Again: From 1867 to Today, Making a Constitution Under an Elite Umbrella in Turkey

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Abstract  Turkey is a country which is rich in culture and history. It is also called one of the few modern states that practices Islam, yet also has an established democratic system. This democracy, however, is flawed due to non-involvement from the masses. The country currently needs a new constitution, which was promised by the government that was re-elected on November 1st, 2015, ever since its rise to power on November 3rd, 2002. It seems that a new constitution which will eliminate the imbalance between state elites such as bureaucrats, high military officers and academics vs. the nation. In conclusion, the author recommends that in any case, that the new constitution should lead to the participation of the public before and after political events which take place in the administration of the country.

This paper is an original thesis written for of LLM at Queen’s University in Kingston, Canada in July of 2005. It has also been fully published in Turkey twice under the title of “Turkish Military Interventions and Building Constitutions: the Bulwarks of an Unstable Democracy” as a chapter in Filiz Kitabevi’s two books published in Istanbul: Constitutional Law Readings for Turkey, 2008 and Essays in Turkish and Comparative Law, 2013. This version has been revised, shortened and updated of the mentioned publications.

In addition, the author made a new argument concerning Turkish and similar types of democracy, after his own account of witnessing the corruption and political turmoil amongst the elite of Turkey. His conclusion is that these styles of democracy run via the influence of elite groups’ power. None of the said groups of politicians aim to bring justice to society. They string together pleasing words to the majority of the country’s populace and repeat claims of self-justice that will repair the endless problems the country faces. The author believes that the Turkish nation will soon realize the recurring cycles of power struggles that are tossed off as a game of false hope for the people, and in doing so establish a system based on personal and institutional checks and balances. Undoubtedly, absolute power corrupts those that obtain it.

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1 Introduction

The Turkish parliamentary system has been in a state of crisis since the Republic of Turkey was established in 1923. Most Turkish people feel that their system has been ailing and has arrived at an impasse. Since the early 1990’s, Turkey has been in search of an “effective” government, which, to many requires the stabilization of democracy and the removal of the Turkish Armed Forces from the political arena. Many politicians, and a few legal scholars, believe a presidential system should replace Turkey’s current parliamentary system. They see this as a natural and democratic option for Turkey, one that will help satisfy the expectations for an “effective” government and a solution to better cope with the challenge of containing the role of the Turkish Armed Forces.

Many legal scholars claim that, thus far, Turkey and its people have not built the historical foundations of democracy like that of most Western democracies. In this light, it can be argued that Turkey needs to focus more on the process of building democratic institutions from the ground up. There has been considerable debate of the suitability of either the Presidential or the Parliamentary system for Turkish politics. A minority of legal scholars believes that the problem of Turkey’s unstable democracy lies in the fact that it currently has two executive branches, the Prime Minister and the President, creating problems for the Turkish parliamentary system. They believe that adopting the American presidential system could resolve most, if not all, of Turkey’s problems. However, most Turkish legal scholars prefer the parliamentary system for Turkey. They claim that if Turkey adopts the presidential system, the country’s political system will resemble those of Latin America, where government suffers from their own inherent instability problems.

Both sides agree that Turkey needs an “effective” government. But, the main question remains… How can Turkey establish an “effective” government? While the debates on Presidential versus Parliamentary systems generate considerable attention, both sides seem surprisingly unaware of the role that the Turkish Armed Forces plays in the country’s politics. Turkey’s most chronic problem, beginning in the 17th century Ottoman era, has been the role of the Turkish Armed Forces in Turkish politics. From this perspective, the real question should be how could the Turkish government control the Turkish Armed Forces? Under parliamentary or a presidential system is a less significant area of concern. But, what kind of rule of law has to be established to overcome this chronic problem? Turkey’s bourgeoisie, including its legal scholars, must address this question in order to establish a stable democracy. For democracy to truly take hold, the power of the Turkish Military needs to be removed from the Turkish legal system. Under Turkey’s current system, which has operated for nine decades, the country has not been able to establish a stable democratic regime. Since the beginning of the republic, Turkey has created three constitutions. In addition, over the past 40 years, Turkey has faced five military coups or attempts of them, the most recent in 2016. Moreover, here I will explore the historical weaknesses in the Turkish democratic model and highlight what the nation should do to build up and codify civil-military or public-elitist relations under the
Constitution. This is a necessity, I argue, to achieve a model of “effective” government which will then stabilize its democracy. Examples around the world show that a democracy can and will function properly in both a presidential and parliamentary system such as in the US, the UK, Canada, and Germany. These countries were able to establish strong democratic systems because their armed forces were placed under the control of civilians. At least, it seems that those countries had established some balance between public and elitists. These are the essential steps that need to take place in Turkey. Arguably, civilian-military and public-elitist relations in Turkey are not true to democratic tradition. Civilians do not have authority over any military action, thus, military intimidation is vividly apparent within the general population resulting in a scared, silenced society that ultimately makes the establishment of a stable democracy in Turkey nearly impossible.

2 Brief History of Turkish Constitutions

The Constitution of 1867 provided for the first time a Western-styled constitution. The so-called “Young Turks,” a strong intellectual group during this time, had prepared the Constitution. In the late nineteenth century the religious basis of Ottoman sovereignty became unstable. Western powers had been trying to eliminate the Ottoman state from the historical arena. The “Young Turks” believed that a Western-styled administration would prevent attacks from the Western world towards the Ottoman state. Ultimately however, this would not prove to be true. Historically, the Turks have great expectations of its legal movements. Ironically if there is no belief in the rule of law, how can a legal system cure social problems?

What was the significance of the Constitution of 1876? According to Berkes, an eminent sociologist and historian in Turkey, the Constitution of 1876 was the first constitutional experiment performed in Islamic history. The Constitution of 1876 was framed by the administration through an elite group of bureaucrats, not by the representatives of people. The people were never involved in the constitution making procedures and this tradition continues in modern day Turkey. Turkey formed constitutions in 1876, 1921, 1924, 1961, and 1982. In the following section, I will explore the constitutions of 1876, 1908, 1921, and 1924.

