

PURSUING A
CONSTITUTION IN
TURKEY: LOOKING FOR
A BRAND-NEW SOCIAL
CONTRACT OR AWAITING
THE SAME-OLD SOCIAL
PRESCRIPTION?*

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ABSTRACT

Turkish political life has been under the strong influence of the National Security Doctrine since the first military intervention in 1961. The said influence became more explicit after the 1980 coup d'état which led to the preparation of a state-oriented constitution. A great deal of effort has been made to liberalize and normalize Turkish political life since the early 1990s, and more than one-third of the Constitution has been amended to particularly meet the European Union's criteria. However, no amendment and de jure liberalization seems to satisfy the public and politicians' 'thirst' for a new and civil constitution. Accordingly, all the political parties and non-governmental organizations (NGOs) have given pledges to prepare a new, individual-oriented constitution after the June 2011 general elections. This paper is intended to seek for the possibilities and the facts under which the prospective and 'highly anticipated' constitution can be formed with references to national security doctrine, the 10% threshold for political parties in the general elections, the NGOs participation in the process, the 'constitution fetish' among the public, 'historical path of erstwhile constitutions etc. It can be assumed that these points will elucidate the answer of following question: "Shall the new constitution be a social contract or another text that is redolent of a social prescription from above?"

Keywords: *Social Contract, National Security Doctrine, Constitutionalism in Turkey, Contemporary Turkish Political Life.*

CONSTITUTIONAL ORIGINS OF MODERN TURKEY: A BRIEF HISTORY OF LIMITED/ REPUBLICAN GOVERNMENT

“Turkey occupies a highly distinctive position within the third world.” writes Çağlar Keyder in his New Left Review article, and reaches the idea that “Alone in the third world, its [Turkey’s] political régime has been a genuine multi-party democracy since 1946 with the exception of two ‘extraordinary’ periods together lasting about four years.”^[1] The article in question was published in 1979, just a year from the 1980 coup d’etat which not only abolished the multi-party system or ‘democracy’ for three years but also produced the 1982 Constitution, still today seen as the main obstacle to the democratic consolidation of Turkey. In other words, it can be said that the impact of the military intervention in 1980 has lasted more than thirty years. However, Turkey is an exemplary country in the Middle East with its republican rule and multi-party political system, owing to the historical inheritance.

An Era of Reforms: Tanzimat and Constitutional Monarchy of the Ottoman State

Ideas and speculations in forming the Empire as a ‘modern’ state dates back to the Reign of Selim III whose attempts to reform resulted in his assassination. The failure was mainly due to the strong resistance from the Janissaries, the most important component of the army, willing to save their advantageous position in the state affairs^[2]. With this, the Janissaries were also the vanguard of the craftsmen who had a significant portion in the traditional economy^[3]. That is why the abolition of the Janissaries in 1826 by Mahmud II can be construed as the beginning for the empire to initiate a capitalist economy. What followed then was to modernize the state in terms of administration as a logical extension of reforms in military and economic structure which paved the way for the Tanzimat (Reorganization) Period. To realize all these reforms, which culminated into the Tanzimat, entailed the consolidation of the central government, and this effort led to the first step of the constitutional practice (not government) in the Ottoman Empire: Sened-i İttifak of 1808 (Charter of Alliance). The document was signed by the Sultan and the local notables to make sure that the Sultan was the only head of the state and responsible for the security of his subjects. In spite of bringing the limitation to the Sultan’s

[1] Çağlar Keyder, “*The Political Economy of Turkish Democracy*”, New Left Review, Vol. I, No 115, 1979, p. 3-44.

[2] Bülent Tanör, *Osmanlı-Türk Anayasal Gelişmeleri (Ottoman-Turkish Constitutional Developments)*, İstanbul, Yapı Kredi Yayınları, 2009, p. 39.

