, an Article 7 declared that the first six articles could not be amended.⁴⁶

In stark contravention of the constitution, which declared that permanent leadership of Atatürk could not be absolved, the RPP formally renounced permanent leadership in 1946. The oligarchic tendencies and abuse of the leadership position to legislate specific and unfair

⁴⁶ Hakki Uyar '1923'ten Günümüze CHP Tüzükleri Üzerine Genel Bir Değerlendirme' (TÜSES Yayınları 2000) < <http://kisi.deu.edu.tr/hakki.uyar/I.pdf> > 5. accessed 09.11.2014.

candidate criteria continued, as İsmet İnönü remained party leader for 34 years.⁴⁷ It wasn't until the 1972 election that he, at the age of 88, was finally defeated by Bülent Ecevit, as mentioned. Even then, according to Uyar, Ecevit was only able to defeat İsmet İnönü because of his age.⁴⁸ Ecevit claimed in an interview at the time that "if İnönü really wants to stay as a leader, he can easily impress delegates and can win the election. However, he also wants me to win so he didn't do that."⁴⁹

Even after its disbandment following the military coup of 1980, former party members, with the permission of the National Security Council, established two leftist parties in 1983, the Social Democracy Party and the People's Party. In 1985, these two parties merged to become the Social Democratic Populist Party. In the unification agreement, Aydın Güven Gürkan, the leader of the People's Party, held the leadership position. In 1986, the party held a congress and Erdal İnönü won the leadership contest as the uncontested candidate. This reflects what happens at majority of the cases with Turkish parties. In 1988, the party held its second congress and had a unusually high number of candidates, none of which even came near the number of votes that the incumbent leader received; Erdal İnönü won 710 votes in the leadership contest, followed by İsmail Cem with 151, Azimet Köylüoğlu with 10 and Cemil Gerçek with 12 votes.

After 1990, deep competition began to occur between two major party leaders; however, less-famous candidates participated in the election, demonstrating a lack of proper IPD in the party. Erdal İnönü competed against Deniz Baykal in congress for the party leadership. Ultimately, İnönü was selected as the leader of the SDPP, receiving 504 votes against Deniz Baykal's 405; likewise, at the congress held the following year, Baykal ran against İnönü again, but again İnönü won the election with 534 votes to Baykal's 451.

⁴⁷ ibid 6.

⁴⁸ ibid 6.

⁴⁹ Yurdaer Kılıç < <http://blog.milliyet.com.tr/siyasi-parti-kongreleri-uzerine-soylesi/Blog/?BlogNo=472756> > accessed 12 December 2014.

After 13 years of disbandment, the RPP was re-activated again by 21 of the MPs who had resigned from the SDPP in 1992. After its re-establishment, the party held a congress, in which Deniz Baykal ran against Erol Tunceri. Baykal won the election with 679 votes against Tunceri's 227, becoming the party's fourth leader after Atatürk, İsmet İnönü and Bülent Ecevit. It can be noted that none of these elected leaders were junior members. Then in 1995 the SDPP decided to re-join the RPP and another congress was held, in which Baykal won the support of 681 delegates against Karayalçın's 309, once again becoming the leader of the RPP. A trend of persistently electing the same candidate can be noted for the internal elections of the RPP: again the lack of proper IPD made sure that regular members could not fairly participate in the elections.

Disaster struck the party in the country's general election of 1999, in which the RPP failed to pass the ten per cent general election threshold and did not win any seats in Parliament. As a result, Baykal resigned from leadership, and in the party congress election later that year, Altan Öymen garnered 521 votes in the third round, edging out his closest competitor, Hasan Fehmi Güneş, who received 508. It is apparent that the unexpected resignation of the incumbent leader led to a power struggle between the next two most influential candidates. Had the resignation been planned, there may have been a single unopposed candidate, probably the former incumbent leader. After his election, Öymen started to reform membership registration, which he saw as the party's biggest problem. However, the local organisations, which mostly depended on fake members, opposed the idea. Since the central party and the local organisations were dominated by Baykal's supporters, Öymen could not implement his reforms and decided to call an extraordinary congress to address the situation. After a 16-month absence, Baykal regained the leadership, defeating Öymen in the National Congress of September 2000.⁵⁰ During

⁵⁰ Levent Önen 'The Republican People's Party: Organization and Ideology between 1992 and 2007' (Master Thesis in Political Science and International Relations University of Bosphorus 2009); Altan Öymen, interview by author, tape recording, İstanbul, Turkey, 25 June 2008, 49.

this election, four candidates competed for leadership of the RPP. In the first and second rounds of balloting, no one received the 521 votes needed to win, but in the third round, Baykal received 543 votes, Öymen 355, Güneş 12 and Sirmen 3, making Baykal party leader.⁵¹

In 2001, the RPP witnessed another leadership contest, with Baykal being re-elected leader at the 29th party congress with 732 votes, while Ertugrul Günay received 380 and Birol Başaran 6 of 1,118 votes cast. In 2003, Baykal entered the party leadership contest as the only candidate, and received 973 out of the 1089 valid votes. This continues the overall trend of regular party members zealously following the most influential leader in the party, since most delegates vote only for the candidates who offer them the most benefits.

In the January 2005 leadership race, Mustafa Sarıgül ran against Baykal for party leadership, and received the support of only 460 delegates against Baykal's 674. After Baykal reaffirmed his dominance over the party at the congress, he began to eliminate opposition within the party: Sarıgül was dismissed from the party. and the RPP party executive office deposed eleven provincial-level party administrations; seven provincial administrations were also discharged for failing to hold official congresses on time.⁵² In December of the same year another congress was held, in which Baykal ran unopposed and received all of the 1158 valid votes. Again, the lack of IPD grants the party leaders the ability to abuse their positions with no worry about potential repercussions. Had there been effective IPD in place, Baykal would have had to think twice before acting against his competitors.

The next round of RPP leadership contests, in 2008, revealed another problem with IPD in Turkey. In this election, potential candidates had to receive the signatures of 253 delegates, representing twenty per cent of the total, but of those who attempted to do so, Haluk Koç

⁵¹ In the first round, Baykal received 420, Öymen 280, Hasan Fehmi Gunes 190 and Sefa Sirmen 52 votes. In the second round, Baykal's votes rose to 510, while Öymen got 369, Gunes 62 and Sirmen 3 < www.hurriyetdailynews.com/default.aspx?pageid=438&n=chp-gives-baykal-a-second-chance-2000-10-02 > accessed 22 May 2014.

⁵² < www.hurriyetdailynews.com/default.aspx?pageid=438&n=chp-geared-up-for-crucial-congress-government-or-chaos-2005-11-18 > accessed 15 May 2014.

garnered only 168 signatures, Umut Oran 15 and Ayhan Yalçın only one. So Baykal again ran unopposed and was selected by 1,021 of 1,231 delegates.

A basic measure of authoritarianism within the parties, then, is the number of candidates who take part and the number of votes leaders received in the process. Thus, as has been seen in the case of the RPP, Deniz Baykal, after strengthening his position, was selected in December 2005 and again in 2008 to be the leader of the RPP by around 1100 votes. After 18 years of leadership, Baykal announced his resignation following allegations that he had appeared in a sex clandestinely recorded tape with a female MP, after which, in 2010, Kılıçdaroğlu was elected as leader unanimously, becoming the RPP's seventh leader. In 2012, Kılıçdaroğlu ran unopposed and received 1,164 of 1,282 of the votes cast.

In August 2014, the deputy leader of the RPP, Muharrem İnce, declared his intention to run against Kılıçdaroğlu. During a press conference at the Parliament, İnce resigned his position in the RPP as party deputy leader and declared his candidacy for the leadership. Before the election he declared that, if he were to win the election, he would amend the party constitution and open leadership election to all party members. İnce, in fact, lost the election, exhibiting the poor level of interest that party members had in acquiring their own rights.

In total, the RPP has held 52 congresses, 34 regular and 18 extraordinary, since its inception in 1923, most of which took place while the party was out of power. As discussed in previous chapters, IPD is much more in evidence in left wing parties and opposition parties than in ruling and right wing parties. Yet while the RPP seems more democratic from the perspective of the number of candidates who have sought the leadership, it has not in practice experienced significantly more IPD than has the JDP.

As in the JDP, a potential candidate for leadership of the RPP must be nominated by at least twenty per cent of the delegates in order to stand for election. The RPP adopted this policy in 2003, three years before the JDP took the same step. This 2003 increase to twenty per cent

from the previously mandated five per cent was clearly intended to forestall unexpected challenges so that incumbent leaders might secure their own positions for the long term. In 2012, after Kılıçdaroğlu's accession to the leadership post, the twenty per cent threshold was decreased to ten.

By focusing on actual leadership selection in the two major parties, it has become possible to gauge the level of internal democracy in relation to leadership selection. Thus, as has been seen, the RPP gives the appearance of a democratic leadership selection process in terms of number of candidates and frequency of elections, but actual practices reveal that party leaders, committed to their own political interests, continue to preserve their power and authority. So it is that, despite the clear differences between the JDP and RPP with regard to the frequency of leadership selection and the number of candidates, the parties share a preoccupation with controlling their delegates and limiting challenges to incumbents through the imposition of high thresholds for qualification for candidacy.

How to reform the TPPL?

As mentioned above, the delegatory system in Turkey has cast considerable doubt on the process of leadership selection, since in practice most of the delegates are appointed rather than elected. Thus there would seem to be a great deal of truth in the widely-held impression that the party leader and the central party elites in Turkey are able to exercise a high level of control over the congress delegates by strategically controlling the process whereby they are selected. From this perspective, it is easy to understand why the party leaders have not sought to reform the leadership selection process, since they already exercise considerable control over the conference of delegates.

The selection of party leaders in Turkey has traditionally been criticised as being a rubber stamp event in party congresses. Moreover, the selection of candidates by delegates

strengthens their power over the ordinary members and creates new party elites, which process is contrary to the idea of equality among party members. Given the problems of leadership selection in Turkey, this kind of leadership selection method must be changed if there are to be greater levels of IPD. The problem, however, is identifying a leadership selection process more amenable to IPD that could take the place of the party congress.

The recent increasing demands for more participatory democracy in every field of life in Turkey also influences the administration of parties. As mentioned above, political parties in mature democracies are increasingly turning to some kind of hybrid method to select party leaders.

Many political scholars claim that the introduction of plebiscitary democracy strengthens the position of a party's leadership.⁵³ Yet, although one-member-one-vote elections would provide a stronger position for the party leader than the delegatory leadership selection, such elections also pose more risk to incumbents than they would face in the delegate system. Thus, in a discussion of parties in Belgium and Israel, Bram Wauters, Gideon Rahat, and Ofer Kenig claim that "While primaries may look like a method that would democratically legitimize the leader and strengthen his or her position, in comparison to the past, leaders are actually challenged more frequently and also lose their position more frequently."⁵⁴

Even though the party leaders easily control one or two thousand delegates, it would be difficult to control hundreds of thousands of members. Thus Kenneth Carty and William Cross argue that this model provides for a party leadership "that is at once both strong and fragile: leaders have enormous power and discretion to move and manage the party as they please, but they can be challenged and removed by (or through) the party on the ground. ...this power

⁵³ Patrick Seyd 'New Parties / New Politics? A Case Study of the British Labour Party' [1999] 5 Party Politics 383, 385.

⁵⁴ Bram Wauters, Gideon Rahat and Ofer Kenig 'Democratizing party leader selection in Belgium and Israel' (7th European European Consortium for Political Research (ECPR) General Conference, 2013).

allows the party on the ground scope for influencing the direction of party policy.”⁵⁵ Dennis Kavanagh claims that party leaders still feel the need to pay at least lip service to the views of members,⁵⁶ and, according to Robert Garner and Richard Kelly, party leaders cannot be effective unless they have the support of the party members, for which reason the waning acquiescence among parties indicates that such support cannot be won simply by demanding it; the leadership must have an ability to echo as well as mould grass-root concerns.⁵⁷

Again, what is needed is an external model that can serve as a point of reference for considering ways in which the TPPL might be reformed. In what follows, the British Conservative Party, which changed its selection method from very exclusive to more inclusive, will serve as one such model.

Case study: the British Conservative Party

In Britain, at the national level, all major parties ultimately choose their party leaders, with the participation of all party members in a one-member-one-vote system. These procedures are codified in each party’s own constitution, but there is no special party law in the UK. This may be due to long running history of democracy within Britain that did not necessitate the implementation of special party laws, unlike Turkey, which is still relatively new to democracy in general. The selection of party leaders by the votes of MPs in the Parliament had been the dominant method in British parties until the mid-1970s. Realising that such a practice did not incorporate the views of root members in general, the three major parties have since reformed this system in order to guarantee more inclusive electorates.⁵⁸ Parties currently mainly practise

⁵⁵ Carty and Cross (n 5) 98.

⁵⁶ Dennis Kavanagh ‘Party Democracy and Political Marketing: No Place for Amateurs?’ (Conference on Political Communications in the Global World, at Mainz. 2003) 5.

⁵⁷ Robert Garner and Richard Kelly *British Political Parties Today* (Manchester University Press 1998) 11.

⁵⁸ Kenig (n 2) 243.

the one-member-one-vote procedure in the selection of party leaders following some kind of pre-selection process.

Even in the absence of formal rules, the leader of the Conservative Party began to be elected by the parliamentary party in 1965; prior to that time, the leaders had emerged through an informal, shadowy consultation process known as the “magic circle,”⁵⁹ suggesting that past leadership election had been a sort of oligarchic process in Britain, quite like Turkey but without the ruse of being thoroughly democratic. Leon Epstein defined the old leadership selection method as follows:

The Conservatives before 1965 had no election when their leader and prime minister died or resigned, but relied on consultation among their elder statesmen to produce an emergent consensual choice to be recommended to the monarch and subsequently accepted by the party.⁶⁰

Next, in 1975, a formal procedure was introduced into the party constitution for selecting and removing its leader by the parliamentary party.⁶¹ The march towards greater inclusivity continued after the 1997 electoral defeat, when there were “widespread demands for an immediate change to give the extra-parliamentary party a share of the votes in deciding the succession.”⁶² This refers to the fact that, when grass root members actually start demanding their rights without fear of repercussion or materialistic greed, some sort of progress can be achieved; thus for example in Turkey regular party members do not demand their rights to vote or to voice their concerns. As Robert Harmel and Kenneth Janda assert, party changes do not happen immediately and for a single reason, but rather typically arise as a consequence of

⁵⁹ Andrew Denham ‘From grey suits to grass roots: Choosing Conservative leaders’ [2009] 4 *British Politics* 217-218.

