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The Enforcement of ‘Absolute Nullity’: More Than a Party Congress Decision

Türkiye is once again facing a deep political crisis around a legal concept that may at first appear extremely technical: *mutlak butlan*, or “absolute nullity.” At first glance, this term seems to belong to legal textbooks rather than to the core of democratic politics. On the other side the court decision concerning the 38th Ordinary Congress of the Republican People’s Party (CHP), and the subsequent debate over the enforcement of that decision show that the issue is not merely about procedural irregularities claiming to having occurred during a party congress. The ongoing political public debate revolves around the question whether the decisions of a political party reflected during the above mentioned congress can be retroactively annulled by a court decision. Put more directly: in Türkiye, will political legitimacy be determined by voters, delegates, party members, and organized social opposition, or will court decisions become the constitutive authority of the political field?

For those who are less familiar with Turkish politics, the CHP is Türkiye’s main opposition party. It currently stands as the principal institutional rival to the ruling Justice and Development Party (AKP), the party led for more than two decades by President Recep Tayyip Erdoğan. The CHP’s internal leadership therefore has significance far beyond the internal affairs of a single political party. Any judicial intervention in its leadership structure inevitably affects the broader balance of Turkish politics.

The 36th Civil Chamber of the Ankara Regional Court of Justice ruled that the CHP’s 38th Ordinary Elective Congress, held on 4–5 November 2023, was invalid from the outset on the grounds of “absolute nullity.” The decision did not stop there. It also ruled that subsequent ordinary and extraordinary congresses, the decisions taken at those congresses, and the CHP’s İstanbul Provincial Congress of 8 October 2023 were also invalid on similar grounds. The court ordered a return to the pre-congress situation, meaning that the party organs existing before the 38th Ordinary Congress should continue in office. This opened the way for Kemal Kılıçdaroğlu, who chaired the CHP from 2010 until the 2023 congress, and his former party administration to return, while for Özgür Özel, who was elected CHP chair at that congress, and the current leadership, the decision amounted not only to a legal challenge but also to a de facto and political removal from office.

This is why the concept of absolute nullity deserves particular attention. Absolute nullity does not mean a simple cancellation, nor does it refer to an ordinary procedural defect. It implies that a legal act was void from the very beginning. In other words, the law treats the act as if it had

never come into existence. When such a doctrine is applied to a political party congress, it does not merely call a past vote into question; it targets all political consequences that emerged from that congress. A change in leadership, the composition of the party assembly, electoral strategies, municipal election victories, extraordinary congresses, parliamentary group balances, and the legitimacy established in the eyes of the public are all suddenly pushed toward retroactive erasure. For this reason, the debate has moved far beyond the question, “Were there irregularities at the congress?” Of course, if there are allegations that the will of delegates was distorted, they should be investigated. No political party should be exempt from legal scrutiny. But the critical question is different: can a court, by retroactively annulling the will expressed at a party congress, effectively determine the leadership and political direction of that party? This question does not concern the CHP alone. A mechanism used today against the CHP could tomorrow be applied to any political party, trade union, professional association, or institution of organized social opposition. The issue, therefore, is not merely an intra-party power struggle; it is a boundary test for the very conditions under which institutional opposition can exist in Türkiye.

The implementation of the court’s decision has revealed a tension that is political rather than purely legal. Courts can issue judgments on paper, but political reality cannot be rewritten by judicial pen alone. The questions of who leads a party, which leadership represents it, which political line voters support, and around whom the parliamentary group actually organizes itself are not matters that can be resolved by a case file alone. They are social and political questions as much as legal ones. This is why the enforcement of the decision has acquired the appearance of political intervention rather than mere legal procedure. The CHP’s response made this contradiction visible. Özgür Özel’s march to the Turkish Grand National Assembly or TBMM, the national parliament in Ankara, should be read not simply as a protest, but as a symbolic gesture pointing back to the source of political legitimacy. To march to parliament was to mark the distinction between a party headquarters and the national will. A court may determine, at least formally, who is entitled to sit in a party office. But the social body of the opposition, elected members of parliament, municipal administrations, and the political orientation of millions of voters cannot be liquidated so easily. In this respect, Özel’s march carries historical importance despite all limitations. The issue has ceased to be a matter of an office or a building; it has become a question of the source of political representation itself.

