# CONSTITUTIONAL CHANGES IN THE REPUBLIC OF TURKEY, AND THE LAW OF TEŞKILAT-I ESASIYE DATED FROM APRIL 1924

**Assist. Prof. Dr. Mustafa Murat Cay**
*Gaziantep University*

## Introduction

The constitutional transition process and constitutional movements play a somewhat central role in the debates on the development of democracy as a concept in Turkey. Although essentially these debates dwell on the perception of a constitution as a concept, they are also related with its functionality. It is observed that in the Turkish history of politics and scholarship, debates based upon the modern rules of law and rights introduced by the French Revolution have been fed with the idea proposing that the old cannot exist within the new world order.

The classical medieval understanding that promotes the idea of "ruling on behalf of god" came to an end after the French Revolution. According to the democratic theories of sovereignty, it no longer belongs to God, but to the people[1]. After the dissolution of multinational empires in the post-World War I era, the number of nation states in Europe proliferated. This development means the birth of a new wave of constitutionalism[2]. The struggle to survive in such a new world order led Turkish scholars to consider a radical change. For this reason, constitutional movements in Turkey can be considered as a struggle for existence. It is seen that the class of the scholar-bureaucrats in the Ottoman era had absolute concern to keep up with this new order, brought by the French Revolution. Accordingly, the concept of *Kanun-u Esasi (the Basic Law),* which was first introduced by the Grand Vizier Mehmed Said Pasha, corresponds to the term *constitution* in French[3]. The Turkish equivalents of this term have been "Kanun-u Esasî", "Teşkilat-ı Esasiye Kanunu", and "Anayasa"[4].

In brief, a constitution is defined as "a body of legal and political rules, and a social and judicial agreement". However, this term has been used in different forms throughout the Turkish history of constitutions. These are "Ana Tüze", "Teşkilat-ı Esasiye", "Esasiye", "Temel Hukuk", "Esasi", "Esas Teşkilat", "Ana" (Mother Law), "Devlet Ana" (Law of Mother State)[5]. The dictionary of the Turkish Language Association defines the concept of constitution as "the fundamental law that identifies the regime of a state, regulates the use of legislative, executive, and judicial powers, while introducing the civil rights of citizens"[6]. Therefore, this definition also reveals the reason for the existence of the state.

[1] Kemal Gözler, **Anayasa Hukuku'nun Genel Esaslarına Giriş,** Ekin Yay., Bursa 2011, p. 73.
[2] Bülent Tanör, **Osmanlı-Türk Anayasal Gelişmeleri (1789-1980),** Yapı Kredi Yay., İstanbul 2005, p. 223).
[3] As cited from Tarık Zafer Tunaya in: Kemal Gözler, *"Anayasa Hukukunun Metodolojisi"*, p.132, http://www.anayasa.gen.tr/metodoloji-3-s-117-196.pdf, Date Accessed: October 26, 2018.
[4] Kemal Gözler, **Anayasa Hukukunun Genel Esaslarına Giriş,** p.11.
[5] Faruk Türinay, "*Bir Kelime Olarak 'Anayasa'nın Tarihsel Yolculuğu* Üzerine *Düşünceler*", s.273, http://portal.ubap.org.tr/App_Themes/Dergi/2011-95-726.pdf, Date Accessed:26.10.2018
[6] Türk Dil Kurumu **Büyük Türkçe Sözlük**, http://www.tdk.gov.tr/index.php?option=com_bts/ "anayasa", Date Ac-

Between 1945 and 1952, the term Constitution was used for the 1924 Constitution, and it is used for the 1961 and 1982 Constitutions. As mentioned by Bülent Nuri Esen, the term Constitution was first used by Osman Nuri Uman in the 1930s, who was teaching fundamental law courses in a Gendarmerie School at the time[7].

## Transition from the 1921 Constitution to the 1924 Constitution

After the inauguration of the Grand National Assembly of Turkey in April 23, 1920, the perennial understanding of Thearchy became history. Based on a resolution taken in its inaugural session, the Assembly declared that a new state had been founded upon the ideology of total independence. This declaration also annihilated the idea of Thearchy, which could not further exist in the new world order. The Principle of National Sovereignty was introduced to the Turkish Governance System as a result of the emphasis Mustafa Kemal Pasha placed on it during his parliament speech in April 24, 1920, which was later accepted as an act of the parliament through a memorial. In regard to the 1920 memorial of Mustafa Kemal Pasha, some members of the parliament expressed that it had to be published, distributed, and analyzed before further discussions, while others argued that there was no need for discussion over this issue. Mustafa Kemal Pasha, on the other hand, stated that the Representative Committee had undertaken huge material and moral obligations, and all these responsibilities had to be transferred to the Assembly. This proposal was approved after the voting session in the parliament[8].

The Grand National Assembly of Turkey (TBMM) also gave first signals about the new state regime, which was to be released to the public shortly afterwards. The unfavorable conditions of the armistice period, enabled the forces led by Mustafa Kemal Pasha in the struggle for independence to prove that the crisis caused by the monarchy in Istanbul could only be overcome through resistance and democracy. Eventually, these forces came to actual power in the country[9].

The principles emphasized an annihilation of the traditional understanding of governance, mentioned above, and indicated that TBMM was a superior power to the Sultanate, which is the rule of a single person, and the Caliphate, which represents a divine will. Through the Turkish Treason Act (Law no.: 2), which was enacted in April 29, 1920, and the Decree no. 2[10] of May 6, 1920, the TBMM defined itself as the only legitimate government in the country. This need for being recognized as a legitimate entity, which was addressed through the aforementioned act and decree, was a result of TBMM's

cessed: October 26, 2018.

[7] Kemal Gözler, **Anayasa Hukuku'nun Genel Teorisi,** C.1, Ekin Yay., Bursa 2011, p. 28.

[8] Ergun Özbudun, 1921 Anayasası, Atatürk Araştırma Merkezi (AAM), Yay., Ankara 1992, p. 7.

[9] Tanör, p. 228.

[10] *"Communication with Istanbul shall be cut off, all official documents sent by Istanbul shall be returned immediately. Any civil servant who accepts these documents or does not return them shall be deemed a traitor. All treaties and agreements signed and all privileges given by Istanbul without approval of TBMM after 16 March, the date of the occupation of Istanbul, shall be deemed invalid"* (Decree no.: 2, May 6, 1920).

struggle for existence and legitimacy[11].

Essentially, Mustafa Kemal Pasha had already decided on a new state to be built upon the principles of democracy. However, he did not declare this decision until the end of the National Campaign, in consideration of the potential opposition within the Assembly[12]. He expresses his considerations about this situation in the Great Speech as below:

*"Without mentioning the name of Republic, we had been marshaling a system of governance day by day, in a way that accords with the principles of national sovereignty, and that would lead us to an actual system of the Republic. We had to prove that the state can be governed without the Sultanate and the Caliphate by continuously inoculating the idea that attributes the highest level of superiority to the Grand National Assembly"*[13].

