TURKEY'S SEARCH FOR A NEW POLITICAL SYSTEM

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LEGISLATIVE BODY IN TURKEY: ISSUES AND SOLUTIONS

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PREFACE

The system debate is arguably the most pressing and consequential subject of Turkish politics. Turkey has been having a governmental system discussion for a period of time, and the next few years will appear to be in intense debate and search.

Turkish parliamentary system experience (1876-2017) often dealt with interruptions. As a result, it has not only failed to produce general satisfaction in politics and society but also has been unsuccessful in yielding economic stability. Similarly, the outcome of the last five years of the Presidential Government System (or the Presidential System with its widespread use) could not generate stability.

The parliamentary system has had a hostile place in public memory. Because it is usually associated with military coups, the weakness of civil politics, military and civil bureaucracy tutelage over elected bodies, fragile and inconsistent coalition governments. Usually, instead of dealing with the structural shortcomings of Turkish democracy, bashing the parliamentary system was a safe debate tool under the military tutelage years. The shortcut savior happened to be the presidential system. It was supposed to protect Turkish democracy from military tutelage, political instability or coalition governments. During the 1980s and 90s, strong political leaders, such as Demirel and Özal, voiced that the parliamentary system was malfunctioning, and that Turkey should move into the presidential system. However, despite such occasional political and academic disclosures, the system change did not become a serious part of the public agenda until 2014.

The most significant break in system change occurred in the Presidential elections in 2007. As the reactions to Abdullah Gül's Presidential candidacy turned into a severe political crisis over the April 27, 2007 memorandum and the decision of the Constitutional Court to block his candidacy; the AK Party has turned to change the presidential electoral system.

The constitutional amendment electing the President by the people instead of the parliament in a referendum also gave solid political capital to the President. This new election system gave the President legitimacy of representing at least 50% of the voters. Moreover, it empowered him to push the boundaries of the classical parliamentary system with the 1982 constitution and symbolic role of the President.

Erdoğan as the first president elected directly by the people, has adopted a persistent policy of switching to the presidential system. For years, the presidents elected through parliament experienced a severe political clash with the elected governments due to their constitutional powers. The new system empowered the President with two additional power dynamics: being elected by the people (Erdogan received 52 percent) and having a ruling party in the parliament. Ironically it was not only a new power surge but also paved the roads to new clashes and rifts between elected bodies.

Between 2014-2017, the anomaly caused many political crises. After the July 15 coup attempt, the deadlock was attempted to be resolved in line with the presidential system through the initiative and support of MHP leader State Bahçeli with the motto "de facto situation should be de jure." Without much public debate, the constitutional amendment, drafted in line with the preferences of the AK Party and MHP, was adopted with 51 percent support on April 17, 2017, referendum while the July 15 coup trauma was still in effect.

The presidential system, which took effect in the June 24, 2018 elections, has also produced a high dissatisfaction over its political and administrative performance since 2018. It has been criticized for the unification of powers, weakening the checks-and-balances mechanisms, eroding the political par-

ty identities, pushing them to establish alliances, and deepening polarization. In addition, the ruling bloc, which favors the presidential system, has avoided revisions that will make the current system more operational, and further deepened the system's discomfort.

Public opinion studies show that support for the presidential system has fallen to 35 percent, and a possible referendum on the return to the parliamentary system will gather powerful support. Opposition political parties had a window of political opportunity created by dissatisfaction with the system. It helped opposition parties to develop a political strategy and rhetoric through the return to the parliamentary system. It allows many political parties with different political priorities to act together on the same goal while camouflaging the motivation to defeat Erdoğan in elections. They are currently asking to return to the parliamentary governmental system creating a political rhetoric on the axis of authoritarianism-democracy. In this framework, the system debate and the goal of restarting the parliamentary system have become the essential issue of the political struggle between the ruling and the opposition blocs.

Starting from 2021, the opposition political parties have prepared and publicly disclosed their parliamentary system proposals. This year they formed a joint working group and agreed on the basic principles, and finally presented the public "Strengthened Parliamentary System" proposal. Now six opposition parties decided to gather at the leadership level monthly—their main agenda focusing on governmental system change. It is a game-changing step in a fractured and highly polarized Turkish political atmosphere. Will the goal of returning to the parliamentary system be good enough to keep opposition parties united in the face of the ruling alliance, is questionable. However, it would be fair to argue that the parliamentary system proposal may ripen into the political alliance of opposition.

The search and discussion of the governmental system appear to be the most critical topic of politics for the next few years. Regardless of the outcome of the June 2023 elections, the system debate will be the most crucial topic of politics in the short term. If the current ruling alliance wins, they need to reform the system. If the opposition wins, they need to keep their election promise to change the system. In any scenario, Turkey is heading towards either imposing alterations or structural reform. Therefore, the system debate will settle itself as one of the top political issues in Turkey in the coming years.

Meeting this demand and preparing enhanced research on the governmental system will play an essential role in the quest for a possible change. Comprehensive research should present a comparative, global, political, and constitutional base for the debates and assist decision makers in political parties and the public in finding an enriched discussion floor.

Within the framework of this program, Ankara Institute plan to publish ten academic analyzes that will contribute to the search for systems over the next year in order to meet this end.

The research plans to conduct two workshops with the participation of stakeholders that we predict will contribute to the system discussion and hold a detailed public opinion survey.

This study in which Osman Can evaluates the legislature through its normative elements, practices to date and suggestions on what kind of system should be built, constitutes the sixth report of the academic contribution series that made out of 10 reports.

We believe that this research project, which will continue through analysis, workshops, and public surveys, will contribute significantly to the quest for a system that progresses only through the harsh contrasts of government versus opposition parties dynamics and provides qualified academic background, common sense consultancy, and poll data.

Hatem Ete Ankara Institute, Director

A. THE MEANING AND FUNCTION OF THE PARLIAMENT

A parliament is one of the key institutions in a democracy. Representation and governmental legitimacy, both essential democratic principles, are achieved by means of the parliament. In addition to fulfilling legislative duties, a parliament also performs such essential functions as articulating and representing public interests, cultivating the executive elites and integrating them in the system, and ultimately, supervising the executive. The public may control the state apparatus, which has a monopoly on violence, and direct it in accordance with its objective interests by means of the parliament. In other words, democracy can exist only when a functional legislative organ, or parliament, is established and consolidated.

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In a parliamentary democracy, the will of the people, who are themselves sovereign, is directly represented by the parliament; all other state bodies are granted, and derive their legitimacy by and from the parliament, indirectly. Thus, the parliament is the only power with direct democratic legitimacy.

The organization and structure of the parliament, and the way it formulates its relationship with the executive and the electorate, is of crucial importance with regard to democracy. The representation of minorities in the parliament, the rights of the minorities within the parliament, the legal status of the opposition, the formation and organization of party groups, its effect on the assembly's agenda and speech times, the structuring of the legislative process, the formation and working procedures of commissions, and finally, public relations and transparency – all these points are constitutional issues of the first order for a parliament. Whether it is the Westminster model, the United States Congress, or a contemporary parliament that operates according to the rules of media and party democracy, this fact remains. Procedures may vary according to the governmental system in place, but the supervision of the executive by the parliament is considered among its essential functions.[1]

1 Florian Meinel (2019). *Selbstorganisation des parlamentarischen Regierungssystems*, Tübingen: Mohr-Siebeck Vlg, p.2.

In terms of the function and authority of the parliament in a democratic system, the following points must be emphasized. A parliament a) is a space for democratic representation, and as such, the main lead-in whereby the legitimacy of the political system is provided; b) is a legislative body; c) is an intermediary for the legitimacy of other powers (the head of state, higher judicial bodies, the prime minister and so on) through elections or approval; d) has budgetary powers; e) although this varies according to the governmental model in place, has the power to supervise the executive; f) has the power to make and structure other constitutional and legal bodies (the legality of administration); g) communicates with, and on behalf of, the public; and finally, h) has a certain degree of autonomy. These functions and powers must be considered in conjunction with three principles: participation, effectiveness, and transparency.

Parliaments fulfil these functions primarily through political parties; as such, contemporary democratic systems are known as "party democracy".[2] In terms of assessing the functions of the parliament, the law on political parties and the state of intra-party democracy are very important.

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The function of the parliament is related to the level of representation. The manner in which MPs are nominated, as well as the degree to which social conflict is reflected in the parliament, and makes the parliament inclusive, has an influence on representation, and as such, on other parliamentary functions. The electoral system, and the manner in which MP candidates are determined, are among the assessment criteria here.

At the same time, rules regulating the operation of the parliament are often very limited in constitutions, and most of the existing rules are instead principles. As such, in order to understand the extent to which a parliament fulfils its functions, we must look at the bylaws of the assembly. The claims of a constitution to democracy are bound to fail unless the bylaws are in line with democratic principles; the political regime is swiftly corrupted, and ceases to be controllable. A party majority within the assembly might neutralize the opposition within the assembly; it might bypass the assembly by means of the numerical superiority of the majority, and reduce it to an instrument of the executive. Once politics is corrupted through undemocratic assembly bylaws, all political institutions and society as a whole might swiftly follow suit. Loss of trust in political institutions, depoliticization or radical politicization, polarization and ultimately, the disintegration of political cohesion are possible outcomes in this context.

2 Ipsen (1999), p.825. Constitutional Courts recognize similar definitions. See BVerfGE 4, 144 (149); AYMK E. 2003/21, K. 2003/13, Kt. 01/04/2003.

At the same time, the effectiveness of the parliament's functions also depends on the way in which its relations with the other powers are regulated. As such, in order to understand the state of the parliament in Turkey, we must also look at the law on political parties, the electoral law, the bylaws, and the other powers in their relation with the parliament.