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1 Erdoğan (2003), pp. 13–14.
2 Berkes (1964), p. 202.
3 Ibid. Many “Young Turks” fled to Europe around the 1860’s to 1900’s in order to escape the hands of the state.
4 Ibid. at 223. The first constitutional experiment was the Medina Constitution prepared by Messenger Mohammed during Islamic history. The Constitution of 1876 was the first constitution prepared based on a Western model. Professor Berkes believes that this constitution was carried out under the pressures of international politics.
2.1 The Constitution of 1867 (Kanun-i Esasi)\textsuperscript{5}

The 1867 Constitution, adopted from the 1830 Belgian Constitution, would be considered as the beginning of the parliamentary institution for the Turks.\textsuperscript{6} It created a Monarchical Parliamentary system which effectively limited the Sultan’s authority. This Constitution consisted of a Parliament made up of a Senate (Heyet-I Ayan) and a Chamber of Deputies (Heyet-i Mebusan).\textsuperscript{7} A council of Ministers (Heyet-i Vukela) was appointed by the Sultan himself and each minister was individually responsible to the Sultan.\textsuperscript{8} Senate members were appointed by the Sultan, however, the Chamber of Deputies was to be elected by holding a public election, which then took place in 1877.\textsuperscript{9} This Constitution legitimated personal freedoms, guaranteed the freedom of the press, provided for the security of tenure for judges, as well as freedom of education, religious liberties, the prohibition of torture and related actions, and voting rights.\textsuperscript{10} The constitution clearly stated that Islam was the state religion; however, the state guaranteed the protection of all faiths and continued to uphold all religious privileges. During the Ottoman era, non-Muslims could be exempted from military service; some opted to pay an exemption tax. Jews and Christians were also exempt from the jurisdiction of the Imperial courts in terms of religion and personal status, including family law, legitimacy, inheritance… They fully enjoyed self-government within their religious communities and they also operated their own schools. The Sultan had the last word in many provisions of the Constitution. In 1877, due to the Ottoman-Russian War, martial law was declared in May, and in June, Parliament was suspended until 1908.\textsuperscript{11}

Without a parliamentary culture, there is no way to structure institutions within Parliament. With the Constitution of 1867, the Ottoman Turks began to develop a national parliamentary system.\textsuperscript{12} It was the first constitution which established the first parliament in Turkish political life. After this largely unsuccessful experience, in

\textsuperscript{5}Before the Constitution of 1867 there were three constitutional documents; the Sened-i İttifak of 1808, the Tanzimat of 1839 and the Hatt-ı Humayun of 1856. All of documents provided a charter of personal liberties in writing. Some legal scholars considered these as the Magna Carta of the Ottoman State.

\textsuperscript{6}Edward Mead Earle, The New Constitution of Turkey, 40 Pol. Sc. Q. (1925): 77.

\textsuperscript{7}Article 42; see Kuzu (1992), p. 265.

\textsuperscript{8}Article 31, ibid. at 264.

\textsuperscript{9}Article 60 and 65, ibid. at 267-8.

\textsuperscript{10}Article 9, 12, 81, 15, 11, 25 and 65, ibid. at 262-3, 270, and 268. (Voting rights are provided for men only).

\textsuperscript{11}See Editorial Comment (1908), pp. 842–3.

\textsuperscript{12}See Erdoğan (2003), according to Prince Sabahattin (during this age, he was one of the rare liberals of the Ottoman state) the Ottoman state was in crisis, because Ottoman society was living under the belief of collectivistic formation (cemaat) like other Eastern cultures. Thus, this society had to build and develop individualism in order to support a western individual based notion of freedom into the Ottoman society. Özbudun, a renowned Professor of Constitutional Law, observes that Turks were a minority group in the chamber because the Ottoman Turks contributed to approximately 10–15% of the population within the Ottoman state. Fifty-six members the chamber were Muslim, 40 were non-Muslim. The Senate had 32 members: 24 Muslims, 8 non-Muslims. Some historians
1908 military officers in the Ottoman military amplified their power in Macedonia, in the Balkan Region, and threatened the Sultan in order to reinstate the Constitution of 1876. The Sultan restored the constitution and in the same year, elections provided a majority for the Society for Union and Progress in the Chamber of Deputies (Parliament). However, this term did not last long. New wars with Italy (the Tripoli War, 1911–1912) and the Balkan Wars (1912–1913) destroyed social and political developments. The new administration then transformed the second constitutional experience from one of freedom to totalitarianism. Turkish political life began to take on a culture of “coup[s], countercoup[s], political assassinations, martial law courts, government manipulation of elections, repression of the opposition, and party dictatorship.” At least, at this time, there were competitive elections, parliamentary process, and political parties. However, in my view, the 1908 military involvement was the beginning of today’s Turkish military tradition: organizing groups underground, watching the system, and intervening with the operations of the elected administration.

The Ottoman constitutional movements began in good faith; unfortunately because of wars and the ensuing social environment, they shifted into an autocratic form. They began with chaos and ended with chaos. Professor Aslan lists three reasons for why the Ottoman constitutional movement did not succeed: first, the traditional system was destroyed and a centralized system was built. Second, movements were controlled by bureaucratic elites, and these elites did not bring the people into their movements. Third, the Reformists had a militaristic point of view.

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13Erdoğan (2003), p. 25. These officers belonged to the Society for Union and Progress (İttihat ve Terakki). This group was organized by bureaucratic elites. In his early military career, Atatürk was a member of this group. However, later, because of some disputes between Atatürk and the members, he left the group. During this time, the Ottoman intellectuals had three schools of thought: Westernists, Islamists, and Nationalists. See more Berkes (1964), pp. 337–346. In the 19th century, Turkish intellectuals began to travel Europe, especially to France to adopt European culture while the nation was still living according to Islamic norms and traditions. The elites initiated the view of the general population as representative of undeveloped culture. See Heper (2000), p. 67. Unfortunately, today’s Turkey’s elites still have the same attitude about country’s people.

14See Özbudun (1989), p. 193.

15Ibid. at p. 2.

16Ibid.

17See Erdoğan (2003), pp. 26–38.

18Ibid. at 37.
2.2 The Constitution of 1921

Due to their alliance with Germany, the Ottoman territories were occupied by Britain, France, Russia, and Greece during the World War I. The Turkish national war of independence began in 1919. Mustafa Kemal Atatürk and his allies defeated all enemy armies from Anatolia in 1922 and the new Republic signed the Lausanne Treaty with the allied powers in 1923. The treaty recognized the creation of the Republic of Turkey. Mustafa Kemal Atatürk formed the first parliament of Turkey on 23 April 1920 during the National War of Independence. On 20 January 1921, the first Constitution of Turkey was enacted by parliament. 19 It was a very important constitutional document, the first time in Turkish political life “national sovereignty,” 20 was declared and the Turkish Grand National Assembly (parliament) became the only true representative of the nation. Legislative and executive powers were carried out by the Assembly. 21 The doctrine of parliamentary supremacy followed in practice. Ministers were chosen by the Assembly, from its own members. 22 The Assembly also provided guidance to the Ministers and closely watched the administration’s activities. 23

This parliament removed the roots of the Ottoman state tradition from Turkish society. In 1922 and 1923, Parliament abolished the Sultanate and the Caliphate, and established the Republic. In 1923, the Assembly established the office of president and chose the first president of the republic, Mustafa Kemal Atatürk. 24 Ministers were appointed by the president but were responsible to the assembly. Executive power was exercised by the president and council of ministers. 25 With this legal action, Atatürk became the most powerful person in the new Turkey.