[3] Sungur Savran, *Türkiye’de Sınıf Mücadeleleri (The Class Struggles in Turkey)*, İstanbul, Yordam Kitap, 2010, p. 47.

absolute power, the document strengthened the Sultan not only in the face of the local authorities but also against the opposition from the centre. In other words, before the Tanzimat, Mahmud II managed to reinforce the state against society, the centre against the local and the centre against the other parts of the centre^[4].

The Tanzimat Period began with the promulgation of the *Gülhane Hatt-ı Humayunu* in 1839 (Noble Rescript of Rose Bower) which consisted of the fundamental legal regulations for a capitalist economy such as the security of life and property, fair trial among all subjects from all origins and different religions^[5]. Another important and complementary document was issued in 1856 with the name of *Islahat Fermanı* (the Imperial Reform Edict) furthered the individual rights particularly for the minorities in the empire against the arbitrary activities of the semi-absolute government.

Waiting two decades for the first formal, legal and concrete limitation of political power, the Ottomans prepared their constitution in 1876. Although the constitution clearly stated that the government was restricted by the law (in fact the original name of the constitution was “*Kanun-i Esasi*”, meaning the main law) the Sultan was still given imperial power such as driving anybody into exile without a legal reason. This accounts for the fact that the empire made its efforts not to be a democratic state but to become a capitalist economy, pursuing the global trend.

Accordingly, all these developments mentioned above had in large part a ‘foreign impetus’: Getting to the capitalist mode of production for the Ottomans were not choice of their own but a result of the subordination to the Western states. In fact, from beginning of 19th to the National Liberation War spanning between 1919 and 1922, the empire was a quasi-colonized state. Then the liberation movement was directed towards building a modern, national and individual state.

An Era of Revolutions: Top-Down Reforms 1920-1938

To derive a modern state from a defeated World War I Empire required much more effort and attention than it did in the Tanzimat Period. First of all, the victorious leader of the Liberation War, Mustafa Kemal Atatürk seemed to hold all the strings. That is why all the modernization efforts could be more or less related to him. These efforts can be encapsulated by the following points^[6]:

[4] Tanör, *ibid*, p.66.

[5] Bernard Lewis, *The Emergence of Modern Turkey*, London, Oxford University Press, 1966, p. 107.

[6] Sena Karasipahi, *Muslims in Modern Turkey: Kemalism, Modernism and the Revolt of the Islamic Intellectuals*, London-New York, I.B. Tauris, 2009, p. 22.

- The abolition of the sultanate in 1922, signifying the formal and legal end of the empire.
- The abolition of the caliphate in 1924, meaning the foundation of a republican and secular rule with the abolition of religious legal system (different from the state's courts) in the same year.
- The adoption of western measurement criteria and legal system.
- In 1928 Latin script and European numerals were embraced.

All these efforts were of course based on and within the framework of two constitutions accepted in 1921 and 1924. In most respects, these two constitutions had the same purpose: to create a modern state. However, the 1921 Constitution accepted cabinet system whereas the 1924 Constitution declared a government system in which powers were separated among the legislation, the execution and the jurisdiction. Another important change was to eliminate the article in the 1924 Constitution, saying the state's religion was Islam, in 1928. After this consolidation of nation-state, Turkey saw a one-party system with two short exceptions in 1924 and 1930 until 1946, and the transition was realized under the 1924 document^[7]. In 1938 Ataturk, the first president of the modern Turkey passed away and the other leaders had the chance to appear stronger figures in the Turkish politics.

Turkish Politics under 'Civil' and Military Tutelage: 1960-80

Post-Ataturk politics was mainly determined by the second man, Ismet Inonu; but the sections and figures in the Republican People's Party (RPP) founded by Ataturk, also had their influence on the administration. The period between 1938 and 1946 can be taken the consolidation of modern and secular state with an iron hand of the party. Afterwards Democrat Party (DP) appeared as a rival political body in 1946, its coming to power took place in 1950 that marked the beginning of the multi-party system in Turkey. However, the majoritarian election system did not allow pluralistic way of politics. That's why Turkish political life was characterised by RPP and DP until the 1960 Coup D'etat.