This point must be emphasized: one does not have to be a supporter of the CHP to recognize the gravity of the situation. One may be critical of the CHP's history, of social democracy, of the compromises of the center-left, and of the party's relationship with the state, class politics, secularism, and bureaucratic republicanism. Yet such distance should not prevent an objective assessment of concrete conditions. In today's Türkiye, there is no other opposition party with the same institutional capacity to operate nationwide, hold municipalities, maintain a visible parliamentary presence, connect with broad sectors of society, and win elections against the ruling bloc. This does not mean that the CHP is historically flawless. It means that, as a matter of political reality, it remains the principal institutional actor capable of opposing the AKP-led ruling order. To render such an actor dysfunctional through judicial means cannot be treated as an internal matter of the CHP alone.

This is where the phrase "order party" requires careful examination. In Turkish left-wing debates, the CHP has often been described as a "party of the established order." Certain socialist, left-liberal, and identity-oriented currents have used this term for years to criticize the CHP's limits, its state-centered history, and its inability or unwillingness to pursue a genuinely radical politics. This critique is not without historical or theoretical basis. When one looks at the history of social democracy, especially in Europe, there are reasons for suspicion. The German Social Democratic Party, the SPD, has and had been criticized by the revolutionary wing of the labor movement since World War I for siding against forces to its left and for integrating working-class demands into the limits of bourgeois parliamentarism. Social democracy has often functioned as an instrument of system-preserving reform, softening class struggle and translating radical demands into manageable institutional compromises. In this sense, it is legitimate to maintain a critical distance from the CHP and from social democratic parties more generally. However, politics is not conducted through abstract labels alone. The description "order party" does not produce the same political consequence in every concrete historical moment. A party may be part of the established order and yet, at a particular moment, become one of the most important institutional barriers against authoritarian consolidation. A party may have historically limited social-democratic horizons and yet still become, under current conditions, one of the principal positions from which a democratic public can defend itself. A left politics unable to make this distinction closes concepts over reality; instead of analyzing contradictions, it becomes satisfied with ready-made labels.

To understand the present, one must return to one of the key historical moments that opened the door to today's crisis: the constitutional referendum of September 2010. That referendum was not merely a package of constitutional amendments. It was one of the crucial thresholds in the reconfiguration of Türkiye's judiciary, institutional checks and balances, and political field. At the time, the referendum was defended by its supporters as an attempt to confront military tutelage, weaken bureaucratic guardianship, democratize the judiciary, and align Türkiye more closely with European Union standards. This discourse found support among liberal circles and certain segments of so-called left. The slogan "not enough, but yes" became the most famous expression of that political atmosphere: the idea that the reforms were insufficient but still worthy of support. Looking back today, however, the role of that referendum in transforming the relationship between law and politics in Türkiye appears much clearer. Of course, it would be historically reductive to explain everything that has happened since then solely through the 2010 referendum. Yet the restructuring of judicial institutions, the new balance around the high judiciary and the High Council of Judges and Prosecutors, and the subsequent politicization of legal institutions helped place law at the center of struggles for political power. What was once supported in the name of "rolling back tutelage" eventually opened the door to another form of tutelage: a legal engineering that operates in favor of the executive and the ruling bloc. The current controversy over the CHP congress is one of the latest consequences of that longer institutional transformation.

There is no need to avoid polemic here. To explain what is happening in Türkiye merely by saying that "the legal process is functioning" would be to obscure the political reality. Likewise, it is impossible to say that those who, for years, legitimized the institutional moves of the ruling bloc in the name of "freedom," "pluralism," "anti-tutelage," or "critique of the order party" bear no responsibility for the present situation. The direct responsibility, of course, lies with those who wield political power. The AKP-led government and the broader ruling bloc stand at the center of concerns over judicial independence. Yet there were also ideological pathways prepared by others: those who dissolved class politics into identity categories, those who treated secularism as a secondary issue, those who underestimated the capacity of political Islam to reorganize the public sphere, and those who failed to subject institutional transformation to serious critical scrutiny in the name of democratization. The present crisis requires an accounting not only of the government's conduct, but also of the intellectual and political currents that, at different moments and for different reasons, helped open space for it. In that sense, secularism must stand at the center of this reckoning. Secularism is not merely a cultural preference concerning lifestyle. It is one of the

necessary conditions of labor politics, citizenship, and democratic public life. Class war is, in a categorical sense, a secular struggle, because it explains inequality not through destiny, divine order, communal belonging, or religious hierarchy, but through material relations and class positions. To dismiss secularism as an “old republican sensitivity” is therefore also to weaken the ground on which labor politics can stand.