In 1923, Atatürk also established the Republican People’s Party (C. H. P.), and then was elected its chairman. 26 The party had won almost all of the assembly’s seats in the 1923 election, called “the second parliament” in Turkish constitutional literature. The administrative staff of the party was composed of former military staff. 27 During the early years of the Republic, the Grand National Assembly (henceforth Parliament) had destroyed all differences between civil and religious jurisdiction. 28 All of the legal system was adapted from European models, including Germany, France, and Italy. Clearly, Atatürk devised all reforms in order to diminish the Islamic point of view from the Turkish society. Today, the success of these reforms remains debatable.

19See Altuğ (2003), p. 43.
20Özbek (1989), p. 194.
21Altuğ (2003), p. 44.
22Ibid.
23Erdoğan (2003), p. 48.
24Edward Mead Earle, The New Constitution of Turkey, 40 Pol. Sc. Q. (1925): 85.
25Ibid.
26Karatepe (1997a, b), p. 27.
27Ibid, p. 28.
28Ibid, p. 29.
2.3 The Constitution of 1924

The second Parliament enacted the Constitution of 1924. It provided for a unicameral parliament, in which was vested all sovereign powers of the nation, executive, and legislative.29 This Parliament would be elected by a vote of all male citizens of eighteen years of age or more.30 Cabinet members were to be chosen from parliament and would be individually and collectively responsible to the Parliament.31 The Constitution included an article of interest to military officers. During the national independence war, some officers had been elected to Parliament, simultaneously keeping their military official positions. The Constitution of 1924 included a provision for these officers that held a Member of Parliament could not at the same time hold a public office position.32

From 1924 to 1950, the Republican Public party was the ruler of the country. The Republic abolished the Sultanate, but itself became a collective Sultanate mechanism. All public offices and bureaucratic positions were carried out by the party in accordance with its ideology.33 A few times, there were attempts to establish new parties; however, as these movements became more powerful Atatürk and his follower Ismet İnönü banned them from public life.34

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29 Article 3, 4 and 5, see Kuzu (1992), p. 291.
30 Article 10, ibid. p. 292.
31 Article 46, ibid. p. 297.
32 Article 23, No person may hold simultaneously the office of deputy and any other public office. Ibid. p. 294.

Karatepe observes that during the first Parliament there was an opposition movement against Atatürk and his reforms. This group was mainly composed of military generals, who had seats in the parliament. With this provision, some of them returned to their military office, while others resigned from military duty and remained. This group had tried to limit Atatürk’s power and block some reforms, which were believed to be against the nation’s moral and cultural values. In the following years, one of the Atatürk’s main concerns was destroying this opposition group. By 1927, the opposition group was largely eliminated from the political arena. See Karatepe (1997a, b), p. 30. Karatepe’s book analyzes the events from outside of state ideology. He offers to Turkey the time for revision of the state ideology. In the middle 1990s Professor Karatepe was in politics. During one of his public meetings he criticized the official state ideology, was found guilty by the state security court (Turkish parliament abolished these courts in 2004 to comply with the EU legal system) and sent to prison for one year. After this event, he left politics and returned to the university. Özdemir argues that the meaning of change for Turkey would be to revise the official ideology towards tolerance and meaningful democracy. See Özdemir (1995a, b), p. 219.

33 Ibid. p. 122.
34 Ibid. pp. 36–47.
The consolidation of the Republic was not easy during the first fifteen years of the new system. Atatürk and İnönü (the second president of Turkey after Atatürk’s death in 1938) used the party as a tool to develop and stabilize reforms to change social structure. The new rulers created special courts to destroy the voices of the opposition. These courts judged and charged known members of the opposition, imposing the death penalty or sending them into exile. The party effectively became the state. The state developed its own ideology and with it suppressed the nation. Instead of stabilizing the parliamentarian system, the new rulers created partisan totalitarianism. The Republican Public Party and the state became one and the same, like Siamese twins. In spite all of this, in 1946, some members resigned or were dismissed from the Republican Public Party and formed the Democrat Party. It was the beginning of the multi-party political system in the terms of the Western model of political life. In the following section, I will explore the Constitution of 1961 and the amendments on that constitution after the 1971 military intervention. In order to understand the development of Turkish democracy; it must be explained in historical chronological order.

3 Military Coup D’états and Constitutions in the Republic of Turkey

In this section, I will explore the role of Turkish military coups and the construction of new constitutions under military control. Almost all the founders of the new republic had a military background. Atatürk, himself, was a general who resigned from the Ottoman army. Historically, all Turkish states were created by Turkish militaries. Thus the Turkish Armed Forces inherently sees itself as the founder and protector of the country. Traditionally, the Turkish military became involved in politics when political conditions became unstable, or even when they were stable, the military generals feared they might lose their power and authority. Whole military coup d’états were held in the name of Kemalism. But the real reason behind this political debate

35 *Ibid.* p. 49. Karatepe provides interesting information about Turkey’s demographic structure: in the early 1920s Turkey’s population was 14 millions, with 10 million were living in the rural areas.

36 *Ibid.* pp. 40–1.

37 Almost all Turkish legal and political scholars agree that 1946 is the beginning of a multi-party political system in Turkey.

38 Kemalism had developed six principles (in the Turkish literature they were called six arrows):

- **Republicanism:** It eradicated the Sultanate and Caliphate and replaced the sovereignty of the nation, which was expressed by the Grand National Assembly (parliament). This principle has never been challenged seriously.
- **Secularism:** There should be no state religion. There should be secular control in the society, especially in the fields of law and education.
- **Nationalism:** There were many reforms in language and history, based on nationalistic perspectives. In the following years, nationalism became self-esteem and pride in the Turkish nation.
was to create a balance of power and not to decrease the power of the military rule. Ironically, the Turkish military generals were used to playing this game against the founder of the Republic, Mustafa Kemal Atatürk.  