Emphasizing the non-recognition of the Sultan's authority and the Istanbul Government as a necessity of its struggle, the TBMM did not recognize any Constitution built upon the existence of a dynasty. For this reason, the Fundamental Law of January 20, 1921, which explicitly declares the principle of National Sovereignty, was enacted (Law no.: 85, January 20, 1921). As a significant milestone for Ottoman-Turkish constitutionalism, this constitution has a significant past and future, as well as a great importance compared to its brevity[14]. Parliamentary meeting analyses on the constitution provides countless inputs regarding the idealism, patriotism, love for independence, political maturity, undisputable commitment to the principles of national sovereignty and the populism seen in the First TBMM[15].

The provisions specified in the Fundamental Law, which is defined as the first constitution of the Republic of Turkey, are based upon the essentials expressed by Mustafa Kemal Pasha in his memorial of April 24, 1920. These essentials are as follows:

1. Founding a government is mandatory.
2. It is not desirable to recognize someone as a temporary leader of a government, or to appoint a deputy to the sultan.
3. The most fundamental principle is to accept the direct seizure of the country's future by the national will's hand, that has intensified within the Assembly. There is no other power superior to TBMM.
4. TBMM embodies all legislative and executive powers. A committee shall be assigned by the Assembly as the authority to undertake the duties of governance. The speaker is also the president of this committee.

[11] Tanör, p. 233.
[12] Turhan Feyzioğlu, "Atatürk ve Milliyetçilik", **Atatürk Araştırmaları Merkezi (AAM),** V.2, March 1985, p. 402.
[13] Mustafa Kemal Atatürk, **Nutuk (Söylev),** İnkılâp Yay., İstanbul 2009, p. 659.
[14] Tanör, p. 225.
[15] Özbudun, p. 49.

NOTE: After the Sultan and the Caliph are free from pressure and coercion, the Assembly shall determine their status by law[16].

Before the *Republic* was publicly declared as the name of the new regime, Article 1 of the the Fundamental Law annihilated the understanding of sultanate which lasted approximately six centuries and gave signals of the transition to a democracy based on popular sovereignty by stating that *"Sovereignty is vested in the nation without condition. The governmental system is based on the principle of self-determination and government by the people."* By the principles specified in Article 2, the legislative and executive powers were vested in TBMM and thus, the unity of power principle was adopted. The principles of national sovereignty and unity of power were indisputably embraced by both radical reformists and conservatives. While the reformists valued these principles as building blocks on the path that leads to a modern republic, conservatives regarded them as useful tools that could protect the existence of the caliphate and the sultanate, or at least prevent Mustafa Kemal Pasha from extending his personal authority[17]. Article 3 declares the transition to the Parliamentary Government system by stating that *"the Turkish State is governed by the Grand National Assembly"*. After the foundation of the Independence Tribunals, the judicial power was also controlled by TBMM. The most fundamental reason for TBMM's control over legislative, executive and judicial powers combined was that the War of Liberation had not come to an end by that time. Therefore, the actual name of the frequently mentioned state of emergency is the National Campaign. According to its actors, survival in such a life and death struggle was only possible quick judgements and practices. This situation reveals the reason behind TBMM's extraordinary authorities. This first constitution consisting of twenty-three articles, turned TBMM into the sole authority within the country that furthered the War of Liberation on behalf of the nation, and resulted in the abolition of the sultanate.

The First TBMM, which was founded in April 23, 1920, facilitated the victory in the National Campaign and accomplished its mission by April 1, 1923. As a result of the indirect elections, which is a method that essentially aims to pre-determine candidates beforehand[18], the Association for the Defense of Rights won all seats in the Assembly, and the Second TBMM was inaugurated. The Second TBMM started to convene for the first time in August 11, 1923, and amended the 1921 Constitution within this period. These amendments laid the foundations of a new constitution for the republican era[19]. The Second TBMM put an end to regime discussions with the proclamation of the Republic in October 29, 1923, and concretized national sovereignty as the most fundamental principle of the new government. In addition, the clause "*The religion of the Turkish State is Islam; the official language is Turkish*" was included to the constitution (Article

[16] Atatürk, p. 362.
[17] Özbudun, p. 24.
[18] Serap Yazıcı, **Yeni Bir Anayasa Hazırlığı ve Türkiye,** İstanbul Bilgi Ünv. Yay., İstanbul 2009, p. 16.
[19] Faruk Yılmaz, **Türk Anayasa Tarihi,** İz Yay., İstanbul 2012, p. 124.

Shortly after the proclamation of the Republic, the need for a new constitution that would replace the 1921 Constitution, which laid the legal foundation of the new state while being adopted as the constitution of a dynamic period, was brought to the agenda. All actors agreed upon the fact that the 1921 Constitution, which formed the basis of the new state, had accomplished its mission. The country was in need of a new governmental structure which governs government's relations with individuals and determines civil rights and obligations. The new constitution was drafted in 1924[20].

## Arguments and Discussions Put Forward During the Preparation of the Constitution

After significant developments, such as the end of combat conditions, the proclamation of the Republic and the abolition of the Caliphate, a new constitution that would replace the 1921 Constitution, which had certain deficiencies due to the period it was prepared in, became a significant issue of discussion. According to Mustafa Kemal Pasha, these gaps identified in the Constitution were filled with the provisions of the Fundamental Law of 1876 (Kanun-u Esasi), which was still deemed legitimate[21]. For this reason, the general consideration regarding the constitutional amendments were focused more on the preparation of a new constitution, rather than amendments. It was due to the fact that certain provisions of the Fundamental Law of 1876 were still effective, and this situation caused a system governed by two constitutions. Indeed, the 1921 Constitution had annihilated all reasons for the existence of the Fundamental Law by declaring the foundation of a new country, granting the absolute sovereignty to the nation, putting all media of the government in an election-based system, and embodying legislative, executive and judicial powers within the body of TBMM. However, due to the situation, this reality was not explicitly mentioned by the 1921 Constitution[22]. Accordingly, Mustafa Kemal Pasha communicated to Tevfik Pasha in January 30, 1921, to inform him about the essentials of the new constitution. Due to the aforementioned situation, he also stated that: "*All provisions of the former constitution shall be effective as long as they do not contradict with the new provisions*"[23].