⁶⁰ Leon Epstein ‘Redistributing power in British Parties’ in Vernon Bogdanor (eds), *Parties and Democracy in Britain and America* (Praeger 1984) 53.

⁶¹ Denham (n 59).

⁶² Keith Alderman, ‘Revision of Leadership Selection Procedures in the Conservative Party’ [1999] 52 *Parliamentary Affairs* 260, 265.

various factors, including changes in leadership, changes in the relative influence of factions within the party and changes brought about by external factors.⁶³ Thus William Cross and André Blais observe that eight of the nine relevant cases offer support for the argument that organisational change follows disappointing election results, and report, following interviews with party officials, that “Some party officials in ...the UK Tories suggest that their parties would not have made the change if in government, and some express doubt as to whether their party will use the current expansive electorate rules in the future should they find themselves selecting a prime minister.”⁶⁴

A few years earlier, in 1988, in response to increasing demands from party members for a greater say in leadership selection, the Conservative Party prepared a document entitled “The Fresh Future,” which outlined six principles: unity, decentralisation, democracy, involvement, integrity and openness. The leadership rules were set out in a chapter entitled “Democracy: giving power to the members” with a strategy to make the party more accessible and responsive to party members and their constituencies and to increase the number of party members.⁶⁵ Party members were directed either to accept or to reject the reforms on a take-it-or-leave-it basis. One-third of the members participated in the vote, of whom 96 per cent favoured the reforms⁶⁶; this vote demonstrated widespread acknowledgement of positive reforms, and there is little doubt that Turkish party members would not accept such an attempt at reform. According to Thomas Quinn, William Hague, after he became leader, wanted members to take part in future leadership contests, but he didn’t want MPs to lose their leading role.⁶⁷ Hague eventually lost this battle, and since 1998 party members have had the final say on Conservative leadership

⁶³ Robert Harmel and Kenneth Janda ‘An Integrated Theory of Party Goals and Party Change’ [1994] 6 *Journal of Theoretical Politics* 259, 262.

⁶⁴ William Cross and A. Blais, ‘Who Selects the Party Leader?’ [2012] 18 *Party Politics* 127, 134; cf. APSA ‘Toward a More Responsible Two-Party System: A Report of the Committee on Political Parties’ [1950] 44 *American Political Science Review* 13.

⁶⁵ Richard Kelly and Paul Lester ‘Leadership Elections: Conservative Party’ (House of Commons Library SN/PC/1366 7 December 2005) 3.

⁶⁶ Thomas Quinn, *Electing and Ejecting Party Leaders in Britain*. (Palgrave Macmillan 2012) 98.

⁶⁷ *ibid* 100.

selection. In this way Conservative Party became the latest among the UK parties to open its leadership selection to the party grass roots.

After Hague resigned his position as leader of the Conservative Party in 2001, all party members for the first time took part in the vote for leader under the new procedures adopted in 1998.⁶⁸ This selection process includes a hybrid form of democracy, which has two stages. In the first, MPs choose two candidates from among the applicants. In the second, party members select one of these candidates as a party leader on a one-member-one-vote basis. A leadership election can be triggered by the resignation of the party leader, or if fifteen per cent of Conservative MPs call for a no-confidence vote in the leader. This process can be initiated after sending letters to the chairman of the party's backbench 1922 Committee.⁶⁹ After the chairman of this committee receives the letters in writing, either collectively or separately, the chairman, without disclosing the names of any of the signatories, is instructed to inform the leader of the party that a vote of confidence is to be held.⁷⁰ The first leadership selection conducted under the new rules led to debates and controversy about where the balance should lie between the rights of members and those of MPs.⁷¹ The UK's implementation of IPD is carefully designed to consider equal the contributions of both senior party members and grass root party members, which combats oligarchic tendencies as leaders are forced to submit two candidates for voting. Furthermore, to deal with a situation of appalling incompetence, there are also measures to vote out the incumbents; Turkish parties and democracy severely lack these features.

Conclusion

⁶⁸ Eligible voters: 328,000; turnout: 256,797, or 79%.

⁶⁹ < <http://conservativehome.blogs.com/files/snpc-01366-2-1.pdf> >.accessed 19 June 2014.

⁷⁰ < http://privatewww.essex.ac.uk/~tquinn/leadership_election_rules.htm >.accessed 19 November 2015.

⁷¹ Thomas Quinn, *Electing and Ejecting Party Leaders in Britain* (Palgrave Macmillan 2012) 97.

An analysis of both the formal side of leadership selection, the TPPL, and the actual situation in the political parties makes clear the lack of democracy in the leadership selection process in Turkey. From the beginning of the multi-party era, party leaders in Turkey have been playing an increasingly dominant role in their capacity as the embodiment of the party image and, given their power, the selection of party leaders is a crucial aspect of IPD in Turkey. Even though the Turkish political parties have long been oligarchic in nature and controlled by party leaders whom ordinary members are unable to hold accountable, this situation could be remedied if the participation of all party members were guaranteed and systematically enforced by party law. As things stand, the current delegatory leadership selection system has left considerable doubt as to whether the delegates actually reflect the views of the party members.

One of the most common criticisms levelled against the present arrangement is that incumbent leaders have considerable powers over their own re-nomination. To be more precise, the criticism is that party delegates are only elected after obtaining the consent of party leaders behind closed doors, leaders who fear the democratisation of the leadership selection process as a threat to their power. The formal and informal connections between the central party and local organisations means that, in controlling local delegate selections, incumbent party leaders try to select delegates who will vote for them in the party congress. For all of these reasons, abolition of the leadership selection party congress would lead to greater democratisation within the system and thus render party leaders more responsible and accountable.

The reform of the TPPL is necessary if ordinary members are to have a greater say in selecting the party leader. At the very least, the leadership selection process ought to be codified in law in a detailed manner. The TPPL would benefit particularly from reform as a “hybrid system,” in which the party on the ground, the party in the central office and the party in the public office are involved at different stages of the selection procedure. The hybrid system employed by the British Conservative Party offers a good model for Turkey. Parliamentary

party groups could be influential in the leadership selection, as is the case in the Conservative Party. Hybrid systems like these may enable party leaders to ensure that the divergent groups just mentioned are given due consideration, and that party leaders will be responsible to both the party on the ground and to the party in public office. Since the party in the central office and the party in public office are composed of almost the same figures in Turkish parties, all party groups would be represented by the party leadership under this sort of arrangement.

The need to strengthen intra-party competition for the selection of party leadership has been pointed out by numerous theoreticians. The advocates of IPD believe that the large number of candidates in the leadership selection contest and the inclusivity of as many party members as possible in the election are the keys to intra-party democratisation. At present, while there are some requirements with regard to the methods whereby the party leader will be selected in the TPPL, political party constitutions are playing an important role in leadership candidacy requirements. Thus it was that, in order to prevent unexpected challenges, both the RPP in 2003 and the JDP in 2006 adjusted the nomination threshold for leadership candidates, increasing the percentage of delegates needed to endorse a candidate from five to twenty, mainly as a response to the desire of incumbent leaders to secure their own positions for as long as possible. In order to combat this tendency, thresholds for participating in leadership contests that protect incumbents must be lowered by law.

Self-interest could play a role in effecting these kinds of changes, for a party leader who has been selected through a democratic process by all party members may be seen in a more positive light by the party's potential voters than one who is known to have been chosen by a handful of appointed delegates. It should be noted that, with the help of modern technology, the realisation of one-member-one-vote (OMOV) could easily be implemented by the political parties.

Further, while the goal advocated here is to broaden the electorate of political parties to include all members, it would be expedient to restrict full participation to those who have been members for at least two years. This solution not only rewards the party members who are devoted to their party long term, but also limits the possibility of the infiltration by party opponents into the selection process. The plebiscitary model for leadership selection is so open as to facilitate such infiltration, for which reason an early cut-off date for membership would also be expedient, as would payment of a membership fee. All of these measures would help to ensure that leaders are selected by members who are truly committed to their chosen parties.

The legally compulsory one-member-one-vote systems advocated here, at least at one level of the selection process, would certainly promote IPD within the Turkish parties. However, as has been mentioned repeatedly in the context of attempts to enhance the influence of party members, while it may be possible to influence the ways in which party leaders are elected through legislation, those who aspire to party leadership will always be able try alternative methods for achieving the same goal. For this reason, it remains difficult to determine for certain whether procedures such as one-member-one-vote leader selection would provide a different outcome from other forms of leadership selection, such as party congresses.

CHAPTER 6

CANDIDATE SELECTION AND INTRA-PARTY DEMOCRACY

Introduction

The selection of candidates is a fundamental function in democratic political systems that is carried out by political parties. These are the “processes by which candidates are chosen from among the pool of potential candidates.”¹ The methods used by political parties to choose candidates for general elections differ significantly among nations. For instance, at the end of this process, a party may designate its list of candidates in a multi-member proportional representation system, or only one candidate in a first-past-the-post-system, depending on the country’s electoral system. Another main aim of this process is to narrow the electorate’s choice before the elections.²

The question of how political parties choose their candidates for public office has been debated by scholars and international democracy promoting organisations since the emergence of political parties. Schattsneider claims that “The nominating process...has become the crucial process of the party. The nature of the nominating procedure determines the nature of the party; he who can make the nominations is the owner of the party.”³ The Venice Commission summarises the issues of candidate selection as follows:

Recognizing that candidate selection and determination of ranking order on electoral lists is often dominated by closed entities and old networks of established politicians, clear and transparent criteria for candidate selection is needed, in order for new members

¹ Peter M. Siavelis and Scott Morgenstern (eds), *Pathways to Power: Political Recruitment and Candidate Selection in Latin America* (The Pennsylvania University Press 2008) 8.

² Bonnie N. Field and Peter M. Siavelis ‘Candidate Selection Procedures in Transitional Polities: A Research Note’ [2008] 14 *Party Politics* 620, 621.

³ E.E Schattschneider, *Party Government* (Rinehart, Winston 1942) 64.

(including women and minorities) to get access to decision-making positions. Gender-balanced composition of selecting bodies should also be commended.⁴

The candidate selection procedures in Turkish political parties are controlled by the party leader. The participation of party members is unsatisfactory and does not meet the expectations of both voters and party members. This is not only a problem of Turkey alone, but of most politically underdeveloped countries. Pérez-Mares and Marco Alejandro summarise the issue as follows

In the developed world, candidate nomination within political parties appears largely informed by inclusive and democratic practices. In contrast, in the less-developed world events of intraparty participatory politics are for the most part absent, with nomination decisions often monopolized by national party leaders and local party bosses.⁵

As said in previous chapters, this study conceptualises IPD on the basis of the inclusiveness of political parties. For Scarrow

[u]nder the most exclusive rules, key decisions are controlled by a single leader or a small group of leaders, and others have no binding role in the process. In the most inclusive parties, all party members, or even all party supporters, are given the opportunity to decide on important issues, such as the choice of party leader or the selection of party candidates [or on important policy issues].⁶

This chapter sheds light on candidate selection processes and examines the situation in Turkey from both a legal and a practical perspective. The first part of the chapter offers an overview of candidate selection methods and the most important issues related to it from the perspective of my research. In the second part, I will analyse the candidate selection process in

⁴ European Commission for Democracy Through Law (Venice Commission) CDL-AD (2010) 024 27.

⁵ Pérez-Mares, Marco Alejandro, 'On the Economic Effects of Policy Responsiveness: The Role of Candidate Selection for General Elections' (CGU Theses & Dissertations. Paper 34. 2012) <http://scholarship.claremont.edu/cgu_etd/34_7>. accessed 8 March 2015.

⁶ Susan Scarrow 'Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy' (NDI 2005) 6.

Turkey. This part of the research seeks first to establish how party law impacts on the candidate selection in Turkey, and second analyses candidate selection in Turkey from an inclusiveness point of view, comparing the current candidate selection process with a more inclusive candidate election method, namely primaries. Special attention is given to the question of whether party law should require primaries as a candidate selection method in order to provide IPD or instead parties should be left to decide on this issue for themselves. I will consider the arguments in favour of primaries, asking whether compulsory closed primaries would help the democratisation of Turkish parties. I shall be arguing in the course of this chapter that candidate selection can be democratised to a certain degree, by means of adopting compulsory primaries in public law.

Part 1: Theoretical Perspectives

The importance of candidate selection for the political system and intra-party democracy

The level of participation of party members in the candidate selection procedure is another important indicator of IPD, and is therefore one of the most studied issues in literature on the subject. Scarrow, Webb and Farrell claim that “opportunities to influence candidate-selection are one of the most politically significant of the selective benefits which parties are able to offer their members.”⁷ It will therefore be useful at this point to examine this process from a theoretical perspective, in order to arrive at a more complete understanding of the basic principles and arguments involved.

Not surprisingly, political scientists have repeatedly identified candidate selection as a crucial facet of a healthy democracy. According to Michael Gallagher and Michael Marsh,

⁷ Susan Scarrow, Paul Webb and David Farrell ‘From Social Integration to Electoral Contestation: The Changing Distribution of Power within Political Parties’ in Russel J. Dalton and Martin P. Wattenberg (eds), *Parties without Partisans: Political Change in Advanced Industrial Democracies*, (Oxford University Press 2000) 129, 134.