The Transition from One-Party Politics to Two-Party Competition

The transformation in the Turkish political life does not solely to do with the change in politics, policies and Turkish polity, but it is related to Turkish modernisation. Fuat Keyman suggests four phases on the transformation: The first phase, started in 1923, is the process of modernization which is mainly about building a nation state with a secular identity. The second process is called democratisation which began in 1950 with DP. The third process, as Keyman

[7] Eray Arik and Ayse Alabogaz, "The Democratization Process of Turkey": <http://www.scribd.com/doc/56601761/The-Democratization-Process-of-Turkey> (01.07.2011)

writes, is globalisation, from 1980s. The last process is called Europeanisation with reference to the reforms for the full membership. After this division, he relates these processes to the dichotomies in Turkish political life. Modernisation is connected to centre-periphery cleavage in Turkish society; the democratisation is for left-right cleavage, globalisation signifies the global-national cleavage and the last is the tension between identity and citizenship^[8].

The first two processes and cleavages could directly be related to the 1950-60 politics in Turkey. After a 'heavy' modernisation process, cleavage in the Turkish society found its reflection in the parliament. The military and one-party (RPP) influence was replaced by DP, a kind of civil tutelage. The main reason behind the civil tutelage was due to the fact that DP was founded as a reaction to RPP's elitist policies which eventually led to a paternalistic populism^[9]. DP mobilised the masses at the expense of a working/proper democracy. In other words, while strengthening its power, DP fell into the error of weakening its legitimacy against the military as well as the public. In the end, civil tutelage was replaced by the military administration.

The Beginning of Direct Military Involvement in Politics: 1960 Intervention

The army's first direct involvement occurred in 1960, 27 May. The motive was to save democracy and to prevent the state from receding the Kemalist principles and the modernization project which was regarded as more important than the second phase because, to the Kemalists, only a modern state could have a 'strong' democracy. What comes with the first extraordinary regime was a new concept called 'National Security Doctrine' (NSC), a concept of great comprehension which gave the Junta the right to engage in governmental affairs^[10]. However, the Junta took the initiative to prepare a new constitution, consisting of many new social and political rights and institutions such as the Constitutional Court, the State Development Institution, compatible the Fordist zeitgeist. Furthermore, the 1961 Constitution created a chance to have pluralistic politics and representation in the parliament for the first time in Turkish political history. For example, shifting from majoritarian election system to proportional representation gave small parties the possibility of entering the parliament. It can be assumed that the modern Turkish Republic became more constitutional with the 1961 Constitution.

[8] E. Fuat Keyman, "Modernization, Globalization and Democratization in Turkey: The AKP Experience and its Limits", *Constellations*, Vol. 17, No 2, 2010, p.312-327.

[9] İlkay Sunar, *Demokrasi: Türkiye Serüveni (Democracy: Turkish Experience)*, İstanbul, Doruk Yayınları, 2010, p.54.

[10] Feroz Ahmad, *Turkey: The Quest for Identity*, Oxford, OneWorld Publications, 2003. p. 123.

However, the 1961 document was criticized by the centre-right political figures, for its scale of rights was considered to be too large for the society and too strict for the economy. Despite of this fact, the change came from the military again. In 1971, the Army's Memorandum required the government to amend the constitution, giving the document an authoritative air. In other words, 1970s in Turkey were the years in which social awakening created in the beginning of 1960s was repressed, and the repression peaked in 1980.

The 1980 Coup D'état

In 1970s, Turkey faced anarchy and terrorism beside its internal political and economic problems because of the clash between the leftists and the rightists. The chaos seemed to dominate political as well as daily life. Accordingly, the 1980 Coup D'état came out with the pretext of 'finishing fratricide' at the expense of democratic regime. After the coup d'état Turkey was governed by a 'Junta', headed by General Kenan Evren, for three years. As a result, so many freedoms and rights were restricted; human rights were violated. For instance, from 1980 to 1989, people could be remained 15 days in police custody without being charged, and it caused torture to increase^[11]. 7 November 1982, the new constitution, prepared by the Constitutional Commission –under the strict control of the generals-, was submitted to a public referendum and was approved by a majority vote of 91.2 percent, and the first multi-party elections after the intervention took place in 1983: Turgut Ozal's ANAP (Motherland Party) won the election getting 45.1 percent of the votes. However, this did not mean that power was given back to the civilians. Steps taken for normalisation took almost 20 years.

