

THE INFLUENCE OF THREE CONSTITUTIONS ON TURKISH DEMOCRACY

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ABSTRACT

Each interruption in the Turkish democracy led to a restructuring period, and a search for new means for political stability since the start of the multi-party regime in 1945. Amendments in the constitutions and laws concerning political parties had a central role in these efforts to achieve stability. However, expectations to overcome political instability through changes in law did not materialize. On the contrary, an examination of the 1945-1982 period reveals that these measures contributed to political instability, and had repercussions even for today's politics.

1. Transitions To The Multi-Party Regime

Determining the influence of legal framework on political life in the multi-party period becomes important when the political events in Turkey is considered between 1945 and 1982.

Turkey moved towards a pluralistic regime in 1945. Since then, a new period of reconstruction followed each interruption in the Turkish democratic system. This, in turn, encouraged lawmakers to search for new stabilisation elements. The documents in which the solutions for the political problems are shown include mainly the Constitutions, the Laws on Political Parties and the Laws on the Election of Deputies. The importance of the formulas that are brought through law resides in the fact that they originated from the expectations of Turkish political life.

Turkey's transition to plural democracy took place under the influence of national and international conditions of 1945. It is also a fact that the first steps of pluralism dates back to the early days of the one party period (see Yücekök 1983, 63-64; Goloğlu 1982, 27-34; Dodd 1983, 8). In fact, the end of the one party regime in 1945 came neither suddenly nor unexpectedly. During the period when the Republican People's Party was the governing party, there were two halfhearted attempts to start a multi-party system. The first was the foundation of the Progressive Republican Party in 1924-1925. The second attempt was the case of the Free Party opposition in 1930.

To be able to understand the psychology of the multi-party period of the country, it is essential to examine the conditions of the single party period as well. Besides the various internal and external factors (see Weiker 1973, 261; Burçak 1979, 47-48; Armaoğlu 1984, 401), another important factor was

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President İnönü's decision (for details see Loğoğlu 1970, 87; Başıgil 1966, 55; Burçak 1979, 53; Lewis 1984, 314). He permitted the operation of opposition parties which was a turning point at that time. As a national leader, he could easily do anything under his power to maintain the existing regime. İnönü played an important role, indeed, in the creation of the multi-party regime throughout in the country.

In the transition period; the socio-economic, legal and political structure of Turkey was not favourable to start a pluralistic regime. Nevertheless, the need for such a move was more pressing than before.

2. The 1924 Constitution

The Turkish One Party Regime was not an official doctrine in the 1924 Constitution. This law was still the basis of the multi-party regime in 1945 when the Republican People's Party founded the Democratic Party. The 1924 Constitution did not mention about political parties. However, political parties were established in this transitional period in accordance with the Law of Association of 28th July 1938, number 3512, which did not include any clause for the legal basis for protection of parties against the possible whims of existing governmental institutions of the date.

The prevailing disadvantages of the era when Turkey decided to start a multi-party regime still play an important role in the intermittent events that unsettle democratic institutions in Turkey. These said disadvantages are not the only factors, though. Furthermore, these disadvantages of the past do not explain why periodical stop-and-go style interruptions were deemed necessary in Turkish political life. Each interruption gave new impetus to ruling quasi-leaders in the political sphere to play with the word and spirit of the law as they saw fit, without actually going into the depth of the matter. This constant alteration in the meaning and scope of law, especially in that of the Constitution, adversely affected both constitutional and political progresses of the nation. The reason for this is that the Constitution is the final document of political progress. As a matter of fact, during periods when democracy encountered interruptions, the constitutions were the first to be blamed.

The 1924 Constitution contained minimal provisions for democracy. The capacity of this understanding was only enough to start the multi-party regime. The fact that the 1924 Constitution was inadequate for the progress of the multi-party regime was the cause of the problems that experienced in the following years. The lack of understanding of democracy was even clearer especially in the 1950's (see Kapani 1981, 114). As a result, the leaders of 27th May 1960 coup

moved towards drawing up a new constitution instead of amending the existing one.