The quality of candidates selected determines the quality of the deputies elected, of the resultant parliament, often of the members of the government and, to some extent, of a country's politics. A change in parties' selection procedures in any given country might thus have direct consequences for the way politics operate there.⁸

For instance, the position of MPs with respect to the party on the ground and the party in public office can be measured in terms of the candidate selection methods used in a political party.⁹

Thus, according to Gideon Rahat, different methods yield different political consequences because the composition of parliaments and the behaviour of their members mostly depend on the selection method. For instance, Rahat claims that, since "there are 'safe seats' in virtually every legislature, in many cases it is the candidate-selection procedure—and not the general election—that determines who will become a member of parliament."¹⁰ Gary Thomas Johns likewise argues that the competition between parties fails to provide the public with an effective choice of candidates, the real competition between candidates is displaced to a competition for party endorsement within particular parties,¹¹ while, according to Norm Kelly and Sefakor Ashiagbor:

In democracies where voters primarily identify with parties and/or where there is a party list electoral system which gives the party the power to rank its candidates, the most important campaign for a potential candidate may be the party's pre-selection process – to secure pre-selection for a 'safe' constituency, or a winnable position on the party's list in multi-member constituencies.¹²

⁸ Michael Gallagher and Michael Marsh (eds), *Candidate Selection in Comparative Perspective: The Secret Garden of Politics* (Sage 1988) 1; similar argumentation in Alan Ware *Political Parties and Party System* (Oxford University Press 1996) 259.

⁹ Richard S. Katz 'The Problem of Candidate Selection and Models of Party Democracy' [2001] 7 *Party Politics* 277.

¹⁰ Gideon Rahat 'Candidate Selection: the Choice before the Choice' [2007] 18 *Journal of Democracy* 157, 159.

¹¹ Gary Thomas Johns 'A Study in Democracy- Candidate Selection for the Parliament of the Commonwealth of Australia' (Phd Thesis School of Political Science and International Studies University of Queensland) iv.

¹² Norm Kelly and Sefakor Ashiagbor 'Political Parties and Democracy in Theoretical and Practical Perspectives: Parliamentary Groups' (NDI 2011) 7.

An inclusive candidate selection procedure can also help the democratic image of the party and strengthen the bond between party members and prospective MPs. As Epstein argues, “democratic legitimacy has long been accorded only to relatively open methods of candidate selection.”¹³ In the same vein as Ware, Epstein equates high levels of party membership with the legitimisation of the parties with its voters,¹⁴ and Türköne sees an inclusive candidate selection as a way to bolster party members’ sense of belonging and this strengthens the political party.¹⁵ Furthermore, granting party members involvement in the candidate selection procedure might create a kind of positive feedback loop in this respect by attracting more members to the party, which in turn increases inclusivity.

While the scholars just cited emphasize inclusiveness, others focus on the centralisation-decentralisation or formal-informal dichotomies. Rahat and Hazan categorize candidate selection processes in terms of the following criteria: (1) candidacy (who can be selected, and the types of restrictions that apply to candidates), (2) party selectorates (those who choose and how they qualify for this role), (3) decentralization (the level at which candidates are chosen) and (4) voting/appointment systems (the nature of the nominating procedure).¹⁶ Alan Ware notes two other significant facets of the selection process, namely “whether candidate selection procedure is controlled by public law, or by party’s own constitutions” and “whether the incumbent MPs are in an advantageous position for reselection.”¹⁷ In what follows, I will be concentrating on three of these considerations: the selectorate, the selection system and the nature of regulations regarding selection

¹³ Leon D. Epstein ‘Redistributing Power in British Parties’ in Vernon Bogdanor (ed), *Parties and Democracy in Britain and America* (Praeger 1984) 42.

¹⁴ Alan Ware ‘Activist-Leader Relations and the Structure of Political Parties: ‘Exchange’ Models and Vote-Seeking Behaviour in Parties’ [1992] 22 *British Journal of Political Science*, 71, 74.

¹⁵ Mümtaz’er Türköne, *Siyaset*, (Lotus Yayınları, 2005) 273.

¹⁶ Gideon Rahat, and Reuven Y. Hazan ‘Candidate Selection Methods: An Analytical Framework’, [2001] 7 *Party Politics*: 297-322.

¹⁷ Alan Ware *Political Parties and Party Systems* (Oxford University Press 1996) 259-261.

From the perspective of IPD, as Rhys Williams and Akash Paun observe, “There is no perfect candidate selection system; there are often trade-offs between the different objectives that selection processes are designed to deliver and different selectorates have different priorities in the selection of candidates.”¹⁸ The alternatives may be schematised as follows:

FIGURE—PARTY SELECTORATES



FIGURE Party selectorates¹⁹

Also useful for conceptualising candidate selection are the six broad categories formulated by Lars Bille: 1) the national party organs completely control the selection of candidates; 2) the subnational party organs propose candidates, but the national party organs make the final decision; 3) the national party organs provide a list of names from which the subnational party organs can select the final list; 4) the subnational party organs decide, subject to the approval of the national party organs, including the right to add or take away names according to a variety of stipulated qualifications; 5) subnational party organs completely control the process and make the final decision; and 6) a membership ballot, which renders the process even more inclusive.²⁰

¹⁸ Rhys Williams and Akash Paun ‘What works in candidate selection?’ 2. < www.instituteforgovernment.org.uk/our-work/c5/40/Innovations+in+candidate+selection >. accessed 29 September 2014.

¹⁹ Reuven Y. Hazan and Gideon Rahat *Democracy within Parties Candidate Selection Methods and Their Political Consequences* (Oxford University Press 2010) 35.

²⁰ Lars Bille ‘Democratizing a democratic procedure: Myth or Reality? Candidate Selection in Western European Parties, 1960–1990,’ [2001] 7 Party Politics, 363, 367.

Issues for consideration in candidate selection

Party cohesiveness

The candidate selection method is also important from the perspective of the cohesiveness of national parliaments. For instance, there will be differences between the voting behaviour of MPs who are elected by all party members on the one hand and candidates appointed by party leader on the other, with the latter process representing a real challenge to party unity in regard to relations between leaders and democratically selected candidates. According to Penning and Hazan, “Party cohesiveness is important because it directly affects the quality of the democratic political process.”²¹

It has been argued that opening the candidate selection process to the all party members has led to a decline in the influence of the party leader over MPs after they have been elected. According to Scarrow, “inclusive candidate selection procedures can weaken the cohesiveness of legislative parties, because national party leaders may lose the power to deny re-nomination or re-election to rogue members.”²² Rahat makes a similar point:

In cases when candidates are selected by the party leader or by a small party elite, those legislators who want to be reselected are likely to demonstrate high levels of party cohesion and discipline. When selection is decentralized and conducted by wider publics (all party members or party supporters, for example), legislators are more likely to be responsive to various interests and may thus demonstrate lower levels of party cohesion.²³

Candidate selection is, of course, merely one of several factors affecting party cohesiveness. Thus, according to the analysis of Shaun Bowler, for example, incentives and

²¹ Paul Pennings and Reuven Y. Hazan, ‘Democratizing Candidate Selection’ [2001] 7 Party Politics 267, 271.

²² Scarrow (n 6) 4.

²³ Rahat (n 10) 159.

powers within the legislature need equally to be taken into consideration.²⁴ For even if the MPs were selected in primaries, the party leader still could still manipulate them with material incentives or the lure of ministerial appointments, committee memberships and other influential positions within the central party.

A democratic candidate selection and reselection process, by contrast, strengthens the responsiveness of MPs to the rank and file party members regardless of any incentives offered by the leader. As Marco Alejandro Pérez-Mares puts it, “Aspirants to party tickets must first respond to the demands of those with the power to add their names to the electoral ballot, or face the threat of losing the party nomination.”²⁵ Furthermore, the choice of a candidate selection method has fundamental implications for a candidate's chances of becoming an MP, which office offers a path to involvement in policies for re-selection. For instance, if the party leader has a large say in the selection process, those who are selected are likely to be beholden to the party leader, while candidates will try to get the support of party members if these latter play a significant role in the process. As Peter M. Siavelis and Scott Morgenstern have observed in the context of Latin America,

...where the prospect of re-election exists, candidates are more likely to continue to serve the constituencies that brought them to power, and re-election will likely foster the further cultivation of party or group loyalty (depending on the constituency that brought the candidate to power), whereas bans on re-election foster relatively lower levels of loyalty.²⁶

²⁴ Shaun Bowler ‘Parties in Legislature: Two Competing Explanations of Cohesive Legislative Parties’ in Russel J. Dalton and Martin P. Wattenberg (eds), *Parties without Partisans. Political Change in Advanced Industrial Democracies* (Oxford University Press 2002) 158.

²⁵ Pérez-Mares (n 5) 5.

²⁶ Peter M. Siavelis and Scott Morgenstern ‘Political Recruitment and Candidate Selection in Latin America: A Framework for Analysis’ in Peter M. Siavelis and Scott Morgenstern (eds), *Pathways to Power: Political Recruitment and Candidate Selection in Latin America* (The Pennsylvania University Press 2008) 3, 27.

To some extent, these two concepts clash with each other. For instance, IPD often entails the diffusion of power more evenly across a greater number of actors within a political party, whereas party cohesion calls for greater centralisation of power in a party elite, a strong party leader and autonomy in the decision-making process.

Party cohesion is also relevant at the state level, since in ruling parties it nearly always leads to authoritarian governments that place little value on democracy, and this is especially true for developing democracies such as Turkey. Critics of the inclusive candidate selection process accordingly point to its potential to weaken party cohesion and thus efficiency, though many of these critics also point out that the risks of IPD discussed in the third chapter are not valid in Turkey. This type of argument is also problematic given the paucity of empirical studies that document any consolidation of democracy by authoritarian parties. To the contrary, some empirical studies have shown that it is internally democratic parties that contribute to the consolidation of democracy in a country. Although efficiency and cohesion are indeed essential for a party to implement its policies, especially once in government, this efficiency and cohesion can be brought about by the party leadership and by the commitment of MPs to the party programme and election manifestos. In the early years of the JDP in Turkey, for example, the party implemented its policies efficiently and in an atmosphere of cohesion among all MPs, resulting in more IPD than the party evinces at present. In those times, most of the JDP MPs were coming from different political ideologies; however, all of the MPs supported a bid for membership in the European Union and the consolidation of democracy that membership entailed because they all shared the goals of economic recovery, improvement in the health and education systems and an outward-looking foreign policy.

Candidate selection through an appointment system impedes MPs from acting freely, and weakens parliaments' role in accountability and policy making. Loyal MPs fail to hold the executive accountable, and the parliament's role in public policy-making suffers. The

nomination process is therefore critical for party leaders in determining the loyalty of prospective MPs.

The dilemma posed by popular and female candidates

Democratic candidate selection methods have also received criticism for their purported effect of “preclud[ing] parties from choosing candidates they regard as most appealing to the electorate.”²⁷ It has been argued that party elites, especially senior politicians, are often in a better position to know what voters want, and that, since their loyalties go beyond the party members, they tend to choose candidates who will attract more votes to the party.²⁸ It is however difficult to see how the central party or the party leader can be expected to remain responsive to each electoral district. Party members are also aware that the candidates should have appeal beyond the circle of party members and supporters. As mentioned in earlier chapters, ordinary party members in Turkey tend to reflect the views of their parties’ voters, for which reason participatory candidate selection favours the more popular candidates within a given constituency. Noteworthy in this context is the statement by the Venice Commission that

Legislation on political parties should ensure that women and men have an equal chance to be candidates and to be elected. In addition to the measures discussed earlier to ensure equality in candidacy (voluntary party quotas, gender balanced selection committees, and training for female candidates as well as gender equality action plans and clear and transparent rules for candidate selection), parties must respect all other measures enacted by the state to ensure gender equality in elections, including provisions regarding gender equality in candidacy and party lists.²⁹

²⁷ Anika Gauja ‘Enforcing democracy? Towards a regulatory regime for the implementation of intra-party democracy’ (Democratic Audit of Australia Discussion Paper 14/06 April 2006) 5.

²⁸ Jeffrey Obler ‘Intraparty Democracy and the Selection of Parliamentary Candidates: The Belgian Case.’ [1974] 4 *British Journal of Political Science* 163–185.

²⁹ European Commission for Democracy Through Law (Venice Commission) CDL-AD(2010)024) 30.

Although neither the TPPL nor the Electoral Law set rules that would favour the selection of disadvantaged groups such as women and minorities, some parties compel confrontation with this issue in their constitutions. The RPP, for example, amended its party constitution in 2012, mandating that the party allocate no more than 67 per cent to either gender, and imposing a 10 per cent youth quota for candidate selection for those candidates determined by the party central office.³⁰

One motivation for adopting quotas based on such factors as gender or disability is strategic; thus, some case studies suggest that party elites generally adopt quotas after a rival party does the same.³¹ This concern is of particular importance for a party seeking to overcome a long period in opposition or of decreasing popularity.³² Thus the aforementioned amendment of the RPP party constitution has come at a time when the party has long been in an opposition position in the TGNA.

In sum, while political scientists remain divided on the relative importance of candidate selection among the many factors that influence IPD, in the case of Turkey, party elites' control of the process has impeded inclusivity. Concerns about party cohesiveness, I have argued, are exaggerated. Further, the success of quotas in promoting inclusivity provides further support for one of the tenets of this study, namely that legal remedies can in fact further IPD.

Part 2: Candidate Selection in Turkey

Introduction

Democracy in Turkey is mostly identified as a competition among parties. The Turkish electorate consists of around 55,000,000 people. Voting is done by stamping the party emblem and dropping a piece of paper into ballot boxes once every four years. As is widely recognized,

³⁰ Article 61 of the RPP party constitution.

³¹ Miki Caul, 'Political parties and the adoption of candidate gender quotas: A cross-national analysis.' [2001] 63 *Journal of Politics* 1214-1229.

³² Mona Lena Krook *Quotas for Women in Politics: Gender and Candidate Selection Reform Worldwide* (Oxford University Press 2009) 10.

election is the most powerful device known for providing both responsiveness and accountability in government. However, the candidate selection process is one of the most problematic areas in Turkey's democratic history as well as for the Turkish Political Parties Law. Although most of the parties in Western societies have gradually developed more inclusive ways of choosing candidates, Turkish parties have not made any real progress since the first emergence of political parties in the country.

Historical background

While the 1876 Constitution stipulated that the election of MPs would be regulated by a special law, the first such legislation was not introduced until the Elections of MPs Law of 1908. The two elections prior to 1908 were conducted under the auspices of the Provisional Electoral Regulations (which was an administrative document rather than a national statute), the provisions of which have been seen as an early example of democratic candidate selection in Turkey. These regulations established Muslim and non-Muslim provincial quotas for candidates who were elected to legislative chambers.³³ When the Committee of Union and Progress (CUP) began to control Parliament, a new Electoral Law was enacted that removed any quota arrangement. For the CUP, a "Confessional representation based on a quota system would be incompatible with Ottomanism, as it would promote division rather than the unity of different 'elements' in Turkey."³⁴ This Law remained in force until 1942, except during the 1920 elections, and it contained no provisions relating to candidate selection procedure.