In considering a parliament, we must not entertain the illusion of some golden age that does not exist, where parliaments make decisions and the government merely executes these decisions. This is undemocratic, since parliaments can only function in a process of communicating and interacting with the public opinion and public interests, and make a meaningful representation. Thanks to democratic communication channels, and the functioning of communicative freedoms, political decisions really begin to take shape in the public sphere, and when they reach a certain momentum, are picked up by the radar of the political institutions and begin to be discussed. As such, parliaments are places where political decisions are made through discussion; therefore, also places where consensus is often reached.[3]

In the 21st century, a number of in-system, or directly ontological criticisms have been levelled against all traditionally liberal institutions. Although post-parliamentarism continues to be criticized, despite all the challenges the parliament persists as the core institution of a democracy. Its functioning ensures the legitimacy of political decisions, and the political system as a whole; at the same time, it establishes responsibility and communication between the rulers and the governed. We are in need of a strong and vital parliamentarism which rests on public approval. When political decisions and the political will are not formed in the parliament and in parliamentary processes, the public is not represented, and the election loses its meaning.

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3 Heinrich Oberreuter (2013). "Marginalisierung der Parlamente?" in: *Macht und Ohnmacht der Parlamente* (Ed. Oberreuter), Baden-Baden: Nomos Vlg, p.24.

B. AN OVERVIEW

The Assembly's legislative power, power to supervise the government, as well as representative, budgetary and public functions came very near an experience of classical parliamentarianism.

In Turkey, there is a parliamentary tradition stretching back 145 years. However, this was not an uninterrupted stretch, and the parliament was not always effective. When the Constitution of 1876, the first written constitution outside of the cultural sphere of Christian Europe, came into effect, the First Constitutional Era began. When the first Assembly convened on 31 March 1877, it had an upper house, the Senate, whose members were appointed, as well as a lower house, the Chamber of Deputies, whose members were elected, in line with the other constitutional monarchies of the period. The elected Chamber of Deputies had a pluralist, multinational composition, which the electoral procedure allowed. At the same time, it shared the legislative power with the Senate, and could only propose laws related to its own purview. Further, it had to seek the Sultan's approval to propose bills. Thus, the legislative power really belonged to the government appointed by the Sultan. The parliament did not have the power to supervise the government, and it was prorogued in early 1878, citing the Russo-Turkish War, and was not convened again until 1908.

In July 1908, the Assembly was reconvened following a military rebellion, commencing the Second Constitutional Era. At first, it worked as a democratic power, exercising the instruments of supervising the government (which were not contained in the Constitution), and institutionalizing the vote of confidence. After the reactionary/Islamist rebellion of 1909 was suppressed, constitutional amendments restructured the system entirely along the lines of a constitutional monarchy. The Assembly's legislative power, power to supervise the government, as well as representative, budgetary and public functions came very near an experience of classical parliamentarianism.

Let us note right away that apart from a single exception, the Assembly was composed of a list of names determined by the Committee of Union and Progress (CUP). The list was formed as a result of discussion and in a pluralistic manner, in line with the political atmosphere of 1908, best encapsulated in the slogan "freedom, fraternity, equality and justice". As a result, the parliament was not dominated by the CUP, and preserved its autonomy. At the same time, the CUP's power over the military and in the bureaucracy increased, and when it realized it wouldn't be able to control the Assembly, it unconstitutionally abolished the Assembly in 1912. In unfair elections, it gained a majority in the Assembly and total control over it. The subsequent constitutional amendments weakened the parliament, and it became subject to the unchecked control of the CUP. The Assembly worked as a single-party body until the end of the First World War.

The Assembly was convened for the last time in 1920, as a result of the nationalist movement which began in Anatolia. However, this time, no non-Muslims (except for the Jews) or Arabs were members of the Assembly. When the National Oath was accepted shortly after, the Assembly was abolished by the Allied Powers.

During this second period of 10 years, apart from the first two years, the Assembly was not able to fulfil its democratic functions.

In order to understand the relationship between the functions expected of the parliament in Turkey, and the constitutional reality, constitutional rules are not sufficient. We must also consider certain dynamics which are overshadowed by constitutional rules, and which are even traditionally neglected in analyses of the constitutional order in Turkey.

Firstly, the story of the Assembly's composition and election (its architecture, we might say) is of crucial importance in terms of participation and representation. Unless its architecture is suited to democracy, it isn't realistic to expect the Assembly to produce democracy.

Secondly, we must consider the bylaw which regulates the internal functioning of the Assembly; both in terms of its qualities, and the instruments it wields. In order to rationally understand and analyse the Assembly, we must understand its relationship to the other powers, as well as the regime of political parties and the electoral system. It is important, therefore, following the establishment of a constitutional order, to understand which electoral principles the Assembly is founded on, whether it has a bylaw, and which procedural rules are followed in the absence of such bylaw. In a system without intra-party democracy and primary election mechanisms, where candidates are nominated by the party leader, the Assembly cannot maintain its autonomy; this is not a problem of implementation, but rather, a purely legal problem.

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Thirdly, changes of constitutional order in Turkey are not limited to changes in the text of the constitution. Prior to these changes, preliminary efforts have been extended for the new, planned system. In a constitutional order where in reality all elements of the opposition are discharged, where only those with dispensations are in the civil service, and where public opposition is excluded in the creation of the constitutional order, the Assembly cannot have democratic functions, and neither can it be effective in fulfilling these functions. As such, we must keep in mind that the Constitution of 1924 was created by a single party, and was imposed from the top down; that the Constitutions of 1961 and 1982 were the products of military coups; and that finally, the presidential system of government, one of the most fundamental regime changes in the history of the Republic, was imposed on the country under a state of emergency, when discussion within or without the parliament was not possible. In Turkey, the problem of parliamentarism is not independent of the architecture of the constitutional order, and of the political philosophy of its architects.

C. HISTORICAL DEVELOPMENT OF THE REPUBLICAN PARLIAMENTARISM

1. THE CONSTITUTION OF 1921 AND THE FIRST ASSEMBLY

After the dissolution of the last Ottoman Chamber of Deputies, the national movement in Anatolia made a call for a new Assembly with constituent powers to be convened in Ankara. The elections were bound by the National Oath, and excluded non-Muslims; as a result, the National Assembly was formed. Members of the Chamber of Deputies were considered to be members of the Assembly. This Assembly has a special position, as it aimed to build a new state on the ground of the collapsing Ottoman Empire, and to fight a war of independence to this end. Shortly afterwards to be named the Grand National Assembly of Turkey, this body was initially known as the First Assembly.

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In the elections of both the last Ottoman Chamber of Deputies[4] and the First Assembly, candidates were not nominated or determined centrally; rather, notables from every region and area decided to become candidates, and were subsequently elected. The First Assembly was quite representative as in addition to members of the military and the bureaucracy, farmers, self-employed people, Islamic scholars and clerics were also represented. The Muslim elements in Anatolia came together willingly, and the resulting representation fostered both legitimacy and strength.

The First Assembly was the most pluralist and representative of the assemblies in the post-Ottoman political tradition.[5] The voting bears witness to this fact, as even under the extraordinary war conditions, unanimous consensus was reached only in 2.5

4 It is understood that the last Ottoman Chamber of Deputies elections were held with an exemplary degree of impartiality and freedom. Gologlu writes that this is because at that time neither the government, the parties, Mustafa Kemal nor the national institutions had the power to influence the elections. See: Mahmut Goloğlu (1970). Üçüncü *Meşrutiyet 1920*, Ankara: Başnur Matbaası, p.45.

5 Osman Can (2013). *Kurucu* İktidar, İstanbul: Alfa Yayıncılık, p.37. It is possible to detect this pluralism in terms of the last Ottoman Assembly. The 1908 Ottoman Assembly can be described as a more advanced assembly due to the representation of non-Muslims, but a relatively backward one since the CUP list won all the seats with a single exception. It should be noted that the CUP list is not a hierarchical single-party list, but essentially a coalition list.

percent of the parliamentary votes (these being fundamental political decisions only, chief among which was the ratification of the Constitution of 1921), and in 97.5 percent of the votes there were differences of opinion.[6] This would change in later assemblies.

The conditions of the period, and the composition of the First Assembly which took shape accordingly, contributed to decisions on essential political issues being made in a non-exclusive way, with consensus and discussion.

Despite all the differences and variety within the Assembly, the primary reason why collaboration and consensus worked as a method was that sectarianism was rejected, and as a result, there were no party hierarchies. After the Second Constitutional Era, the performance of the CUP and the opposition parties, and their responsibility in the destruction, fostered a genuine reaction to sectarianism and party hierarchies.[7] Under extraordinary circumstances where each deputy independently bore the responsibility for the fate of the nation, it is quite noteworthy that essential political decisions were made as a result of almost all deputies having consented, and that when persuasion failed, legislation based on voting and majority was avoided; indeed, we believe that this is almost unique. Considering how during the Second Constitutional Era, wars caused the Assembly to be dissolved, and to remain so during the war, it becomes even more striking that the War of Independence was fought in conjunction with the Assembly.

That the Assembly accepted it was formed "not of party members, but of individuals with different opinions" means that the First Assembly must be considered in a context quite different from the traditional Ottoman-Turkish Constitutionalism.

During this period, the Assembly formed a government from among its ranks (Cabinet of the Executive Ministers) using methods of pluralism and consensus, and subjected it to its own will and supervision. That the Assembly accepted it was formed "*not of party members, but of individuals with different opinions*" means that the First Assembly must be considered in a context quite different from the traditional Ottoman-Turkish Constitutionalism.