Turkish democracy has always run under a military umbrella, ever since Mustafa Kemal Atatürk established the Republic in 1923. The army’s relationship with the government has shown different features during different periods, ranging from heavy military influence to seeming detachment. The Turkish army has exercised its power always in the name of Turkish Defense and Security. What this has often translated into is a self-defeating democratic system that has been subject to the watchful eye of the military, paradoxically in the name of ensuring the security of democracy. The extent of military involvement in Turkish politics made Turkish democracy very weak. After every military intervention, political parties were banned and the whole society was silenced. For many years, people did not want to be involved in any religious, political, and cultural activities for fear of reprisals. In addition, many individuals lost their jobs. Clearly, the strong role of the military prevented and destroyed the establishment of a strong and stable democratic system in Turkey.

3.1 The First Military Coup in 1960 and the Constitution of 1961

In order to analyze the 1960 military coup, it is necessary to scrutinize the events which led up to it from 1946 to 1960. This coup made clear that the Ottoman state military tradition of interference was still alive within the modern Turkish military. This point of view began in the late 17th century with the replacement of the Sultans. The world had changed over time, but the Turkish military remained the same. The only thing altered was the underlying military ideology which had transformed from Sultanate to Kemalism. It should be acknowledged that the military held high prestige in Ottoman society as it was seen in today’s Turkish society. From elementary

- **Etatism**: The State should play an active role in economic development. Etatism became the main government economic policy during the early years of Atatürk.
- **Populism**: Turkish society was not formed from social classes. It is defined the mutual responsibilities of the individuals and the state toward each other.
- **Revolutionism**: This is the main structure of Atatürk reforms. This principle introduced to the nation as a grand tool in order to change society’s culture and tradition. See Weiker (1981), pp. 5–7.

Feroz Ahmad stresses that as long as long the Turkish military believes itself as a guardian of the Republic and the Kemalist inheritance, there is risk for a coup in Turkey, the author adds that if the elites of the state and a majority of the population think that the only solution for the crisis is military intervention, and then the military will agree. See Ahmad (1993), p. 213.

39 See Özdemir (1994). This outstanding book explains how the generals were reacting against Atatürk in his era. Özdemir was one the most eminent writers about the Turkish military and its affiliation with politics.

40 See Weiker (1981), p. 37.
school up to university, Turks have been taught that they are part of a military nation (Ordu-Millet).

During the single-party years (1923–1950) 17–20% of parliament members had a military background. In 1950 this percentage dropped to 6%. After the establishment of the Democrat Party (DP), the ruling Republican Public Party (RPP) brought the country into an early election in 1946 (which was to be held in 1947). The Democrat Party, established in 1946, was just beginning to structure their representatives and placements within the state when the elections were called. The ruling party did not leave enough time for the Democrat Party to prepare. The 1946 election resulted with the Republican Public Party taking 403 seats and the Democrat Party taking only 54 seats. President İnönü intentionally appointed Recep Peker as Prime Minister to suppress the DP. Recep Peker held totalitarian beliefs and wanted to limit almost all the rights of the opposition. Eventually, President İnönü forced Peker to resign from office, because of complaints from opposition members, and replaced him with another RPP member. From 1946 to 1950 the DP fought for civil liberties and rights. Under scrutiny from the Democrat Party the RPP enacted a new election law in 1950 that provided elections under the control of judiciary. This legal action caused a huge change in the realm of Turkish politics. The capture of 408 seats by the DP in 1950 was a great victory. It was time for change but there was still fear concerning issues of bureaucracy and military. The main reason for hesitation stemmed from the fact that the country had been ruled for 27 years under a single-party system (the RPP) and that this ruling party had been known to use the military and bureaucracy against its own people.

One-month post-elections, on June 2, 1950, the president of Turkey became Celal Bayar and the Prime Minister became Adnan Menderes, both DP members. The government received information that the military had not accepted the election results and would push for a coup against the newly formed government. Prime Minister Menderes quickly dismissed 15 generals and 150 colonels; he also changed some officer duty posts. This incident illustrated to the Turkish populace that even if there were no existing problems within Turkey, if anyone or thing were to conflict with military ideology it might cause tensions between the army and government. As was in the Ottoman constitutional movements, multi-party experiences in Turkey have historically been known to begin in chaos.

41Ibid. p. 101.
42See Karatepe (1997a, b), p. 117.
43Ibid. at 118. Erdoğan gives different numbers; RPP: 395, DP: 64.
44Ibid. at 119.
45Ibid.
46See Erdoğan (2003), p. 76.
47See Karatepe (1997a, b), Darbeler…, p. 209.
48Ibid.
49Ibid. p. 210.
50Ibid.
Unfortunately, the DP focused more of its attention on trying to stimulate economic development rather than political and administrative reforms. Karpat criticized Prime Minister Menderes’ replacement of the Chief of the General Full Staff (Highest commander in the Turkish military) and other army officers instead of making a complete military reform. Karpat failed to recognize the reality and tensions within these relationships and that the civil bureaucracy and the military were still very faithful to the RPP. Even former President İnönü, as a RPP member during 1938–1950, wished to reform the military; however, Chief of the General Full Staff, Fevzi Cakmak (one of Atatürk’s friends and follower of a mainly Germanic national view) blocked İnönü’s actions. Additionally, for the last 20 years, governments have been trying to reform the military with none being successful.

The 1954 election ended with another great victory of the DP. The opposition won a meager 30 seats, while the DP won 430 seats. This election renewed confidence within the DP, especially Prime Minister Menderes. After this election victory the DP began to mute the voice of opposition, especially the RPP. The DP now performed the role of RPP, an ironic political ailment of modern Turkish and world politics. That is, when the opposition party becomes the ruling party they find excuses to ignore their promises to increase the rights of society and to reform the administration.

The DP’s oppressive policies and practices increased between 1954 and 1960 and the citizens of the state did not fail to notice this. The 1957 election gave a weakened majority to the DP. However, between 1953 and 1954, military officers created secret units to bring another military coup.

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51 See Karpat (2004), p. 110. This insightful study consisted of many articles from an outsider’s perspective of the Turkish state ideology. I should make clear that even today state elites-consisting of military, bureaucrats, and intellectuals behave totally different than the government. Ruling governments do not have the power to reform Turkish administration due to the power of military and the Constitution of 1982.