Whatever party rules were in effect during the one-party era (1920-1946), candidates for the RPP were determined by the People's Party headquarters, indeed solely by Mustafa Kemal, and after him by İsmet İnönü, on the basis of loyalty.³⁵ According to the RPP

³³ Hasan Kayalı 'Elections and the Electoral Process in the Ottoman Empire, 1876-1919' [1995] 27 *International Journal of Middle East Studies*, 265, 268.

³⁴ *ibid* 268.

³⁵ Ercan Karakaş 'CHP'de Milletvekili Adaylarını Belirleme Sorunu' < <http://ercankarakas.org/tr/index.php?main=HaberDetay&Hid=47> >.accessed 1 April 2014.

constitution of 1923, the party council was responsible for candidate selection. This council was composed of ministers, members of the party executive committee and members of the parliamentary party executive committee.³⁶ In 1927, the RPP made an amendment to the party constitution and transferred the candidate selection power from the Party Council to the Party Leadership Council.³⁷ This council was composed of three men, the Party Leader, the Vice Leader and the General Secretariat,³⁸ and it became the most powerful decision-making body within the party and assumed responsibility for selecting its candidates. According to Cemil Koçak, Atatürk was the only powerful man on this council. He alone appointed the two important positions within the party, Vice Leader and Party General Secretariat, from among members of the party council.³⁹ Koçak argues that “Often, candidates were ignorant of the fact that they were indeed candidates – some learnt of their candidacy through newspapers.”⁴⁰

Referencing Uyar and Tuncay, Koçak summarises those days as follows:

As party leader, Atatürk had personally selected the MP candidates. He had thus made it clear that he preferred the MPs to be persons of his own choice, and furthermore that he expected everyone’s compliance in this matter. Although a few people did stand as ‘independent’ candidates, outside of this official list of candidates, these people did not succeed in being elected.⁴¹

Among elections held in this period, those in 1939 stand out as the most internally democratic with regard to candidate selection. Prior to the 1939 general elections, party leader İnönü sought out the opinions of party members from 28 provinces and the Party Council before

³⁶ Hakkı Uyar ‘1923’ten Günümüze CHP Tüzükleri Üzerine Genel Bir Değerlendirme’ İzmir, Nisan 2000 accessed on 9 November 2014 < <http://kisi.deu.edu.tr/hakki.uyar/I.pdf> > 16. accessed 09 November 2014.

³⁷ Esat Öz, *Tek Parti Yönetimi ve Siyasal Katılım*, (Gündoğan Yayınları 1992) 99.

³⁸ Uyar (n 36) 13.

³⁹ Cemil Koçak ‘Siyasal Tarih (1923-1950)’, in Sina Akşin (ed), *Türkiye Tarihi 4- Çağdaş Türkiye 1908-1980*, (7th edn Cem Yayınevi 2000) 155-156.

⁴⁰ Cemil Koçak ‘Parliament Membership during the Single-Party System in Turkey (1925-1945)’ [2005] 3 *European Journal of Turkish Studies* < www.ejts.org/document497.html > accessed 18 October 2014.

⁴¹ *ibid* 3, referring to Hakkı Uyar, ‘Tek-Parti Döneminde Seçimler’, [1999] 64 *Toplumsal Tarih*, pp. 21-31. Mete Tunçay, *Türkiye Cumhuriyeti’nde Tek-Parti Yönetiminin Kurulması (1923-1931)*, (Tarih Vakfı Yurt Yayınları 1999).

he decided the candidates.⁴² This trend continued into the 1945 general elections, in which the People's Party nominated more than the required number of candidates in some constituencies from among whom the electors chose.⁴³

With the end of one-party rule in 1946 and the emergence of an opposition party, the RPP initiated reforms of the candidate selection process for general elections, amending its constitution in 1947 so that in every province 70 per cent of the candidates would be determined by local party elites, namely the members of the provincial executive committee, members of the sub-provincial party executive committee, the councillors of municipalities and the mayors of the cities and towns in each province. The remaining 30 per cent was determined by the central party council. With this amendment, the RPP began to move slowly toward greater consideration for the wishes of its members and of the public at large.⁴⁴ After a defeat in the 1950 elections, the party again amended its constitution and increased the power of local authorities, this time to 80 per cent, and further decreased the power of the central party, to 20 per cent. Furthermore, the number of selectorates responsible for determining the party candidates in the local party was increased through such measures as including the leadership of the local youth wings, women's wings and other such groups.⁴⁵ In 1951, the party yet again amended its constitution, now granting full authority to local party organisations for determining party candidates; a further amendment in 1967, however, returned five per cent to the party central office.⁴⁶ The ruling Democrat Party at that time used similar rules. In its second party congress, it was decided that 80 per cent of party candidates would be determined by local party organisations and 20 per cent by the central executive party.

⁴² Öz (n 37) 175.

⁴³ Sarah P. McCally 'Party Government in Turkey' [1956] 18 *The Journal of Politics* 297, 310.

⁴⁴ Asaf Özkan 'The Problem of Intra-party Democracy in CHP During the Process of Determining Candidates of Ankara Before the Elections of 1954 (According to a Report Prepared by Şükrü Sökmensüer)' [2013] 2 *Nevşehir University Journal of Social Sciences* 73, 76-77.

⁴⁵ *ibid* 79.

⁴⁶ Uyar (n 36) 29.

From 1942 to 1961, three different national Election Laws were adopted, though none regulated candidate selection methods.⁴⁷ Then, in 1961, following the previous year's coup, two pieces of relevant legislation were adopted, the No: 304 Law on the selection of Republican Congress Members and No: 306 the Election of MPs Law, which gave ten per cent of the candidate determination power to the central party office and 90 per cent to the local party organisations. In 1965, the first special Party Law, No: 648, specifically its Article 29, stated that candidates must be selected through primaries with the participation of all party members in a given constituency, and that only 5 per cent of candidates for general elections could be determined by the central party. In 1973, however, this article was amended and the parties were left free to determine their own candidate selection processes in accordance with their own constitutions.

The current legal system

In assessing how party law has impacted the candidate selection process in Turkey, particular attention needs to be given to the formal rules that serve as the core instruments for selection. In Turkey, external regulations generally cover such details as candidates' criminal reports, age and citizenship requirements, while internal regulations govern the selection procedure itself, including party membership status. In Turkey, it is the state, not the party organisation, that establishes the rules for candidate eligibility.

According to Pelin Ayan, the TPPL suffers from three defects that foster the rise of authoritarian party structures. First, it makes the parties dependent on state revenues, which has given rise to a kind of cartelisation effect; second, the law creates barriers to inclusivity; and lastly, it limits the scope for alternative models of party organisation and instead encourages a homogeneous hierarchical party model.⁴⁸ Cem Toker similarly claims that the TPPL, the

⁴⁷ Sevgi Korkut 'Türkiye ve Yabancı Ülkelerde Önşecim' (TBMM Dökümatasyon ve Kütüphane Müdürlüğü Araştırma Servisi 1996) 9.

⁴⁸ Pelin Ayan Musil *Authoritarian Party Structures and Democratic Political Setting in Turkey* (Palgrave Connect 2012) 43-44.

Electoral Law and the Governmental Procurement Law together play a crucial role in determining the level of Turkish democracy that is in fact detrimental to the Turkish political system; for him,

The system that has allowed party chairmen, very rarely chairwomen, to handpick the parliamentary candidates without any input from the citizenry has resulted in legislative bodies with so-called “representatives of the people” yet unknown and not accountable to the people who supposedly elected them.⁴⁹

Indeed, the existing legal provisions are inadequately prepared to meet the IPD requirements mentioned earlier. Also as mentioned in previous chapters, the military regime, before ceding control of the government to civilian authorities, imposed a series of constitutional and electoral changes, including the adoption of compulsory primaries in Article 37. Turkish parties were required to hold membership primaries for the selection of candidates under the auspices of the High Election Board. The law specified in a very detailed manner how primary elections were to take place. The military regime believed that unsupervised political parties had led to an oligarchic system, and in order to combat this trend they demanded comprehensive laws governing intra-party candidate selection. Looking to the theoretical assumptions behind and actual practice in American elections, the military regime assumed that compulsory primaries would lead to a reduction in the power of party elites and thus to more democratic political parties. İltar Turan summarises the situation as follows:

In its original planning, it was anticipated that intra-party primaries would be the standard method of identifying candidates, while national party organs would intervene in a few districts where holding primaries seemed problematic for one reason or another.

⁴⁹ Cem Tokar ‘Why Is Turkey Bogged Down?’ [2008] 7 Turkish Policy Quarterly 25, 27-31.

Practice has evolved in the opposite direction. All parties have opted for determining their candidates at the center.⁵⁰

Thus, although the military regime did not want to leave candidate selection methods to political parties' own discretion, and so legislated for compulsory primaries, political parties moved rapidly to amend the legislation after the return to civilian rule, since politicians objected to increased state restrictions on the freedom of party elites to determine the method of candidate selection. In October of 1986, the Turkish Parliament passed a law that political parties could use the methods called for in their own constitutions; a year later, Parliament passed a law that eliminated compulsory primaries in the next election (the 1987 general elections). Both of these amendments betray the ruling parties' unwillingness to limit their own freedom in candidate selection in the approaching elections. The main opposition party brought cases concerning these two laws before the Constitution Court. The 1986 law was allowed to stand, on the grounds that it did not completely ban compulsory primaries. In its second ruling, as regards the 1987 law, however, the Court annulled the ban on compulsory elections.⁵¹ Specifically, the Court ruled that

The candidate selection procedure is directly related to intra-party democracy. Inclusion of party members and delegates in candidate selection as far as is possible is a more democratic process than to limit selection to only component authorities. Amendments enacted by the Parliament represented an attempt within the parties to transfer power away from party members to the party elites by changing the candidate selection methods.⁵²

⁵⁰ İlter Turan 'The Prelude to an Election: Turkish Political Parties Name Candidates' (Analysis on The German Marshall fund of the United States 2011).

⁵¹ E. 1986/17, K. 1987/ 11, Kt 22.05.1987

⁵² E. 1987/23, K. 1987/27, Kt. 9. 10. 1987, AMKD., S. 23, s. 382-384.

According to the TCC, the reason for regulating in favour of compulsory primaries was to ensure that the composition of the Parliament would not be directed by arbitrary or unjust election methods designed by party elites.

One of the most important characteristics of candidate selection in Turkey is its semi-public nature. While the TPPL codifies a number of details regarding the candidate selection procedure and the limited range of options available, in the end it gives discretion to a party's own constitution. In this respect, Turkey does not differ markedly from mature democracies; it merely specifies such criteria as a secret ballot in cases where parties decide to use primaries as part of their selection process. Such elections must be held under judicial supervision, and the party must abide by the results. According to law, even under these circumstances (in which parties are to inform the High Election Board beforehand so that it may observe the primary election results), the party central office will still have a 5 per cent quota (representing the total number of MPs that could be elected to Parliament, which is 550) to change the list. For example, if a party were to decide to hold primaries throughout the entire country, it could put forward twenty-seven names in any province for any rank.

The current practice in almost all parties is for candidates to be selected by the central executive committee, where the influence of the party leader is paramount.⁵³ So it is that, in the absence of more detailed regulations on candidate selection, parties have been left to establish their own methods, and these methods have tended to be oligarchic. It therefore stands to reason that legislation regarding candidate selection could serve to enhance the roles and rights of ordinary members in this process, and that direct primaries in particular would go a long way toward breaking the monopoly that the party leaders hold over the candidate selection.

⁵³ William Hale and Ergun Öz *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP* (Routledge 2009).

Elections in Turkey

The basic facts of Turkish elections are as follows: the minimum voting age is eighteen, and the country's eighty-one provinces send representatives to the National Assembly in Ankara on the basis of the population of that province. Elections essentially take the form of contests between political parties, rather than between individual candidates; thus, though some candidates are able to gain votes through charisma or other forms of personal influence, very few of them would be elected without a party affiliation. And in fact, since the transition to a multi-party system in 1946, most of the candidates have been elected to Parliament under a party label. As Özbudun argues, Turkish voters vote for parties, not with any degree of enthusiasm, but with the intention of choosing “the least evil” among them.⁵⁴ Also, as in other parliamentary countries, the role of a general election in Turkey is less about choosing MPs than it is about choosing a government, the quality of which is of course directly related to the quality of MPs. Thus the selection of candidates has been regarded as one of the prerogatives of party leaders rather than of local party organisations.

The 1982 Constitution declares Turkey's governmental system to be a democratic republic with a parliamentary representative system. Supreme legislative power is exercised by the Turkish Grand National Assembly (TGNA), a unicameral body consisting of 550 deputies elected by universal franchise and secret ballot for a term of four years from among the 84 multimember districts (in 81 provinces). Turkey elects its MPs on the basis of the d'Hondt method of proportional representation, with a minimum threshold at the state level of 10 per cent of valid votes and a system of closed party lists.

According to C. H. Dodd, the main reason for adopting proportional representation in Turkey was that “by increasing the number of parties in the legislature, [it] would make single party government unlikely and would prevent the division of the country into two hostile camps,

⁵⁴ Ergun Özbudun ‘The Institutional Decline of Parties in Turkey’ in Larry Diamond and Richard Gunther (eds), *Political Parties and Democracy* (The John Hopkins University Press 2001) 243.

a condition widely attributed to the two-party system, the anticipated result of which would be to impede the establishment of a one-party dictatorship.”⁵⁵

Each political party has to prepare a list of candidates equal to the number of seats allocated to given district. The electoral law as mentioned stipulates the use of closed party lists, in which the party determines the order of the candidates' names as they appear on the ballot, and voters cannot alter the order in which the candidates are elected. In most of the parties, the central executive committees of the party (its leadership) make the crucial decisions regarding the ranking of candidates, each of whom naturally desires to appear at or near the top of the ballot.⁵⁶

A system in which voters choose among political parties, but cannot influence which of the prospective candidates actually assumes office, gives parties a higher level of control over the selection of candidates than would be the case if some of the alternative methods discussed earlier were used. Simply put, closed lists allow the party leader enormous power over the selection of candidates.

