Holding Fast

The İmamoğlu Trial and the Fragilities of Lawfare

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Perhaps the most memorable line in Hemingway's *The Sun Also Rises* appears in an otherwise minor exchange. Bill Gorton asks the dissolute, perpetually broke Mike Campbell how he went bankrupt. "Two ways," Campbell replies. "Gradually, and then suddenly." Campbell's road to ruin will strike a familiar chord for those of us who study the rule of law in Turkey and seek to make sense of its remarkable deterioration. In Turkey's case as well, decline has been gradual, marked by many milestones, none of which appears decisive on its own.

Yet in retrospect, regardless of which moments are singled out, the first few months of 2026 will stand apart, and March above all. It marks one full year since Ekrem İmamoğlu, Istanbul's elected mayor, was placed in pre-trial detention. On 9 March 2026, İmamoğlu's trial formally began. He stands accused of founding and directing an organized network of bribery and tender manipulation spanning a decade. If convicted on all counts, he faces a sentence exceeding 2,430 years. The case's significance reaches far beyond İmamoğlu's freedom or reputation, or even the interests of Istanbul's residents, who have elected him twice. The public grasped as much immediately, taking to the streets in the days following his detention despite the harsh crackdown. The outrage was unsurprising, for İmamoğlu is the Republican People's Party's presidential candidate and the opposition politician most widely seen as capable of defeating Recep Tayyip Erdoğan, who, after more than two decades in power, appears intent on seeking re-election.

It is against this high-stakes backdrop that one must understand the proliferation of legal challenges against İmamoğlu. Alongside the corruption case, there is a dizzying array of proceedings, from criminal charges to civil defamation suits, each capable on its own of ending his political prospects. This terrain has been well covered on this blog. In a superb post, Cem Tecimer characterizes the campaign as "textbook lawfare" and examines the charges alongside their flimsy legal foundations. Ayşegül Kars Kaynar accepts the designation and shows how far the weaponization of the judiciary has gone in İmamoğlu's case, and why it represents a qualitative departure from earlier, more restrained phases of autocratic legalism.

What interests me here is something different, namely, the surprising *inefficacy* of this autocratic lawfare, which is most visible in the political reception of the trial. As one measure of that inefficacy, consider that public opinion has not shifted in any meaningful way. Even after the indictment landed with all its outrageous allegations, and even as government-aligned media consistently framed the proceedings as "the heist of the century" and "the work of an octopus-like criminal network," polls still show İmamoğlu leading Erdoğan by a noticeable margin in a one-on-one contest. Segments of the AKP's own base reportedly find the corruption charges unconvincing, while short clips of İmamoğlu speaking, secretly recorded inside the courtroom, have gone viral. All this matters enormously, for the purpose of the case against İmamoğlu was not merely to confine him to a twelve-square-meter cell for a year. It was to mark him as irredeemably compromised, as someone who can no longer claim a legitimate place in political life. If that project is failing, we should ask why and attend not only to lawfare's surface achievements but also to its fragilities, that is, to law's failure to turn mere political allegation into settled fact. In the end, lawfare that cannot make a criminal of İmamoğlu in the public

mind may yet, paradoxically, make him stronger. If so, perhaps, Turkey need not share Campbell's fate.

Silivri as a liminal space

The trial is being held in Silivri, a district on Istanbul's western edge roughly seventy kilometers from the city center. Silivri occupies a peculiar place in the Turkish political imagination. On social media, "it's cold in Silivri" has become something of a watchword, usually appended to a post critical of the government as a half-joking reminder that prison may await the dissenter. The reputation is hard-earned. It was here that the major political trials of the late 2000s and early 2010s unfolded, in which hundreds of military officers, journalists, and academics were prosecuted on coup-plotting charges later found to rest on fabricated evidence.