Preparations for the new constitution, which would replace the 1921 Constitution, were initiated by establishing the Constitution Committee. This committee consisted of the following members:

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|---|---|---|
| Yunus Nadi | (Izmir Deputy) | President |
| Feridun Fikri | (Dersim Deputy) | Secretary |
| Celal Nuri | (Gelibolu Deputy) | Reporter |
| İbrahim Süreyya | (İzmit Deputy) | Reporter |
| İlyas Sami | (Muş Deputy) | Member |

[20] Tanör, p. 209.
[21] Atatürk, p.455-458.
[22] Tanör, p. 267.
[23] Atatürk, p. 454.

| | | |
|---|---|---|
| Refik Bey | (Konya Deputy) | Member |
| Rasih Bey | (Antalya Deputy) | Member |
| Refet Bey | (Bursa Deputy) | Member |
| (Ağaoğlu) Ahmet Bey | (Kars Deputy) | Member |
| Mahmut Bey | (Siirt Deputy) | Member |
| Ali Rıza Bey | (Kırşehir Deputy) | Member |
| Ebubekir Hazım Bey | (Niğde Deputy) | Member |
| Avni Bey | (Yozgat Deputy) | Member[24]. |

Without receiving any advice to prepare the constitution, the Committee prepared a draft of the constitution and introduced this draft to the Parliament's General Assembly[25]. Considering that the regulatory rules regarding procedures to make a constitution had not yet been established, the fact that such an initiative was taken, not by the General Assembly, but exclusively by the Constitution Committee cannot be regarded as a legally improper deficiency[26].

Opinions of both the members of the Committee and the representatives in the Parliament regarding the new Constitution are worth mentioning. Although the new constitution draft was directly aimed at a parliamentary system, it was criticized by some that the draft was not completely independent from the 1921 Fundamental Law. In addition, the structure of this new constitution was built upon the general framework of the 1921 Constitution as amended in 1923[27]. On the other hand, the commentaries suggesting that the 1924 Constitution has a paradoxical place in Turkish history can be fairly deemed. The common reference point of these commentaries was that almost all of members of Parliament who accepted the new constitution, were members of the First Group. Therefore, the Second Assembly did not have a democratic structure. Accordingly, although the 1924 Constitution was prepared by an elected assembly, it was not possible to consider it a democratic process as none of the principles required for a democratic election existed[28]. It was quite interesting that although the aforementioned situation was a fact, most of the suggestions from the Committee that empowered the President with a broad range of authorities were strictly rejected by majority of the representatives. Based on this characteristic of the Assembly, it can be claimed that it transformed into a legislative body with absolute and unlimited authority, as a result of the principle of majoritarian democracy, though not a pluralist approach[29]. However, it is also clearly understood that the 1924 Constitution was prepared exclusively for a democratic regime[30]. In the report submitted by the Constitution Committee to TBMM, it stated that the Committee used a modern approach of thought, and benefited from constitutions of

[24] **TBMMZC(Türkiye Büyük Millet Meclisi Zabıt Ceridesi),** 2nd Cycle, v.3, 43th Session, October 29, 1923, p. 89-90.
[25] Fehmi Akın, "1924 Anayasası'nın Modernleşme Açısından Anlamı", http://sbd.aku.edu.tr/VIII3/fakin.pdf. p.5, Date Accessed: October 26, 2018.
[26] Tanör, p. 290-291.
[27] Cemil Koçak, "Siyasal Tarih (1923-1950)", Çağdaş **Türkiye (1908-1980),** (Editör) Sina Akşin, Cem Yay., İstanbul 1992, p. 96
[28] Yazıcı, p. 17.
[29] For more considerations regarding to the paradoxical place of the Constitution, see: Ergun Özbudun, **1924 Anayasası,** İstanbul Bilgi Üniversitesi Yay., İstanbul 2012
[30] Tanör, p. 242.

countries who had already adopted the republic as regime, while always taking the spirit of the revolution into account[31].

The President of the Committee, Yunus Nadi Bey, expressed that the First TBMM had saved the Turkish Nation, founded a new state with the Fundamental Law, and that the Constitution was an expression of the Turkish nation's movement[32]. He provided information about the amendments enacted in the new constitution and repeated that, as also mentioned in the report, the Committee regarded constitutions of other states as inputs for the new constitution, but that did not act contrary to the spirit of the revolution[33].

Regarding the media discussions of whether the Assembly had the authority to amend the Fundamental Law or not, Konya Deputy Eyüp Sabri Efendi responded to the claims and pointed out that the Constitution Committee was formed relying on this authority[34].

As for the discussions claiming that the new constitution was copied from European laws, the speaker of the Committee, Celal Nuri Bey stated that they analyzed in particular the laws of France and Poland, but did not adopt any provision thereof directly, plus, the first six articles of the new Turkish constitution was so unique that it could not be seen in any other constitution in the world. The first reason for selection of the countries examined throughout the analyses of different constitutions was that they had already adopted the principle of the unity of powers[35]. According to the statements of Celal Nuri Bey, they did not consider constitutions of America or Sweden at all as one was a state consisting of federations, while the other was formed by cantons[36]. Stating that "*the author of the Constitution, which is the proof of our victory after the five-year-long National Campaign, was the Turkish people*", Celal Nuri Bey argued that this new Constitution would finalize the shaping process of the national revolution. Celal Nuri Bey touched upon the constitutional movements in his speech and stated that the Edict of Gülhane was issued as a result of European pressure to some extent and that the Fundamental Law did not identify the rights of people, but those of the sultan. According to Celal Nuri Bey, Article 7 of the Fundamental Law secured the rights of the sultan only. Therefore, the constitution in question was not even similar to the Fundamental Law[37]. Celal Nuri Bey regarded the regulations of the Second Constitutional Era as insufficient and added that those regulations could not set comprehensive and established rights and then, all the given rights were vested by Sultan Mehmed IV Vahideddin. The 1921 Constitution, on the other hand, was prepared under extraordinary conditions and this constitution, which consisted of 23 articles (he put emphasis on how short it was by mentioning the number of articles) established non-amendable provisions and gained

[31] A. Şeref Gözübüyük, Zekai Sezgin, **1924 Anayasası Hakkındaki Meclis Görüşmeleri,** AÜSBF Yay., Ankara 1957, p. 1-2.
[32] **TBMMZC,** 2nd Cycle, v.3, 43th Session, October 29, 1923, p. 90.
[33] **Ibid.**, p. 91.
[34] **Ibid.**, p. 94.
[35] A. Şeref Gözübüyük, **Açıklamalı Türk Anayasaları,** Turhan Kitapevi, Ankara 2007, p. 48.
[36] **TBMMZC,** 2nd Cycle, v.7, 7th Session, March 9, 1924, p. 227-228.
[37] **Ibid.**, p. 224.

strength by abolishing the sultanate. According to Celal Nuri Bey, these developments provided a basis for the adoption of a new constitution. Celal Nuri Bey also stated that the momentum achieved during the adoption process of the Turkish Constitution was even greater than the momentum observed in the French Revolution, which lasted for around 82 years. He also added that such a momentum had not even been observed throughout the thirteen century history of Islam[38].