Also important for civil servants or businessmen with the intention of obtaining promotion after elections or public jobs from the government is participation in the early levels of candidate selection. However, this is a risky venture that depends on the ability to predict the result of an election. For instance, a public servant under Turkish laws can return to his or her previous job if not selected as a candidate or after having lost an election. Thus, when a party in power loses an election, members who are public servants will find themselves at the mercy of the new, incoming party.

⁵⁵ C. H Dodd *Politics and Government in Turkey* (University of California Press 1969) 109, 113.

⁵⁶ Ömer Faruk Gençkaya ‘Impact of Party Regulation on Small Parties and Independent Candidates in Turkey’ (The Legal Regulation of Political Parties Working Paper 41 February 2014) 16.

The actual situation in Turkey

It is not enough simply to look at legal texts and party constitutions, for analysis of the informal mechanisms also play a role in how parties determine their candidates. According to Massicard and Watts, “Because parties are exposed to strong legal constraints, there is a wide discrepancy between official, legal and visible party life, on the one hand, and how parties really work, on the other.”⁵⁷ Indeed, in Turkey such factors as financial resources, ethnic origin, seniority in the party and loyalty to the party leader have a significant influence on candidacy. Moreover, the lack of transparency with regards to their selection processes that characterizes most parties means that they remain mysterious to party members and the public.

Ulaş Bayraktar and Cemal Altan identify three main pathways to candidacy in Turkey.⁵⁸ One is through close friendship with party elites, in particular the party leader. To be sure, neither party membership, nor even attendance at party events, are pre-conditions; many candidates are elected as MPs without being party members prior to the elections. Elise Massicard states that “there is a relatively high large [sic] share of ‘outsiders’ into [sic] the TBMM, who had not previously pursued a political career.”⁵⁹ All the same, candidates in Turkey do generally rely on the campaign and popularity of the party leader in order to obtain victory.

The power of the party leader is naturally greater over constituencies that are strongly allied with the party than it is over constituencies that are competitive. The majority of Turkish MPs are elected to these uncompetitive “safe seats.” If a party has little chance of winning a given seat, it will often have recourse to more democratic ways to choose its candidates.

⁵⁷ Elise Massicard and Nicole Watts (eds), *Negotiating Political Power in Turkey: Breaking Up the Party* (Routledge 2013) 6-7.

⁵⁸ Ulaş Bayraktar, Cemal Altan ‘Explaining Turkish Party Centralism: Traditions and Trends in the Exclusion of Local Party Offices in Mersin and Beyond.’ in Elise Massicard and Nicole Watts (eds), *Negotiating Political Power in Turkey: Breaking Up the Party* (Routledge 2013) 23.

⁵⁹ Elise Massicard ‘Differences in role orientation among Turkish MPs’ [2005] *European Journal of Turkish Studies* 19.

Another important point related to this situation is the size of the constituencies. According to Duverger,

The larger the constituency, the greater is party influence; the smaller the constituency, the more restricted is party intervention. The smaller the constituency, the more possible is it for the electors to have individual knowledge of the candidate and the more does the campaign become a clash of personalities, between whom the elector chooses, because of their personal qualities and not because of their political allegiance.⁶⁰

In the proportional representation model, the size of the constituency correlates inversely with demands for IPD in candidate selection. In small constituencies, representatives are generally close to, and known to, the voters. In some provinces, such as İstanbul, Ankara or İzmir, electoral districts are large, as is the number of MPs that will be elected, for which reason candidate selection is highly centralised and selection powers are concentrated mostly in the party leadership. Thus the first ranks of Ankara, İstanbul and İzmir are generally viewed as secure and are accordingly allocated to party leaders and senior party elites. Candidacies at the top of a list in these cities are worth much more than others because election is a foregone conclusion and candidate selection is as important as general elections.

A second path to candidacy in Turkey is through support from ethnic or religious groups, or civic or professional organisations, in which the key factors are personal popularity and facility at garnering votes. For candidates from the southeast region of the country, for instance, the central party mostly relies on the support of well-entrenched local power and is able only in exceptional circumstances to impose its own candidates “because of the still strong influences of the tribal structure of the local society.”⁶¹ The heads of workers’ and public servants’ unions

⁶⁰ Maurice Duverger *Political Parties* (Methuen&CO 1961) 357.

⁶¹ Heinz Kramer *A Changing Turkey: The Challenge the Europe and United States* (The Brooking Institution Press 2000) 29.

are in similarly favourable positions, especially in cases where members are ideologically affiliated with specific parties.

The third path to candidacy identified by Bayraktar and Altan is through exploitation of personal wealth.⁶² Donations to the party and contributions toward election expenses are very important for Turkish parties. Bayraktar and Altan offer as an instructive example a provincial municipal council candidacy, which carries less weight than a general election.

Widespread speculation in the city suggests that astronomical sums were paid for AKP [the JDP] candidacy position in the 2009 local election in Mersin: 400.000 lira (approximately 200.000€) for the first five ranks on the municipal list (seats closed to guaranteed); 200.000 lira (approximately 100.000€) for ranks 5 through 9 (seats likely to win) and 100.000 lira (approximately 50.000€) for the rest. Given that the eventual winners of these seats will each earn less than €1000 per month – that is less than €60.000 over the course of the entire mandate- such sums represent a massive, irretrievable loss for candidates.⁶³

One important factor that is not listed by Bayraktar and Altan is loyalty. Broadly speaking, Turkish parties have equated loyalty to the party leader with increased unity and decreased conflict in the legislative process, so most MPs gain their seats at least in part on the basis of loyalty to the party leader, rather than any personal political skills or proven vote-getting ability. Many formerly high-ranking civil servants who cannot officially be party members become candidates and then MPs as a reward for lifelong loyalty to their parties. According to Poguntke, “In the age of party-dominated politics and, particularly, in systems with proportional representation, parties view MPs as their own creatures and hence as subject

⁶² Bayraktar, Altan (n 58) 23.

⁶³ *ibid* 23.

to their command.”⁶⁴ Naturally, since the candidates are appointed by the party leader, Turkish MPs reciprocate with loyalty to the leader in order to secure selection in future contests and the material incentives that accrue to an MP. The increasing loyalty-reward alignment of candidate selection leads to a vicious circle that progressively empowers the party leader. The party leader also guarantees a number of delegates whose vote is equal to the number of MPs in Parliament, since MPs are automatically delegates of the party congress. For instance, the JDP has 300 MPs and 1400 delegates so that the party leader is guaranteed almost one quarter of the votes in a leadership selection.

Roles of local party offices

Provincial party offices have little if any autonomy in the management of such tasks as candidate selection. In some situations, the party central office imposes its candidates on the provinces without even consulting anyone in the party on the ground. Although the provincial party organisations seem to have a role in selecting candidates for parliamentary elections, the central office uses the party’s provincial branches merely as consultative bodies. Although party leaders seem to take local party members’ interests into account when deciding candidates, loyalty to the party leader is rewarded and dissent, even by an important public figure, is punished. In order to be re-elected, incumbent MPs neither maintain a connection with local party nor return to provincial party associations for re-nomination. The most important activities of a provincial association are voting in opinion polls for prospective candidates and managing campaigns for candidates. Generally, only provincial party elites cast votes in these opinion polls. The local branches forward a list of potential candidates to the central office, which then narrows down the selection, in which process candidates determined by local party offices have no guarantee that the party leader will choose them.

⁶⁴ Thomas Poguntke ‘Parties in a Legalistic Culture: The Case of Germany’ in Richard S. Katz and Peter Mair (eds), *How Parties Organiz: Change and Adaptation in Party Organizations in Western Democracies* (Sage 1994) 206.

Although such intervention by the central party is unwelcome to local party activists, they have little scope for response apart from resigning their party membership. However, party leaders generally try to strike a balance between giving members a choice and ensuring that selectees will be loyal to them. Thus Ersin Kalaycıoğlu argues that “the political party leaderships always try to balance the local popularity against the personal loyalty of the candidates to the party leader.”⁶⁵ Returning once more to the analysis of Bayraktar and Altan, “the influence of local offices on the choices of local candidates does not appear to be decisive. Competition among future candidates thus mainly takes place in Ankara through the mobilization of all available resources to secure the support of central actors.”⁶⁶

As we have seen, according to the TPPL, political parties are to determine their candidates in accordance with methods stipulated in their constitutions. Three of these methods are common to all party constitutions, namely closed primaries, central consultation, and organisational consultation. Central consultation means the determination of candidates by executive committees in the central offices, while in organisational consultation the party consults the relevant local parties before reaching a final decision. It is important to note that the candidate selection procedure of parties varies with the nature of party competition within a particular constituency.

In a survey conducted in 2007, 100 MPs were asked which method their parties employed in selecting candidates; 89 per cent identified their party organisation roll and central party roll, and 66 per cent claimed satisfaction with this system.⁶⁷ When asked whether any party organ should have the right to veto a candidacy, 55 per cent answered in the affirmative, while 45 per cent answered no.

⁶⁵ Ersin Kalaycıoğlu, ‘The Turkish Grand National Assembly: A Brief Inquiry into the Politics of Representation in Turkey’ in Balım et al. (eds), *Turkey: Political, Social and Economic Challenges in the 1990s*, (Brill 1995) 46.

⁶⁶ Bayraktar and Altan (n 58) 21.

⁶⁷ Saime Müjde Önal ‘Türkiye’de Parti İçi Demokrasi: CHP ve AKP Örneği’ (T.C. Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi 2007) 192.

With respect to the candidate-selection practice, the evaluation of the awkwardly named Organization for Security and Cooperation in Europe—Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on Turkey’s 2011 election states that

Although the LPP [Law on Political Parties] recommends that parties select their candidates through primaries, only a few parties resorted to this procedure. In most cases, the candidates were chosen by the parties’ executive committees with some input from district and provincial branches. Some parties also conducted local and regional polls to identify popular candidates. In order to strengthen internal party democracy and to increase the representativeness of the closed list system, political parties could be encouraged to be more transparent in their decision-making.⁶⁸

As mentioned, parliamentary candidates in Turkey eighty years ago were chosen by the party leader and his inner circle. Little has changed today, despite several attempts to enforce compulsory primaries by law. Further, when parties conduct primary election nominating contests, these contests remain under the control of the judiciary, but even so the parties manage to maintain control over who can seek candidacy under their party label. In provinces where the party’s hope of winning the seats is low, parties are moved to try to find moderate candidates, a situation in which open primaries can play a decisive role.

The following discussion will make clear how the two main Turkish parties, the ruling JDP and the main opposition RPP, select their candidates; the other parties use more or less the same methods.

The Justice and Development Party (JDP)

For around 13 years, Turkish multi-party democracy has been characterised by the dominance of the JDP under charismatic leadership of Recep Tayyip Erdoğan. The JDP won

⁶⁸ Organization for Security and Cooperation in Europe / Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Election Assessment Mission Report: Republic of Turkey Parliamentary Elections 12 June 2011 (Warsaw, 31 October 2011) 14.

huge majorities in the four general elections held between 2002 to 2015, for the most part steadily increasing its share of votes from 34.43 per cent in 2002 with 365 seats (of 550), to 46.58 per cent in 2007 with 341 seats, to 49.90 per cent in 2011 with 327 seats and 40.90 per cent with 258 seats in June 2015. Because of this massive electoral support, almost two thirds of these seats can be seen as safe seats.

In the spectrum of inclusivity, the JDP is located at the extreme point where party candidates for general elections are appointed by the central office or the party leader alone, who is left virtually free to choose anyone from any province and from any rank without having to answer any objection, even though the provincial organisations hold opinion polls. This state of affairs was confirmed by a study conducted among the JDP MPs in 2003, in which 80 per cent claimed that candidates are determined by the party leader or the central administrative committee.⁶⁹ In the same study, 56 per cent of MPs expressed a desire for local party organisations to have power for the candidate selection process.⁷⁰

In addition to the power to choose candidates, the leadership exercises the power to dismiss candidates from the party or to vet re-selection for the next election. The experiences of 2013-2014 provide ample evidence that those who have dared to criticise the party leader and to challenge the lack of internal democracy within the JDP have been labelled as betrayers and unceremoniously dismissed from the party. Democratic centralisation and absolute party discipline in the JDP are part of the inheritance of the party's Islamic background; according to Hazan and Rahat, religious and right wing parties appoint rather than select candidates.⁷¹

Candidate selection methods are regulated in Article 124 of the JDP constitution, which is copied from the TPPL. The constitution names three methods:

- 1) Primaries: participation of all party members

⁶⁹ Yusuf Tekin, Sabri Çiftçli, *1877'den Günümüze Türkiye'de Parlamento: 22. Dönem TBMM'nde Parlamento ve Parlamenter Rol Algısı*, (Siyasal Kitabevi Yayınları 2007) 132.

⁷⁰ *ibid* 135.

⁷¹ Hazan and Rahat (n 19) 85.

2) Local Branch Polls: voters eligible to take part in organizational roll calls include

- a) The Party's Founders
- b) Former Ministers and Parliament Members of the Party
- c) Former mayors and city and district chairmen
- d) Former city and district chairmen of subsidiaries
- e) Ministers and parliament members of the city who are members of the Party
- f) Chairmen and full members of Administrative Committees of grades of the Party's organization present in the city, who are members of the Party
- g) Chairmen and full members of provincial disciplinary boards
- h) Mayors and municipal assembly members of the Party
- i) Provincial general assembly members of the Party
- j) Chairmen and full members of city and district Administrative Committees of the Party's subsidiaries
- k) Village and avenue headmen, who are members of the Party
- l) Primary delegates of district and city congresses
- m) Primary delegates of city grand congresses
- n) Avenue and village representatives of the Party, who were nominated at least one year before the date of organizational roll call, and who are still in charge, and
- o) Those individuals named in the Regulation on Election Affairs as voters who are eligible to take part in organizational roll calls.

