THE POWER AND EFFECTIVENESS OF PRIME MINISTERS IN TURKEY FROM THE STANDPOINT OF THE CONSTITUTIONS DURING THE REPUBLICAN ERA

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ÖZET

Başbakanlık görevinin karakteri, başbakanın kişiliğine göre büyük ölçüde değişim gösterir. Fakat bir ülke içindeki tarihsel deneyimler, siyasal kültürler, anayasalar, gelenekler ve o ülkeye özgü uygulamalar da bu konuda belirleyicidir. Gerçekten de başbakanlık görevinde, bir ülke içindeki koşullar ve kişiliklerin farklılığına oranla, ulusal siyasal kurumlar arasındaki farklılıklar, daha fazla değişim yaratır. Bu bakımdan denilebilir ki, bu konuda en belirleyici faktör, bir ülke içindeki anayasal koşullardır.

Türkiye'ye ilişkin bu çalışmada, Cumhuriyet döneminde birbirinden farklı üç anayasa kabul etmiş bir ülkede, bu konuda başbakanların kişiliği ve yerleşmiş geleneklerden çok, yürürlükteki anayasal hükümlerin etkili olacağı düşüncesi ile hukuksal bir yaklaşım tercih edilmiştir.

Bu çalışma, her üç Anayasa döneminde Türkiye'de başbakanların gücünü, söz konusu Anayasa hükümlerine göre belirlemeye çalışmaktadır. Bu güç Anayasa dönemlerine göre bazı farklar göstermekteyse de, Cumhuriyet döneminin tümü bakımından başbakanların gücünde çok önemli değişmelerin yaşanmadığı da gözlenmektedir. Her bir dönemde bazıları başbakanların gücünü artıran, bazıları ise azaltan Anayasal prensiplerin uzun dönemde birbirini dengelediği söylenebilir. Ancak "çoğunluk seçim sistemine" ve tek partinin egemenliğine dayanan birinci döneme göre, 1961 ve 1982 Anayasalarının getirdiği kontrol ve yeni dengelerin, ayrıca koalisyon hükümetlerinin ve yargı denetimlerinin etkisiyle

başbakanların gücünün giderek azaldığı görülmektedir. Öte yandan makalede açıklanan çeşitli Anayasal prensiplere nazaran bazı makro değişkenlerin, örneğin Anayasanın otoriteyi üniter bir devlet içinde merkezileştirme ya da federal bir yapıda ademimerkezileştirme derecesi, benimsenen seçim sistemi, tek-partiye karşılık koalisyon hükümetlerinin varlığı vb. gibi faktörlerin uzun vadede başbakanların gücünü belirlemede daha önemli oldukları sonucuna varılabilir.

ABSTRACT

The power that the Prime Minister of any country possesses is a function of certain characteristics associated with the political culture and historical experiences, traditions and constitutional structure of the country concerned. This article argues, however, that in the short-term the most salient factor in this regard is the constitution that is in force during a certain era under study.

Prime Ministers in Turkey within each constitutional period seem to have demonstrated either more or less power, depending on the extent to which constitutions have provided them with certain powers, e.g. the authority of the executive branch to dissolve the legislative branch, delegation of the legislative power to the executive branch, the increase in the powers of the president, relative effectiveness of the judiciary to monitor and check the executive and/or legislative branch. These variations notwithstanding, it should be noted that over the Republican period taken as a whole, the powers of prime ministers in Turkey seem to more or less approximate each other in the long run. Opposing legal powers associated with the office of prime ministers in each period, some increasing while others reducing their authority, seem to have offset each other throughout the Republican era. However, compared to the earlier single-party era based on the "majority election system," the checks and balances introduced under the 1961 and 1982 constitutions, coupled with the presence of coalition governments as well as enhanced powers granted to the judicial branch, have somewhat curbed the effectiveness of prime ministers in Turkey. Compared to the fragmented constitutional principles delineated in the above paragraphs, macro variables (i.e the extent to which the constitution has centralized authority within a unitary state as opposed to a federal structure, the nature of the election system, the dominance of a single party versus multi-party coalition government) seem to be more important in determining the relative power of prime ministers in the long-run.

INTRODUCTION

Any study on the role and functions of the prime minister is likely to reveal certain features associated with the characteristics of the country studied, for each system is unique as it has been shaped by certain historical experiences, political cultures, constitutions, traditions and practices in the country concerned.