Within the Assembly, the first groups began to be formed after the Constitution of 1921 came into effect, and the first to become official was the "Anatolia and Rumelia Group for Defence of Law" (A-RGDL), which was established by Mustafa Kemal and his close friends on 10 May 1921. The First Group was followed by the Second Group, which became official a year later.[8] However, we must note that in an atmosphere where group ties, party hierarchy and discipline were not yet established, there were no sharp divisions between the groups in negotiations and legislation; rather, there were MPs within both Groups who voted in favour of, as well as against a given proposal.[9]

6 Ahmet Demirel (2020). İlk *Meclis'in Vekilleri*, İstanbul: İletişim Yayınları, p.159.

7 Similarly, Tunaya, *T.B.M.M Hükümeti*.

8 Bülent Tanör (2019). *Osmanlı-Türk Anayasal Gelişmeleri*, İstanbul: Yapı Kredi Yayınları, p.280.

9 Ahmet Demirel (2012). *Tek Partinin Yükselişi*, İstanbul: İletişim Yayınları, p.34, 38. In the context of the negotiations for the 1921 Constitution, Özbudun arrives at the same conclusion. See Ergun Özbudun (1992). *1921 Anayasası*, Ankara: Atatürk Kültür, Dil ve Tarih Yüksek Kurumu Atatürk Araştırma Merkezi, p.50.

These qualities demonstrate how the First Assembly was a constituent power, and what kind of a political/social agreement, and constitutional will and design it would encourage.

The Assembly was formulated as the centre of political functioning – the fundamental constitutional body that would limit, supervise and direct the government – and it performed accordingly. We must emphasize that during the period of the Constitution of 1921, the power and the function of the Assembly largely depended on the absence of political parties, and on the way in which MPs represented the people directly, without being subject to party hierarchies.

This particular composition and formation of the Assembly also reflects the understanding of its absolute supremacy. The Constitution of 1921 was organized with the Assembly at the centre. The Constitution was based on decentralization, and recognized the autonomy of local governments, as well as a council system. Although fundamental rights were not covered, the first Article of the Constitution stated, "*Sovereignty unconditionally belongs to the People. The administrative procedure is based on the principle that the people personally and actively manage their destiny*". which, although it did not mean direct democracy, clearly emphasized the Assembly's legitimacy and power in this regard.[10] That is to say, the state would be governed directly and actually by the people.[11] This fundamental principle would be realized through the Assembly, autonomous provincial councils, and subdistricts. The Constitution which organized this colourful Assembly with very robust legitimacy, as a body with the only and the ultimate word on the fate of the nation, also reflected the people's reaction to Istanbul bureaucracy.[12]

The Assembly was formulated as the centre of political functioning – the fundamental constitutional body that would limit, supervise and direct the government – and it performed accordingly.

During the time of the First Assembly, the governmental system might be described as an assembly government. In the first two years, the Assembly used its sovereignty carefully and effectively. The Assembly perceived itself as the master of the nation's fate, a war parliament, master of the military and a constituent power, and used its powers sparingly. In the history of Turkey, no other assembly has resisted authoritarian tendencies and bureaucracy to the same extent as the First Assembly.[13]

10 Tanör, *Osmanlı-Türk Anayasal Gelişmeleri*, p.258.

11 The expression "destiny" might lead to the conclusion that in terms of being constituent, the nation directly and actually has authority. For a discussion of this opinion, see Öykü Didem Aydın (2011). *Biz, Halk: Egemenliğin Sahibi", Halkın Kurucu Meclisi (Anayasa Konvansiyonu) ve Anayasa Yapımı*, Ankara: Yetkin Yayınları, p.369.

12 İsmail Suphi Bey's speech to the Assembly proposing the draft contains some very interesting information. See: Ergun Özbudun (2017). *Türk Anayasa Hukuku,* Ankara: Yetkin Yayınevi, p.44. Considering that decentralization was accepted by almost all deputies, it should be said that there was a clear opposition to decentralization and bureaucratic oligarchy in the fundamental idea legitimizing the War of Independence.

13 While evaluating a similar feature in the 1924 Constitution, Soysal makes a striking evaluation: "*When we look back, the period that appears to us as the starting point of the 'unlimited parliamentary power' seemed to the Anatolian revolutionaries as the natural result and end point of the 'limitation of power' line*." See: Mümtaz Soysal (1969). *Dinamik Anayasa Anlayışı*, Ankara: Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, p.13.

The First Assembly did not see itself as a state body or part of the political order; it did not function according to the references of the political power, helping bring these references to the people and making them binding on the public. On the contrary, the Assembly established a political order with social representation and agreement at the core, and represented not the state, but society.

The absence of political parties and hierarchical structures in the Assembly, and the appointment of the Cabinet of Executive Ministers in such a way as to represent the pluralism of the Grand National Assembly, made it possible for the balanced structure of the Grand National Assembly to be reflected in the executive; and as such, limits were imposed on power. However, in an environment with political parties, the operation of this mechanism could only be possible with institutional measures and assurances. And yet, the First Assembly was not able to achieve such an institutionalization.

At the same time, the establishment of the A-RGDL Group on 10 May 1921, which would form the majority in the Assembly, and the election of the Speaker of the Assembly, Mustafa Kemal, at the same time the chairman of the Group, caused the important constitutional powers of the Assembly to be concentrated in the Speaker of the Assembly and the leader of the First Group, which would later be called the *People's Party*. As the Assembly thus gradually lost its power, it also lost its balancing function in the face of the concentration of power that became daily ever more apparent. Following the murder and suppression of the opposition deputies, the Assembly was dissolved in violation of the Constitution, and a new Assembly was formed, predominantly from military and civilian bureaucrats,[14] with the June 1923 elections, in which the opposition was not allowed to stand as a candidate, similar to the 1912 elections.

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While the Second Assembly, which emerged as a result of the single-list election and had a strong party and leader hierarchy, functioned as the *General Assembly of the People's Party*, it would embody quite a different political philosophy. Although early on the Second Assembly was the setting for some technical objections to be expressed, partly due to the symbolism of the "Veteran Assembly", it would soon become uniform and reduced to a formal representative body that unanimously approved the decision of the party leadership. It was inevitable that the actions of this Assembly would differ fundamentally from those of the First Assembly.

On 29 October 1923, a comprehensive constitutional amendment was made unanimously and the Republic was proclaimed. As well as the provision that "*the religion*

14 Demirel, *İlk Meclisin Vekilleri*, p.176.

of the state is Islam", which was not found in the original version of the 1921 Constitution, the provision "*Turkish is the official language*" was added. The autonomy of local governments, which was the most important feature of the 1921 Constitution and which clearly distinguished it from other constitutions (but which is often overlooked in the narrative of constitutional law or political history) as an element of balance and control and a means of democratic participation, was abolished. It should not be overlooked that local government autonomy also has a stabilizing and rationalizing effect on the parliament.

The executive became autonomous from the Assembly (separation of functions). In the government model, the parliamentary system was formally approached. Limiting the absolute supremacy of the Assembly through separation of powers and institutionalization is, of course, an important and desirable development in terms of rational political functioning. However, this choice is far from making any sense on its own.

The executive became autonomous from the Assembly (separation of functions). The original and unique period of our constitutional history ended and another period began in the Ottoman-Turkish Constitutional tradition.

Taking an oath became mandatory for deputies. In our opinion, the democratic aspect of the legitimacy relationship, which flowed from society to the state, began to flow in the opposite direction when the mandatory oaths were implemented.

The 1921 Constitution, which was completely transformed by these amendments, became history with the entry into force of the new constitution in April 1924. The original and unique period of our constitutional history ended and another period began in the Ottoman-Turkish Constitutional tradition.

To summarize, the power and influence of the First Assembly, and thus its historical success, were based on the determination of a pluralistic and participatory method in the formation of the Assembly, the absence of parties and other hierarchies, and the fact that its work was carried out according to open and deliberative methods. The Assembly's tendency to see political parties in a negative light, to avoid institutionalizing the means of control, and to emphasize individual opposition caused it to lose its function in the face of the new concentration of power and the first organizations that emerged.

2. THE 1924 CONSTITUTION AND THE SECOND ASSEMBLY

The Second Assembly also saw itself as constituent. It could not be expected that the political staff dominating the new Assembly *without opposition* would not benefit from the belief and assumption of the "*Almighty and Absolutely Authorized Assembly*", which was generally accepted with the First Assembly. As a matter of fact, no deputies from the Second Group and the Independent Group were elected to the

Second Assembly. With the exception of some of the powerful figures of the War of Independence, such as Karabekir and Orbay, 37.5 percent of the First Group, whose loyalty was not in doubt, were also elected to the Second Assembly,[15] and the rest were made deputies for the first time by Mustafa Kemal.

At the beginning of 1924, this Assembly "unanimously" made a new constitution and put it into effect. That the 1921 Constitution was adopted with a near unanimous majority might evoke a similarity, but there are very different reasons behind this unanimity. What ensured the unanimity in the pluralist First Assembly was that the constitutional vision was not only inclusive and decentralized, but was based on deliberation as a principle. The principle of pluralism and consensus led to a framework constitution and did not allow any exclusionary elements to enter the text of the Constitution. So much so that even though the Assembly was composed entirely of Muslims, the religion of the state was not even included in the Constitution. The unanimity in the Second Assembly can be explained by the fact that it was based on the election of a list prepared under a charismatic leader and appointed according to the principle of loyalty, and the opposition was excluded.

The President's sending back the proposed law to the Parliament merely had the nature of a delaying veto.

