The Arrest of Istanbul's Mayor is Textbook Lawfare

Cem Tecimer

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On March 19, 2025, police arrested Istanbul Mayor Ekrem İmamoğlu on corruption and terrorism charges. Four days later, on March 23, a judge ordered him to prison pending trial.

İmamoğlu is not only the mayor of Istanbul, a position he has held by repeatedly defeating Erdoğan-backed candidates, but also widely regarded as the opposition's most prominent and promising candidate to challenge Erdoğan in a presidential election. That is why the lawfare waged against him, culminating in his pre-trial detention, is broadly viewed as an attempt by the ruling party to eliminate Turkey's rising opposition and further consolidate its one-party rule.

Political scientists and pundits have already begun discussing the implications of İmamoğlu's detention. Some argue that it calls into question Turkey's heretofore characterization as a "competitive authoritarian regime," as the "competitive" prong of that label now appears in serious jeopardy. Others contend that this move will only galvanize support for İmamoğlu—just as Erdoğan's own 1999 arrest on politically motivated charges, based on his recitation of a poem, accelerated his rise to power.

The Overwhelming Lawfare against İmamoğlu

In this essay, I turn my attention to the law itself, specifically to the lawfare that has been waged against İmamoğlu. By exploring three distinct features of this legal strategy, I hope to shed light on patterns of lawfare that may be both familiar and unfamiliar to scholars and pundits working on democratic decline in other countries. Given how autocrats learn from each other, as Professor Kim Lane Scheppele reminds us, I invite scholars and analysts who work on other jurisdictions to compare notes with me—so that we may better understand and situate the lawfare against İmamoğlu within the broader landscape of global democratic decline.

I argue that the lawfare against the mayor is multi-front, multi-purpose, and multi-actor—and as a consequence, overwhelming.

The lawfare is multi-front, because the legal tactics used against İmamoğlu are both numerous and diverse. The sheer volume of cases serves to distract and overwhelm him and the opposition, forcing them to respond to a barrage of allegations—at significant financial cost, too. Here are some of the pending investigations against Istanbul's mayor:

1. A criminal case, now on appeal, in which İmamoğlu was sentenced to more than 2.5 years in prison for allegedly calling members of Turkey's High Election Council "fools", even though the mayor explicitly omitted any names or institutions in his relevant remarks. The criminal court that convicted him "inferred" criminal intent.
2. A criminal charge for allegedly "threatening and targeting persons involved in anti-terrorism activities," after İmamoğlu's claim that Istanbul's chief public prosecutor, who previously served as Deputy Minister of Justice, a political office, was pursuing him for political reasons.
3. Another criminal charge for allegedly "attempting to influence a judicial officer," after İmamoğlu noted in a press interview that the same expert witness for the prosecution was testifying against him in multiple cases and appeared to have political motivations.
4. An administrative decision rendered recently by Istanbul University, İmamoğlu's alma mater, cancelling his university diploma on the grounds that his transfer from a university in Cyprus in 1990 was invalid because the Cypriot university was not a recognized institution of higher learning by the relevant Turkish authori-

ties at the time, even though Istanbul University itself had approved the transfer.

Add to this incomplete list the most recent allegations against the mayor—corruption and aiding and abetting an armed terrorist organization, stemming from his alleged collaboration with the "City Consensus" (tr. *Kent Uzlaşısı*) initiative, which purportedly involved strategic discussions and coordination among opposition parties, including the pro-Kurdish People's Democratic Party (tr. HDP; now DEM Party), to maximize opposition voter turnout in the 2024 local elections, in which İmamoğlu's party, the Republican's People Party (tr. CHP), secured first place (and assuming this is true, it is unclear how this is unlawful, let alone a crime).

The sheer number of investigations and cases—criminal, civil, and administrative—suggests a strategy of deliberate overwhelm, that is, of throwing spaghetti at the wall or "pushing all the buttons," as Turks would say: by encircling İmamoğlu with a barrage of legal actions, the regime hopes at least one will succeed in sidelining him—and the more, the merrier.