3) Central Executive Office: identification and ranking of candidates of the Party directly by the Central Decision and Administrative Committee among eligible candidates

According to the party constitution, the Central Decision and Administrative Committee (CDAC) has the power to adopt regulations that cover the principles and methods of nominations for general parliamentary elections in accordance with applicable laws.⁷² The CDAC determined which methods would be used in which province and to what extent, as well as deciding which names would be sent to the constituencies for pre-election process. Not surprisingly, JDP party leaders tend to pay close attention to opinion polls.

Although the JDP still claims adherence to IPD and asserts that primaries should be the only method for determining the party candidates, the reality is more difficult to assess. The JDP's party programme states that "The pre-election system to be conducted with the participation of all the members shall be taken as the basis for determining party candidates."⁷³ As it happens, the first version of the party constitution stipulated that 50 per cent of the candidates must be determined by primary elections or by local polls, but this article was changed to read, "consideration shall be given to the identification of candidates, either through preliminary elections or organizational roll calls, in at least 50 per cent of all election regions in connection with parliamentary elections." However, in practice, as has been seen, almost all candidates are determined by the special organ that is established prior to elections. It is important to note that members of this organ are also seeking candidacies either for themselves or a close associate. However, there are no criteria for shortlisting candidates who will appear on the ballot paper.

The JDP uses similar methods for candidate selection, for which the selection of candidates for the 2015 (June 7) national elections will serve as an illustration. In the 2015 elections, the JDP established 12 Screening Committees, each composed of 4 members of the

⁷² Article 133 of the JDP party constitution.

⁷³ The JDP's party programme < www.akparti.org.tr/english/akparti/parti-programme#bolum > accessed 4 November 2014.

CDAC, to work on the selection of candidates. The party leader appointed the members of the committees from among 50 members of the CDAC. A total of 6,233 candidates applied for candidacies and each then went through a ten-minute, face-to-face interview with one of the Screening Committees in order to narrow the pool. The JDP in the meantime held opinion polls in local organisations among two to three thousand local party elites. Around 2,000 potential candidates who were endorsed during the first evaluation and received support from local organisation polls moved on to one of four commissions set up to conduct a second round of evaluations. This second round reduced the number of potential candidates to approximately 1,000, after which the supreme evaluation board decreased the number to 550. The supreme board consists of seven members: the party leader, three of the eleven vice chairmen, the general secretary, the chairman of Election Coordination Centre and the heads of the women's Youth branches. Also attending these meetings were the four Parliamentary group deputy chairmen (each of which is responsible for the MPs of a specific province). Yet despite all of these careful deliberations, in the end it was Erdoğan himself who chose the party's candidates. According to K. K. Kaya, "even though the president is supposed to be politically neutral and not involved in active politics according to the constitution, Erdoğan has been fully involved in the nomination process of the party's candidates for the election, playing a decisive role."⁷⁴

The Republican People's Party (RPP)

According to William Cross and Richard Katz, "the type of electoral system, the number of competitive parties, the ideological range of party system, whether a party is in government or opposition, whether it competes in a federal or unitary state, the degree to which (and the condition under which) state subventions are available, all might encourage a party to adopt

⁷⁴ M.K. Kaya 'Candidate Lists for the Election to Parliament Display Worrying Fault Lines' [2015] 8 Turkey Analyst < www.turkeyanalyst.org/publications/turkey-analyst-articles/item/388-candidate-lists-for-the-election-to-parliament-display-worrying-fault-lines.html > accessed 8 August 2015.

particular approaches to IPD, as indeed might the approaches to IPD taken by other parties in the same political system.”⁷⁵ That is why the RPP uses more democratic methods in its candidate selection process.

In a study conducted among RPP MPs in 2003, 84 per cent of asserted that the party’s candidates were determined by the party leader or the Party Council.⁷⁶ In the same study, 62 per cent of MPs expressed the desire that local party organisations should have control over the candidate selection process.⁷⁷

According to Article 38 of the RPP party constitution, the party council decides which method will be used to select candidates in the provinces, and itself chooses the candidates if the determination is to be made by the central office. As in the JDP, the methods employed are central roll calls, organisational roll calls and primaries. Each Turkish province has its own peculiarities, so different methods are used in different provinces. In the words of Nahomi Ichino and Noah Nathan, “Since weaker parties are less likely to win the election and have the opportunity to implement their preferred policies ex ante, leaders of these parties should be more likely to adopt primary elections.”⁷⁸

In the 2015 elections, the RPP, unlike other parties, and for the first time in many years, held primary elections to determine its candidates, but only in 55 of the 81 provinces, though most of the major cities were included. For the remaining provinces, the RPP central office held internal opinion polls among its members, leaving a limited number of candidacy positions to be directly named by party leader Kemal Kılıçdaroğlu.⁷⁹ According to Murat Yetkin,

⁷⁵ William P. Cross and Richard S. Katz (eds), *The Challenges of Intra-Party Democracy* (Oxford University Press 2013) 5.

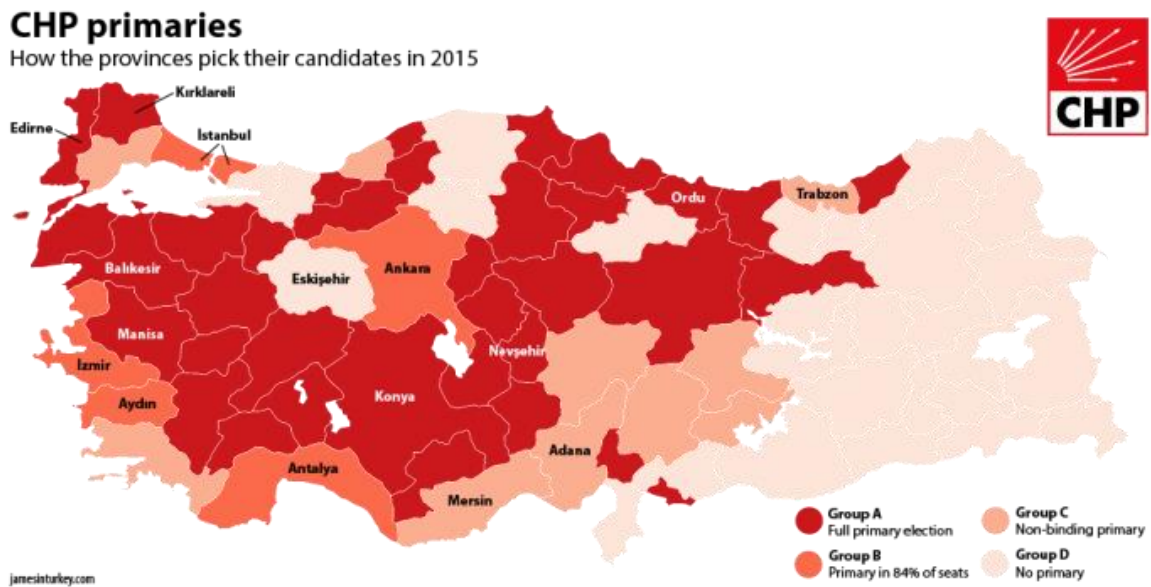
⁷⁶ Tekin, Çiftçi, (n 69) 132.

⁷⁷ *ibid* 135.

⁷⁸ Nahomi Ichino and Noah L. Nathan ‘Primaries on Demand? Intra-Party Politics and Nominations in Ghana’ [2012] 42 *British Journal of Political Science* 769, 770, citing Gilles Serra, ‘Why Primaries? The Party’s Tradeoff between Policy and Valence’ [2011] 23 *Journal of Theoretical Politics* 21–51.

⁷⁹ Murat Yetkin ‘Why did only the opposition CHP have primary elections in Turkey?’ < www.hurriyetdailynews.com/why-did-only-the-opposition-chp-have-primary-elections-in-turkey.aspx?PageID=238&NID=80378&NewsCatID=409 > accessed 31 July 2015.

The main reason behind Kılıçdaroğlu's decision to hold primary elections was to be able to reform his party, with the aim of becoming a viable alternative to the AK Party's [the JDP] domination in at least the next election, if not in this upcoming one. ... young local leaders and a surprisingly high number of women candidates, who have been working for years within the people, were preferred by the grassroots over the names representing the old establishment. The names with nationalist tendencies were pushed down to the bottom of the lists, while names with social democratic tendencies rose. This could be the beginning of a transformation of the CHP [RPP]; perhaps not overnight but seemingly in the right direction.⁸⁰



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According to Michael Daventry's analysis,

Group A contains 160 seats and members here will pick all of the RPP candidates for parliament;

⁸⁰ *ibid.*

⁸¹ Michael Sercan Daventry 'Briefing: the CHP's primaries' < www.jamesinturkey.com/briefing-the-chps-primaries/ > accessed 31 July 2015.

Group B contains 167 seats and includes Istanbul, Ankara and Izmir, the country's largest cities. Here the party leadership has reserved 28 spaces on local lists but will allow members to fill the remaining spaces;

Group C contains 76 seats, of which eleven are reserved by headquarters. The RPP will allow members to vote on their nominees but it will be a consultative ballot and the outcome will not be binding;

Group D, containing 147 seats, will have no primary at all and the party leadership will select all the candidates.

The system means that the party leadership is reserving 186 places for itself, while RPP members will be able to select just shy of two-thirds of the party's 550 nominees through primaries.⁸² However, not all of the rankings were open for primary elections. For instance, only the second, fourth, sixth and eighth positions in the electoral districts of Istanbul, Ankara and Izmir are open for primaries, and the remaining ranking is reserved for the central office as part of the quotas. The approach taken by both the RPP and the JDP is consistent with the well-known argument that primaries are used more often by opposition parties while ruling parties are more likely instead to allow party leaders to select candidates in Turkey.⁸³ Interestingly, the party leader has no obligation to justify the complexities of these arrangements with convincing reasons; thus, he might explain the situation as the special conditions of the given constituency.

Part 3: Closed Primaries in the United States as a Participatory Model for Candidate Selection for Political Parties

⁸² *ibid.*

⁸³ Nahomi Ichino and Noah L. Nathan 'Primaries on Demand? Intra-Party Politics and Nominations in Ghana' [2012] 42 *British Journal of Political Science* 769, 772, referring to Miguel De Luca, Mark Jones and Maria Tula, 'Back Rooms or Ballot Boxes? Candidate Nomination in Argentina', [2002] 35 *Comparative Political Studies*, 413–36; cf. James Adams and Samuel Merrill III, 'Candidate and Party Strategies in Two-Stage Elections Beginning with a Primary' *American Journal of Political Science* [2008] 52, No. 2 (Apr., 2008) 344.

For many parties and scholars in Turkey, the candidate selection process represents an arena in which there is the potential for effective legislative regulation to advance IPD.⁸⁴ In other parliamentary countries, the selection of candidates through primaries creates a context in which to engage directly in the political process.

In the United States, the selection of candidates to national office, that is, the US House of Representatives, Senate, President and Vice President, is mainly governed by the individual election laws of the various states and usually takes the form of primaries conducted under the guidance of state election officials. Again quoting Epstein, :it is the state, not the party organisation, that establishes the rules for both candidate eligibility and voter participation, and the state that runs the nominating contests as it does the general elections.”⁸⁵ While the rules vary from state to state, each state party employs one or the other of two types of primary, “open primaries” in which any registered voter may cast a ballot for candidates from either or both parties, and “closed primaries” in which only voters who have registered their affiliation with one or another party may participate.

The first law regulating the candidate selection process via primaries was adopted in 1882 by the state of New York, and by the beginning of the twentieth century 43 other states had followed suit.⁸⁶ For over a century, then, primary elections have been an established feature of the two-party system of the United States.

Primaries are a uniquely American political innovation that were established as part of a wave of political reform associated with Progressive movements in the early twentieth century, their purpose being to ensure that party members, rather than the party organisation

⁸⁴ Anika Gauja *Political Parties and Elections: Public Law, Political Parties and Representative Democracy* (Ashgate 2010) 100.

⁸⁵ Epstein (n 13) 42.

⁸⁶ Adam Winkler, ‘Voters’ Rights and Parties’ Wrongs: Early Political Party Regulation in the State Courts, 1886–1915’ [2000] 100 *Columbia Law Review*, 873, 877.

played the key role in choosing candidates.⁸⁷ In the words of Jonathan Thessin, “many of the hallmarks of our current political system, such as primary voting, originated as a mechanism to ensure that significant elements of the election process be democratic.”⁸⁸ Jonathan Hopkin notes that “primaries serve as a useful means of ‘getting the rascals out,’ cutting off a potential escape route for discredited politicians.”⁸⁹ It should be stressed that the leadership allowed this process to take root even at the cost of some of its own power; as Russell Dalton and Martin Wattenberg put it, a “growing number of individual parties, or entire party systems, have accepted primaries or other methods of candidate selection that actually weaken their role in selecting candidates.”⁹⁰

In closed primaries, party candidates tend to shape their messages to take into account the concerns of members rather than those of the party leadership. David Mayhew, for instance, argues that compulsory party primaries render incumbents in the US Congress remarkably receptive to the demands of their electorates, often to the point of challenging the directives of the party leadership.⁹¹ Since sitting members of congress who wish to remain in office are held accountable because they will be forced to face the voters in a primary in order to secure a place on the ballot in the general election. For this reason, as Mayhew points out, for their political survival, incumbents tend to support the policies of grassroots party members that in most cases are amenable to average voters.⁹² To quote Epstein again, a direct primary “transfers a most

⁸⁷ Russell J. Dalton, Ian McAllister and Martin P. Wattenberg ‘The Consequences of Partisan Dealignment’ in Russel J. Dalton and Martin P. Wattenberg (eds), *Parties without Partisans: Political Change in Advanced Industrial Democracies*. (Oxford University Press 2000) 37, 49.

⁸⁸ Jonathan J. Thessin ‘Renewing Intraparty Democracy: Assessing Competition, Deliberation, and Associational Rights of Political Parties’ 2 <
http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=jonathan_thessin >. accessed 12 June 2013.

⁸⁹ Jonathan Hopkin ‘Bringing the Members Back In?: Democratizing Candidate Selection in Britain and Spain’ [2001] 7 Party Politics 343, 349.