Insofar as the functions of the prime minister are concerned, however, differences among the political institutions play a more important role in creating change than national conditions or personality characteristics. As Richard Rose argues, "differences between national political institutions create more variation in the office of prime minister than do differences of personalities and circumstances within a country".[1] The former are more stable and consistent than the latter. In this context one could safely argue that the most salient determinant shaping the political institutions is the constitutional structure prevailing in the country studied. For example, in a country like Turkey where three different constitutions have been adopted during the Republican period, it was only natural that principles set forth by the Constitution in force were more influential in determining the functions and power of the Premier's office than the personality of the Prime Minister or the entrenched traditions of the national culture.

For this reason the present article has chosen to treat the topic from a basically legalistic viewpoint.[2] After a review of the pertinent literature and concepts, it compares the respective constitutional principles which were in force and aims to clarify the power and effectiveness of prime ministers in terms of certain dimensions within the said three constitutional periods in Turkey.

I- A Conceptual Framework

Most studies on the power of prime ministers have approached the topic from the standpoint of a number of constraints surrounding the office of the prime minister. G.W.Jones, for example, argues that conclusions relevant for

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1 Richard Rose, "Prime Ministers in Parliamentary Democracies, "West European Politics, Vol. 14, no. 2, April 1991, p. 9.

2 For other approaches involving political, sociological and institutional dimensions, see, for example, the following: Patrick Weller, First Among Equals (Prime Ministers in Westminster Systems), London and Boston: George Allen and Unwin, 1985; Antony King, (ed). The British Prime Minister, London: Mac Millan, 1985, (see specially the chapters on the Prime Minister's Power, by G.W. Jones, and the Case for a Constitutional Premiership, by Tony Ben); Bernard Donoughue, Prime Minister, London: Jonathan Cape, 1987; Richard Rose, The Postmodern President, Chatham, N.J.: Chatham House, 1988; Richard Rose and Ezra Suleiman (eds), President and Prime Ministers, Washington, D.C.: American Enterprise Institute, 1980. The list is certainly not exhaustive.

more than one country can be reached if analysis is focused on the resources possessed by prime ministers. "These resources may, however, turn out to be constraints, because many of them arise from various linkages prime ministers have with others who also have resources."[3] Self-evidently, resource constraints represent an intertwined network of sociological and psychological factors which does not lend itself to simple and easy categorizations.

Institutional constraints are relatively easier to single out. A parliamentary democracy is a complex system of government. The prime ministers's office is but one office among many institutions. "As such, it is subject to the constraints of the constitution, of laws and of custom".[4] The constitution determines the number and character of the institutions that collectively constitute the state. The more the country's constitution diffuses responsibilities to other parts of the government, the more the prime minister is distanced from many of the government's activities. Compared to a unitary constitution, for example, the prime minister's power is more restrained under a federal constitution which invests authority in various other jurisdictions of the state.

In the presence of a dual-chamber legislature, the capacity of a second chamber to check the authority of the popularly elected chamber that appoints the prime minister can also be designated in the constitution. The evolution of democracy in Europe has made second chambers of little significance in most parliamentary systems.

The judiciary can be another constraint upon the central government, and for that matter, on the prime minister. Federal constitutions necessarily foresee some means of settling disputes between the different layers of the federal structure. Courts can rule on conflicts between constitutional norms and legislation as well as government decrees. The Constitutional Court as well as the Court of Cassation and the Council of State can and does issue decisions that may oppose the wishes of the government.

The election system envisaged in the constition is another constraint determining the power of prime minister. The power of prime minister is likely to be higher under a majority election system leading to the dominance of a single party than under a proportional representation system where often the prime minister has to function within a coalition government.

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[3] G.W. Jones, "West European Prime Ministers in Perspective," West European Politics, Vol. 14, no. 2, April 1991, p. 163.

[4] Rose, op.cit. p. 10.

The head of state (president) may also have powers vested in the constitution taking precedence before those of the prime minister. This is usually the case under Presidential systems. But even here the prime minister may exert considerable influence, since he or she can never act as the ceremonial head of a government. Just as second chambers are usually not an effective check on a popularly elected government, so too a head of state, even when popularly elected, normally imposes only a few constraints.