Although the constitutions were accepted unanimously in both Assemblies, in the first Assembly the constitutional initiative came from within the Assembly, it was discussed in the Assembly, and all institutional structures, principles and political preferences were determined during this deliberation. In the Second Assembly, the constitutional initiative emerged before the Assembly started to work, and the drafts prepared outside it were quickly discussed and accepted in the Assembly. The main issues were accepted without much discussion. This result can be proven empirically by the observation that the laws enacted in the 1925–45 period were passed unanimously or with near-unanimous majorities in the Grand National Assembly of Turkey.[16]

In the 1924 Constitution, although the Assembly was defined as the body in which sovereignty was manifested and concentrated, the Assembly only exercised its legislative power, while executive and judicial powers were left to separate bodies. The legislative process began within the Assembly or on the initiative of the Council of Ministers and was completed with the signature of the President. The President's sending back the proposed law to the Parliament merely had the nature of a delaying veto.

15 Ahmet Demirel (2012). *Tek Partinin Yükselişi*, İstanbul: İletişim Yayınevi, p.175.

16 For an empirical study on this topic, see Meral Demirel (2007). "Oybirlikli Demokrasi Açısından 1920-1945 Arasında TBMM'deki Oylamalar", in: *Mete Tunçay'a Armağan,* Eds. Mehmet Alkan, Tanıl Bora, and Murat Koraltürk, İstanbul: İletişim Yayınları, pp.725-750; also Ahmet Demirel (2014). *Tek Partinin İktidarı, Türkiye'de Seçimler ve Siyaset (1923-1946),* İstanbul: İletişim Yayınevi, pp.82, 112, 167, 220, 272, 313.

Political parties had the status of associations and could be dissolved by the council of ministers. In this way, all political parties and opposition associations were closed using the (state of emergency) Law on the Maintenance of Order, declared after the Kurdish Revolt in 1925. After the Progressive Republican Party, which was organized as an opposition party and had a more decentralized and liberal programme, was closed, it was necessary to wait until 1945 for the Assembly to introduce an opposition once more.

Of course, it was not possible for the government control tools that were formally present in the system to work in the Assembly of this period. It would be more realistic to talk about a coordination among the Assembly, the Council of Ministers and, in a way, the judiciary and all other institutions. The reason for this should not be sought in the legislative provisions of the 1924 Constitution, because when we look at these provisions (Second Chapter, Legislative Duties, art. 9–30), we see that the legislative function is arranged in a way that is similar to parliamentary government systems. For example, the legislative term of the Assembly is four years. The voting age is 18 and the minimum age for candidacy is 30. The deputies represent not only their districts, but the whole country. The Assembly has legislative, constitutional, executive and administrative powers (such as declaring war and printing money). In fact, the authority to interpret laws is vested in the Assembly. The executive power does not have the right to dissolve the Assembly. At the same time, means of monitoring the government are envisaged. There are mechanisms of vote of confidence, no confidence, and political, criminal and civil liability that are found in the classical parliamentary government system. Against the President, it appears to have a very strong position, since the President is elected by the Assembly and his term of office is limited to the legislative term of the Assembly. The President does not have the authority to send back the Constitutional Amendments and Budget laws to the Parliament. The President also has no authority or influence to declare a state of emergency.

Constitutional reality is however not shaped by the material norms in the text of the Constitution; on the contrary, it is determined according to how the authority norms that are regulated

Constitutional reality is however not shaped by the material norms in the text of the Constitution; on the contrary, it is determined according to how the authority norms that are regulated, as well as not regulated in the Constitution, and the areas of power that are not regulated, are regulated by sub-norms. Despite the fact that the President's limited powers appear symbolic, the continuation of his membership in the Assembly (which makes it possible for him to be a member and leader of a political party), the absence or inadequacy of rules governing the party's bylaws (which leads to a strict hierarchical party discipline, which in turn enables the party's will and ideology to be determined by the President from top to bottom), and ultimately, his ability to personally decide who will become a member of parliament, all serve to transform the Grand National Assembly of Turkey and the Council of Ministers into bodies subordinate to the President.

This outcome does not point to a practical problem arising from historical or political dynamics, or merely to Mustafa Kemal's charismatic personality; on the contrary, the formation and composition of the Assembly which drafted the 1924 Constitution, and especially the Assembly's bylaws and the political party organization make such a result inevitable. The instruments that enable the President to dominate the system are not only de facto but also legal instruments. These instruments override instruments of control that might theoretically work. And in fact, the change of power in 1950 did not allow the system to function according to the classical parliamentary system; on the contrary, the one-party dictatorship was replaced by a majority dictatorship.

In summary, the Second Assembly and the subsequent assemblies formed by the plebiscite approval of the candidates appointed by Mustafa Kemal (and, after 1938, by İsmet İnönü) functioned as formal approval authorities for the political and social engineering projects of a revolutionary cadre.

Only parties that had been authorized by the military junta and that had committed to abide by the May 27 Coup (officially designated the "27 May Revolution") were allowed to participate in the 1961 parliamentary elections.

3. THE PERIOD OF THE 1961 CONSTITUTION

The construction of the constitutional order

The Democratic Party (DP), which came to power in 1950, started to rule by taking advantage of the possibilities offered by the same Constitution, which gave a reason to the founding political elites to seize the government by military means. In the military coup of 27 May 1960 the government was overthrown, and the Assembly was dissolved. The legislative and executive parts of the Constitution were repealed. Legislative and executive power was usurped by the military junta, which called itself the National Unity Committee. The administrators and deputies of the DP, for which public support did not fall below 47 percent during its 10-year ruling period, were arrested. Many of its senior administrators received sentences; the Prime Minister and two ministers were executed by an ad hoc court ("the Supreme Court of Justice") which was established afterwards. An indefinite political ban was imposed on DP politicians (the provisional 11th article of the Constitution).

In the months following the coup, the cadres in the military, the judiciary, the university and other high bureaucracy, who were in office during the 1950–60 period or were in harmony with the constitutional administration of the period, were purged. A Constituent Assembly (Assembly of Representatives), appointed by the military junta, was formed and it naturally did not contain an opposition. In Tanör's approving words, "In this way, regardless of the electoral channels, they achieved a high level of representation in the House of Representatives as progressive, democrat-

ic, Kemalist and socially inclined groups".[17] The draft Constitution prepared by the House of Representatives[18] was accepted with 61 percent of the votes in a referendum where criticism was not allowed, and was put into effect. Until the reconvening of the Assembly, legal studies were carried out in important areas and these laws were excluded from judicial review (Temporary article 4).

Only parties that had been authorized by the military junta and that had committed to abide by the May 27 Coup (officially designated the "27 May Revolution") were allowed to participate in the 1961 parliamentary elections. In addition to the founding ideology, loyalty to the purpose and justifications of the May 27 Coup was determined as a necessity for political parties and a reason for dissolution in case of non-compliance (Political Parties Law art. 83–107 and art. 111–113). The Constitutional Court, composed mainly of those assigned to the Supreme Court of Justice or the Constituent Assembly, was empowered to supervise the Parliament. Junta members were made natural members of the Senate wing of the Assembly.

There was a considerable military influence on the Assembly. This influence was quite effective in the prevention of legislative and constitutional amendments (attempt to abolish political bans in 1969), and sometimes in making constitutional amendments (the 1971–73 amendments). The judiciary, university, press and other bureaucratic institutions, which were among the effective elements of the 27 May Coup, were largely closed off from the Assembly's sphere of influence by legal and de facto means. This situation narrowed the political movement area of democratic politics in general, and the Assembly in particular, and limited democratic politics to the framework determined by the May 27 actors.

From a formal point of view, the Assembly ceased to be an authority where national sovereignty manifested, and was positioned as one of the bodies that exercised sovereignty.

The legal position and structure of the Assembly

From a formal point of view, the Assembly ceased to be an authority where national sovereignty manifested, and was positioned as one of the bodies that exercised sovereignty. According to Article 4 of the Constitution, the nation would exercise its sovereignty through the bodies determined in the Constitution. The Constitution makers did not designate the Assembly as one of the three powers exercising sovereignty. The weight of formal democratic legitimacy was reduced in the use of sovereignty, and it might even be said that legal legitimacy replaced democratic legitimacy. The use of sovereignty was not limited to only the legislative, executive

17 Tanör (2017), p.372. Tanör believes that there is an intention for the deficiency of the process in terms of democratic theory to be remedied by "*the provision that the Constitution is to be submitted to a referendum*".

18 Osman Doğru (1998). *27 Mayıs Rejimi*, Ankara: İmge Yayınevi, p.88.

and judicial powers, and the method of authorizing all bodies regulated in the Constitution by the use of sovereignty was preferred. It might be said that the army also gained the legal right to exercise sovereignty in this way.

The Assembly was designed according to the classical parliamentary government model in terms of its organizational chart. There is no significant deviation in terms of the means of supervising the government. The procedure for the election of the President by the Assembly was continued; however, his relations with political parties were cut off and he was taken to a supra-partisan position; further, his term of office was extended to seven years and he was separated from the legislative period of the Assembly. His being content with symbolic powers also shows that the use of executive power was largely reserved for the council of ministers. However, the fact that the Assembly had to elect all the presidents from among the members of the Army (Gürsel 1961–66, Sunay 1966–73, Korutürk 1973–80) makes the symbolism controversial. The opportunity of the presidents to ensure the participation of the generals in the legislative function, thanks to the quota they had in the Senate, makes this fact even more striking.