Saruhan (Manisa) Deputy Abidin Bey addressed a speech on the constitutional draft and reminded of the following words of Mustafa Kemal Pasha *"The Turkish State is a people's state, and the state of its people. The institutions in the past, however, served as a state controlled by individuals".* Then, he argued that the new constitution had to be inspired by those principles and be prepared by such a committee that had the title of Constituent Assembly[39].

Bursa Deputy Refet Bey stated that the bicameral legislature had already been adopted as a general rule and cited parliamentary systems of countries which had completed the democratization process, such as France, Italy, the Netherlands, Belgium, Switzerland, and particularly Great Britain. Refet Bey also stated that only Bulgaria, Greece, and Yugoslavia among all European states adopted the principle of unicameralism and Yugoslavia had a tendency to transition to the bicameral system. He suggested that a second assembly in Turkey could play an intermediary role in potential disputes that arise from executive procedures[40].

Zonguldak Deputy Tunalı Hilmi Bey analyzed the new constitution around the ideology of Turkism. Within this regard, he criticized the Arabic and Persian phrases and concepts used in the constitutional draft, and emphasized that the whole text had to be written only in Turkish. He also emphasized that the 3rd clause included in the 104th Article of the Law regarding "*the form of the State being a Republic and it shall not be amended, nor shall amendments be proposed*" was equal to all other provisions. He congratulated the Committee for that article in the new constitution even if all other provisions were full of mistakes. He suggested to add the phrase *"the Republic of Turkey is a people's state"* to this article. Giving examples from the Turkish history, Tunalı Hilmi Bey stated that the new constitution is not the final phase of the transition to the republic form of government[41]. The impact of the Turkism ideology is obviously seen in this speech of Tunalı Hilmi Bey. His criticism of the constitutional draft was also shaped around this ideology. Also he as expressed himself, his words were the reflection of the principles he had pursued for years. The impact of Turkism was not limited to opinions of Tunalı Hilmi Bey. Accordingly, Mersin Deputy Niyazi Bey expressed that the name of the state had to be "the Turkish State" instead of "Turkey" claiming that the term "Turkey" (in Turkish

[38] **Ibid.**, p. 225.
[39] **Ibid.**, p. 229.
[40] **TBMMZC,** 2nd Cycle, v.7, 7th Session, March 9, 1924, p. 234.
[41] **Ibid.**, p. 237-238.

"Türkiye") was an Arabic term which had been borrowed from the Italian language and "Turkish Land" would be a better choice for the name of the country[42].

Article 87 of the Constitution decreed that "*Primary education is obligatory for all Turks*". The meaning of Turks as used in this article was explained as follows (Article 88): *"The name Turk, as a political term, shall be understood to include all citizens of the Turkish Republic, without distinction of, or reference to, race or religion. Any individual who acquires Turkish nationality by naturalization in conformity with the law, is a Turk"*[43]. Regarding to the aforementioned clause, Istanbul Deputy Hamdullah Suphi Bey took the floor and tried to explain this issue with his conversations with a non-Muslim, based on the Jewish communities living in France and England. According to him, the Jews living in France had the sense of being French, while the members of the Jewish communities in England had adopted the English culture. He added that the Jewish community in Turkey could also abandon the Spanish-like language they had been persistently speaking and be engaged in the Turkish community. Hamdullah Bey also emphasized that *"As long as the Jews and Armenians do not close their schools and enroll in Turkish schools, raise children in Turkish culture, keep having independent schools and languages, regarding them as Turks can be used against the real Turks in the future",* and reproached by saying, *"You can't support the separation of language, education, and governance, and at the same time say 'regard us all as Turks'"*[44]. As a result of the discussions, Hamdullah Bey's proposal to amend the relevant clause as *"The People of Turkey, in regards to Turkish citizenship, regardless of religion and race, are Turks."* was approved by the Assembly. The term "citizenship" was first introduced to Turkish Law by the 1924 Constitution. This introduction is an indicator that people living in the Turkish land started to emerge against the state as individuals[45].

It is seen that, although the Assembly was rather homogenous (as mentioned before, members of the Association for the Defense of Rights were predominant), the members debated over significant issues, and rejected or amended many proposed motions. The most debated article of the draft was Article 25[46]. This article stipulated that the President could decide to hold an immediate election, as long as they asked the opinions of the government and could justify this decision[47]. This article became a controversial topic of discussion as the basis of this suggestion was to authorize the President to dissolve the Assembly. A majority of the representatives objected to this proposal and stated that this authority would contradict with the principles of national sovereignty and unity of

[42] **TBMMZC,** 2nd Cycle, v.7-I, 13th Session, March 16, 1924, p. 533.
[43] **TBMMZC,** 2nd Cycle, v.8-I, 42nd Session, April 20, 1924, p. 908.
[44] **Ibid.**, p. 909-910.
[45] Ahmet Mumcu, "Türkiye'de Anayasa Reformları –Tarihte Geriye Bakış", **Türkiye'de Anayasa Reformu, Prensipler ve Sonuçlar,** Konrad Adenauer Vakfı, Ofset Fotomat, Ankara 2001, p. 54.
[46] **TBMMZC,** 2nd Cycle, v.8, 19th Session, March 23, 1924, p. 908.
[47] *"The decision may either be taken by the Assembly itself or by the President of the Republic, on the condition that the President take the Government's opinion and communicates his rationale to both the Assembly and to the people".*

powers, and that the Assembly had to have an absolute superiority[48]. It is remarkable that, although almost all members of the parliament owed their positions to Mustafa Kemal Pasha, they were not overwhelmed by this debt of gratitude. This development once again proved the genuine and institutional value of the Assembly for the War of Liberation[49]. Seeing the high number of deputies asking for the floor, Yunus Nadi Bey, the President of the Constitution Committee, declared that the Committee would withdraw the proposal for the given article. However, even this proposal alone resulted in debates over the procedures[50].

A reason behind the significant authority given to the President was that the members of the Committee predicted a tendency to a one-man rule and wanted to provide an appropriate legal basis for this issue. Another reason was the wish to keep the President out of, and superior to, ordinary political conflicts, while entitling a broad range of authorities[51].