⁹⁰ Russel J. Dalton and Martin P. Wattenberg (eds), *Parties without partisans: political change in advanced industrial democracies* (Oxford University Press 2000) 13; cf. Marjorie Randon Hershey and Paul Allen Beck *Party politics in America* (Longman Pub Group 2000) 173; Paul Pennings and Reuven Y. Hazan, ‘Democratizing Candidate Selection’, [2001] 7 Party Politics 267, 269.

⁹¹ Marco Alejandro Pérez-Mares ‘On the Economic Effects of Policy Responsiveness: The Role of Candidate Selection for General Elections’ (CGU Theses & Dissertations Claremont Graduate University 2012) 5.

⁹² David Mayhew *Congress: The Electoral Connection* (Yale University Press 1974)

consequential power from party leaders and also from party activists to a much more numerous and loosely defined body of participants.”⁹³

Arguments about primaries

Primaries are not an unmitigated good in democratic politics, and some of their drawbacks have already been mentioned in earlier chapters. One major critique is a perceived tendency for primaries to damage party unity. According to Paul Pennings and Reuven Hazan, “The reason is that primaries invoke a direct relationship between voters and candidates that can weaken the cohesiveness and the intermediary role of the party organs.”⁹⁴ Another concern about primaries is the level of representativeness that they achieve; as Ware sees it,

Controlling selection procedures by law does not ensure that candidates from all social groups will be given equal consideration by the selectors. If the selectors happen to prefer white, middle-aged, middle-class males then there are going to be numerous ways in which they can ensure that such candidates continue to get selected. You cannot legislate against the preference or prejudices of the selectors. Indeed, the American experience is testament to this--in the short term the introduction of primaries did not transform who was nominated. Existing party elites often found ways of adapting to the new rules of the game.⁹⁵

Some scholars are sceptical that inclusive candidate selection can effectively democratise political parties, since party leaders can be expected to manipulate this system like any other. According to Gideon Rahat, highly inclusive selection methods remain liable to fairly shameless manipulation by candidates and other powerful actors: “Research also points to the large advantage that incumbents enjoy in primaries (especially in the United States), thanks to

⁹³ Epstein (n 13) 42.

⁹⁴ Pennings and Hazan (n 21) 271.

⁹⁵ Ware (n 17) 261.

their ability to make news and to their advantage in raising the huge sums of money that are needed to win a typical U.S. primary.”⁹⁶

However, in the current situation in Turkey, most of the MPs have been appointed by the party leader and tend not to be well received by local organisations, to which they may seem apathetic regarding the problems of their provinces. An example of the kind of negative repercussions this strained relationship can generate is the recent fortunes of the RPP: most of the MPs who were chosen as candidates in 2011 by the central office and won seats in Parliament lost their positions in the 2015 RPP primaries. The potential for manipulation by powerful actors within the party system also exists in the registration of party members. As the former party leader of the RPP Altan Öymen observed in an interview,

Normally in my local party organisation there were 14 members from my neighbourhood. Before local congress election, when I checked the list, I saw 80-90 party members from my neighbourhood. However, no one knows who they are or where they came from. In the end the local party congress was crafted by means of those fake votes.⁹⁷

In a similar vein, Ergun Özbudun has claimed that primaries will not give democratic outcomes in the absence of a working member registration system.⁹⁸ It is of course necessary to impose some restrictions on participation in primaries in order to eliminate fraudulent registration intended to influence candidate selection and infiltration by opponents of the party’s vision.

In what follows, I shall discuss whether the Turkish political system would benefit from compulsory party primaries like those used by American parties. In particular I would like to

⁹⁶ Rahat (n 10) 166.

⁹⁷ Önal (n 67) 67. EK 9: Interview with Altan Öymen’ 24 Haziran 2007.

⁹⁸ Ergun Özbudun, ‘Siyasi Partilerin Hukukça Düzenlenmesi İhtiyacı ve Örgütlenme Sorunları’, *Siyasi Partiler ve Demokrasi*, (TESAV Yayınları 1995)
< www.ekitapyayin.com/id/070/siyasi1-1sunus.htm > accessed 12 May 2013.

suggest that the potentially high monetary cost of such a system could at least in part be offset through innovative use of new communication technologies such as online voting.

Applicability of Primaries in Turkey for reforming candidate selection

In light of the theoretical discussions about the candidate selection process and the potential for undesirable outcomes from inclusive candidate selection methods, the question arises whether it is even desirable that Turkish political parties adopt primaries as a candidate selection method, and, if so, how this procedure should be externally enforced, and to what extent legal measures can guarantee that selection remains in the hands of the membership. According to Altan Öymen, one of the main reasons for the lack of IPD in Turkey is to be found in the regulatory regime, the TPPL; according to his analysis, primaries have a vital role to play in the realisation of IPD.⁹⁹

Bahri Savci identifies three elements that are necessary in order to democratise candidate selection in Turkey: increasing the number of participants involved, reducing the role of the central office and reducing the power of local party organisations.¹⁰⁰ This last directive is addressed, not to ordinary party members at the local level, but to local party elites, since, as things stand, a potential candidate needs only the support of the local party leader. According to Hazan and Rahat, this kind of

[d]ecentralization could mean only that control over candidate selection has passed from the national oligarchy to a local oligarchy. For example, if the selectorate is decentralized from a national party conference of several thousand participants to ten local committees each consisting of a few dozen activists and leaders, the overall selectorate has been decentralized, but has not become more inclusive—and has actually become more exclusive.¹⁰¹

⁹⁹ Önal (n 67) 222.

¹⁰⁰ Bahri Savcı, 'Siyasi Partiler Kanun Tasarısı', [1965] 20 AÜSBF Dergisi, 375, 385.

¹⁰¹ Reuven Y. Hazan and Gideon Rahat 'Candidate Selection' in Richard S. Katz and William J. Crotty (eds), *Handbook of Party Politics* (Sage 2006) 109, 112.

It is therefore possible to conclude that undesirable side effects of closed primaries could be minimised through the use of hybrid models, which would allow parties to correct for any lack of representativeness and help disadvantaged groups to gain access to the Parliament, which is another democratic goal of reforming candidate selection.

In a study conducted by Fuat Keyman, Bekir Agirdir and Tarhan Erdem, 16 political scholars and influential politicians, 10 civil society organisations, 8 unions and 11 political parties agreed on the following:¹⁰²

- a) Despite some negative consequences, primaries are better than the current system
- b) Candidates must be determined by the participation of all party members
- c) The current party membership system if a primary system is to have the desired results
- d) Quotas may be useful for the central party organs
- e) Judicial organs could be empowered intervene into the primaries in order to prevent malpractice

Of course, parties could run open or closed primaries and limit participation to established, dues-paying members. In the US, for instance, parties generally require membership for a number of months prior to the vote as a precondition to participation in the selection process.¹⁰³

It is obvious that the collective voice of party members in a given constituency, even if they number only a few thousand, has greater democratic legitimacy than does the imprimatur of the party leader of the party executive office. In my view, at least 90 per cent of candidates must be selected by the local members at a constituency level on a one-member-one-vote basis if IPD is to be a reality.

¹⁰² Fuat Keyman, Tarhan Erdem, Bekir Ağırdir 'Türkiye'nin Demokratikleşmesi için Kapsamlı bir Siyasi Parti ve Seçim Sistemi Reformu Önerisi' (İstanbul Policy Center 2013) 16. accessed 14 June 2015.

¹⁰³ Lisa Young 'Campaign Finance and Women's Representation in Canada and the United States' in Steven Griner and Daniel Zovatto (eds), *Funding of Political Parties and Election Campaigns in the Americas* (International IDEA 2005) 136.

Conclusion

As mentioned above, Turkish political parties enjoy a considerable degree of freedom from state intrusion in the management of candidate selection. There is a general consensus among Turkish scholars that the democratisation of candidate selection is a necessary precondition for further democratic development in Turkey. Thus, in order to overcome the lack of IPD in Turkey, priority must be given to reforming candidate selection methods by ensuring direct involvement of party members through closed primaries.

Turkish Parties are in general more or less reflective of the electorate as a whole. Some party activists hold more extreme positions than the majority of party supporters, but their numbers tend to be small, for which reason activists do not pose a real threat to inclusiveness. In any case, increasing the influence of party members in candidate selection could potentially increase the party's electoral appeal, since the views of ordinary party members, as opposed to those of activists and leaders, more closely reflect those of party voters.

While there is a general agreement that party primaries promote IPD, their beneficial effects can be amplified and guaranteed through regulations that mandate free participation of the membership in candidate selection. Such legislation would require a reformulation of current Turkish party law, which grants all candidate selection power to political parties, with the result that, as has been seen, the party leader retains a monopoly on nominations.

An obvious benefit of a more democratic candidate selection process in the parties would be improved accountability of the MPs, which would in turn advance the consolidation of democracy in Turkey. In this way, MPs would have greater accountability to the ordinary party members and thus the electorate than to the leadership, for the simple reason that, in order to be chosen as a candidate in future elections, they would be answerable to the membership rather than the leadership.

Since the Turkish parties function essentially as public utilities and receive a huge amount of public funds, and since it remains very difficult for new parties to gain a foothold, regulation of parties seems to be in order. It could alternatively be argued that extant elements of the Turkish system, such as compulsory voting, the high threshold for access to general elections and public funding, necessitate that the parties select their candidates in a democratic manner, but the fact is that current law has not brought about a significant advance in IPD, or in democracy at large, in Turkey. Compulsory primaries would also help to correct the endemic problem within the Turkish electoral system of such unethical actions as infiltration of parties by covert opponents and the registration of voters with political parties without their knowledge or consent. Primaries, then, would undoubtedly increase vastly the number of individuals involved in candidate selection.

CHAPTER 7

REFORMING THE TURKISH POLITICAL PARTIES LAW

The lack of IPD is neither a new phenomenon nor is it unique to Turkish political parties. In contrast to those in Turkey, political parties in mature democracies have more recently been reforming their rules and giving more power to their ordinary party members on important party decisions. They are using internal ballots more frequently to select party leaders, to formulate and adopt party programs, to approve coalition agreements and to select parliamentary candidates. At the same time, democracy-promoting organisations have stressed the importance of participatory decision-making procedures and called for political parties to open up these procedures to their ordinary members. However, in less democratically developed countries, party elites are still reluctant to share power with their party members.

One of the biggest problems with participatory democracy concerns institutional arrangements and procedures. Democratic rights granted to party members on paper cannot directly facilitate the effective participation of ordinary members in a party's decision-making process. Since political parties are essential for modern democracies to function properly, they should operate democratically so that ordinary members have an opportunity to elect leaders of the party and candidates for national elections directly and to take part in the development and approval of party policy. Democracy cannot be consolidated in society without democratic parties, as they are the building blocks of democracy. Moreover, the internal functioning of political parties and the procedures that they offer have a highly educative role for the party members that participate in them. According to Kebapetse Lotshawao, the lack of IPD poses a threat to the consolidation of democracy in developing democracies and it could lead to the

:gradual decay: or “slow death” of democracy in the long run.¹ One of the major findings of this study is first and foremost that there is a correlative relationship between the level of democracy in a given country and the level of IPD within that country’s political parties. Parties in mature democracies appear more democratic than parties in democracies that are still developing, which shows the positive correlation between state level and intra-party democracies and vice versa. Thus the weakness in state level democracy can be strengthened by making political parties more democratic institutions.

This study was motivated by the popular view that parties in Turkey have suffered from the lack of IPD and that the TPPL is insufficient to overcome this problem. The objective of the study therefore has been to analyse the TPPL and the practice of two large parties, namely the ruling party JDP and the main opposition party RPP, for the way in which candidates for parliamentary elections are selected, the way in which party policy is formulated and the way in which leaders are chosen; these are three important indicators commonly used when assessing the extent to which a political party is internally democratic. The British Labour Party was chosen as a comparison for the policy-making process, the British Conservative Party was chosen for the leadership selection chapter, and the closed party primaries from the US were chosen for comparing the candidate selection procedure. The idea was to look at the approach of parties in mature democracies to IPD since there is much that could be learned by Turkish parties, as they faced similar problems in the early stage of democratisation. Since IPD is measured by the extent to which ordinary party members have power within a given political party, party membership is also analysed. Additionally, the effect of party financing on IPD is analysed briefly.

Most of the scholars studying Turkish political parties have concluded that an amendment to the TPPL is both possible and necessary in order to consolidate democracy

¹ Kebapetse Lotshawao ‘The Lack of Internal Party Democracy in the African National Congress: A Threat to the Consolidation of Democracy in South Africa’ [2009] 35 *Journal of Southern African Studies* 901, 903.

within political parties. In a 2013 report, three prominent Turkish political analysts, Fuat Keyman, Tarhan Erdem and Bekir Ağırđır, state that, in order to consolidate democracy in Turkey, it is necessary to reform the TPPL.² According to Suat Kınıklođlu, “there is a direct relationship between the requirements of a participatory democracy and an intra-party democracy.”³ For him, consolidating democracy in Turkey necessitates the careful implementation of provisions related to IPD both in the constitution and in the TPPL.⁴ However, as mentioned in Chapter 2, these provisions only pay lip service to IPD without providing any real solutions. Therefore, the present study sought to investigate the legal obstacles to IPD in Turkey, and whether these could be overcome by legal reform including more participatory institutions than those in the present system. The present party law of Turkey entrenches oligarchic tendencies within political parties where the interests of party elites are paramount. Legal reform is only one of the possible strategies for improving IPD; others include the development of political culture and membership training. Often, laws are amended but values are not, so good laws may be implemented badly. However, party law reform reinforces democratic values by giving party members a chance to be heard. Whether or not legislation on IPD is useful for party organisation is dependent on one’s perspective. A voter without membership in any party, a constitutional lawyer or a political scientist, is likely to advocate some sort of legislation on IPD in Turkey. Those who belong to the party elite, serve as an MP or are happy with the status quo, will probably oppose this idea.

In the Chapters 4, 5 and 6, I have noted some barriers to IPD in Turkey. First, while party membership is very high in Turkish parties, they do not have any real power, as parties

² Bekir Ağırđır, Fuat Keyman and Tarhan Erdem ‘Türkiye’nin Demokratikleşmesi için Kapsamlı bir Siyasi Parti ve Seçim Sistemi Reformu Önerisi’ (Istanbul Policy Center, 2013) < <http://ipc.sabanciuniv.edu/en/publication/turkiyenin-demokratikleşmesi-icin-kapsamli-bir-siyasi-parti-ve-secim-sistemi-reformu-onerisi/> >. accessed 14 June 2015.