Richard Rose has proposed a typology of roles in which two variables are critical in determining the primary role of prime minister in government. The two variables are: 1) whether the constitution centralizes power or disperses it broadly throughout government; 2) whether there is a single-party government or a multi-party coalition.[5] These two attributes combine to create a fourfold typology of roles of a prime minister.

A Typology of Prime-Ministerial Roles

Party government	Constitution	Centralizes
	Yes	**No**
One	Leader	Bargainer
Many	Juggler	Symbol

Under the "leader" category, if the constitution centralizes authority in a unitary state and within a single party, a prime minister has the maximum opportunity to be an effective leader. If the constitution decentralizes authority, however, (and even when there is a single-party government), a prime minister is important but not all important. Much time must be spent in bargaining with other powerful institutions of government; typically a consequence of federalism. On the other hand, even though a state may be nominally centralized, a multi-party (coalition) government entails political divisions at the center. The prime minister of a coalition government has the role of a juggler in that he must keep all the parties in the coalition in the air simultancously; otherwise the coalition collapses. In a coalition different parties control different ministries and can jostle each other for votes and for position in the next coalition. Under such pressure the prime minister faces the challenge of juggling a majority to stay in office. In a multi-party government where the constitution has decentralized authority, the prime minister's role is likely to be symbolic, unless there is periodic rotation of the office of prime minister among all the members in a coalition, (for which Switzerland is a case in point).

5 Ibid, p. 19.

Under a solid Parliamentary system, the executive branch (government and/or the head of state) is usually empowered to dissolve the parliament. Naturally this empowerment increases the effectiveness of prime ministers. Contrary to this, the concentration of legislative and executive powers in the parliament is apt to decrease the effectiveness of the government. On the other hand, the vesting of some legislative power in the government by enabling it to enact decrees with the force of law is likely to enhance the effectiveness of the prime minister.

Individual characteristics are certainly important in determining the relative influence of prime ministers. The primary importance of constitutional national context does not deny within-nation differences; it simply treats them as secondary to between-nation differences. The variable performance of individuals in the same office can be explained as a function of individual characteristics. But performance is also affected by circumstances stemming from the state of the economy as well as by constraints imposed by international interdependence. This study, however, does not dwell on any of these characteristics.

The present article aims to single out the effects of the constitutional structure as one of the important determinants of prime minister's power and effectiveness. It is held that, of the institutional constraints, the constitution plays a vital role in shaping prime ministerial power and effectiveness. The method used by this study in drawing some conclusions has involved the review of existing literature as well as a detailed comparison between the pertinent clauses of the three successive constitutions during Turkey's Republican era. While the article delineates specific dimensions dealt with by the three respective constitutions, it also tries to evaluate, to the extent possible, the three periods in terms of the above-stated general framework of related concepts.

1- The Power and Effectiveness of Prime Ministers Under the 1924 Constitution

The Constitution of 1924 established a unitary state with a single- chamber legislature based on a "majority election" system which would, under normal conditions, enhance the power of prime ministers.

But, because the system established by the 1924 Constitution was not based on a pure parliamentary regime, the executive branch did not have the power to dissolve the legislative branch.[6] The President was not empowered to dissolve the Parliament (Grand National Assembly), nor did the Prime Minister have any say

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[6] Bülent Tanör, Osmanlı-Türk Anayasal Gelişmeleri, (Ottoman-Turkish Constitutional Developments), İstanbul: Der Yayınları, 1992, p. 247.

in the dissolution of the legislature.

The Constitution of 1924 concentrated the legislative and executive powers in the Grand National Assembly of Turkey. The Grand National Assembly wielded the executive power through the President elected by itself from amongst its own members and through the cabinet (Council of Ministers) appointed by the President; but the handing over of the legislative power to the cabinet was by no means possible. The Grand National Assembly itself used the legislative power directly (Article 6 of the 1924 Constitution).[7] Naturally this principle had an impact on the power position of the prime minister. As alluded to below, however, constitutions of Turkey in later periods authorized the cabinet (Council of Ministers) to enact executive orders based on legislation on certain matters. Thus the delegation of legislative power was made possible under subsequent Constitutions.