Saruhan (Manisa) Deputy Abidin Bey pointed to the contradiction between the dissolution of the Assembly by the government and the President for an immediate election and the principle of National Sovereignty[52]. Accordingly, İzmir Deputy Mahmut Esat (Bozkurt) Bey stated that this authority of the President to dissolve the Assembly weakened the principle that "Sovereignty is vested in the nation without condition". According to him, even in the most strict constitutional monarchies, the emperor or king had to receive the assembly's approval. Let it alone, the case herein discussed is the national sovereignty. *Mahmut Esat Bey stated that "the President's authority to dissolve the assembly is not possible even in strict parliamentary monarchies"* and pointed to the risk of turmoil that might emerge in case the assembly was dissolved for any reason. He presented the budget discussions as an example and emphasized that any cabinet could resort to the President due to pressure and turmoil was inevitable in case of a decision to dissolve the assembly. He added that the main purpose of the constitution and the Republic was not to compel the country to revolt, and all dictatorial regimes had emerged from executive boards, not assemblies[53]. The fact that his speech was interrupted by applause and "bravo" cheers indicates that a majority of the representatives had similar concerns. Accordingly, Karesi Deputy Süreyya Bey did not take the floor although he was given permission as he thought that he had nothing to add to the words expressed by Mahmut Esat Bey. Against the Committee's claim that "the constitutional draft was prepared after an analysis of the latest constitutions", Mahmut Bey emphasized that the constitution did not comply with principles of modern law[54]. Like Mahmut Esat Bey, Sivas Deputy

[48] Ahmet Mumcu, "1924 Anayasası", http://www.atam.gov.tr/dergi/sayi-05/1924-anayasasi, Date Accessed: October 26, 2018.
[49] Tanör, p. 293.
[50] Cemil Koçak, **Tarihin Buğulu Aynası –Efsaneler** Çökerken**-,** Timaş Yay., İstanbul 2013, p. 113.
[51] Özbudun, **1924 Anayasası,** p. 4.
[52] **TBMMZC,** 2nd Cycle, v.7, 7th Session, March 9, 1924, p. 232.
[53] **Ibid.**, p. 240-241.
[54] **Ibid.**, p. 239.

Halis Turgut also reminded the members that the President could not dissolve, or be superior to the Assembly, and underlined the principle of National Sovereignty. He also stated that the issue was not about Mustafa Kemal Pasha but it was directly related to the future of the country. Referring to the Malta exiles, he stated that the authority could be seized by malevolent people after Mustafa Kemal Pasha[55]. Similarly, İzmir Deputy Şükrü (Saraçoğlu) Bey emphasized the existence of one power and one nation, as well as the only National Sovereignty and declared a republic as the best form of government for a nation[56]. In addition, Niğde Deputy Ebubekir Hazım (Tepeyran) Bey said the following words about the controversial presidential authorities:

*"A constitution cannot be relied solely on the unique existence of Ghazi Mustafa Kemal Pasha, who is known by us and the world. While extending our endless respect to him, we have our own considerations. It is beyond our power to gift him an eternal life. For this reason, it is inevitable to consider every possibility when preparing the constitution"*[57].

As a result of the protracted discussions, the constitutional draft was rejected by the assembly with 126 votes from 130. The approved amendment is as follows: *"When the Assembly, by absolute majority, votes to dissolve before the expiration of its term, the session of the new Assembly must begin the first of November following"*[58].

Discussions over the President's term of office can also be seen. Yunus Nadi Bey, the President of the Committee, argued that the term of office had to be 7 years to assure stability in the country. As a result of the negotiations, the Assembly decided that the President would be elected among the members of and by the parliament, and the term of office would be reduced to 4 years[59]. Another topic of discussion regarding the Presidential authorities was the veto power, which meant the limitation of the Assembly's executive power in a sense. The authority was regulated as a right of the President to return the law or laws to the Assembly, for a second time[60]. The Assembly's term of office was also included in the constitutional draft. The amendment increased the term from 2 years, as adopted in the 1921 Constitution, to 4 years. Some representatives argued that the already elected deputies had to be exempt from this provision and a four-year term of office would not even be politically appropriate. The representatives, who supported this opinion mentioned above, suggested that the Assembly's self-effort to extend its term of office would contradict with the principle of National Sovereignty. However, the Assembly agreed on 4 years after the negotiations. Opposing to this decision, Gaziantep Deputy Zeki Bey responded to the members by saying, *"What happened to the National*

[55] **Ibid.**, p. 244.
[56] **TBMMZC,** 2nd Cycle, v.7-I, 13th Session, March 16, 1924, p. 244.
[57] **TBMMZC,** 2nd Cycle, v.8, 24th Session, March 30, 1924, p. 105-106.
[58] **Official Gazette**, May 24, 1924, V.71, p.5. ( 20 Nisan 1924 Tarih ve 491 Sayılı Teşkilât-ı Esasîye Kanunu) http://www.resmigazete.gov.tr/default.aspx#. Date Accessed: October 26, 2018.
[59] **TBMMZC,** 2nd Cycle, v.8, 19th Session, March 23, 1924
[60] Koçak, **Tarihin Buğulu Aynası,** p.115.

*Sovereignty?"*[61]. Giresun Deputy Hakkı Tarık (Us) Bey stated that he found the clause *"The Turkish State is a Republic"* too brief. He expressed that the form of the state could not be explained with republic alone and it had to be detailed with the information regarding territories, nation and political power. Hence, he suggested to amend the clause as "*The form of the Turkish State is a Republic*"[62].

Another discussion regarding to the constitutional draft was over women's suffrage. The clause "Every Turkish citizen possesses the right to vote at legislative elections" sparked interesting debates within the Assembly. Celal Nuri Bey suggested that the discussed clause was about the Election Law and according to the Law, every man had the right to vote and stand for election and the "*Every Turkish citizen*" phrase had to be interpreted as the men exclusively. Thereupon, Recep Bey addressed the question, "*Aren't women considered as Turks?*", to all representatives. When they responded "*Yes*", he added, "*then the mentioned articles apply to them as well*". Yahya Kemal Bey's proposal to replace the phrase "every Turkish citizen" with "every Turkish citizen regardless of gender" was rejected. Recep Bey responded to the applauses by saying, *"You didn't give the right to women. At least, don't applause this decision!"*[63] Bayezid Deputy Şefik Bey expressed his opinions about Article 11 of the constitution[64] and addressed a question to the members. His question was responded by Dersim Deputy Feridun Fikri Bey and Kütahya Deputy Recep Bey. Both of the members pointed to the fact that women had the right to vote and that had to be the interpretation of the absolute meaning of "*every Turkish citizen*"[65]. Accordingly, Karesi Deputy Ahmet Süreyya Bey also emphasized the need to amend the given article and stated that the current form did not grand the right to women. During the discussions, Recep Bey stated that *"We say that Turkey is a people's state and people's republic. Gentlemen; aren't Turkish women at least half of the Turkish people?"* As a response to this question, Afyonkarahisar Deputy İzzet Ulvi Bey offered the members to change the clause as *"Every Turkish citizen, regardless of gender"*[66]. Urfa Deputy Yahya Kemal (Beyatlı) expressed the same proposal. However, the suggested amendment was not accepted and the article was approved as "*Every Turkish man over the age of thirty is eligible for election to the Grand National Assembly*"[67].