52 See Karabelias (1998), p. 22.

53 See Özbudun (1989), pp. 199–200.

54 Karpat (2004), p. 113. See also Erdoğan (2003), p. 79.

55 Ibid. at 114. Karpat explains the events from the perspective of the military. During this time the RPP realized that there was no way to get the ruling party position against the DP. Thus, the RPP began attacking the DP’s religious freedom policy and made the DP a target for the military. The DP leader Menderes thought the only way to stop these provocations was by eliminating the voice of the RPP. This was a big mistake. The second president İnönü was still the leader of the RPP. The military respected him enormously. The single-party era made all Turkey believe that Atatürk and İnönü were the defeaters of all enemies who attacked Anatolia. The single party era denied recognition to those who sided with Atatürk and İnönü to rescue the country. The national war of independence was a collective movement against the allies’ powers. It was not only just a one or two person movement. Currently, the writing of history books is still strictly surveilled by state ideology in Turkey, and thus sometimes produces fanaticism in the interpretation of historical events. There is only one truth in a policed state: “the truth” is known and provided only by state authorities.

56 Ibid. Karpat also notes that in the aftermath of the 1950 election four generals offered President İnönü the closure of the DP to keep him in power. Strangely, İnönü turned down this offer, at 110. In my view, the US began to scrutinize Turkey in the late 1940s because of the relationship between the former USSR and Turkey. At the close of the Second World War, Turkey declared war against
tensions between the DP and the RPP increased to alarming levels. The DP enacted new laws, such as the creation of an inquiry committee to search RPP and military officer relations. RPP leader İnönü began to warn the government to stop these actions. In late 1959, the “government began to arrest journalists and opposition students and to move toward direct repression of the RPP.” In the early 1960’s there were student demonstrations, and violent fights in Istanbul, Izmir, and Ankara, which the Government believed were encouraged by the RPP. The military denied government orders to arrest or fire against the demonstrators.

Finally, in April 1960, one of İnönü’s meetings was banned by the government with the support of military forces. In April 17, 1960 İnönü held a meeting at his own house in Ankara inviting some retired generals and admirals to remind them that the

Japan and Germany. Turkey was then invited to the UN meeting in San Francisco. President İnönü gave orders to Turkish delegate Feridun Cemal Erkin to state that “if the US government asked, to tell them Turkey would begin a multi-party system in the very near future.” I believe that İnönü preferred the continuation of the single-party system in Turkey, but ultimately he knew it would isolate Turkey from the modern world. It was also time to change the nationalistic German view. Ever since 1950 the Turkish state mainly used tyrannical methods to suppress the opposition.

See more Karatepe (1997a, b), Darbeler…, p. 199.

57See Özbudun (1989), p. 201.
58See Karpat (2004), p. 115.
59See Weiker (1981), p. 11.
60Ibid.
61The RPP denied this accusation during this time. The party claimed that these movements were coming out from the nation. However, the same nation at first election disapproved this claim by voting in the Justice Party. One RPP’s claim was that the government was arresting students and killing them using meat grinders. The truth was there were a few arrested students and none of them were killed by government order. This was a provocation to conjure a military coup. Interestingly, in the following years, this truth came out. It was a game used as an excuse for a military coup. See more, Karatepe (2000) This is another outstanding book from Karatepe. He successfully argues that the single-party era established the ideology of the Republic of Turkey. In Turkey every crisis was caused out of the struggle between the nation and state ideology. In addition, he argues that Turkey is not governed by the rule of law; it is under the rule of a police state. During the writing process of this paper, one of my main concerns is examining sources of information provided outside the norms of state ideology. It is time for Turkish elites (military, bureaucracy and intellectuals) to change open up the state ideology towards a more liberal point of view. It is the people and not the state that may have ideologies. It is an unfortunate thing that Turkish academia seems to prefer state ideology instead of modern scientific knowledge. In my view, most trusted sources of information about the Turkish military, (except for a few exceptional Turkish scholars), are from the Turkish socialist intellectual point of view and from Western World researchers. See e.g. Ahmad (1977) and (1993).
62See Weiker (1981), p. 11. See Karpat (2004), p. 45. Özbudun observes that the relationship of the RPP and the military: “as for its social bases, the RPP has of ten been described as a coalition between the central military-bureaucratic elite and local notables, the former clearly being the dominant element especially at the level of central government.” See Özbudun (1989), p. 196.
protection of the spirit of the revolution was the military’s duty.63 The next day in parliament İnönü stated there would be a military coup and that “when conditions are complete, revolution becomes a legitimate right for the nation, for the citizen begins to think that no other institution or way exists to defend his rights’.”64 Mr. İnönü turned a blind-eye towards his party’s authoritarian history, claiming that, at the time, such behavior was justified by the World War II environment. The DP had wanted to eliminate the powers of the elite group whereas the RPP was trying to destabilize the rural areas. Both parties, however, were similar in their use of methods of suppression to reach their own goals. The DP was trying to maintain a close relationship with the “average” people in the country. However, the DP was aware of the growing strength of the RPP and the fact that they might try to engineer a coup, though they could do nothing to stop it.

It was not an easy task for İnönü to accept a multi-party system; he knew that with the election, the RPP would never win a majority in parliament. Thus, he attacked the DP’s political practices in the name of protecting the Atatürk Revolution. In doing so, İnönü prepared the conditions for the military coup of 1960. Karpat very concisely summarizes this coup as “the takeover [that] had been basically the class reaction of the old bureaucratic-intellectual-military elites to the rise of a new civilian order with its own social, political, and cultural values rooted in the traditional society and in the contemporary capitalist economic system.”65

On May 27, 1960, a military coup was carried out in Turkey by the junior army officers under the leadership of General Cemal Gursel.66 The DP opponents were silent and no violent events occurred at this time.67 The Western World seemed largely uninterested. It reacted with only a minor public outcry, coming out of Western Europe, which deemed the 1961 coup as a violation of democratic principles.68 Turkish liberals and democrats had believed that the Western World would support Turkey throughout this turmoil and help defend democratic principles. They assumed that the Western World would not recognize a military administration. Yet their hopes were largely unfounded. It was time for Turkey’s liberals and democrats to rethink and restructure their administrative practices and rely less on prescriptions given from abroad. The only way to prevent military coups in Turkey would be to limit the army’s power and create a strong executive branch of government to stop abuse of power in regards to democratic principles.