It should be noted, however, that in the implementation of the 1924 Constitution both during the 1924-1945 one-party and the 1946-1960 multi-party periods, the executive branch seemed to exercise more power than the legislature. Party leaders had a great deal of authority over members of the Parliament during the one-party era. And the cabinet was composed of the prominent members of the political party in power who enjoyed the support of party leaders. Consequently, the executive organ had become superior over the legislature, finding itself in the course of time almost in a position of directing the legislative organ.

In the meantime, the heads of state (presidents), as being also the general head of the party, had the authority to designate the candidates for the Grand National Assembly. Also regarded as the founders of the State and admired for their services and prominent personalities, they became influential over the legislative branch, thus leading to the creation of an effective Premier and an authoritarion system. In fact, heads of state (presidents) played the actual role in the formation of the cabinet. Although this somewhat weakened the position of the Prime Minister vis-a-vis the President (Head of State), the Prime Minister still retained a powerful position before the legislature, as the principle of political accountability of the executive to the legislature could not function in a normal manner.

Following the transition to the multiparty system in 1945 and during the 1950-1960 period, the implementation of the majority system in general elections enabled the winning party to represent an overwhelming majority in the Grand National Assembly. Relying on this majority and taking advantage of party discipline as well as the power inherent in the leadership posts, leaders of the

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7 Ergun Özbudun, Türk Anayasa Hukuku, (Turkish Constitutional Law), 4. baskı, Ankara, Yetkin Yayınları, 1995, p. 166.

party in power concentrated the administration of the State in their own personalities as well as in the cabinet set up and supported by themselves. Rendering the opposition within the legislature ineffective, the way was paved for the creation of a de facto one-party regime in the country. Thus the mechanism of political survaillance over the executive branch could not function properly, meaning the practice resulting in de facto supremacy of the executive over the legislature had to continue. In a sense, though the Constitution of 1924 had a democratic spirit, it was premised on the concept "the democracy of the majority" rather than on the principles of "pluralistic democracy".[8] As a result, in the second phase of the application of the 1924 Constitution (1946-1960), the prime ministers' power over the legislature remained to be considerable.

Furthermore, the Constitution of 1924 lacked the institutions and principles which would ensure the supremacy of the legislative branch and forestall the enactment of unconstitutional legislation, nor could it guarantee the protection of individual rights and freedoms. For example, it did not foresee the establishment of a constitutional court which would supervise the actions of the legislature in order to assure the compatibility of laws to the Constitution.[9] This fact which stood out as a crucial deficiency for a state of law also strengthened the position of the government and the prime minister within the political system, since a great majority of laws were based on draft bills proposed by the government itself which still represented the majority of the members of the legislature (the Grand National Assembly).

The Constitution of 1924 had envisaged a High Administrative Court (the Council of State) with a view to monitor the actions of the administration, but its judicial competence did not cover some transactions of the government. This meant that persons who were adversely affected by the actions of the government could not seek judicial redress in some matters. Consequenty, this too increased the power of the government and the prime minister.

2- The Power and Effectiveness of the Prime Minister Under the 1961 Constitution

The Constitution of 1961 established a dual-chamber legislature based on a "proportional representation" election system. Although the Senate could never have the capacity to wield effective checks on the popularly elected governments,

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[8] Ibid., p. 11.

[9] Tarık Zafer Tunaya, Siyasal Kurumlar ve Anayasa Hukuku, (Political Institutions and Constitutional Law) İstanbul: Araştırma, Eğitim, Ekin Yayınları, 5th Edition, 1982, p. 144.

prime ministers had to deal with multi-party coalitions, a condition which ultimately entailed the weakening of the Premier's power position, thus forcing him to play the role of a "juggler" in order to stay in office rather than as an effective "leader" which was possible under the previous system.

The Constitution of 1961 put the actions of the legislature under the scrutiny of the Constitutional Court which became the first judicial organ to monitor the constitutionality of laws and internal regulations of the Grand National Assembly.[10] Since during this era most legislative acts were proposed as the government's draft bills and then submitted to the National Assembly, the introduction of the judicial review mechanism to monitor the constitutionality of laws had the effect of undermining the power of the cabinet of the prime minister within the political system.