Niğde Deputy Ebubekir Hazım (Tepeyran) Bey pointed out that direct quotations from foreign laws would not bring any benefit[68]. Malatya Deputy Reşit Ağa took the floor for this discussion and stated that it would not be a problem to follow European countries in economy, industry and commerce but directly borrowing from their laws would create problems. According to him, if it was a necessity to follow Europe in every legislative

[61] Koçak, p.118.
[62] **TBMMZC,** 2nd Cycle, v.7-I, 13th Session, March 16, 1924, p. 532.
[63] **TBMMZC,** 2nd Cycle, v.7-I, 13th Session, March 16, 1924, p. 542.
[64] "Every Turkish citizen over the age of thirty is eligible to election to the Grand National Assembly".
[65] **TBMMZC,** 2nd Cycle, v.7-I, 13th Session, March 16, 1924, p. 540.
[66] **Ibid.**, p. 541.
[67] **Ibid.**, p. 543.
[68] **TBMMZC,** 2nd Cycle, v.8, 24th Session, March 30, 1924, p. 105-106.

activity, there was no need to discuss the proposal within the Assembly and they could come to solutions by translation of the laws[69]. In his previous speech, Reşit Ağa had pointed to the fact that some articles of the constitutional draft reflected a kind of "fear of the Sultanate"[70]. By this argument, he was trying to discuss some concerns and reservations regarding the Presidential authorities.

In April 20, 1924, the Second TBMM adopted the new constitution proposed by the Committee of 12 members after discussions initiated in March 9, 1924. Therefore, the 1924 Constitution was put into effect with 105 articles as the Law no. 491[71].

## The Fundamental Law of April 20, 1924, and Its Characteristics

TBMM adopted the new constitution[72] in April 20, 1924, after protracted discussions and brought the two constitutional terms (the Fundamental Law of 1876 and the Fundamental Law of 1921), which corresponds to the period starting in 1921. Although the 1921 Constitution had already been repealed, the new constitution continued the constitutional tradition of the country, as it was based upon the principle of unity of powers. In general, this tradition was perceived as the reason for the Assembly's existence and its persistence in the framework of unity of powers was adopted as a fundamental principle[73].

The 1924 Constitution consists of six sections and 105 articles. The first section of the Constitution includes fundamental provisions. Article 1 establishes the form of government as a Republic. This provision is secured by law[74]. Article 2 states that the religion of the state is Islam and its official language is Turkish. Also, the seat of government is Ankara. Just as its antecedent, the 1921 Constitution, the 1924 Constitution also adopted the principle of National Sovereignty as the most fundamental and significant essential of the Turkish State (Article 3). The Constitution authorized TBMM as the sole lawful representative of the nation and the sole authority to exercise sovereignty in the name of the nation. (Article 4). This article aims to ensure sustainability of the TBMM's authorities within the process when the reforms were put into effect. TBMM exercises the legislative power directly. Elections were decided to be held once every 4 years and the elected members of the Assembly have parliamentary and legislative immunity. All regulations adopted by the Assembly shall be approved by the President of the Republic. As mentioned above, the President's veto power was not absolute and the President could enjoy this power by returning any law to the Assembly "to be discussed over" only once. The President had to approve the given law if submitted for a second time[75].

[69] **Ibid.**, p. 107.
[70] **TBMMZC,** 2nd Cycle, v.7, 7th Session, March 9, 1924, p. 238.
[71] **Official Gazette**, May 24, 1924, V.71, p.4. ( 20 Nisan 1924 Tarih ve 491 Sayılı Teşkilât-ı Esasîye Kanunu) http://www.resmigazete.gov.tr/default.aspx#. Date Accessed: October 26, 2018.
[72] Gözübüyük, Sezgin, p. 80-100.
[73] **TBMMZC,** 2nd Cycle, v.8, 19th Session, March 23, 1924
[74] "No proposal to alter or amend Article I of this Constitution, specifying that the form of government is Republic, shall be entertained" (Article 102/3).
[75] **Official Gazette**, May 24, 1924, V.71, p.5., (Article 35).

Within this regard, it is possible to say that the understanding which centers the legislative and executive powers within the body of the Assembly (Article 5) was continued. Accordingly, the Assembly exercises the legislative power (Article 6) through the intermediary of the President of the Republic, whom it elects, and through a government appointed by him. This government appointed by the President is defined as Cabinet (Council of Ministers). In this way, the President of the Republic was granted limited authority and a symbolic status without any political responsibility. The Council of Ministers, however, were deemed responsible for policies of the government and its own activities.

According to the essential provision specified by Article 7, the Council was authorized to monitor and overthrow the government if necessary. The difference between this amendment and the 1921 Constitution was the separation of the executive power in practice, by granting the power to the government. This separation gives regards to executive power and therefore it is not possible to claim any separation of powers in this case. Within this regard, the principle of unity of powers was sustained. In addition, the 1924 Constitution was also an effort to further the transition to a parliamentary system, which had been pursued since the proclamation of the Republic[76]. The fact that the executive body was not granted the right to dissolve the Assembly indicates an understanding that upholds its superiority. As a requirement of the parliamentary system, the political power was attached to the Prime Minister and the Government, but not the President[77]. Although the governmental system established by the 1924 Constitution looks complex when looked at from this perspective, it is possible to interpret the system as both a parliamentary system and a parliamentary government in certain aspects. This system can be defined as a "unity of powers and separation of duties" in terms of operational activities. Therefore, it was named as the Mixed Government System. In theory, legislative and executive powers are vested in the Assembly but the Assembly could only exercise its executive power through an intermediary of the President of the Republic and the Council of Ministers[78].

Another significant aspect of the 1924 Constitution is the absence of a guarantee for judicial proceedings and the right to defense in general. The amendment i judicial power is explained with the provision that this power is exercised in the name of the nation, by independent tribunals (Article 8). The fact that judicial power is executed by the courts in the name of the nation, contradicts with the principle that TBMM is the sole representative of the sovereignty. This contradiction would be resolved by the 1961 Constitution[79].

On the other hand, the foundation of emergency courts, as seen in the case of the Independence Tribunals, was not prevented by the constitution. Independence Tribunals were founded despite being against the constitution and it was considered as a coup d'etat as TBMM exercised its judicial authorities after 1950s when parliamentarism

[76] Tanör, p. 296.
[77] Koçak, "*Siyasal Tarih (1923-1950)*", p.96
[78] Gözler, p.40
[79] Cem Eroğlu, **Anatüzeye Giriş (Anayasa Hukukuna Giriş),** İmaj Yay., Ankara 1995, p. 193.

was stronger than before, in a fairly weaker manner than the Independence Tribunals[80].