The absolute nullity ruling against the CHP can therefore be read as another link in the same historical chain. Those who once supported the restructuring of the judiciary in the name of fighting tutelage should not be surprised when the judiciary now appears as a force capable of reorganizing the opposition field. Once law becomes an instrument of political engineering, it does not stop after targeting only one camp. The mechanism that intervenes in the CHP congress today may tomorrow be directed at another party’s congress, a professional chamber’s election, a trade union’s leadership, or the political will expressed in a municipality. The instrumentalization of law cannot be defended even when it targets an actor one dislikes, because the same instrument eventually narrows the entire democratic field. This is why the present issue cannot be reduced to the historical baggage of the CHP. The issue is the possibility that political representation can be taken back by judicial means. If the will produced at a party congress can be erased years later through a finding of absolute nullity, how can the security of electoral processes and intra-party democracy be protected? After delegates have voted, party members have recognized a new leadership, voters have supported the party under that leadership in local elections, and mayors have been elected within that political wave, a retroactive ruling of nullity does not merely produce legal consequences. It also calls into question the continuity of voter will. At this point, the stance of the ruling party must also be examined. Government circles often respond to such cases by saying that “the judiciary is independent.” Yet public perception of the judiciary in Türkiye can no longer be reassured by this formula alone. As seen in the case of Ekrem İmamoğlu, the former mayor of İstanbul and one of Erdoğan’s most prominent political rivals, public debate frequently shifts from the specific substance of criminal allegations to the broader question of judicial impartiality and selective enforcement. In the İmamoğlu case, the question was no longer only “Is there a crime or not?” The central issue became the perception that law was being used to regulate political competition. A similar dynamic is now visible in the CHP congress case. For a broad segment of the public, the debate has already moved beyond allegations of procedural irregularity. The question now being asked is this: is the judiciary becoming an actor that determines the leadership of the main opposition party?

In the face of this situation, it is necessary to stop treating the matter merely as an internal factional struggle within the CHP. The rivalry between Kılıçdaroğlu and Özel, the division between old and new leaderships, and internal party calculations are certainly politically relevant. But they are secondary. The central question is how a political party will defend its legitimate organs against a court decision, and how society will interpret such an intervention. Whether one supports the CHP is not the decisive issue here. What matters is whether an institutional and principled stance can be taken against the redesigning of the political field by judicial means.

In conclusion, the absolute nullity ruling has ceased to be a technical legal dispute over a party congress. It has become a new turning point revealing the current state of the relationship between law and politics in Türkiye. If the ruling is read merely as an internal party crisis, the essential point will be missed. The real question is who has the authority to define democratic representation, intra-party will, and organized social opposition. Today, law risks ceasing to function as a framework that protects the political field and instead becoming an instrument that redesigns it. The question, then, is this: will the opposition in Türkiye confine itself to the narrow space drawn by court decisions, or will it relocate the source of political legitimacy in society, parliament, the ballot box, and organized democratic struggle? Özgür Özel's march to parliament may be seen as one symbolic sign of the second possibility. Yet symbols alone are not enough. Overcoming this crisis requires a historical reckoning not only by the CHP but by all forces in Türkiye that claim to defend democratic politics. The line that runs from the 2010 referendum to the present forces a reconsideration of liberal illusions, identity-based narrowing, left-wing attitudes that underestimated secularism, and the easy rhetoric of the "order party." Today the issue is not whether one likes the CHP. The issue is whether one is willing to accept the judicial reshaping of one of the last major institutional spaces capable of organized opposition. If such a development is accepted, today's absolute nullity will not mean merely the invalidation of a party congress. It will amount to the nullification of democratic politics itself.