The lawfare is also multi-purpose: Each legal tactic, if successfully deployed, carries a different legal consequence. For instance, the administrative decision by Istanbul University to cancel the mayor's diploma is clearly aimed at disqualifying him from the presidency, as Article 101 of the Turkish Constitution requires the president to be a university graduate. Or consider the recent corruption charges against the mayor, which allege that he abused the power of his office for personal gain. Once charged (or even investigated) by law enforcement based on such allegations, the relevant legal provision (Article 47 of the Law on Municipalities) permits the Minister of Interior to provisionally remove mayors from their office. Unsurprisingly, soon after the mayor was ordered to prison on corruption charges, the Ministry of Interior announced his removal on X the same day. This sheds light on why the lawfare against the mayor has been so overwhelming: the more charges and legal tactics, the more potential legal outcomes, ranging from disqualifying him from running for president to removing him from office.

The lawfare is also multi-actor: in order to accomplish the various legal tactics outlined above, the regime would need—and has secured—the cooperation of various state and private organs and institutions. In İmamoğlu's case, the following actors, among others, worked in tandem: (1) government-backed journalists (read: media apparatchiks) who propagated rumors about the mayor's alleged corruption as well as rumors about the invalidity of his university diploma; (2) the Financial Crimes Investigation Board (tr. MASAK), a special unit under the Ministry of Treasury, which assembled financial allegations—widely dismissed as bogus by investigative journalists—on which (3) the police relied in interrogating the mayor for hours at the police station; (4) prosecutors who questioned and ultimately proceeded with the charges against him; and (5) the judges who agreed with the prosecution's case and ordered him to prison. As has been observed elsewhere, "Turkey's government wields control of a well-organized, coercive state apparatus."

The Unlawful Lawfare against İmamoğlu

While lawfare implies the use of various legal strategies and maneuvers, it does not necessarily imply legality. In fact, many of the actions taken against İmamoğlu appear to be blatantly unlawful. Consider the recent revocation of the mayor's diploma. Numerous administrative law specialists in Turkey have protested Istanbul University's decision to revoke the mayor's diploma, contending that the authority to revoke it lies not with the University but with the Board of Directors of the Faculty of Business Administration—the Faculty that issued the mayor's diploma in the first place.

Consider as well procedural irregularities and bad-faith applications of the law in the mayor's detention. For instance, the mayor was escorted to the police station by dozens of officers, even though he could have simply been invited to appear voluntarily—as he had done in response to prior allegations.

Add to that the glaring lack of uniformity in how law enforcement and judges approach corruption and terrorism charges. An abundance of credible evidence, some acknowledged by the governing party's current

and former operatives, suggests that a number of high-profile mayors from the governing party have engaged in corrupt practices during their tenure. Yet, not a single case has been brought against them. Perhaps even more astonishingly, while the government accuses İmamoğlu of collaborating with pro-Kurdish forces, including members of the pro-Kurdish DEM Party—a political party lawfully founded and operating under Turkish law—to maximize opposition voter turnout in elections, it simultaneously engages in peace talks with the PKK, an organization jointly designated as a "terrorist organization" by Turkey, the EU, and the United States. This underscores the blatant lack of evenhandedness in the law's application. Legal provisions used to wage lawfare against the opposition are either ignored or selectively enforced when it comes to the governing elite and their operatives.

Additionally, and perhaps the clearest illustration of the failure of Turkey's judiciary, the criminal court's decision ordering the mayor's pretrial detention is devoid of any serious legal reasoning, let alone a careful examination of the evidence against him. Select excerpts from the decision, which I translate and reproduce below (in *italics*), along with my commentary immediately following them, expose how the decision—like most in Turkey—fails to meet even the basic standards of a well-reasoned judgment.

> *"When reports by the Financial Crimes Investigation Board, witness statements, statements by the complainants, Historical Traffic Search records [i.e., phone call logs; tr. HTS kayıtları], police reports, and the entire legal record are considered together, it is assessed that there is a strong suspicion that the suspect committed the alleged crimes"*

Note how the judge simply lists a hodgepodge of *sources* of evidence against the mayor, claiming to have considered these sources in his decision. What specific pieces of evidence exist against the mayor? What do they allege? Where is the careful sifting through of the evidence to establish a strong suspicion?