The Assembly was designed according to the classical parliamentary government model in terms of its organizational chart. However, the fact that the Assembly had to elect all the presidents from among the members of the Army (Gürsel 1961–66, Sunay 1966–73, Korutürk 1973–80) makes the symbolism controversial.

In addition to the rationalization of the legislative processes, the need to safeguard the system created by the 27 May Coup led to the formation of a bicameral Parliament (the Grand National Assembly of Turkey), consisting of the National Assembly and the Senate of the Republic, which were based on free elections. Let us note right away that while the Senate contributed to the rationalization of the legislative process, it did not act as the guardian of the 27 May system and its sensibilities, and in this respect, it was a disappointment for the military.

Substantial restrictions were introduced on the judicial powers of the Assembly and the government. The Assembly was now authorized to appoint only one thirds of the members of the high councils related to the administration of the judiciary and the members of the judiciary, as well as the Constitutional Court.

It would be difficult to say that the Assembly had sufficient sensitivity in terms of its internal functioning. Functioning in an entirely new, bicameral and different model of government, the Assembly still continued to use the bylaws of the old Assembly dated 1925. The Assembly was able to make its own bylaws only in 1973. However, the effective supervision of the laws by the Constitutional Court in terms of form and substance seems to have enabled a discussion, criticism and an effective opposition between the ruling and opposition groups regarding the inner workings of the Assembly, especially its legislative work.

Intra-party democracy was not specifically included in the Constitution, nor was it regulated or made obligatory in law. For this reason, it is thought that the party hierarchy prevailed. On the other hand, the fact that primary elections were made compulsory by law in parliamentary elections (at the rate of 95 percent of the candidates) relatively weakened the influence of the party hierarchy on the deputies and enabled them to be effective against the executive. So much so that despite the threat of a coup in 1969 and the negative attitude of the Prime Minister, he eventually had to accept the constitutional amendment.[19]

On the other hand, this situation of the Assembly seems to have enabled participation and openness in the legislative and government monitoring functions. Two of the three successful examples of no-confidence in the history of the Republic coincide with these dates (1977, the overthrow of the first National Front Government; and 1980, the dismissal of the Minister of Foreign Affairs).[20]

This situation, which provided the Assembly with a significant function, disappeared after the election threshold was annulled by the Constitutional Court in 1969. Apart from the constitutional amendments it had to make on the Military Memorandum in 1971–73, the Assembly was not able to fulfil an effective legislative function, and lost considerable influence in the election of the President and the Speaker of the Assembly or in the formation of the government.

This situation strengthened the calls for a rationalized parliamentarism similar to the example of France; and at the same time, it was instrumentalized as one of the formal justifications of the 1980 Coup. In other words, the problems arising from the system, the power scheme created by the coup, and the political philosophy on which the system is based, were ignored in evaluating ineffectiveness of the Assembly. Representation, effective government supervision, and the ability of deputies to act relatively autonomously were considered as defects and solution proposals were developed. The call for rationalized parliamentarism essentially pointed to the call for a strengthened executive. On one hand, the ineffectiveness of the Assembly in representation and function accelerated the loss of confidence in the Assembly; and on the other hand, it led to the radicalization of social politics, lending an ontological character.

The call for rationalized parliamentarism essentially pointed to the call for a strengthened executive.

19 However, this amendment, which repealed the temporary 11th article of the Constitution that had imposed an indefinite ban on politics for the Democrat Party members, was annulled by the Constitutional Court.

20 Another example, dated 1997, is the overthrow of the Mesut Yılmaz Government. However, in our opinion, this period should be evaluated in relation to the paralysis of the Assembly as well as the executive after the February 28 military intervention.

4. THE PERIOD OF THE 1982 CONSTITUTION

The construction of the constitutional order

Strengthening the executive and rationalized parliamentarism on the one hand, and increasing fears of terrorism and civil war on the other hand reinforced the belief that the political order did not work. On 12 September 1980, the military seized the administration once more, the government was overthrown, the Assembly was dissolved, and the activities of all political parties were suspended. Martial law was declared throughout the country.

The military junta (National Security Council, MGK) assumed the legislative and executive authority, and General Evren, the leader of the junta, assumed the presidency. Making a commitment to build a new constitutional order by drawing lessons from the negative practices of the 1961 Constitution period,[21] the junta needed nearly three years to return to civilian rule. In this process, all basic laws regarding social, political, economic, judicial and other institutional areas were enacted by the junta regime (Council Laws).[22] So much so that after the parliamentary election in November 1983, laws continued to be issued until the meeting of the Presidency Council of the Parliament, and decrees with the force of law were issued until the government was formed.

The "Advisory" Assembly was formed following a nomination procedure in which no political party could attend, and members were required to have had no affiliation with any political party prior to the coup.

All political parties were dissolved in 1981.

The "Advisory" Assembly was formed following a nomination procedure in which no political party could attend, and members were required to have had no affiliation with any political party prior to the coup. The draft Constitution prepared by this Assembly was revised by the National Security Council and submitted to the public vote, and was accepted and put into effect with 91 percent of the votes in an environment where criticism was prohibited. With the adoption of the Constitution, General Evren became *ex officio* President and other generals became members of the Presidential Council. Again, a 10-year ban on politics was imposed on the central administrators and deputies of political parties (Temporary article 4). Similar to the previous Constitution, the judicial review of the laws enacted during the coup period was prohibited with the Constitution, and the legal, political and financial responsibilities of the coup plotters were eliminat-

21 Türkiye Cumhuriyeti Devlet Başkanı Orgeneral Kenan Evren'in Yeni Anayasayı Devlet Adına Resmen Tanıtma Programı Gereğince Yaptıkları Konuşmaları (24 Ekim-5 Kasım 1982), Ankara 1982, TBMM Basımevi.

22 Political Parties Law, State of Emergency Law, Council of State, Supreme Court, Constitutional Court, Judges and Prosecutors – in short, all the basic laws regarding the judiciary, associations, collective bargaining strike and lockout law, martial law and election laws were enacted in this period. It is known that over 800 basic laws were enacted in this period, of which 669 were laws and 139 were statutory decrees. For figures and broad assessments, see Nuri Alan (1997). Anayasanın İdari Yargıda Somutlaştırılması, Danıştay Dergisi, Sayı 92, Sayı. 1, p.24.

ed (Provisional article 15). After three years of design, cleaning and engineering work, a decision was made to open the Assembly. Similar to 1961, the establishment of four parties (under the administration of two retired generals and two retired bureaucrats) who were thought to work in harmony with the junta administration was allowed. In this period, the centralist feature of the constitutional order was strengthened, and the Army was integrated into the political processes in a much more institutional way.

As can be seen, the system was created wholly and consciously in an exclusionary way. In addition, collective freedoms were minimized; solidarity bans were imposed between organized structures and political parties; freedom of expression and press, which are the prerequisites of democratic representation, were strictly restricted; and participation was made dependent on ideological and systemic loyalty.

In summary, we might say that the Assembly, due to negative factors such as participation bans, the increase in inviolable political areas, and freedom restrictions, was transformed into an apolitical representation body; at least, this was the intention. Essentially, in this, the constitution makers did not see the Assembly as a structure where the free will of the people was represented, where basic political decisions were made freely and the Assembly was sovereign over the state; on the contrary, the Assembly was a device that executed the basic political decisions of the constituents, and its formal democratic legitimacy helped the people to accept these decisions, according to their vision.

Under these conditions and under martial law, elections were held in November 1983 and the Assembly began its work as of December 1983.

The system was created wholly and consciously in an exclusionary way. In addition to laws, the President was vested with the power to send back also constitutional amendments to the Assembly.

Legal position and structure of the Assembly

There is a relationship of continuity with the 1961 Constitution in terms of the general preferences regarding the Assembly, its powers and possibilities regarding the use of sovereignty. It should also be noted that the Assembly is according to the parliamentary government model. There is no fundamental change in the means of monitoring the government and the legislative procedures of the Assembly.

However, when evaluating in terms of the ideological, political and de facto grounds on which the constitutional order is built and its relationship with other institutions, it is possible to talk about considerable differences.

The Assembly did not have any say in who would be the first President after the coup. It had to wait until 1989 for the first presidential election. Further, the power of the Assembly against the President was reduced. In addition to laws, the President was vested with the power to send back also constitutional amendments to the Assembly.

Solidarity bans, and the banning of youth and women's branches significantly weakened the influence of the parliamentary opposition on the government.

The influence of the Assembly on the composition of the high judicial organs envisaged in the 1961 Constitution (one-third) was completely eliminated. The authority to appoint all the members of the Constitutional Court and the Supreme Board of Judges and Prosecutors was left to the President.

The ideal of rationalized parliamentarism also determined the structure and powers of the Assembly to a great extent. In this context, the Senate was abolished and a unicameral system was re-established. In this way, the Assembly worked like a legislative machine. However, it was necessary to wait until 2004, when the status of candidate country for the European Union was achieved and the negotiations started, for the Council's laws to be cleared away. By taking advantage of the legitimacy provided by the European Union process, most of the Council's laws could be replaced by new ones.

Every decision that might be against the government was taken by a qualified majority (confidence, vote of confidence, parliamentary investigation).

Although the decision-making procedure was strengthened, the Assembly lost substantial authority and influence in terms of its basic functions.