The very first attempt for an 'ordinary regime' took place in 1987 with a referendum on lifting the ban from leading political figures of pre-1980 politics. Then constitutional amendments appeared in 1995. 14 articles of the constitution were changed: The changed articles gave associations and trade unions the right to engage in politics, allowed civil servants join trade unions and parties to establish their youth and women's branches. The voting age was brought down from 21 to 18^[12]. With these changes, an important step was taken to liberalise political life in Turkey. Economic and political liberalization was followed by the growing ability of Turkey's urban population to express political and social discontent in an effective but a peaceful manner. Particularly, in the late 1980s, a civil society culture developed in Turkey. A number of non-governmental organizations (NGOs) have been founded and they have been dealing with various issues. With this, Turkey's civil society benefited from the liberalization

[11] Eric J. Zürcher, *Turkey, A Modern History*, London-New York, I.B. Tauris, 1998, p. 316.

[12] Zürcher, *ibid.* p.312

of radio and television broadcasting in the early 1990s^[13].

Turkish politics in the 21st century benefited from the normalization period from the late 1980s to the end of 1990s. What happened and is happening in 2000s will be examined later in the paper, but before that it is necessary to go over the different currents and thoughts on constitutional development.

Constitutional Theses on the Course of Turkish Political Life

According to Tanör, political developments are closely related to the constitutions, for their process of preparing and enforcing them are the products of politics. However, Turkey has specific characteristics because of its history.

The Ottoman Empire did not transform or collapse into a nation-state in the 'European way'. It did not confront with the strong local political entities and notables who obtained their rights through negotiations. That is why the Turkish politics lacks negotiation and consensus^[14]. This could account for the fact that 'from-above way of politics and administration' is not strange phenomenon for Turkey. Despite the lack of negotiation and consensus, there is always a competition among political projects and ideas. What follows is a short account of constitutional tendencies seen in Turkish political life.

Kemalist Thesis

As the leading political and military figure, Atatürk gave a great importance to the fact that the Liberation War would be a legal and legitimate struggle. Accordingly, one of the first things he did during the war was to found a national assembly which drew up the 1921 Constitution. However, Atatürk's views about constitutional government slightly changed after war. During the war, he supported an idea of society in conflict, but after the war he tended to embrace a society in solidarity^[15]. This idea was also backed up by scholars who, after Atatürk, approached the thesis in more top-down way.

Conservative-Islamist Thesis

This thesis appeared as an anti-thesis for the Kemalist view. It was put forward in the last days of the Ottoman Empire by persons such as Prens Sabahattin who was an ardent supporter of liberal and more decentralized administration. In fact, pre-republic period, there was a dichotomy among 'educated' Turks: One side supported the development with the leadership of intellectuals (from

[13] Heinz Kramer, *A Changing Turkey*, Virginia, Brooking Institution Publications, 2000, p. 186-187.

[14] Şerif Mardin, "Center-Periphery Relations: A Key to Turkish Politics?", <http://www.jstor.org/stable/20024114> (01.07.2011) p. 169-190.

[15] Bülent Tanör, *Anayasal Gelişme Tezleri* (Theses on Constitutional Development), İstanbul, Yapı Kredi Yayınları, 2010, p. 20-21.

military and medicine), and the other supported the development in accordance with the (traditional and religious) wills of the society in general^[16]. The first side was embodied in RPP and the other side in DP.