> *"Assuming that the grounds for arrest are present because the crime charged is a catalogue crime"*

This excerpt refers to so-called "catalogue crimes" under the Turkish Code of Criminal Procedure, which provides, in relevant part: "If there are facts that tend to show the existence of a strong suspicion of a crime and an existing ground for arrest, an arrest warrant against the suspect or accused may be rendered." The law further provides that for certain enumerated crimes—also called "catalogue crimes"—including crimes the mayor is charged with, "a ground for arrest may be deemed as existing." Here, the judge wrongly assumes that because the mayor is charged with a catalogue crime, this alone establishes a strong suspicion that he committed the offense. Yet, the law explicitly requires that, in addition to "an existing ground for arrest," there must be "facts that tend to show the existence of a strong suspicion of a crime." The judge's decision neglects to discuss such facts.

> *"Due to the nature and characteristics of the crimes charged and the lower and upper limits of the penalty prescribed by law"*

The judge "reasons" that the mere fact of the alleged crime, along with its minimum and maximum sentences, suffices to establish a strong suspicion of guilt. This reasoning is blatantly unlawful. The mayor must have committed the alleged crimes. Why? Because they are classified as serious offenses under the Turkish Criminal Code, which prescribes hefty sentences. Whatever this thinking pattern is, it isn't legal reasoning.

> *"There is a high possibility that [the mayor] may escape and hide"*

The judge merely assumes that because the charges against the mayor are grave, there is a "high possibility" that he will flee and go into hiding in an attempt to evade justice. On this basis, he concludes that the mayor must be detained, rather than, say, placed under house arrest or required to regularly report to the court in person. Once again, the court's "reasoning" is wholly inadequate. There is no concrete, factual

discussion of why and how one of the most prominent political figures in Turkey would escape and hide, even if he wanted to. This is especially striking given that İmamoğlu has repeatedly demonstrated a willingness to cooperate with judicial authorities, voluntarily appearing in court in the past to answer questions.

Lest I be taken as naïve, I am fully aware that it is impossible to disassociate the lawfare against the mayor—of which the court's decision discussed above ordering his arrest is part—from politics, and specifically the ruling party's use of the judiciary to sideline opponents. However, I still believe it is crucial to highlight the legal defects in the judge's reasoning, as the absence of concrete, factual, and careful legal analysis in judicial opinions is a pervasive issue within the Turkish judiciary—one that is likely to outlast the ruling party.

Moving Forward?

The remedy for abusive speech, it is contended, is more speech—or so goes the so-called "counterspeech doctrine." In a similar vein, should lawfare be combatted with more lawfare? Perhaps not. Given the near total submission of the Turkish judiciary (especially lower courts) to the governing party, out-of-the-box solutions might be in order.

To be sure, the opposition can and should counter the government's legal maneuvers with its own. There are still independent judges and prosecutors, especially in the higher courts. But even then, it could take months or even years for all available legal remedies to be exhausted. Cases can and do drag on, often taking years for one's rights to be vindicated, either by the Constitutional Court or by the European Court of Human Rights—courts whose decisions are not infrequently disregarded by some lower courts.

That is one reason why the response to lawfare should involve more than just the law. Peaceful and lawful assemblies—a right enshrined in the Turkish Constitution—may dissuade the government from cracking further down on the opposition. Economic boycotts by the masses could serve as another lever for the opposition, especially given that the main opposition party, CHP, controls municipalities in Turkish provinces that, in the aggregate, account for more than 70% of Turkey's national GDP. In fact, the CHP recently launched a website listing several private-sector companies to be boycotted. These companies, the CHP argues, on the one hand, cater to middle-class and upper-middle-class citizens who overwhelmingly vote for the opposition, but on the other hand, support the governing party.

Meanwhile, on March 27, 2025, İmamoğlu's mother, Hava İmamoğlu visited her son in prison. "I want my son to be released immediately," she said in a brief interview with the press. "I can't bear to see him there."

ABOUT THE AUTHOR

Cem Tecimer
Cem Tecimer ist Postdoc an der Harvard Law School.Cem Tecimer is a postdoctoral fellow at Harvard Law School.

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