Firstly, rationalized parliamentarism mainly served the purpose of strengthening the executive. The election of the President and the formation of the government were facilitated, and overthrow of the government was made difficult. The number of decision and meeting quorums in the legislative and other decision processes of the Assembly were reduced. Undoubtedly, every decision that might be against the government was taken by a qualified majority (confidence, vote of confidence, parliamentary investigation). *Secondly*, the 10 percent electoral threshold fundamentally damaged the representation function. The threshold, which was thought to prevent the radical leftist, right-wing and Islamist movements from entering the Parliament, did not succeed in this aim, and it even contributed to such groups gaining a parliamentary majority and controlling the country's government, due to the loss of legitimacy and trust caused by the centrist parties. *Thirdly*, when the primary election system became no longer compulsory in parliamentary candidacy and the absence of intra-party democracy prevailed, rationalized parliamentarism did not strengthen the Assembly; on the contrary, it lost its function. In the 1990s, especially in the environment of instability caused by the military intervention of February 28, even though there were examples where the Parliamentary commissions were partially effective, we observe that the Assembly was not very effective in the control of the government and in informing the public.

To summarize, in the period of the 1982 Constitution, contrary to general assumptions, the Assembly lost effectiveness and functionality. The claim to democratic

representation further weakened, and its influence further diminished in terms of negotiating and discussing social interests, and transforming social demands into political decisions and laws. It seems more appropriate to see the Assembly's effectiveness between 2002 and 2013 as related to the support of a political movement (AKP) which essentially sought legitimacy. This is because the same Assembly, although there was no change in its legal status, powers and opportunities, was unable to show any reaction to the radical change of direction from democratic goals of the political movement in question, and it continued to function in harmony with the requirements of this political movement, since it constituted the majority.

5. 2017 AND THE PRESIDENTIAL SYSTEM PERIOD

The construction period of the system

Undoubtedly, one of the most dramatic periods of Turkish parliamentarism began with the transition to the presidential system in 2017.

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After the failed coup attempt in 2016, a state of emergency was introduced across the country. With the support of the MHP, efforts towards a presidential system, which had been on the agenda of the AKP since 2012, began. However, the working place was not the Parliament. A draft prepared by the AKP-MHP leaders in their own headquarters, closed to the deputies and the public, was added at the last minute to the proposal prepared by AKP-MHP deputies with open signatures, and was presented to the Speaker of the Assembly. MPs and the public only became aware of the draft at this stage. It was quickly voted and accepted in the committees and the General Assembly, contrary to the procedural rules of the Constitution and the bylaws (secret voting condition), and submitted to a referendum.

Despite the warnings of the Venice Commission of the Council of Europe that it would "lead to a personal authoritarian system" and calls for the amendment to be withdrawn[23]; and despite the highly controversial counting of the votes under the conditions of the State of Emergency,[24] where meetings and demonstration marches were banned throughout the country, and critical voices had very limited access to the public, the referendum went ahead. The amendment passed, with a rate of 51.42 percent.

23 Venice Commission, Opinion on the Amendments to the constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a national Referendum on 16 April 2017, CDL-AD(2017)005, §133. https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)005-e

24 Kemal Gözler (2017). Mühürsüz Oy Pusulası Tartışması, YSK'nın 16 Nisan 2017 Tarih ve 560 Sayılı Kararı Hakkında Bir İnceleme, https://www.anayasa.gen.tr/muhursuz.html (accessed 28.7.22).

It should be noted right away that the change was not made for the purpose of a fresh start. After the system change, the duties of the Assembly, the presidency and the ministries did not end, and new elections were not held. The powers were reorganized by keeping the existing institutions and persons in their places (except for the Prime Minister) and giving the powers over to the current President, who immediately started to use them. The current President, who had not been affiliated with political parties as per the Constitution, was quickly appointed as the chairman of his former party AKP and became the party president. As such, it is more appropriate to talk about a personal system change.

The legal position and function of the Assembly

It is unlikely that a government system change realized in this way would have a positive bearing on the efficiency and functionality of the Parliament. However, in order to make an assessment in this regard, it is first necessary to reveal what kind of changes were made in the powers of the Parliament under the newly introduced system. In addition, there has been a break in the constitutional tradition of Turkey with the transition to the presidential system, and as such, this break and change in the system must always be kept in mind when making any assessments regarding the Parliament.

The current President, who had not been affiliated with political parties as per the Constitution, was quickly appointed as the chairman of his former party AKP and became the party president.

Let us immediately point out that the change in the system has been limited to technical issues, which are very necessary and urgent for the functioning of the presidential system at the constitutional and sub-constitutional level – in other words, due to the abolition of the Council of Ministers and the transfer of its powers to the President. Thus, no changes were made in the electoral system, the regime of political parties and the bylaws that would increase the effectiveness of the Assembly or allow it to establish a balance.

To start with an interesting point, although the presidential system is based on a strict separation of powers, and thus the interaction between the powers is only ensured by instruments of balance and control, the expressions reflecting the typical features of the parliamentary government system in the preamble of the Constitution have not been touched.

As such, according to the new state of affairs as well, the separation of powers must be understood "*not as a hierarchy ranking among state bodies, but as a civilized collaboration and division of labour comprised of, and limited to the exercise of certain State powers and duties*". In our opinion, it is difficult to say that this choice, which directly affects the legal status of the Assembly, is due to an oversight, because it seems to be compatible with the way the system is built.

In the new system, the parliamentary question, parliamentary inquiry and investigation procedure were continued, but the institutions of no-confidence and

no-confidence vote were abolished. This is in line with the nature of the system, so it cannot be interpreted as making the Parliament dysfunctional in itself.

On the other hand, the instruments of strict separation of powers and balance and control mechanisms, which should exist in a democratic presidential system, were not provided to the Parliament. The Assembly has no say in appointments, especially of the vice-president and ministers, and is not an approval authority. For this reason, the Assembly does not have the means to ensure the adherence of institutions to the laws, of its own accord. Thus, a relationship of loyalty was not established between the institutions and the Assembly, and the existing relationship was eliminated. When we consider critical power institutions such as the Army, police, religious affairs, finance, education, and intelligence, it can be understood what it means to not have a relationship of loyalty. The President has been defined as the sole owner and sole user of the executive, and all appointment powers have been vested in him. Therefore, it is no longer possible to talk about the institutions of the Assembly (the "army of the Assembly", etc.).

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It is also no longer possible for the Assembly to control the bureaucracy and the administration. In the old system, it was able to supervise the administration through commissions, since it had the opportunity to assume the responsibility of the government or individual ministers, albeit formally. This possibility is no longer available. Therefore, the commissions and audit commissions formed in parallel with the mandate of each ministry have ceased to function, and their operation is limited to preparing reports according to the level of interest exhibited during legal preparations. As a matter of fact, changes in the bylaws which would provide the auditing tools that the Assembly should have as a requirement of the presidential system, and which would activate the commissions, have not been made and are not expected to be made.

On the other hand, the President was allowed to be a party member again after 57 years. Undoubtedly, it is not unusual for the President to be a party member in democratic presidential systems. However, when the absence of democracy within the party, the strict hierarchical state of the parties organized according to the leader principle (*Führerprinzip*)[25] and the absence of mandatory pre-election in parliamentary elections are considered together, the fact that the President is a party member will mean that he can also control the majority of the Assembly. And in fact, the current practice reveals this result in all its dramatic dimension.

25 In German Constitutional Law, it is forbidden to organize parties according to the leader principle. According to the Constitutional Court's case-law, this can be considered as a reason for party closure. BVerfGE 2,1, 71.

The electoral threshold for parliamentary elections, which is a parliamentary system tool, was not abolished, and the 10 percent threshold was maintained, although the government did not need the support of the Parliament and the stability to be achieved thereby. This, in addition to the problems already presented in relation to previous periods, will enable the President to dominate the powers with much less public support.

The President's control of his own party does not only mean control of the legislature. Considering that three of the members of the Constitutional Court and more than half of the members of the Council of Judges and Prosecutors are elected by the Assembly, and that the members of the Supreme Court, the Council of State and the Supreme Election Board are determined through these institutions, this creates the risk that the judiciary will come under the control of the President. Since the President directly appoints the members of the Constitutional Court and the rest of the members of the Council of Judges and Prosecutors, it would not be wrong to conclude that the Parliament no longer has a say in judicial appointments.

The President's control of his own party does not only mean control of the legislature. It is very difficult to make a prediction about the situation that may arise if the President is a member of one party, and the parliamentary majority belongs to a different party.

There is also a significant change in the Parliament's budgetary right. For the first time in the history of the Turkish Parliament, the Assembly has lost its right to the budget. In the newly introduced system, when the Parliament does not accept the budget proposal submitted by the President, the President continues to use the previous year's budget by increasing it at the revaluation rate. In other words, he no longer has to gain the approval of the Parliament to use the state budget.

It should also be emphasized that as long as the President can control the majority of the Assembly, he can use his legislative power almost directly through presidential decrees.

The President can dissolve the Parliament. In this mutually designed annulment system, while only the President's declaration of will is sufficient to dissolve the Assembly, it will be necessary to reach a three-fifths majority in order for the Assembly to decide on an election and thus to terminate the term of office of the President. Moreover, if the Assembly decides to dissolve, the President gets the right to once again run for the presidency, as a bonus.

It is very difficult to make a prediction about the situation that may arise if the President is a member of one party, and the parliamentary majority belongs to a different party. Since the system is not designed according to the possibility of other people being President, and therefore not built according to the logic of an objective system, any evaluation on this point would be speculative.

However, if the new system is to be evaluated in terms of the Assembly, it can be interpreted as the self-liquidating of the Assembly. This liquidation is not only de facto, but also legal.