The reason for establishing emergency courts was explained by the fact that the constitution authorized the legislative body to interpret its articles, instead of judicial authorities. According to the relevant article, *"The Grand National Assembly itself executes the holy law; makes, amends, interprets and abrogates laws; concludes conventions and treaties of peace with other states; declares war; examines and ratifies laws drafted by the Commission on the Budget; coins money; accepts or rejects all contracts or concessions involving financial responsibility; decrees partial or general amnesty; mitigates sentences and grants pardons; expedites judicial investigations and penalties; and executes definitive sentences of capital punishment handed down by the courts"* (Article 26).

Section 2 of the Constitution consists of Articles 9-30. These articles explain the organization of the Assembly and eligibility criteria for deputies. Electoral rights are regulated by Articles 10 and 11. According to these articles, every Turkish man over the age of eighteen possesses the right to vote at legislative elections and every Turkish man over the age of thirty is eligible to election to the Assembly. As mentioned above, within this period, the Assembly did not grant the women the right to vote or stand for elections. Members were involved in protracted debates over this issue[81].

Section 3 includes Articles 31-43. This section explains the way in which executive power is used, establishes the electoral procedure for the office of the President and his responsibilities, as well as the operations and duties of the government. For each electoral period, the President of the Republic is elected by TBMM and exercises his functions for 4 years (Article 31). The President of the Republic is the head of the State and politically not responsible to the Assembly. It is understood from the relevant provisions that the Assembly tried to limit the President's authority. Attributing such symbolic authorities to the President is not among characteristics of ideal parliamentary systems.

Section 4 is named as "The Judicial Power" and includes Articles 53-67. Duties and procedures of judicial authorities are regulated by these articles. According to these provisions, the decisions of courts are final and cannot be subject to confirmation or adjournment by the Assembly. This section includes provisions regarding the High Court as the relevant authority to judge members of the Cabinet, the Council of State, the Supreme Court, and the public prosecutors because of their exclusive duties and statuses.

Section 5 consists of Articles 68-88, which were compiled in a separate law called "the Public Law of the Turks", and defines general rights and freedoms afforded to the Turkish people, which were not included in the 1921 Constitution. Although this section was incomparably shorter than the previous ones and superficial, most of the

[80] Eroğlu, p. 198.
[81] See: Arguments and Discussions Put Forward During the Preparation of Constitution.

proposed provisions were accepted without the need for serious discussion[82]. However, the 1924 Constitution did not attach sufficient importance to fundamental rights and freedoms in general. The reason behind this indifference it that the legislators expected that these rights would be efficiently safeguarded by the representatives of the nation through legal measures in such an order where TBMM is the sole and real representative of the nation. Therefore, a general and abstract freedom and equality was stipulated by the constitution[83]. Article 68 was directly adapted from the 1789 Declaration of the Rights of Man and of the Citizen in accordance with the needs of the Turkish society. This article emphasizes the principles of liberalism and individualism. According to these provisions, *"All citizens of Turkey are endowed at birth with liberty and full right to the enjoyment thereof. Liberty consists in the right to live and enjoy life without offence or injury to others. The only limitations on liberty - which is one of the natural rights of all - are those imposed in the interest of rights and liberties of others. Such limitations on personal liberty shall be defined only in strict accordance with the law".*

The 1924 Constitution in particular established a social system and included articles that aimed to ensure public order in accordance with modern approaches. As a necessity of this understanding, the constitution established the principle of equality before the law. Also, it prohibited any kind of discrimination. Inviolability of personal liberty, life, property, honor and home (Articles 71-76), prohibition of torture and corporal punishment (Article 73), freedom of private property and the relevant rights (Article 70), freedom of religion and belief (Article 75), freedom of press within the limits of the law, freedom of conscious, thought, expression, press (Article 77), movement (Article 78), work (Articles 70 and 79), freedom of assembly and association (Article 70) and similar other classical rights and freedoms were safeguarded by the new constitution. Another remarkable aspect of this issue is the status of political parties. Pursuant to the constitution, political parties were associations. This means that any political party can be closed by a decision of a court of first instance[84]. The reference of the term *"Turk"*, which is frequently mentioned in the constitution, was explained by Article 88. *"People of Turkey, in regards to Turkish citizenship, regardless of religion and race, are Turks"*. According to this explanation, the nationality was identified based on political loyalty, rather than race. In other words, being a Turk does refer to any religious or ethnic identity, as the term is regarded as a geographical and political concept.

It was decided that the aforementioned rights and freedoms, which were involved and highlighted in the Constitution, could only be limited by law. However, the extent of these limitations were not clearly identified. This uncertainty became a topic of discussion, especially with criticism against arguably over-broad authority given to the governments in power. Leaving the issue of limitations unmentioned was a

[82] Tanör, p. 256.
[83] Eroğlu, p. 196-197.
[84] Mumcu, "Türkiye'de Anayasa Reformları", p. 45.

result of the understanding of the majoritarian democracy which argues that the majority is always right and representatives of a nation can never be harmful for the rights of individuals.

Section 6, the last section of the Constitution, includes Articles 89-105. Articles 89-91 define the provincial administrations and states that the territory is divided in smaller parts in administrative and economic terms, namely, provinces, counties, townships, and villages. It is remarkable that this provision adopted a centralist approach. Articles 92-94 regulate the eligibility of civil servants, while Articles 95-99 establish procedures for financial affairs and budgeting. Articles 100-105 define the procedures and principles regarding to the Commissioner of Finance, which was responsible to TBMM and authorized to conduct audits and accounts of the state's income and expenses. The final section of the Constitution establishes the procedure in which amendments to the constitution may be presented[85].

## Amendments in the 1924 Constitution

Five major amendments were made in the 1924 Constitution during its 37 years of effect: These amendments are listed below:

1. The Law no. 1222 of April 14, 1928
2. The Law no. 1893 of December 10, 1931
3. The Law no. 2599 of December 5, 1934
4. The Law no. 3115 of February 5, 1937
5. The Law no. 3272 of November 25, 1937[86].