3. The 1961 Constitution

Following the coup of 27th May 1960, a period of one and a half years elapsed, during which a new constitution was formulated and legal foundations of a pluralist regime were laid down. The psychological mood that caused the problems of the bygone years also influenced the reshaping of the so-called 1961 Constitution. In other words, those factors that helped shaping the political understanding of the sixties emanated from the activities of earlier years. This was also the beginning of a period wherein the legislators tended to pass a new law as a remedy each time a social problem flared up. One of the most important characteristics of the temporary period is the fact that the authorities wanted to see all planning and state activities from a legal point of view. Thus, legislature gained a highly strengthened prominence.

With the changes it brought to the multi-party regime's structure and functionality, the idealism of the 27 May coup plays a great role in Turkish democracy (see Savcı 1970, 285-286). This act, with the new changes it brought to the legal political frame, national understanding and the political establishments, found its real meaning in the 1961 Constitution (see Kili, 1986, 98-99). The opposition to the new constitution had started long before the draft was completed. The writers of the new constitution undertook the task to fill in the gaps of the 1924 Constitution in their effort to create the new one.

After the 12th March 1971 Memorandum, this new constitution was blamed for encouraging extremist activities in the country because of the wider limits it provided to personal rights and freedom. People in high offices, especially the military, thought certain provisions in the new constitution as a luxury.

Consequently, the 1960 Constitution was amended three times. The government was given greater control by these amendments while basic rights and freedoms were put under severe limitations (see Soysal, 1977, 118-119). However, it can not be said that the desired objectives were achieved. A gradually increasing social, economic and political disorder led to anarchy and violence, and weakened the government authority. It had weakened so much by 1980 that a long lasting political crisis brought the presidency election process to a dead end. The crisis also fed anarchy and violence and continued until the military intervention of 12th September 1980.

4. The 1982 Constitution

The regime that followed the 12th September 1980 military takeover held the 1961 Constitution responsible for the social unrest which brought the country at the brink of a civil war. Once again, the Constitution was abolished and a new one was drawn up. The 1982 Constitution adopted many principles of the 1961 Constitution. Nevertheless, it gave more powers to the government and brought more restrictions to basic rights and freedoms.

The new constitution was based on the lessons learnt from the previous mistakes, but it did not have progressive elements that normally shape the social life of any community. It can even be said that the new constitution is rather reactionary because it broke the chain of contact between political authority and the community.

In the formation of the political structure of parties and associations, political law documents which determine the legal rules of any institution recognised by the constitution carry as much importance as the constitution itself. The precautions foreseen by lawmakers are not functional, since in Turkey the legal structure either limits or frustrates the formation of public opinion in the country. So, not only must the limiting functions be worked out, but also the protective functions must be defined as well. Thus, the Trade Unions' pressure through group activities are limited by the law and their real actions are left in the hands of the political ruling party and the tolerance of the nation.

Apart from that, the limitations that are brought over political parties can be considered to be parallel with the limitations brought over thoughts. It is a must that we should change and enlarge the public opinion as a whole in considering the elements that create dynamism in the progress of the regime. If the main elements of democracy are deprived of their normal form of activity, neither can a pluralistic idea take place nor can a democracy progress.

5. Conclusion

In Turkey, the progress to the multi-party political life is not completed yet. The formula of this move is not only a law that brings limitations to the progressive elements necessary for pluralism. An insistence on this scheme keeps the social powers out, as it has been the case in Turkey until present. Since this system has been proved to be inadequate by itself to establish stability in the political life, it is a must that the legal approach, which gives the impression that the law is there just to limit, should be changed. A day will come when the laws will reflect the requirements of the society and will give the individual the necessary protection in the creation of a brighter future.

ÖZET

Çok partili siyasal rejime geçilen 1945’den günümüze Türk demokrasisinde yaşanan kesintiler, yeniden yapılanma sürecini başlatarak yeni siyasal istikrar unsurları arayışlarına yol açmaktadır. Bu arayışlarda en önemli paya sahip olan unsur “hukuk” olmuştur. Siyasal sorunlara yasal çözüm arayışının somutlaştırıldığı siyasal hukuk belgeleri arasında anayasaların ayrıcalıklı bir yeri vardır. Anayasalar çerçevesinde istikrar arayışlarının beklenen sonuçları vermediği gibi, yeni sorunlara yol açtığını irdeleyen bu çalışma, 1945-1982 sürecinde üç anayasayı konu edinerek günümüz demokrasi anlayışına gönderme yapmaktadır.

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