A further step was taken by the Constitution of 1961 in Article 144 which stated that "no action and process of the Administration could be left outside the control and review of judicial organs". The Constitution of 1924 did not carry such a provision. It was for this reason that, during the era when the 1924 Constitution was in effect, some administrative actions were exempt from judicial review and therefore persons adversely affected by such actions were barred from contesting them before the judiciary for seeking redress.[11] The pre-1960 system enabled the Administration to implement "forced retirements" and "to put public functionnaires under the orders of the pertinent ministry"; in fact, Article 114 of the 1961 Constitution aimed to remedy this drawback. Obviously a state of law can not be achieved unless all actions of the State are subjected to the review and scrutiny of the judiciary to warrant the sovereignty of law over all state actions and processes.

Article 114 was amended by Act no.1488 in 1971. After the amendment, subsection 1 of article 114 read as follows: "Judicial appeal is available against every action and procedure of the Administration". Thus, judicial review against all actions of the Administration ultimately weakened the power position of the prime minister as well as of the government.

The system established by the 1924 Constitution was not purely Parliamentarian as it represented a mixed entity, combining the characteristics of a National Assembly government and the features of the Parliamentary system. "The Constitution of 1961, on the other hand, adopted the Parliamentarian

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[10] Bülent Tanör, İki Anayasa 1961 ve 1982 (Two Constitutions, 1961 and 1982), İstanbul, Beta Yayınları, 1994 p. 19

[11] Ibid, p. 153.

system" based on a "softer separation of powers"; it provided both organs, i.e. the legislature and the executive, with mechanisms to force each other to make compromises. The legislature was empowered to dismiss the government; likewise, the government was empowered to dissolve the legislature (Parliament).

However the power of the executive to dissolve the Parliament was to be wielded by the President and the Cabinet jointly. In the event of conditions foreseen in Article 108 of the 1961 Constitution and upon the request of the Prime Minister, the President, after consulting the chairpersons of the National Assembly and the Senate, could order the holding of fresh elections for the Parliament. This procedure, by foreseeing an important role for the Prime Minister, necessarily entailed an increase in the prime minister's power.

The Constitution of 1961 emphasized the separation of powers by assigning legislative, executive and judicial authority to the competence of independent organs. Article 5 of the Constitution gave legislative power to the Grand National Assembly and stated that this power should not be delegated in any way to any other organ. However, an amendment made by Act no.1488 in 1971 brought an exception to this principle by enabling the Grand National Assembly to enact legislation which would empower the Council of Ministers to issue executive orders (decrees) with the force of law. This meant delegation of legislative power to a certain extent; and naturally it had the effect of increasing the power of the government and of the prime minister.[12]

3- The Power and Effectiveness of the Prime Minister Under the Constitution of 1982

The Constitution of 1982 abolished the second chamber of the legislative branch; yet with minor modifications, it maintained the election system based on proportional representation which entailed the survival of coalition governments in the ensuing years. Thus, prime ministers who did not represent a majority of votes in the Parliament or in the country had to function under various pressures, having to juggle and to give first priority to keeping the majority of the moment in play.

The Constitution of 1982 increased the powers and raised the status of the president to a significant extent. Thus the executive branch took on a two-pronged character and therefore the power of the prime minister was somewhat reduced in relation to that of the president.

Among the new legislative powers of the president according to the 1982

[12] Özbudun, op.cit., p. 169.

Constitution, the following could be cited:

- If deemed necessary, to make the inaugural speech before the Grand National Assembly of Turkey on the first day of the legislative year; and
- to submit proposals for constitutional amendment to public referendum. These were new powers which were envisaged neither by the 1924 nor by the 1961 Constitution.

Also, the 10 day time limit foreseen in the 1924 and 1961 Constitutions within which the president could veto and return legislation back to the Grand National Assembly was increased to 15 days.

Furthermore, the power of the president to order the holding of fresh elections for the National Assembly was made easier by the 1982 constitution. Also, whereas the president could use this power upon the request of the prime minister under the 1961 Constitution, the 1982 Constitution recognized it directly to the president.

Among the executive powers of the president under the 1982 Constitution, the following could be cited:

- If necessary , to terminate the duties of ministers upon the proposal of the prime minister,
- to convene the National Security Council,
- to preside over the Council of Ministers with a view to declare martial law or extraordinary emengency conditions, and to issue executive orders with the force of law,
- to appoint the members and chairman of the State Auditing Board,
- to ask the State Auditing Board to conduct investigations and audits,
- to appoint the members of Higher Education Board and rectors of universities.