Populist Thesis

Populism in Turkish politics was born in the 1960s, during the golden age of capitalism. Although connected with and supported by Kemalist politicians and intellectuals, this thesis claims that the public should get rid of the pressure coming from above. In other words, the guidance is important but the last decision should be made by the public in large. The people should be free from the bureaucratic chains^[17]. Not surprisingly, this thesis is supported the social-democratic movement in Turkey.

Socialist Thesis

The socialist thesis is as old as the other theses, dating back to the collapse of the empire. It is mainly affected by the Marxist-Leninist views. According to this, politics (as the superstructure) are determined by the economic relations, mode of the production (as the infrastructure). That is why, according to this approach, the social and political condition and change are based upon class struggle. Furthermore, the Ottoman Empire and the new republic should be understood within the context of imperialism and international competition of global powers. Finally, the constitutional developments are taken as the reflections of the said phenomena^[18].

It can be said that these theses are main explanations and orientations of Turkish politics and constitutional developments. Any political and constitutional development and change could find its explanation in those theses. The following part will look at the politics and constitutional developments in 21st Century's Turkey with references to these currents and the history mentioned previous parts.

The Making of a New Constitution or an Old Prescription in 21st Century's Turkey?

As stated in the very beginning of the paper, Turkey's politics and democracy is still haunted and restricted by the 1982 Constitution, although the text have been amended many times. According to many scholars and intellectuals, the point is not to change the words, but to change the spirit of the constitution that is framed by the national security doctrine.

[16] Emre Kongar, 21. Yüzyılda Türkiye: 2000'li Yıllarda Türkiye'nin Toplumsal Yapısı (Turkey in the 21st Century: The Societal Structure of Turkey in 2000s), İstanbul, Remzi Kitabevi, 2003, p.131.

[17] Tanör, ibid. p. 107.

[18] Savran, ibid. p.102.

National Security Doctrine or Syndrome

It is not until the beginning of the 21st century that the doctrine could be questioned. The turning-point could be taken as the speech made by then vice Prime Minister Mesut Yılmaz speech to its party (Motherland Party) convention in 2001. In his speech, he described the doctrine as a 'syndrome', and added that a country, wanting to be one the member states in the European Union (EU), could not bear the burden of this syndrome. In other words, if Turkey is eager to democratize and integrate into the EU, it should rethink the military-civil relations^[19]. The reason why Turkey has been under the strong influence is twofold: one is its geopolitical position in between two blocks of the Cold War and the other is its modernisation phase mentioned above. However, these two seem to fail to explain why the doctrine still stands despite of the time elapsed. The explanation lays in the fact that internal threads of Turkey are stressed incessantly: The Kurdish Separatism and Islamic Fundamentalism (which is called 'irtica' in Turkish). Furthermore, institutions founded to solve the problems overshadowed the solutions, keeping the doctrine valid for a long time. For example, National Security Board, founded by the 1961 Constitution, had an influence on civil politics for a long time^[20].

As the EU membership gets 'serious', it can be assumed, Turkey has tried to overcome the syndrome. Many privileges of the armed forces, such as being immune from the fiscal control, were abolished^[21]. However, these efforts cannot be commented as the weakening the military, but steps towards a more civilian way of doing politics, again compatible with the zeitgeist of the conjuncture.

The Rise of the Justice and Development Party and the Turkish Politics

Being the main actor who initiated a new and civil constitution, Justice and Development Party (hereafter AKP, the Turkish acronym) has been dominating the Turkish political life by the virtue of coming to power three times in a sequence. Nevertheless, this marks a deficit of Turkish electoral system which leads to electoral hegemony. The 10% threshold gave the opportunity to AKP holding 363 seat out of 550 with the nearly 35% of votes in 2002, whereas the main opposition party had the rest with nearly 20% which means nearly %45 of voters could not be represented in the parliament.

In 2007 AKP increased its votes to about 47% with more promises on democratization and its votes hit almost 50% of voters in the last elections held this year with the good news of a constitution that is to be prepared in

[19] Ümit Cizre, "Demythologizing the National Security Concept: The Case of Turkey", Middle East Journal, Vol. 57, No 2, 2003, p. 213-239.