The 1960 military coup’s main agenda was to destroy the DP and its roots by affirming the power of the RPP.69 Karpat recognizes that “the military in power displayed from the beginning to end of their rule an almost paranoid hatred of the

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63See Hale (1994), pp. 105–6.
64See Karpat (2004), p. 115. For a parallel source see also Karatepe (1997a, b), Darbeler…., p. 218.
65Ibid. at 117.
66See Hale (1994), pp. 110–3.
67Ibid. p. 120.
68Ibid.
69See Jacoby (2004), pp. 134–5.
DP and a partisan preference for the RPP.\textsuperscript{70} All the DP deputies and a number of state officials, police officers, and businessmen were arrested and accused of corruption and violation of the 1924 Constitution. They were tried under a new law and court with their crimes defined by the new writings of the junta.\textsuperscript{71} The new law was in violation of some basic law principles, such as “ex post facto” and the natural judge. On September 29, 1960, the DP was closed down by the junta because they failed to hold a national congress every four years.\textsuperscript{72} It was a legal farce when first the junta arrested all the DP deputies and locked them into prison cells, effectively shutting down the party.

On December 16, 1960, the National Unity Committee (NUC) established the Constitutional Assembly which consisted of the RPP deputies and a group of leftist liberal intellectuals.\textsuperscript{73} On July 9, 1961 the Constitution was approved by a national referendum, in which 81% of the registered voters participated, resulted in a 61.7% yes vote.\textsuperscript{74} In 1961, there was an election under the control of the National Unity Committee. No parties won a majority, even though the RPP was supported by the NUC. From 1961 to 1965 there were coalition governments in which the military played a highly active role with the formation of these governments. There were also two more military coups attempted by junior officers within two years of the

\textsuperscript{70}Karpat (2004), p. 117. In addition, he states that the media defended the military intervention as a necessary action to save democracy and Atatürk’s reforms. In my point of view, one of the biggest problems in Turkish democracy is the media, which does not value democratic culture and always seem to back up and defend military actions. See more about corruption in Turkish media, Finkel (2000), pp. 147–66.

\textsuperscript{71}See Weiker (1981), p. 102.

\textsuperscript{72}See Hale (1994), p. 127. The court (Yassıada) delivered its verdict on September 15, 1961, fifteen were sentenced to death, thirty-one were sentenced to life imprisonment, and the rest (402) received minor imprisonment charges. In the final stage, Prime Minister Adnan Menderes, Foreign Minister Fatin Rüştü Zorlu, and Finance Minister Hasan Polatkan were hanged. The other twelve received the death penalty. In the following years they were granted amnesty and released from prison. One of them was the ex-Chief of the General Full Staff, General Rüştü Erdelhun, I think the military made a good decision, from a military perspective, not hanging the former general. Even a general from the DP would not be hanged by the hands of the junta because they did not wish to create a tradition of counter coup action. Former President Celal Bayar also received an amnesty because of his old age thus; he was spared a sentence of being hanged.

\textsuperscript{73}The junta legalized itself as a legal institution called the NUC the day after the military coup so that it could govern over the country. See Karpat (2004), p. 119. For me, to understand Karpat’s description of the leftist liberal intellectuals was very difficult. These people were supporting the military actions from the beginning to the end, and they supported the single-party ruling. I liken to call them “leftist authoritarian intellectuals.”

\textsuperscript{74}The Constitution of 1961 was prepared under the chairman of Siddik Sami Onar, the rector and administrative law professor at Istanbul University. Professor Onar was one of the single-party produced authoritarian law professors. After the military coup, some professors gave advertisements to newspapers approving the military’s actions. Professor Onar was one of them. Unfortunately, he introduced a path. The Constitution of 1982 was also prepared by a supporter of the military, a constitutional law professor named Orhan Aldikacti also from Istanbul University. Legal scholars were one of the main supporters of the Turkish military during the military coups. How does a man who believes in the rule of law defend a military intervention? See more about the academia of Turkey to support the military, Karatepe (1997a, b), Darbeler..., p. 221. Erdoğan (2003), p. 85.
civilian government in 1961. In 1965 the election provided a majority to the Justice Party: inheritor of the DP. The same thing occurred again in 1971 when the military forced the Justice Party to resign from government, which they had held from 1965 to 1971. Oddly, the same thing occurred in the 2002 election when the nation opposed the 1997 semi-official military intervention and provided a majority to the Justice and Development Party.

What was the Constitution of 1961? Most Turkish legal scholars agree that until today it was the best constitution of Turkey in terms of civil liberties and democratic principles. However, a real social challenge existed. Karpat claims that “the Constitution of 1961 was out of touch with Turkish society and culture” and that “some of its members were more at home in New York, Paris, and Frankfurt than in the Turkish towns.” The Constitution of 1961 was a liberal document (!). It created new institutions and relationships among the three branches of government, such as a bicameral parliament: the Assembly and Senate, the president being above the parties, the creation of the High Committee of Judges to deal with the personnel affairs of judges, the chief of General Full Staff being responsible to the Prime Minister instead of the National Defense Minister, the creation of the military court system, and the establishment of the Constitutional Court and the National Security Council. One noteworthy provision was made for the military, increasing its power in the constitutional system. Half of the members of the National Security Council were army commanders. In addition, the creation of military courts with an appeal division and the Military High Administrative Court allowed the military to enhance its power in Turkish society through the manipulation of law. With the Constitution of 1961, the military’s de facto position in Turkish politics became de jure. In addition, after the coup, the military created exit guarantees before the live political arena. In sum, because of the inexistence of a democratic culture, the Constitution could not find its own real place in terms of civil liberties and rights within the Turkish legal system. With the 1961 coup “the military generals began to act as mediators in civil society.”

3.2 The Military Intervention of 1971 and Constitutional Amendments

The Constitution of 1961 could not prevent the political crisis of Turkey in the years to come. In early 1971 leftist urban militant groups had increased the violence against

75 See Karabelias (1998), p. 23. See Tachau and Heper (1983), p. 23.
76 Ibid.
77 See Karpat (2004), p. 122. It seems Karpat analyzes the Turkish society elites in using the Western social and historical methodologies.
78 See Erdoğan (2003), pp. 89–104. See also Karatepe (1997a, b), Darbeler…, pp. 227–30.
79 See Erdoğan (2003), ibid. p. 89, for the parallel idea, Karpat (2004), pp. 122–3.
80 See Ahmad (1981), p. 7.
the public. The Justice Party government could not bring an end to this violence. For the military it was yet another legitimate reason to move into politics. On March 12, 1971 the military gave a memorandum to Prime Minister Suleyman Demirel suggesting that he and his government resign. Mr. Demirel followed these orders as he had done in 1980. It was the second military intervention in the history of the Republic. This time was different from the first. The military created a technocratic government mainly from the RPP partisans under the veteran RPP politician, Professor Nihat Ermi. The military believed that declaring martial law and enacting the constitutional amendments would resolve the problems of politics. Until 1973 the country was administrated by a technocratic government under the control of the military. The main assumption was that the 1961 Constitution provided a broad spectrum of civil liberties and rights and as a result, violence flourished among the youth populace. From 1971 to 1973 almost all social organizations and associations were banned as defined by Martial law. Another weakness of the Constitution was that some articles limited the government’s power. These articles were embossed into the Constitution by the military to prevent a strong government, as they had feared from the DP. In other words, if a government were to win a majority, like the DP, there had to be some mechanism for a check and balance in terms of the government’s power. As a result, the technocratic governments enacted constitutional amendments; increasing arrest periods for suspects from 24 hours to 7 days (later increased to 15 days), prohibiting state servants from joining a union, giving power to government to create decree as law (escaping from judicial review), and establishing the (special) state security courts which were not abolished until 2004 by the Turkish government in order to comply with the European Union (EU) legal standards.