These too were new powers which were not recognized by the constitutions of 1924 and 1961. In fact, the president could, in view of the 1924 and 1961 Constitutions, appoint the ministers, but he was not entitled to dismiss them.[13] Likewise, according to the 1961 Constitution, the president could preside over the National Security Council which itself was an organ established by the 1961 Constitution, but he was not entitled to convene this Council.

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[13] Ibid., p. 293.

Powers related to the State Auditing Board and Higher Education Board were new phenomena since these organs did not exist under the previous Constitutions.

New judicial powers recognized to the president by the 1982 Constitution were the following: to appoint

- the members of the Constitutional Court,
- the Republic's Head-Prosecutor of the Court of Cassation and his substitute,
- the members of the Military Court of Administration, and
- the members of the High Board of Judges and Prosecutors.

Under the Constitution of 1961, the president had the power of appointing only two members of the Constitutional Court; other members of the Constitutional Court were elected by the general boards of the Court of Cassation, Council of State and Council of General Audits as well as by the National Assembly and the Senate (Article 145 of the 1961 Constitution). But the Constitution of 1982 empowered the president to elect all members of the Constitutional Court. Under the 1961 Constitution, all members of the Council of State were elected by a board composed of the members and titular members of the Constitutional Court (Article 140,1961 Constitution). Yet the 1982 Constitution entitled the President to appoint one-fourth of the members of the Council of State. The remaining three-fourth are to be elected by the High Board of Judges and Prosecutors.

Furthermore, whereas the Republic's head-prosecutor was elected by the Grand General Board of the Court of Cassation (Article 139, the Constitution of 1961), the Constitution of 1982 entrusted to the president the power to appoint him and his substitute.

In addition to all these, all members of the High Board of Judges and Prosecutors – an organ established by the 1982 Constitution which replaced the High Board of Judges set up under the 1961 Constitution - are to be elected by the president, whereas under the 1961 Constitution members of the High Board of Judges were elected by the General Board of the Court of Cassation, "first" category judges, Grand National Assembly and the Senate of the Republic (Article 143,1961 Constitution).

One could safely argue that the above-mentioned new and/or expanded powers of the president necessarily weakened the power position of the prime minister.

It should be noted, however, that although the Constitution of 1982 emphasized judicial review for all the actions of the Administration as well as for the constitutionality of legislative acts of the National Assembly, it at the same time accentuated the protection of the state against the society and the individual rather than the protection of the individual against the political authority. Thus, in contrast to the Constitution of 1961, the Constitution of 1982 seems to have adopted an Etatist approach to the general regime of rights and freedoms. A similar approach is observable also in the realm of judicial review and controls which must be instrumental in the protection of individual rights and freedoms in a state of law. In fact, the independence of the judiciary and effectiveness of controls over the legislative and executive branches seem to have been somewhat curtailed by the 1982 Constitution.

The Constitution of 1961 had brought stronger rules on such matters as the independence of courts, security of judges and judicial controls over the acts and actions of the legislature and government. In the new system, however, the election, appointment and personnel regime of judges are all subjected to the High Board of Judges and Prosecutors which itself is an organ attached to the executive branch to a considerable extent. The head of this board is the minister of justice, and its members are elected from amongst the candidates nominated by the Court of Cassation and the Council of State.[14]

In the new system, either all or some members of the high courts are elected by the president either directly or indirectly. (In the case of the Constitutional Court, Military Court of Cassation, Military High Court of Administration, all members; and in the case of the Council of State, one-fourth of the members are appointed by the president). All these new powers vested in the head of state have necessarily increased the authority and effectiveness of the president in relation to the legislative and judicial branches.

Moreover, the state security courts which were established with a view to decide on national security cases of a political nature have also been reinserted into the Constitution of 1982.[15] Obviously their mixed composition which includes both military and civilian judges nominated by the Council of Ministers brings them closer to the executive branch.

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[14] Bülent Tanör, "Türkiye'de Yeni Anayasal Düzen", (the New Constitutional Order of Turkey), İktisat Dergisi, no. 242, January 1985, p. 20.

[15] Ibid., p. 21.