D. DETERMINATIONS – PROBLEMS

In a pluralist, democratic state of law, the powers and limits to power of each constitutional institution and body are reflected in legal rules and control mechanisms. Especially in a Parliament where democratic representation, and therefore the democratic will of the people, emerges through periodic elections, the boundaries of the institution are also reflected in the system norms that ensure participatory pluralism, and in the procedural rules that maintain it. While the Parliament uses its authority within the framework of constitutional rules, it also transforms pluralism into its own rational limit and balance, thanks to the open communication, deliberations and debates provided by the rules of democratic procedure. In this way, a political body signs laws that appeal to the public good, balances the executive power, and absorbs radicalism; on the one hand, it is criticized while on the other hand, it creates societal confidence regarding its indispensability. This trust is also reflected in other institutions that gain their legitimacy through the Parliament. This relationship also ensures the formation of a bond of loyalty between all constitutional institutions and the Parliament, and therefore the people. This is because in democratic systems the loyalty of the institutions is not to the executive organs, but to the Parliament as the place of democratic representation.

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In short, the dynamics that make a democratic parliament effective and reliable are pluralism, participation, democratic procedural rules, and rational legal boundaries. It is also worth emphasizing the public scrutiny provided by the regime of freedoms.

Although there are many limits to parliamentarism in Turkey, it is difficult to say that these limits contribute to the effectiveness and reliability of the Assembly. It is possible to summarize these constraints and limitations as follows.

The first is the ideological space constraint. The Assembly could not go beyond the ideological parameters set by the constituent will; its attempts to do so were either limited or failed. In the aspects of this restriction related to nationalism and religion, the space of the Parliament is narrowed not only externally but also internally. In these areas, the Assembly could not even protect the law of its members, and it was able to quickly run the process of lifting immunities. It should also be mentioned that the constitutional order causes an exclusionary and polarizing political reality on this axis.

The second is institutional constraints. The powers vested in the Parliament in classical democracies become dysfunctional in the reality of Turkey's constitutional order. The power sharing and relationship mechanism with the executive, judiciary and other institutions prevents the Assembly from using these powers effectively and renders them dysfunctional in practice.

The Assembly could not go beyond the ideological parameters set by the constituent will; its attempts to do so were either limited or failed. The powers vested in the Parliament in classical democracies become dysfunctional in the reality of Turkey's constitutional order.

Thirdly, there are legal constraints. These constraints, which are also related to ideological preferences, can legally or de facto limit the Parliament's authority in key political decisions. The Assembly cannot touch the ideological preferences of the Constitution, the norms that cannot be changed (Constitution Articles 1–4) or amended (such as the Preamble, Article 81 on the Oath of Members of Parliament and Article 174 on the Protection of Revolutions), and cannot make political decisions in this area. Likewise, it is necessary to add to this list the prohibitions in the Law on Political Parties, which are directly related to its own structure. It should be recalled that in all democratization reforms, there were attempts to prevent the dissolution of political parties only by changing the procedural norms, but the ideological norms that constitute the main problem were not touched at all.

Fifth is the existential constraints of the Assembly. Whether the Assembly can fulfil its function and maintain its autonomy depends on the political parties regime and electoral law, regardless of the above constraints. Intra-party democracy has hardly been the case in Turkey's parliamentary history. Arguably, in a political party regime that does not allow the formation of a democratic will, the claim of democratization of the parties has been limited to the abolition of the anti-democratic control tools in the system. As soon as this restriction was lifted, an uncontrolled "national will" discourse was quickly adopted, and judicial/legal borders were targeted. In addition, parliamentary majorities have become an expression of the leader's desire for power, and not of social diversity. The fact that the primary election is not applied in the appointment of parliamentary candidacy reinforces this portrait. Such is the reality of Turkish parliamentarism.

The sixth is constraints arising from the emphasis on stability in the administration. As stated above, rationalized parliamentarism practices are essentially practices that strengthen the government, not the Assembly. The 10 percent electoral threshold, which has been implemented in Turkey for 40 years, has led to a deficit of democratic legitimacy, sometimes up to 45 percent, in addition to its function of preventing the representation of social minorities, which the political elites do not desire, in the Parliament, and has severed/weakened the relationship between the electorate and democratic representation, as well as triggering alienation from the system. It becomes difficult for an assembly, when its relations with the electorate weaken, to fulfil its functions, and corruption becomes inevitable.

The seventh can be formulated as psychological constraints. In accordance with the political philosophy of the constituents of the constitutional order, it must be admitted that the Assembly does not have a central position in the functioning of the system. Although the Assembly has been described as a "*veteran*" many times, it has always lagged behind the President in state protocol. When evaluated together with other constraints, it can be concluded that the Assembly applies a self-limitation. In addition, in accordance with the fundamental political preferences of the constitutionalists, the Assembly tends to see itself as a state institution rather than as a representative of the society, and thus as an organ which works more or less in harmony with the ideological preferences of its constituents. Even if this is not conscious, at least we can say that it is a learned behaviour. In our opinion, it is an important indicator that the oath is mandatory for deputies and that it is accepted as a prerequisite for participating in legislative work, while opposition to the oath is generally limited to some expressions in the text of the oath. For this reason, the Assembly cannot move beyond the constituent sentiments and psychology of the founding period, when many major social traumas (Balkan wars, Caucasian relocations, occupations, etc.) were experienced. The Assembly does not see itself as mature enough to assume responsibility.

Intra-party democracy has hardly been the case in Turkey's parliamentary history

E. RESOLUTIONS

Parliaments should also be conceived as effective, decision-making and supervisory; in short, results-oriented as political decision-making bodies.

In addition to being a place for political discussion, parliaments should also be conceived as effective, decision-making and supervisory; in short, results-oriented as political decision-making bodies. For this reason, solutions can be developed by taking into account the freedom and opportunity for negotiation, as well as its effectiveness.

Of course, solutions should not reflect an ideal political life, or a romance. Democratic representation should focus on the mechanisms and institutions suitable for the realization of the basic functions of the Parliament, and create these opportunities. It must keep the channels of communication and interaction open. Apart from this, space should be cleared for the dynamics and legality of the process.

The parliamentary problem in Turkey should not be evaluated only with regard to factors specific to Turkey. While answering the question "what kind of parliament", the answer should not be limited to the changes necessitated by a return from the current presidential system to the parliamentary system. This is because parliamentarism has much more critical problems, both in general and in the 21st century, and solutions to these problems must be found.

While creating proposals for solutions, it should not be forgotten that the main power and influence of the Assembly comes from its fair representation, pluralism, and the opportunities for negotiation and inspection that it affords. Again, we must emphasize that we cannot conceive of a quest for an effective Parliament as independent of the basic parameters of the constitutional order. For this reason, it does not require an explanation that a constitution based on the individual and the society as part of a liveable and sustainable environmental understanding based on

social contract, free from exclusionary ideology, values and premises, and whose functioning is designed accordingly, is a prerequisite. The following recommendations are to be understood in such a context.

A. INTERNAL PARLIAMENTARY WORK

- Constitutional amendments or a new constitution should not be a prerequisite for bylaws. While the bylaws are as effective as the constitution, they can be changed without a qualified majority. Institutionally, the bylaws are at the forefront of the ineffectiveness of the Assembly and the opposition. Before initiating constitutional amendments, which directly concern the fate of the society, activating the Assembly, which claims to represent the nation, is of vital importance to ensure the legitimacy of the process. This method creates a clearing of space, strengthening channels of legitimacy and facilitating participation. On the other hand, since the activation and strengthening of the Assembly through bylaw changes will make the deputies relatively autonomous against the party hierarchy, rational decision processes will come into play, and may encourage the deputies toward a new beginning. This, together with the system change, may create a historic opportunity for the construction of a democratic constitutional order.

Constitutional amendments or a new constitution should not be a prerequisite for bylaws.

- In the bylaws, the practice of shaping the commissions entirely according to the majority of the government and determining the agenda accordingly should be abandoned. The presidency of the commissions and the authority to decide on the agenda should be organized with a pluralistic approach, and shared between the government and the opposition. Critical commissions in the audit, which can be considered to include the Constitutional Commission, should be based on equal representation of the political parties that form the Parliament.

- The Presidency of the Assembly should be an active role; a rotating presidency should be considered, and the Presidency Council should be focused on equal representation, at least in order to ensure the effectiveness of the opposition.

- Determination of the agenda of the General Assembly should not be left entirely to the majority; the issue of proportional and equal distribution should be discussed.

- Parliamentary audit commissions must become active. Commissions must have executive powers, such as the suspension from duty of a government official who does not respond to the inspection or does not comply with the call, and so on; concrete sanctions must be imposed. Or, in these cases, the political responsibility of the relevant minister might be invoked without the need for preliminary negotiations.

- A qualified majority (3/5) should be sought for the rejection of some of the opposition's research commission proposals, rather than for their acceptance.
- Voting to include motions of censure and similar audit instruments on the agenda should be abandoned, and discussion should be carried out without the need for a pre-vote.
- The work of the Assembly should be made public, and closed-to-public negotiations should be subject to open exceptions.
- Any agenda that has not been negotiated in the Assembly in a process involving the deputies should not be allowed to turn into the agenda of the General Assembly. The Assembly should not be a place where issues and agendas that are discussed and decided by the party leadership in places other than Assembly are passed only by voting. In addition to voting, the Assembly should also be the seat of deliberations and initiatives.

The prime ministerial candidate should be determined in advance by the parties at the General Assemblies, and the party leader should be prevented from being an automatic candidate for prime minister.