Özbudun calls the 1971 a “half coup” that prevented violence. There were some military officers who attempted to make a radical coup but some higher-ranking commanders stopped them with a timely memorandum (1971 military intervention). His conclusion seems accurate because after creating a technocratic government, the military generals eliminated radical leftist officers from the army. It was a two-sided military coup; one target was the civilian government and the other was the radical leftist military officers.

81 See Tachau and Heper (1983), p. 23.
82 See Weiker (1981), p. 103.
83 See Tachau and Heper (1983), p 24.
84 See Karatepe (1997a, b), Darbeler…, p. 237.
85 See Weiker (1981), p. 104.
86 See Özbudun (1989), p. 203.
87 See Karatepe (1997a, b), Darbeler…, p. 238.
88 Ibid. pp. 239–40.
89 See Özbudun (1989), p. 203. For same information, see Karabelias (1998), pp. 23–4. Karatepe (1997, b), Darbeler…, p. 237.
In 1973 a new election took place in Turkey. No party won a majority. From 1973 to 1980 there existed many coalition governments in Turkey which increased polarization in almost every aspect of society and state, even within the police forces. The rightist and leftist guerillas were fighting in the streets causing many unresolved murder cases while the economy was at its very worst; people were waiting in lines for gas, oil, and bread. In December 1979, top generals under the leadership of the Chief General Full Staff, Kenan Evren, issued a warning letter to the President to provide the government and party leaders with incentives to prevent terror and violence. However, even with this warning, partisanship was more important to leaders than the country’s problems. In addition, parliament party arithmetic prevented the election of a new president over the course the next five months. When the constitutional limit of six months is reached and a president is still not elected, parliament needs to close and a new election held. Before this constitutional process, the military, on September 12, 1980 carried out a coup, forcibly shutting down parliament and all parties, unions, and associations involved. The 1980 military coup, its consequences and the 1997 semi-official (post-modern) coup will be interpreted in terms of Turkish democratic problems, in the following chapter.

3.3 Conclusion

The Constitutional movement began in Turkish society in the early nineteenth century. This was the time of the Ottoman era. The Constitution of 1876 was established in the Ottoman era, lasting for only a year. It ended with the Sultan declaring that it was no longer necessary because of martial law thus ending Parliament. With this Constitution Turks began to learn about the parliamentary system and the establishment of Western style democratic institutions. However, the 1908 constitutional movement appeared out of military officers’ pressure to the Sultan. It was the beginning of military interventions in pushing the constitutional process. Clearly, the Ottoman era Turkish constitutional movement began and ended with chaos. During the national war of independence, Atatürk and his colleagues created the Constitution of 1921 with the Constitution of 1924 to follow. Up until 1950 Turkey was ruled under an oppressive single-party regime. In 1950 the multi-party system was introduced

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90 See Tachau and Heper (1983), p. 25. When I was 7 years old one sad memory from those days is when my friends and I heard from our elder persons that there were two types of police: one who is under cover (in Turkish called civil police) the other was community police (toplum police). Community police stood for being good, and those under cover were considered bad. You did not know when under cover police would come and take you away. After the 1980 military coup this separation disappeared from the public thought.

91 See Ahmad (1981), pp. 5–24. In those days it was considered normal to see people dying on the streets from stray bullets while passing through the areas where rightists and leftists fought.

92 See Karatepe (1997a, b), Darbeler..., p. 247.

93 See Özbudun (1989), p. 207.
to Turkish politics. However, in 1960 a military coup hastily ended this first multi-party experience. After just a few years the military left politics to become involved with the civilians in the Constitution of 1961. In 1971 another military intervention erupted in order to prevent violence from leftist groups. The 1971 intervention led to the amendment of the Constitution in 1961 under the technocratic government. The creation of state security courts and the limitation of rights would not stop terror and violence. In 1980, yet another military coup developed in Turkey as a response.

Unsurprisingly, the military’s intervention did not cure Turkey’s democratic problems. The 1961 coup’s aim was to re-establish the single-party ideology. To this end, they sought to limit the government’s executive branch of power because they did not wish to see a strong government challenge the ultimate authority of the military. This aim was also enmeshed in the 1971 constitutional amendments. The military was untrusting of political parties because of the DP’s past behavior. They only trusted the RPP: proven followers of the state ideology. In sum, with military interventions Turkish democracy became weak and was unable to develop requisite democratic institutions. Making constitutions with military interventions became a legal game. It may be arguable; however, that because of the inexistence of a parliamentary culture, there was no real means for a stable democracy. Turkey can be seen as a contemporary social laboratory for political and legal experiments, specifically to determine whether or not an integral Western system of politics and conceptions can be instituted in countries with different cultures, history, economics and social structure.94

Lastly, the Turkish democracy and constitutional movements were driven by elites from the military, bureaucracy, and intelligentsia, individuals who have hardly experienced the nation’s problems up close and personally. Thus the state continued its struggle with the nation.

4 Problems of Turkish Democracy, the Last Forty Years

The terms of military-civil relations, a problematic issue of Turkish democracy; the legitimacy of the constitution, the powers of the president and the cabinet, the National Security Council, and the privileges of the military, will be examined. Without looking at the role of the Turkish military in Turkish politics there would be no way to understand and analyze such an unbalanced democracy. As noted earlier, Turkish military interventions in politics, especially in the process of making constitutions, brought forth a weak model of democracy to Turkey. Crossing over the red lines of military borders brought to a halt the construction of real and meaningful democratic mechanisms within Turkey. Today many legal scholars of Turkey claim that the Constitution of 1982 should be replaced with a civilian constitution. However, since 1982 constitutional articles were amended many times rather than being replaced. Establishing a civilian constitution in Turkey means there must be an elimination of power from the military in all legal and political fields. Currently,

94See Karpat (2004), p. 122.
in Turkish politics there is a glimmer of hope for change, for the establishment of a new and meaningful constitution. I argue for the strategy of the current government. The EU membership bid will provide the government with the means to implement its own agenda rather than to follow the mandate of the military.