Those associations seem fully warranted when one considers how this trial has been conducted. From the very first day, access restrictions for press and public alike have been a source of contention. The courtroom is a large hall attached to the prison complex; a small enclosure at the very back was designated for journalists and observers, a position reporters described as a "blind spot" from which it was impossible to hear or follow the proceedings clearly. On 12 March 2026, the chief judge ended a session early when journalists refused to comply with his order to remain in that enclosure. On 16 March 2026, all vehicles were stopped at the prison entrance, barring access to the complex entirely except for those holding press credentials.

These restrictions are difficult to reconcile with – and may well amount to a violation of – Article 141 of the Turkish Constitution, which provides that court hearings are open to the public and permits exceptions only where required by considerations of public morality, security, or the protection of minors. They also contradict Turkey's obligations under Article 6(1) of the European Convention on Human Rights, under which the Strasbourg Court has subjected restrictions on courtroom access to a strict necessity test, treating publicity as a key safeguard against the administration of justice in secret.

What lends these restrictions an added note of irony is that it was the regime's highest echelons had initially floated the idea of broadcasting the proceedings. In July 2025, Devlet Bahçeli, the leader of the Nationalist Movement Party and the AKP's de facto coalition partner, publicly endorsed live broadcasting, arguing that the trial should be fully visible to the public. Erdoğan followed the next day, stating that "if Mr. Bahçeli said so, it is a very nice gesture and hopefully it will be beneficial." When the CHP seized on the opening and introduced a bill to amend the relevant article of the Code of Criminal Procedure, which prohibits audio and video recordings in courtrooms, the regime's parliamentary bloc voted it down without debate.

Set against what has since transpired, however, the stillborn broadcasting initiative recedes in significance. The more consequential development came on 11 February 2026, when Akın Gürlek, the chief public prosecutor of Istanbul, who had overseen and built the case against İmamoğlu, was appointed Minister of Justice by presidential decree. The appointment also made Gürlek, *ipso iure*, president of the Council of Judges and Prosecutors (HSK), the body responsible for the appointment, promotion, transfer, and discipline of all judges and prosecutors in Turkey, including those who will decide the very case in which Gürlek is so personally invested.

Even prior to his appointment, aspects of Gürlek's conduct had raised questions of legality, which his promotion further accentuated. On the day the indictment was submitted for court review, he held a press conference outlining key evidence, then gave interviews to government-aligned outlets discussing the substance of the case. The indictment itself, moreover, echoes language used by Erdoğan, including the description of the alleged criminal network as an "octopus". Such prejudicial characterization is difficult to square with the prosecutorial function as defined in the Code of Criminal Procedure, which presupposes a measure of detachment, requiring prosecutors to collect and assess both inculpatory and exculpatory evidence. So too, public disclosure concerning the substance of a pending investigation is hard to recon-

cile with Article 157 of the Code, which unequivocally subjects the investigative phase to a norm of confidentiality. Defense counsel will no doubt raise these defects in due course. But Silivri is a liminal space where smart lawyering has its limits.

On the limits of lawfare: past and present

What the lawfare against İmamoğlu means to accomplish when its partisan ambitions are this transparent? One approach is to look backward to earlier episodes of lawfare in Turkey, and ask what became of their perpetrators and victims. İmamoğlu does this deliberately, invoking the historical record before the judges deciding his fate as a reminder of how such campaigns are remembered.

One comparison he returns to repeatedly is the Yassıada trials that followed the coup of May 1960, in which the military regime tried Adnan Menderes and the leadership of the Democrat Party. Those trials sought to deliver a permanent moral verdict on Menderes's decade in power, reaching even into the details of his private life to construct the image of a man utterly unfit for public trust. In the end, Menderes and two of his ministers were convicted and hanged. Yet their political afterlife diverged sharply from the military regime's intentions. Menderes became a martyr for democracy, around whose memory center-right parties, and later Erdoğan himself, successfully mobilized for decades. More troublingly, that martyrdom helped seal off the Democrat Party's own authoritarian record from meaningful scrutiny. Recent scholarship has perceptively complicated this inherited narrative, though such revisions have yet to gain wider purchase.