- The budgetary right should become active. The Assembly and its deputies should be able to carry out effective supervision not only during the adoption of the budget, but also in expenditure policies, and should not delegate authority to the executive through abstract authorizations (similarly, German Constitutional Court decision, BVerfGE 3 BvR 987/19, 7.9.2011). In other words, the Assembly should not only be able to give spending power, but should also be able to control whether this power is used in accordance with its own will.
- The Court of Accounts should become active, and it should be ensured that it works in cooperation with a commission based on equal representation in the Assembly or where the President and the agenda are under the control of the opposition. The role of the restriction of the powers of the Court of Accounts under Law No. 6353 in 2012 in the current antidemocratic state of affairs cannot be denied.
- The Ombudsman institution should be activated in line with its supervisory function. Although the Ombudsman has been supported by the Council of Europe and the European Union institutions, it is obvious that it has become ineffective for the same reasons as the Assembly has lost its effectiveness and function.
- The person who forms the government should be determined by the Parliament, and approval of the formation of the government should be left to the President. This makes the Assembly the primary power in determining the person who forms the government. Rather than having only the authority to offer confidence to a government appointed and approved by an authority other than itself, the Assembly should be able to both determine and express its confidence.

- The prime ministerial candidate should be determined in advance by the parties at the General Assemblies, and the party leader should be prevented from being an automatic candidate for prime minister. This is because this situation is one of the leading factors that undermine intra-party democracy. When the decision is left to the party base, the relationship between the person who would become the prime minister and the political party that would support him becomes more rational and can generate political will autonomously from the party chairman. This also makes a substantial contribution to the supervision and rationalization of the executive.
- Separating the prime ministership from the party chairpersonship should at least be considered.
- The scope of parliamentary immunities should be narrowed. While the institution of immunity protects the opposition against the executive, it is not effective for those who oppose the system (such as the Kurdish political movement); at the same time, it contributes to loss of confidence in the legislature. With the independence of the judiciary and the elimination of the ideological and exclusionary features of the state, the need to protect this institution in its current form would disappear.
- The number of parliamentarians' advisors should be increased, and their selection should be left to commission interviews; the driver practice should be abolished, and advisors should be experienced in academic research, empirical study and overall research. The current practice is mostly influenced by clientelism, nepotism and vote bargaining. Rationalization of parliamentary work also requires qualification. Each MP may not necessarily be an expert due to the nature of democratic representation, but he should be knowledgeable about the issues to be discussed in the Assembly so that he may be effective.

Rationalization of parliamentary work also requires qualification.

- In terms of good legislation:
    - Consideration should be given to adopting the principle of "group decision and proposal" in legislative proposals. Although it is not a problem in itself that individual deputies have the right to propose laws, the fact that law proposals are in the form of group proposals contributes to the rationalization of the legislative process.
    - The practice of omnibus bills must be prevented. This practice, which renders the legislative processes unpredictable and then exposes the implementation to serious problems, is an example of abuse of the legislative process.
    - Technical issues should be left to the executive, and the legislature should focus on the creation of general norms. With the realization of the reforms

spelled out above, the Assembly would become more effective in overseeing the government. In this scenario, there would be no need for detailed legislative work that claims to consider every possibility, which is an expression of distrust in the executive and the will of the executive/bureaucracy to avoid responsibility; the legislature would clarify the framework of the political field, and the government would fulfil its duties under parliamentary control.

- Similarly, to France, organic law enforcement should be considered. While some laws are related to technical and limited issues, others might deeply affect social and political life. Laws on the functioning of institutions, civil and criminal laws, laws governing associations and political parties, laws on business life and the judiciary are laws that can affect a society's long-term future in terms of their effects and outcomes. Passing each law by the same simple majorities without making any distinction between them leads to abuse of legislative power. For this reason, it is necessary to accept the second group of laws as "organic" or "basic" laws and to subject their amendment to qualified majority (1/2).

The necessity for a new Law on Political Parties and Electoral Law must be considered.

B. LAW ON POLITICAL PARTIES AND THE ELECTORAL LAW

- The necessity for a new Law on Political Parties and Electoral Law must be considered.
- The electoral threshold is necessary for the effectiveness of the Assembly. However, while determining this electoral threshold, the absence of democratic representation authorities in any other region of the country must be taken into account, and the threshold must be determined in conjunction with the objectives of representing social differences and avoiding exclusionary consequences.
- Intra-party democracy should be made compulsory, institutionalized by law and sanctioned. Intra-party democracy should also be ensured by the statutes of political parties. Sanctions should be imposed on political parties that resist or refuse to institutionalize intra-party democracy and insist on operating according to the principle of leadership, and closure sanctions should be considered depending on the degree of violation.
- Preliminary elections must become compulsory. The individual, and not the party must be emphasized; the electorate must see who they are electing.
- The rate of dues to be collected from members should be increased, and its payment should be determined as a prerequisite for both becoming and remaining a member. A membership system without payment of the membership fee creates a corrupting effect. The member does not act in support of a political

programme, with the goal of political participation, but rather, sees membership as a way of plundering public resources. The determination of membership dues as a non-trivial amount strengthens the relationship of belonging, questioning, adoption and supervision between the political party and the grassroots, and this contributes to the rise of democracy within the party from the grassroots.

- State aid to parties should be reorganized, and the practice of reimbursement of expenditures should be adopted. Determination of the amount of aid to be given to the parties in direct proportion to the number of votes should be abandoned. Instead, the amount should be determined in close ratios and without considerable differences. Political parties are an indispensable element of democratic political life. This indispensability is directly proportional to the active participation of the parties in the political process. A state aid method that would reduce the motivation for active participation corrupts the parties, at the same time as it weakens the relationship between the parties and the voters, and turns them into structures integrated into the state.

C. IN TERMS OF THE SYSTEM

- The principle of appealing to the Constitutional Court should be implemented in the settlement of disputes between the legislature and the executive (and local governments and central administration). In disputes between the Assembly and the government, the President and the opposition, the problem should not be seen as an absolutely political one. The authority to file an organ dispute lawsuit should be given to all party groups. An important part of the political crises in Turkey is that relations between the legislature and the executive are seen as purely political ones, and only the means of "rationalized parliamentarism" are considered as a way to solve the crisis. Rationalized parliamentarism ultimately damaged the effectiveness and functionality of the Assembly. For this reason, the final resolution of the "conflict of authority" between the two powers by a Constitutional Court with increased democratic legitimacy may produce much more positive results. It is necessary for Turkey that the actors in the political field think in a way which is "limited by the law, and connected with the law" when making political decisions.

The principle of appealing to the Constitutional Court should be implemented in the settlement of disputes between the legislature and the executive (and local governments and central administration).

- Provincial pressure on parliamentarians should be removed, as this is a major obstacle to parliamentary activity. Local governments should be strengthened, and problems of voters should be resolved locally. The solution of concrete problems should be transferred to the local level, and parliamentarians should be in communication in terms of more general political issues.

- Being a deputy should be attractive to those who have the desire, ability and competence. It should not be attractive to careerists and opportunists.
- No organ other than the Parliament should have direct democratic legitimacy, and all organs should obtain their legitimacy indirectly through the Parliament. The President must be elected by the Assembly. The effect of the dual and competing legitimacy practice, which began with the 2007 constitutional amendments, leading to the 2017 system change, is undeniable. Although it is obvious that the only authority given to the President through direct election is "executive" power, in practice this plays out differently, and is perceived as absolute legitimacy for the presidential electorate.
- Elections to the Constitutional Court and other judicial authorities (Council of Judges and Prosecutors) should be organized by granting quotas to political parties with a group in the Assembly, and by obtaining a two-thirds majority. The Constitutional Court is not just a legal organ. This court also decides whether the balance and control between the powers is functioning in accordance with the Constitution and whether the powers are within the constitutional limits. In a way, they are "line arbitrators" in the political game among the constitutional powers. These institutions become effective and rational in proportion to their pluralism and democratic legitimacy. The European practice provides important data in this regard (see Germany). With this method, nomination of Constitutional Court candidates by political party groups represented in the Assembly would reflect a variety of social and political background knowledge, experiences, and perspectives. A two-thirds majority would require the approval of rival political parties, and therefore would ensure that only moderate and reliable names become members. At the same time, it should be remembered that transparency, public scrutiny and intense parliamentary negotiations should be ensured by legal regulations.

Being a deputy should be attractive to those who have the desire, ability and competence. It should not be attractive to careerists and opportunists.

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TURKEY'S SEARCH FOR A NEW POLITICAL SYSTEM

06

LEGISLATIVE BODY IN TURKEY: ISSUES AND SOLUTIONS

The system debate is arguably the most pressing and consequential subject of Turkish politics. Turkey has been having a governmental system discussion for a period of time, and the next few years will appear to be in intense debate and search.

Turkish parliamentary system experience (1876-2017) often dealt with interruptions. As a result, it has not only failed to produce general satisfaction in politics and society but also has been unsuccessful in yielding economic stability. Similarly, the outcome of the last five years of the Presidential Government System (or the Presidential System with its widespread use) could not generate stability.

The search and discussion of the governmental system appear to be the most critical topic of politics for the next few years. Regardless of the outcome of the June 2023 elections, the system debate will be the most crucial topic of politics in the short term.

Meeting this demand and preparing enhanced research on the governmental system will play an essential role in the quest for a possible change.

Comprehensive research should present a comparative, global, political, and constitutional base for the debates and assist decision makers in political parties and the public in finding an enriched discussion floor.

Within the framework of this program, Ankara Institute plan to publish ten academic analyzes that will contribute to the search for systems over the next year in order to meet this end.

The research plans to conduct two workshops with the participation of stakeholders that we predict will contribute to the system discussion and hold a detailed public opinion survey.

This study in which Osman Can evaluates the legislature through its normative elements, practices to date and suggestions on what kind of system should be built, constitutes the sixth report of the academic contribution series that made out of 10 reports.