

FOREWORD

ON THE PATH OF CONSTITUTIONAL SCIENCE

The Journal of Constitutional Law (*Anayasa Hukuku Dergisi / Journal of Constitutional Law / Revue de Droit constitutionnel*) meets its readers for the last time in print format with its 26th issue. Starting from issue 27, it will continue its journey in a digital format.

As the first of its kind in Turkey, the *Journal of Constitutional Law*, published since 2012, has marked a period during which we have witnessed major political and constitutional upheavals in our country, our region, and the world. In Turkey, the Constitution has always been at the forefront of debates about law, politics, and society. However, the significant political and constitutional events of the past fifteen years stand out due to their unprecedented nature in our history.

Three major themes, which have been central to the concerns of the Journal, continue to shape Turkey's agenda in 2024:

- The process of "deconstitutionalization"
- The failed coup attempt of July 15 and the emergency decrees
- The 2017 constitutional framework and its implementation.

These three themes, while distinct, are in reality interconnected and form a structural whole. This spiral of "deconstitutionalization – constitutional state of emergency – 2017 constitutional framework" highlights the urgent need to emphasize the requirements of a "democratic, secular, and social state governed by rule of law and founded on human rights." However, in the face of discourse on a "civil constitution" and superficial or symbolic constitutional initiatives, supporters of the Democratic Republic struggle to articulate a coherent and determined constitutional narrative. Such fragmentation fosters constitutional disinformation and expands the scope of extra-constitutional and arbitrary practices.

This situation confirms the importance of the right to constitutional information, respect for the Constitution, and the necessity of a responsible and accountable government before the National Assembly (TBMM). The articles presented in this issue broadly address these three fundamental requirements.

The article entitled "**Rhetoric and Respect for Constitutions**" (*Retorik ve anayasalara saygı*), by Dr. Şafak Evran Topuzkanamış, opens this issue. The author poses the following questions: "If our knowledge of truth does not rely on a reality external to language, can respect for constitutions be con-

structed through rhetoric? Or have all the 'rational' criteria we have in constitutional law been constructed through rhetoric?" Based on these inquiries, the author also highlights the right to constitutional information in their conclusions. They assert:

"In this era of uncertain, unrestricted, and unrestrainable powers, the quest for truth has perhaps become one of the most important objectives of constitutional law. We may not be able to reach the truth, but it is possible to overcome the obstacles that hinder its search. In the tension between law and politics, we can redefine the field of constitutional law through debates on truth and opinion."

The study entitled "**Establishment of the Republic by Amending the Constitution: Revisiting the Theory of Constitutional Moment**" (*Anayasayı Değiştirerek Cumhuriyetin Kurulması: Anayasal An Teorisini Yeniden Ele Almak*), by Dr. Serkan Yolcu, focuses on the legal text adopted by the Grand National Assembly of Turkey on October 29, 1923, which he considers both a "constitutional amendment" and a "constitutional moment." The article begins by explaining, from a historical perspective, the path that led to the proclamation of the Republic. It then analyzes the process of implementing the 1923 amendment and examines its legal nature. Drawing on historical archives and parliamentary records to outline the reasons and consequences of the amendment, the author critically reexamines Turkey's "constitutional time" and questions the fate of the Republic while revisiting the amendment within the framework of the "constitutional moment" theory. The author concludes that the critical period leading to the birth of a new constitutional order in October 1923 provides unique points of discussion for constitutional theory.

The article entitled "**The Constitutional Framework of the Presidential System**" (*Cumhurbaşkanlığı Yönetim Sisteminin Anayasal Kurgusu*), written by Dr. Bülent Yücel, analyzes the framework established in 2017, which profoundly transformed the Turkish political regime. This reform significantly altered the legislative-executive relations envisioned by the 1982 Constitution by establishing an executive-centered constitutional system. The study also describes the political context that led to the 2017 reform, deemed an example of abusive constitutionalism. It examines the model of "Accumulation of the Functions of Head of State and Executive through Party Leadership" in terms of democratic legitimacy, political efficiency, and accountability. Highlighting the complete dysfunction of the checks-and-balances mechanism in this system, the author proposes the rationalization of the parliamentary system as a solution to restore institutional balance and democratic governance.

The article entitled "**The Distinction Between Rules and Practices in the Analysis of Political Regimes: The Case of Iceland**" (*Siyasal rejimin analizinde kural ve uygulama ayrımı: İzlanda örneği*), written by Dr. Özge

Çelebi, examines the situation in Iceland based on the common observation in Northern Europe that presidents elected by direct suffrage generally remain within the limits of a parliamentary regime, despite their extensive constitutional powers. The study focuses on the case of Icelandic presidents, who, although directly elected by the people and endowed with significant constitutional powers, have, in line with political traditions, chosen not to fully exercise their constitutional prerogatives, staying for long periods within the bounds of their powers as defined by the Constitution.

The article entitled "**Women's Right to Keep Their Own Last Name: Nothing Has Changed After the Annulment Decision**" (*Kadının ad deęiřtirmeme hakkı: iptal kararı sonrası deęiřen bir řey yok*), written by Dr. Nazile İrem Yeřilyurt and Lawyer Dr. Meliha Sermin Paksoy, argues that a name is one of the most important values of the right to personality, contributing to an individual's recognition and their right to develop their material and immaterial existence. However, before and after the annulment decision concerning Article 187 of the Turkish Civil Code, married women were and still are required to change their surname, take their husband's name, or adopt a double surname. In the event of a divorce, according to Article 173 of the same code, they are once again compelled to change their surname. This interference with women's personality rights cannot be justified by any superior interest. The Constitutional Court, in its third evaluation of this article, deemed Article 187 unconstitutional and annulled it, stating that forcing married women to change their surname constitutes a violation of their rights. The Court also considered that obliging women to file lawsuits to retain their surname after marriage is, in itself, a violation of their rights. However, despite the annulment decision coming into effect, no practical changes have occurred. According to the authors, women who do not wish to change their surname after marriage should be able to exercise this right without engaging in legal proceedings.

The translation of the "**Draft International Covenant on Environmental Rights**" (*Çevresel Haklara İliřkin Uluslararası Sözleşme Taslaęı*), by Merve Alçık Engürülü, is an illustration of the Journal of Constitutional Law's ability to closely follow international developments. The article titled "**Towards an International Constitutional Corpus: The Twenty-Fifth Issue of the Journal of Constitutional Law**" (*Uluslararası Bir Corpus Constitutional Hedefinde Vicesimus Quintus*), by Dr. Veysel Dinler, reflects on the Journal of Constitutional Law and its contributions.

As we move down the path of constitutional science, I wish you a pleasant reading.