[20] Cizre, *ibid.* p. 213-239.

[21] Ergun Özbudun and Serap Yazıcı, *Democratization Reforms in Turkey (1993-2004)*, İstanbul, TESEV Publications, 2004, p. 34.

an ordinary time and civil politicians. However, AKP did not make it clear that how different a constitution could be when it is written by a civil government. What the party stressed that it would be a civil constitution and was to be prepared based upon large compromise. The features and characteristics of the prospective text have rather been discussed by the NGOs.

Discussions about the New Constitution: Orientations, Parts, Actors and Possibilities

On January 12, 2011, the Prime Minister R. Tayyip Erdoğan started a new constitution debate by making a speech which was about a “*short, concisely written and comprehensible constitutional text aiming at advanced democracy and guaranteeing fundamental rights and liberties.*”^[22] While the head of government declared the will to a new constitution, NGOs began thinking about the possible characteristics of the prospective text and writing the drafts. The Turkish Industrialists and Businessmen’s Association (TUSIAD), for example, called for a new constitution, ensuring the individual rights, promoting the EU membership process and maintaining economic stability^[23]. On the other side, the Confederation of Revolutionary Workers’ Unions (DISK) made the point of strengthening social rights^[24]. However the demands may differ, actors seem to unite the method of new constitution making.

New constitution, firstly, should be prepared according to ‘hourglass’ formula: Instead of pre-written text or prescriptions, the text should be written in a deliberative way. In other words, the process should start from the public and end in public like the two extremes of hourglass. How this process can be achieved is as follows^[25]:

- *identification* of demands and expectations: To write a new constitutional text requires to follow trends in the society through surveys, polls, meetings etc. This could be understood as the most important factor for consensus and participation.
- *academic* and institutional expertise: this process can be regarded as the transformation of ‘raw demands’ into legal clauses or constitutional articles.
- *alternative drafts*: as explained earlier, demands and expectations vary from one actor to another. That is why, every NGOs, interest groups could submit their texts to the public discussion.
- *political* parties and the parliament: According to the last election results,

[22] Levent Göneç, “*Towards a Participatory Constitution Making Process in Turkey*”, <http://www.tepav.org.tr/en/yayin/s/371>, (05.07.2011)

[23] <http://www.todayszaman.com/news-247131-tusiad-pushes-for-consensus-based-new-constitution-after-elections.html> (05.07.2011)

[24] <http://www.todayszaman.com/news-205630-civil-society-wants-more-rights-and-freedoms-in-reform-package.html> (05.07.2011)

[25] Göneç, *ibid.* <http://www.tepav.org.tr/en/yayin/s/371>, (05.07.2011)

95% of the voters are represented in the parliament: AKP, RPP, National Movement Party (MHP) and pro-Kurdish Peace and Democracy Party (BDP) will be the actors in the parliament that is to be the final 'kitchen of the constitution'. The possible moves and intends of the parties seem to be critical in the process, for they will give the text the final shape.

As indicated before, there are mainly four orientations about constitution-making: Kemalist, conservative-Islamic, populist and socialist approaches. AKP's view seems to be a mixture of conservative-Islamic and populist theses. The main opposition party sticks with Kemalist and the populist thesis. MHP, the nationalist party tries to mix Kemalist, populist and conservative-Islamic theses. Finally, BDP seems to follow socialist as well as populist theses with reference to the self-determination principle. The following graph shows the main tendencies:

Main Constitutional Tendencies/Theses in Turkish Politics^[26]

Parties/ Orientations	AKP	RPP	MHP	BDP
Kemalist		X	X	
Populist	X	X	X	X
Conservative- Islamic	X		X	
Socialist				X

As shown in the graph, all the parties seem to have populist thesis in common. To touch upon populist thesis again, it could be summarized as the refusal of civil as well as military leadership of bureaucrats or the elitist segment of society the in favour of the general will of the public that is called 'social contract'.