Nor does one need to return to the 1960s for an example of Turkish lawfare that spectacularly misfired. Erdoğan's own political career offers a more immediate precedent, one that both İmamoğlu and commentators have astutely invoked. Tried before a State Security Court in the late 1990s, Erdoğan, then mayor of Istanbul, was convicted for reciting a poem at a public rally – a conviction that rendered him legally ineligible for public office. He served four months in prison, the stakes far lower than those İmamoğlu now faces. Even so, the country's most widely read newspapers wrote him off on their front pages, declaring that he "could not even become a mukhtar", the humblest of elected offices. Erdoğan, of course, became considerably more than that.

These are powerful precedents. Yet in using them, one must attend to the discontinuities between Silivri and Yassıada, between the lawfare of the present and that of the past, and never lose sight of how much worse the present is. Human rights advocates and defense lawyers who lived through those earlier periods, and were themselves victimized by them, readily acknowledge as much. In earlier phases of Turkish lawfare, including those of the 2010s under the AKP, there remained at least some pretense that the judicial domain possessed a degree of autonomy, that it stood, however imperfectly, apart from the dynamics of partisan struggle. Perhaps, after decades of such thoroughgoing instrumentalization of legal processes, the regime is no longer able, or no longer feels the need, to maintain this pretense.

Fragilities of undisguised warfare

Bleak as that is, the collapse of lawfare into outright warfare brings its own fragilities. This is chiefly because lawfare's effectiveness as a political strategy depends on the legal domain preserving some autonomy – nominal or real – from the ends it is made to serve. Otto Kirchheimer, the preeminent theorist of political trials, offered one of the most nuanced accounts of this relationship, exploring the variety of ways in which courts may be enlisted for political ends and how, under certain conditions, they may even serve the kind of liberal polity he valued. At the center of his account was the courtroom and its peculiar capacity to elevate matters from "the realm of private happenings and partisan constructions" into a higher register, one in which even those who lose may still regard outcomes as impartial and authoritative.

That possibility is largely unavailable in the campaign against İmamoğlu, which many see as warfare plain and simple. In this respect, the secrecy surrounding Silivri is both understandable and telling. Because, if lawfare cannot cast its opponent as a crimi-

nal in the public mind, it can still keep him from public view. I do not mean to suggest that a year of imprisonment is unimportant. Keeping İmamoğlu away has given, and will continue to give, the regime real breathing space within which negotiations can be reopened and alliances reworked. Ultimately, even if people are not persuaded by the corruption allegations, they may still come to treat his absence as settled and natural. That is why the counter-strategy must be, above all, a mobilizational one, centered on resisting the normalization of İmamoğlu's removal from political life. This, I think, is what Özgür Özel, the leader of the CHP, has been doing with considerable skill over the past year. He has kept the party firmly behind İmamoğlu's candidacy, pressed the factual inconsistencies in the prosecution's case, and raised pointed questions about Gürlek's personal finances and integrity.

I am not sure which of the available terms in the literature – autocratic lawfare, autocratic legalism, rule-of-law backsliding, show trial – best captures the idiosyncrasies of the barrage of cases against İmamoğlu. Perhaps none does full justice to it. Perhaps what matters more than terminological exactitude is whether we grasp the distinctiveness of the present moment and respond accordingly. That response must seize on these fragilities as grounds for a counter-politics capable of undermining Silivri and all that it stands for.

It is in this sense that Turkey is unlike Mike Campbell, whom Hemingway used to embody the exhaustion of a lost generation. No one person, fortunately, writes Turkey's story. Whether the country descends into bankruptcy will depend on what people do, what they remember, and what they refuse to forget in the months and years ahead. In the end, who wins and who loses will be determined by political contestation, not by trials or judicial decrees. That is why it is worth recalling that the campaign against İmamoğlu is not fated to succeed, especially if earlier experiments with lawfare have proved dismal failures. The opposition must preserve that sense of possibility and agency, while never losing sight of how much darker the present conjuncture has become.

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