³ Suat Kınıklođlu ‘The Democratic Left Party: Kapıkulu Politics *Par Excellence*’ in Barry Rubin and Metin Heper (eds), *Political Parties in Turkey* (Routledge 2002) 19.

⁴ *ibid* 20.

are leader-centred and authoritarian in their functioning. Second, while the TPPL established a party congress for the purpose of the realisation of IPD, it is open to manipulation by party leaders.

There is no doubt that the problem of IPD cannot be attributed solely to the TPPL. The political culture of the country, the centralised administrative structures inherited from the late Ottoman era, and the authoritarian, and protracted single-party era are also accepted as contributing significantly to the problem. Although democratic culture is important both to bring about and to maintain a genuinely democratic organisation, the normative and institutional arrangements are necessary to encourage participation of ordinary party members in a decision-making process for the preservation of democratic standards.

In Turkey, although parties attempt to portray themselves as internally democratic and inclusive, they have not realised internal democracy in practice for decades. Thus it can be said that a well-designed party law is a necessary pre-condition for establishing IPD or maintaining its practicability at least in terms of democratising countries like Turkey. While established democracies do not need such strong, normative protection for IPD thanks to their deep-rooted cultures of democracy, in countries like Turkey, where democratic culture is weak, detailed regulation of IPD is necessary. Thus the TPPL should be amended and made to conform to the requirements of modern notions of democracy.

This thesis also argues that the theoretical desirability of IPD and the practical possibility are different categories and mostly depend on the strength of the real democratic values of lawmakers and party leaders and their willingness to implement them, as well as on party members' willingness to participate in the process. Of course, the enforceability of such reform varies, and there may be many ways of circumventing it, but there can be some progress. However, as has been repeated in every chapter, there is no simple solution to the problem of IPD in Turkey, since every reform package has its pros and cons. It is very useful to make

theoretical assumptions about internal democratic procedures, but there is no guarantee that they will be work in practise. The benefits of IPD depend on the instruments used, the implementation method and interaction with the political context.⁵ As mentioned repeatedly, the parties have shaped laws suited to their own wishes. At the same time, they are reluctant to open themselves to ordinary party members because they believe that they are in a better position to meet the demands of the wider public.

The process of party law reform can take many forms. According to Mair, Muller and Plasser, “parties begin with two goals: the first is survival, the second is success.”⁶ In this respect, if Turkish parties want to survive beyond the lifespan of the founder leader, they should empower their members. One possibility for reform is that, if party members actively push for change in party decision making in their favour, then reform by the Parliament becomes possible. Reforms also depend on the individual motivations of party leaders. For instance, some leaders may think that empowering party members could increase their intra-party power or they may believe that reforms could improve the working and votes of the party by affecting the preferences of members and voters. The motivations of party leaders, party elites and party members are important in the process of party law reform, but they do not alone determine outcomes. Moreover, it is certainly true that some people become members of a party because they support the party’s values, and therefore might be reluctant to take action in a public forum. Others, however, when granted the explicit right to comment publicly by law, will become more aware of their options and will seek legal remedies if their rights are not respected by their parties. In this way, it is more likely that, because of the fear of legal action, parties would gradually open decision-making process to party members.

⁵ Jeroen Mimpfen ‘Intra-party Democracy and its Discontents Democratization in a Volatile Political Landscape’ (NIMD Publication 2007) 2.

⁶ Peter Mair, Wolfgang C. Müller and Fritz Plasser (eds), *Political Parties and Electoral Change: Party Responses to Electoral Markets* (Sage 2004) 265.

Some of the biggest problems with participatory democracy involve institutional arrangements and procedures. Democratic rights granted to party members on paper cannot directly facilitate the effective participation of ordinary members in a party's decision-making process. There should be some institutional mechanisms to make this possible. Unlike the decreasing numbers of party membership currently witnessed in most of the advanced Western democracies, membership numbers in Turkish parties have not decreased since the weakening of the mass party era. While addressing the undemocratic nature of Turkish parties through law reform, along with suggesting participatory democracy as the alternative, we should look at how party members may participate directly, and inexpensively, in policy-making, candidate selection and the leadership process. One important proposal could be for political parties to hold internal plebiscites via the internet for the approval of party programs and election manifestos, selection of party leaders and to determine candidates. Now that the internet is a part of our daily lives, an OMOV system would be easy to achieve.

According to Nick Anstead, new technology means that we have to re-think the traditional understanding of democracy within parties.⁷ In the late 1990s, the internet emerged as a powerful means of communication through which citizens can exercise most of their legal rights. The advent of the internet along with sophisticated communication technologies could be used as an online participatory device for the implementation of plebiscitary democracy among ordinary party members.

Nowadays, Turkish parties have recognised the potential of the internet. Since the new generation has been brought up in the internet era, they are doing everything online. Use of internet technology in party organisation can increase participation, reduce the cost of participation and reduce the need to travel to a specific place in order to participate. For instance, when a party holds a party congress, party members can easily watch the congress,

⁷ Nick Anstead 'Internal Party Democracy in Europe and the United States: Different Models in a Changing Environment,' (Conference Paper, Political Studies Association, 1 - 3 April 2008, Swansea University).

listen to policies, attend the debates and vote from their homes using secure devices. Moreover, an online party platform can help increase participation among groups that are not able to attend face to face meetings, such as people with disabilities, the elderly or stay-at-home mothers.⁸ The advantage in Turkey is that there is a judicial body keeping the records of all party members online. For instance, anyone can easily control his/her registration status online with his/her party. Similarly, Turkish citizens use electronic identity code in order to access governmental services. For example, one of the Turkish parties (the MHP) used an electronic voting system in its 2007 candidate selection process in order to determine potential candidates⁹.

Reforms to the TPPL are possible only to the extent that parties are ready to accept them. In Turkey, most of the parties' own constitutions are more democratic than the TPPL. If they were to convert their own commitments, party constitutions and party programs on IPD into legislation, the reformed party law would doubtless be better than the current one. It is generally agreed that legislation will function best if it is developed through the deliberation and mutual consent of those who will be subjected to it.

As indicated in Chapter 2, democracy is a contested term which is difficult to define and differs from one group of people to another. IPD is no exception. Clearly, the present discussion of IPD is trapped by the inherent contested nature of the concept.

With regard to policy making, Turkish political parties are still far from adopting and binding their leaderships to implement any particular approach. Although party congresses are established as the top organs of internal decision making under the TPPL, party leaders would sooner consult their aides and bureaucrats on policies than party members. As a solution, policy-making committees and forums should be established and their members should be elected by all ordinary party members through a one member, one vote electoral system. After the party

⁸ Stephan Ward, Rachel Gibson and Wainer Lusoli "Online Participation and Mobilisation in Britain: Hype, Hope and Reality" [2003] 56 Parliamentary Affairs 652, 653.

⁹ Pelin Ayan Musil *Authoritarian Party Structures and Democratic Political Setting in Turkey* (Palgrave Connect 2012) 101.

program and election manifesto have been composed, these documents should be approved by the participation of all party members.

Regarding the process of candidate selection, the TPPL is, as with policy making and leadership selection, very far from being internally democratic. In Turkey the law lays out a general framework and several options for candidate selection, but leaves it to party constitutions to choose which option to use. Therefore many aspects of the candidate selection procedure are determined by party constitutions. For instance, parties can hold primary elections, and if they choose this option they must use certain legally stipulated procedures and the primaries must run under the control of High Election Board, which is a judicial body governing all elections in Turkey. Adoption of compulsory primary elections would reduce oligarchic tendencies, but not completely eliminate them. With the help of the TPPL, the party central office exerts a huge influence on the selection of candidates. The main reason for this is that the TPPL gives all power to parties and party head offices, which can easily control and manipulate local party offices. The central party uses local offices only for consultation purposes in which local party elites are mostly appointed by the central office. Adopting party primaries for dues-paying party members would provide a good income source for parties and enable members to determine the composition and ranking of the candidate lists, as well as improving the party image in the eyes of the electorates and party members. Also party primaries should be implemented with a central party quota, as in the first version of the TPPL and, five or ten per cent of the power should be given to the central party in order to enable disadvantaged groups accession to candidate lists.

Regarding leadership selection, the party leader and the members of the executive committee should be directly elected by party members on a one-member-one-vote system. Also useful would be hybrid approaches whereby the popular element functions to strengthen the representation of the party on the ground, and the parliamentary element gives a formal role

to MPs. There should be a provision in the TPPL to facilitate contested elections for leadership positions. The rules should be clearly laid down in the TPPL. The current party law gives this authority to the party constitutions, which usually makes it difficult for candidates to contest. The consecutive re-election of leadership may be limited as was the case in the previous party law. Party leaders should be elected for a maximum of two or three consecutive terms; those who desire to seek re-election after finishing three terms must wait for one term. Each term should be a minimum of two years and a maximum of three, as is provided for under the current law.

This study has also sought to establish that legal reform on some specific areas such as party funding and membership registration would have a positive effect on the level of IPD in Turkish parties. Strategic public funding of political parties and reform of membership registration are important areas where legal reform can be effective and implemented easily. Since political parties are heavily funded by the state, the state has a right to regulate their activities. The current system of party funding, it has been argued here, has opened the way to oligarchic tendencies and will have a detrimental impact on IPD because parties with a huge state fund underestimate their members. Heavy public funding makes political parties less active in attracting and representing party members, making them less dependent on party members and their views. When members pay membership fees, they should be able to regard themselves as partners of the party and to express their opinions easily and demand a voice in making IPD work. The pressure on the leadership to adopt more participatory methods, in turn, incentivises party leaders to be more receptive to the demands of party members and thereby enables IPD to flourish.

It is further assumed that, with unreliable membership registration, party leaders can easily control delegate selection in favour of themselves and party elites. Participation in party decision-making activities will educate party members. Under current conditions, the demand

for change has not been very strong among the party members, so organisational change has been unlikely.

Moreover, regulation of party funding and membership registration will lead to declining membership in Turkish political parties, where the dues-paying membership is very low and fake membership very high, which will in turn threaten the legitimacy of the parties and lead party leaders try to make their parties more attractive and give more power to their members. Hybrid forms can be used to strengthen intra party representation and accountability in all components of IPD, leadership selection, policy making and candidate selection, which also will help to ameliorate the difficulties inherent in OMOV. Since the Turkish Constitution is based on a “hybrid democracy” model in which people have power via a popular referendum option in addition to being represented in Parliament, the TPPL can be reformed in these hybrid terms. As seen in each chapter, mature parties use some form of hybrid democracy for their decision making.

Regarding the regulation of intra-party matters by public law, many scholars have taken positions either for or against the idea. Those who oppose the idea use the argument that political parties are protected by freedom of association, or that it is difficult to reform democracy by way of legal reform. For instance, Dan Avnon claims that “accordingly, democracy within parties cannot be created by declarations or by legislative acts that are contrary to the democratic culture of the system in which they are found.”¹⁰ This point has also been made by Von Beyme, and we endorse his sentiment that “well designed party law can generate better quality IPD to some extent.”¹¹

It can be easily understood that the Turkish constitution enshrines the “desire to encourage IPD” with an explicit requirement for equality among party members. Use of public

¹⁰ Dan Avnon ‘Parties Law in Democratic Systems of Government’ [1995] 1 *The Journal of Legislative Studies* 297, referring to Klaus Von Beyme, *Political Parties in Western Democracies* (St. Martin's Press, 1985), 232-40.

¹¹ Klaus Von Beyme, *Political Parties in Western Democracies* (St. Martin's Press 1985) 234.

law to correct the deficiencies of IPD is the starting point of this thesis. If political parties are not capable of behaving in a democratic way, changing the law may be a solution in order to achieve the desired outcome. It is important to note that formal law is not a guarantee of IPD *per se*; it also depends on the democratic values of party members and party leaders themselves. Changing the law is the easy part. Reform of the TPPL will not necessarily have a direct and immediate impact on the realisation of IPD. Reforms in party law should not be considered as a panacea and do not offer instant solutions for the problems mentioned in this thesis. Clearly there are very many limitations to intra-party democracy as discussed throughout. Rather, reform may have gradual effects on citizens and party members. Nevertheless, it is necessary to start somewhere. This thesis believes that in the short run the priority is reforming the TPPL, but in the long run cultural transformation is needed. Democratic culture and cultural transformation need democratic institutions. Indeed, such a culture emerges as result of democratic institutions. Although economic and educational development foster significant cultural development, these processes are not sufficient to bring about cultural change in the absence of democratic institutions.

A crucial issue is the extent to which areas should be regulated by law or instead left to the constitutions of political parties. The scope of regulations on IPD is bound to remain a subject of debate. Yet it is important to look for the complementarity of internal and external control. As Janda points out, “if governments have no oversight over what parties and politicians can and cannot do, nations risk ruthless politics with little or no public accountability. Yet if governments enact too strict laws specifying how politics should be conducted and campaigns organized and conducted, regimes can discourage or prevent political entities from participating in public affairs.”¹² The system of IPD requires checks and balances;

¹² Kenneth Janda, ‘Political Parties and Democracy in Theoretical and Practical Perspectives, Adopting Party Law’ (NDI 2005) 3.

at the same time, however, the checks should not be such as to prevent political parties from carrying out their functions.

Parties can infringe on the rules in a number ways, such as was seen in the context of the delegate selection process in Turkey. Therefore, the Turkish party law must be designed in favour of a hybrid model, according to which party members select candidates, shape party programmes and vote in at least in one phase of leadership elections. To achieve hybrid democracy within the party, Turkey will have to enforce it by public laws. In this way, party leaders cannot easily control a large number of members as they do delegates. Mass-based participation in decision making requires changes in patronage relationships. Membership participation might in this case be interpreted as an increase in patronage, for which it may be difficult to compensate. In the modern era, thanks to technological developments, the rule of political parties through direct democracy is no longer technically impossible. It can be said that Turkish parties still have a long way to go to achieve IPD, but the democratic reform of the TPPL represents an essential first step.

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