The power of the judiciary to monitor and control political organs - i.e. the legislative and executive branches-insofar as their legal transactions are concerned - has been somewhat limited. In contrast to the Constitution of 1961, the Constitution of 1982 has reduced the scope of persons and institutions who can directly file lawsuits with the Constitutional Court. Also, although Article 125 of the 1982 Constitution reiterates the rule that judicial review is available for all actions and transactions of the Administration, it has left transactions of the president as well as the decisions of the High Military Council outside the control of the judiciary.

Obviously the present system has curbed the power of the legislature and executive branches in comparison to the system of the 1924 Constitution which had not envisaged any Constitutional Court. On the other hand, the reduced control power of the independent judiciary over the executive and legislative branches has, under the 1982 constitution, strengthened the position of the president and, to some extent, of the prime minister.

The Constitution of 1982 has, however, enabled the legislative and executive branches to mutually influence each other by recognizing the right to dismiss and to dissolve. But the power of the executive to dissolve the National Assembly is now, under the present system, an increased power in the sense that the president can wield it without any request from the government. Article 116 of the 1982 Constitution provides that the president, after consulting the head of the Grand National Assembly, may order the holding of fresh elections. Thus, by eliminating the participation of the prime minister and government in the process of dissolving the legislature, the Constitution of 1982 has, at this point, weakened the power of the prime minister.

The Constitution of 1982, adopting the principle of the separation of powers, has, in Article 7, emphasized that legislative power belongs to Grand National Assembly of Turkey which should exercise it on behalf of the Turkish nation, and this power should not be delegated to any other organ. Yet the same Constitution holds that the Grand National Assembly can on certain matters empower the Council of Ministers to issue executive orders with the force of law (Article 91 of the 1982 Constitution). Article 104 empowers the president to issue executive orders as well. What all that means is that the Constitution of 1982, similar to the amendment made to 1961 Constitution in 1971, has held that the legislature may delegate its legislative powers to the executive branch.[16]

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[16] Özbudun, op.cit., p. 172.

Obviously the said delegation is apt to enhance the power of the government and the prime minister.

On the other hand, it should be noted that neither the 1924 nor the 1961 Constitution had touched on the accountability of each minister to the prime minister. The Constitution of 1982, however, made each minister accountable to the prime minister, a change which apparently put the prime minister into a more powerful position within the Council of Ministers.[17]

Conclusion

The nature of a prime minister's mission is certainly a function of his personality characteristcs to a great extent. Historical experiments, political cultures, constitutions and practices unique to the country concerned are also important determinants of the power position of a prime minister. It should be noted, however, that variations among political institutions are more significant than differences among the national conditions and personalities. In this respect, one could safely argue that the most salient determinant of a prime minister's power is the constitutional structure of a country.

This article stresses the significant role of this legal dimension, construed as meaning that in Turkey, a country which has adopted three different constitutions during the Republican period, the constitutional principles in force have had a stronger impact than personality characteristics or established traditions in determining the power of the prime minister. This study has revealed that, within each constitutional period, prime ministers have been either more powerful, or less powerful, depending on the degree to which constitutions have provided them with certain powers, -i.e. the authority of the executive branch to dissolve the legislative branch, delegation of the legislative power to the executive branch, the increase in the powers of the president, judicial review, etc. – These minor variations notwithstanding, however, it can be held as a general conclusion that, the Republican period taken as a whole, the prime ministers in Turkey seem to more or less approximate each other in terms of their power over the long run. Opposing legal powers associated with the office of prime ministers in each period, some increasing while others reducing their authority, seem to have offset each other throughout the Republican era. However, compared to the earlier single-party era based on the "majority election system," the checks and balances introduced under the 1961 and 1982 constitutions, coupled with the presence of coalition

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[17] Şeref Gözübüyük, Anayasa Hukuku, (Constitutional Law) Ankara: Turhan Kitabevi, 1994, p. 214.

governments as well as enhanced powers granted to the judicial branch, have somewhat curbed the effectiveness of prime ministers in Turkey. Compared to the fragmented constitutional principles delineated in the above paragraphs, macro variables (i.e the extent to which the constitution has centralized authority within a unitary state as opposed to a federal structure, the nature of the election system, the dominance of a single party versus multi-party coalition government) seem to be more important in determining the relative power of prime ministers in the long-run.

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