The 1928 and 1937 amendments in the Constitution were relatively more important and essential in terms of political understanding and concepts. Together with the Law no. 1222, Articles 2, 16, 26, and 38 of the Constitution were amended and all references to Islam were extracted from the text[87]. The provision that defines the state's religion as Islam (Article 2) and the article about the responsibility of TBMM to "fulfill religious provisions" (Article 26) were removed from the original text after the adoption of the Civil Law and the other new regulations. In addition, the term *"I promise by God" (Wallah),* a part of oaths of the representatives and the President, was replaced by the phrase *"I swear to dedicate myself"* (Article 38)[88]. These amendments were necessities of the secular state. In order to ensure a radical judicial and social transformation, Turkish women's suffrage and right to stand for elections were included in the new Constitution, which was a topic of protracted discussions within the Assembly. In December 5, 1934, Law no. 2599 was put into effect and amended the clause of Article 10, which was "*Every Turkish man over the age of eighteen*", as "*Every Turkish woman and man over the age of twenty*" and therefore granted the women's suffrage and raised the voting age from eighteen to twenty. The amendment in Article 11 also granted women the right to stand for elections[89] and thus

[85] **TBMMZC,** 2nd Cycle, v.8-I, 42nd Session, April 20, 1924, Text of the Law: p. 365-372.
[86] Özbudun, **1924 Anayasası,** p. 5.
[87] Özbudun, p. 8.
[88] **Official Gazette**, April 14, 1928, V.863, p.12.
[89] **Official Gazette**, December 11, 1934, V.2877, p.1. (Law no.: 2599, Date of Enactment: December 5, 1934).

discussions over this issue came to an end. However, at the same time with such a revolutionary amendment in the Constitution, it is interesting that the parliament moved backwards by raising the voting age from twenty to twenty-two[90].

It is seen that Article 95 of the Constitution, which was about financial affairs, was amended on December 10, 1931[91]. Just as the 1928 Constitutional amendments laid the foundation for secularization of the regime, so did the Law no. 3115 on February 5, 1937, was important as it concretized the authoritarian characteristics of the regime. With these amendments, Atatürk's principles were included in Article 2 of the Constitution and adopted as the state's fundamental principles[92]. The essence of these amendments was adopting the internal principles of the Republican People's Party (CHP) as principles of the state's constitution. In this way, the party-state consolidation was taken a step further[93]. The outcome obtained after the parliamentary discussions over the relevant article was the idea that even thought had to be forbidden if contrary to these principles. For instance, İzmir Deputy Halil Menteşe expressed his concerns saying, *"Statism, for example, refers to the form of the state. If now a supporter of the liberal economy takes the floor and propagandizes the situation... Will the police detain him and send to the court for arrest with allegations of attempting to change the form of the state?"* Antalya Deputy Rasih Kaplan responded, "*We'll say 'let him give up the ghost'*"[94]. After the adoption of Law no. 3272 on November 29, 1937, the previously established offices of undersecretary were abolished[95].

Another expected amendment in the Constitution was the language of its text, as mentioned above within the section regarding parliamentary discussions. The language, which was regarded as strange and expressed as "*a language called pure Turkish*" by Ali Fuat Başgil during the discussions over the 1945 amendment, is the premise of the legal and constitutional language adopted in 1960s[96]. The Fundamental Law of 1924 (Constitution) was translated into pure Turkish with the Law no. 4695 of January 10, 1945, without any manipulation of meaning. However, the original text of the constitution was adopted once again with the Law no. 5997 of December 24, 1952, together with the amendments[97]. For example, with the amendment of January 10, 1945, the terms "*Vekil*" (Minister) and "*Mebus*" (Deputy) were replaced with "*Bakan*" and "*Milletvekili*", respectively, but after the amendment of December 24, 1952, the language of the Constitution was turned back into its previous version used before 1945[98].

It is seen that no structural change was made in the 1924 Constitution within the period of Turkey's transition to the multi-party democracy in 1945. The longevity of this constitution was

[90] Eroğlu, p. 199.
[91] The regulation that obliged relevant actors to introduce the budgetary proposals to the Assembly at least three months before the first day of each financial year (**Official Gazette**, 15 December 1931, V.1976,p.1. (Law no.:1893, Date of Enactment: December 10, 1931).
[92] **Official Gazette**, February 13, 1937, V.3533, p.1. (Law no.: 3115, Date of Enactment: February 5, 1937).
[93] Özbudun, p. 9.
[94] **TBMMZC,** 5th Term, v.16, 33rd Session, February 5, 1937, p. 62.
[95] Law on the Division of Government Offices into Departments (**Official Gazette**, December 1, 1937, V.3773, p.1. (Law no.: 3271, Date of Enactment: November 29, 1937).
[96] Tanör, p. 323.
[97] Gözübüyük, A. Şeref, Kili, Suna, **Türk Anayasa Metinleri – Sened-i** İttifak'tan **Günümüze ,** Türkiye İş Bankası Yay., Ankara 1985, p. 136-137.
[98] After publishing, the amendment in the Official Gazette no. 8297 of December 31, 1952, Article 1 of the Law no. 5997, which consists of two articles in total, read as follows: "*The Fundamental Law no. 491 of April 20, 1340, was adopted again with all amendments effective within the period until the adoption of the Law no. 4695, and the Law no. 4695 of January 10, 1945, which was adopted to replace the former, was repealed*" (Necmi Yüzbaşıoğlu, **Anayasa Hukukunun Temel Metinleri,** Beta Yay., İstanbul 2012, p. VIII).

associated with its libertarian and democratic essence, and amendments were not considered necessary due to this characteristic.

## Conclusion

The 1924 Constitution has been one of the most significant cornerstones in the History of Turkish Law. The law reforms initiated with the 1921 Constitution as an antecedent enabled a national, democratic and secular state organization together with the 1924 Constitution. When it came into force, the Constitution granted Assembly, which was regarded as the sole authority, the opportunities required to facilitate reforms. In order to place the reforms on solid grounds in terms of political and social lives, the Assembly adopted the majoritarian principle of democracy, instead of a pluralist approach. As put forward by Rousseau, this is known as the will of the majority, and represents the national will in this model. In this regard, it has an indivisible and inerrant character that aims to protect the benefits of the nation in general. The concepts particularly underlined throughout the parliamentary discussions over the constitutional draft were the national will and the superiority of parliament. Even this situation alone indicates that the ultimate target and wish was to create a democratic order.

The fact that the transition to a multi-party system was postponed due to the case of the Progressive Republican Party (TpCF) experienced just after the Constitution was adopted does not mean that the Constitution created an authoritarian regime. Accordingly, the 1924 Constitution adopted and revealed the modern principles of its time. From this aspect, it did not have any potential to cause a One-Party governance in the country. Above all, the One-Party regimes were realized despite the Constitution.

The most obvious deficiency identified in the 1924 Constitution was that it did not stipulate any mechanism that might prevent dominance of the majority. However, this can be explained with the lack democratic institutions and organizations, rather than the lack of principles. The Constitution's insufficiency in terms of fundamental rights and freedoms became more evident after the transition to the multi-party system in 1946 and the situation indicated that the Constitution could no longer be used. This non-functionality continued until 1960. Particularly the laws enacted by Democrat Party, thanks to the parliamentary majority, exacerbated the political polarization together with the tensions between the ruling and opposition parties. The following developments drove the country, which had been pursuing a democratic system, into the 1960 Turkish coup d'état, when the Constitution was abolished by the military junta.

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