[26] This table is based upon Tanör's explanations on constitutionalism in Turkey. (See. Tanör, 2010, *ibid*).

The Denouement of Constitution Making: A New Social Contract or an Old Prescription?

One thing is 'seemingly' clear about the new constitution that no parts and actors do not want a prescription-like text written by the higher segments which presuppose that society is 'sick' and needs constitutional treatment. This could be told from the amendments of the 1982 Constitution which has been made inter-party considerations^[27]. As it can be seen as the graph above, all the parties unite in having a populist characteristic on the new constitution which also giving hope for the new text to be a social contract. However, they have mixtures of theses which will possibly be the source of controversy in preparing the text. For example, AKP as well as MHP, as conservative parties, will try to give a priority the family in face of individuals. RPP and BDP, on the other hand, are likely to create a more individual-oriented text. Furthermore, BDP will seek to promote the cultural rights for Kurdish population.

The civil society, beside the parliament, deals with presenting demands and preparing the drafts. They formulate their propositions in accordance with their *raison d'être*. TUSIAD, for example, is after businessmen's interests as well as the continuation of the EU membership process, for Turkey has strong commercial relations with European countries. However, all the NGOs in Turkey seem to seek for a civil text, a text prepared under 'ordinary' social and political circumstances.

Finally, Turkey's pursuit is a constitution of the society in a Rousseauian sense, a social contract, which in the first instance seem to be based upon general will, but entails participation and more importantly consensus^[28].

Concluding Remarks

The Ottoman Empire occupied a special position in the course of the European history. However, the empire did not go through the same social, economic and political processes as with the European states. For this reason, it is important to take into account the fact that modern Turkey, as the salient inheritor, is still affected by the historical residue of the empire, and the antidote to it, modernization process. As for this issue, constitutionalism did not happen in the same way as it did in the continent. By the virtue of having autonomous administrative authorities a 'negotiation culture' developed much earlier in Europe than in Turkey.

As the central government has long been the main determinant in Turkish politics, almost all steps towards modernization have come from the upper

[27] Ergun Özbudun and Ömer Faruk Gençkaya, *Democratization and the Politics of Constitution Making in Turkey*, Budapest, CEU Press, 2009, p. 155.

[28] Saadet Yüksel, "Turkey's Procedural Challenges to Making a New Constitution", *Annales*, Vol. XLI, No 58, 2009, p. 119-135.

segments of the society until the 20th century. That is why, constitutional and political developments have been achieved 'for the people' regardless of their 'general' will. This fact is true of making and enforcing the constitutions in 1876, 1921, 1924, 1961 and 1980, for all of them appeared under extraordinary circumstances. The constitutional texts, with a 'benign' reasoning, have been written by the civil and military elites in the form a prescription, as the people are considered to be suffering from the abnormal circumstances. Particularly, after the 1961 military intervention, a concept started to dominate the internal as well as external political affairs: National Security. Being open to abuse, the concept was first questioned in the beginning of 21st century through the motive to integrate into the EU, and in the same century Turkey is getting ready to write its constitution under a peaceful political climate for the first time.

Political parties and the NGOs, after the election last year, seem to seek for consensus in making the new constitution. However, their orientations are different: AKP points out the traditional values as well as market principles. RPP has a Kemalist-Populist orientation, while MHP mix these values with conservatism. BDP is looking for the promotion of Kurdish people rights and autonomy. However, as shown in the graph above, they have a common point in the populist approach on constitution that supports bottom-up process in making and implementing the constitution. This common orientation seems to guarantee that the new text is designed to be a social contract instead of a prescription.

It can be said that all the actors in the process agree with the method for the constitution, but the content of the text is likely to cause controversy because of the different tendencies mentioned above. If consensus is to seek, all the actors will have to make concessions to find the least common denominator which ideally forms the base for political system, in the form a constitutional text. Otherwise Turkey's pursuit of a new constitution could not finish in the third term of AKP's power.

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EXTENSIONS

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