### 4.1 The Term of 1980–1983 from Military Power to a Civilian Government: The Establishment of the Constitution of 1982

The 1980 military coup had absolutely eliminated terror and violence from within Turkish society. (However, in 1984, Turkey was faced with other types of terror and violence, this time from the separatist Kurdish movement, the PKK). This gave the military generals justification for yet another coup. The leader of the military junta, Kenan Evren made a public statement on the first day of the coup, September 12, 1980, at 4 a.m. stating: “The aim of this operation is to safeguard the integrity of the country, to provide for national unity and fraternity, to prevent the existence and the possibility of civil war and internecine struggle, to reestablish the existence and the authority of the state, and to eliminate the factors that hinder the smooth working of the democratic order.”

This intervention might fall into the category as one of the closest legitimate actions in terms of Turkish military coups. All across Turkey violence and terror was rampant. In order to legitimize the coup before the nation, the military waited over six months causing many young lives to be lost. Thus, ex-prime minister Süleyman Demirel, the leader of the Justice Party, and his supporters, argued publicly that the military had failed to exercise its power in order to prevent terror and violence under martial law prior to the coup so that they could legitimate the coup later.

Agreeing or disagreeing with this skeptical verdict would not make any difference

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95 See the General Secretariat of the National Security Council (1982), p. 229. Before the military coup more than 15,000 people (sources provides different numbers) were killed because of the clashes between rightists and leftists. After the military coup, the security forces detained 32,527 terrorists and seized 168,000 firearms. See Johnson (1982). It seems 15, 000 is an exaggerated number. According to General Evren’s broadcast, 5,241 were killed, and 14,152 were wounded due to terror and violence. See Özdemir (1995a, b), Türkiye… pp. 407–8. Major Johnson closes his arguments by stating that the military must continue to play an active role in Turkish politics. Otherwise, Turkey may become similar to Iran. He claims that in order for the Turkish state to survive this role should be reoriented to renew and stabilize Turkey instead of the military taking guardianship of the republic. Major Johnson does not think Turks have the capacity to develop a democracy in the country with its civilians. The Western world must look at the Islamic world from a reasonable window [using scientific sources], not solely from information extracted from CNN or an Orientalist perspective. I would argue that Turkey would never become like Iran. Because Turks follow the Hanefi school of thought within Islam. In this school, there is no way of establishing a religious autocratic group like in Iran’s Mullahs (religious leaders).

96 See Tachau and Heper (1983), p. 33. As an outside observer of Turkey, Cornell claims, “Apparently, the military had been planning the coup for close to a year, and spent considerable energy mapping the extremist groups responsible for the violence.” See Cornell (2004).
when analyzing the reasons behind military coups in Turkey. This outcome proves the
Turkish military gives priority to legitimizing interventions. But at the same time, the
military violates the country’s constitutions with these interventions. Consequently,
after every coup, the first public statement made includes: “we [the military] exercise
the guaranteed power of the internal service code in order to protect the country.”
A code article is not above the constitution, according to the Turkish legal system, just
as in modern world legal systems. In addition, the Turkish criminal code prohibits
coups and all their attempts. The legitimacy of establishing a constitution belongs
only to Parliament in Turkey, not the military. Why does the military not follow
Mustafa Kemal Atatürk’s path? Even during the national independence war and its
aftermath, the Parliament of Turkey prepared the Constitutions of 1921 and 1924.
Legitimacy is thus exercised by the military and not by the nation through Parliament.
This is the first legal problem of Turkish democracy. Thus, the Constitution of 1982
is not legitimate in terms of institutional power. Parliament, not the military, prepares
and enacts constitutions in modern day democracies.

One thing was very clear: the nation greatly welcomed the military as a savior of
the country because at the time they supported the restoration of law and order and
the elimination of violence and terror. Simultaneously, the military achieved further
public support because, at the same time, inflation had also decreased. However,
this economical progress failed in following years. This made it clear to the generals
that “military interventions in politics are likely to create as many problems as they
solve.”

The 1980 Junta first dissolved Parliament then the government, simultaneously
imposing Martial law with extended powers given to commanders over all Turkey.
With new legislation, a law on Constitutional Order, dated October 27, 1980, legislative
and executive powers would be exercised by military members (Junta leader
and Chief of the General Staff, Evren, Commander of land forces, General Nureddin
Ersin, Air Force Commander, General Tahsin Sahinkaya, Navy Commander Admiral
Nejat Tumer, and Gendarmerie Commander General Sedat Cilasun) of the National
Security Council (NSC).

97 See Özdemir (1995a, b), Türkiye…pp. 407–8.
98 See Özbudun (1996), p. 130.
99 Ibid. See more Altan Yalpat, “Turkey’s Economy Under the Generals” (1984) 122 MERIP
Rep. 16–24.
100 See Hale (1994), p. 246.
101 Ibid. p. 247. Hale also notes that the military junta’s aim was to leave power to the politicians
which General Evren clearly announces at the second media broadcast after the military coup.
General Evren clearly stressed to the nation to “turn over the administration of the country to a liberal,
democratic, secular administration based on the rule of law, which would respect human rights and
freedoms…following the preparation of a new constitution, electoral law, political parties act and
related legislative arrangements.” Sometimes in the academic world, scholars compare Turkish
military coups to Latin American coups. In my view, there are three main differences between Latin
American military coups and Turkish coups; Turkish military interventions took place following the
orders of the military hierarchy, which Latin American coups do not follow. Secondly, the Turkish
military turns the power to the civilians after 1–3 years has passed from the time of the coup with
a new constitution or constitutional amendments to follow. The military does not see itself as an
Political parties were not officially outlawed, but their activities were banned, and their leaders were locked in a military camp. On September 21, 1980 a new government was established by non-party technocrats through an order of the NSC under retired Admiral, Navy Commander Bulent Ulusu. One of the ministers was future Prime Minister and President of Turkey, Turgut Ozal. He would be responsible for economic affairs as a deputy minister. He had experience from the World Bank and connections with overseas financial institutions. In actuality, he was working in the Suleyman Demirel administration to impose economic programs before the coup.

During the military regime [from 1980–1983] there was an enactment of a new Higher Education Law, which established a Higher Education Board in order to eliminate the independence of universities from the government. Many eminent scholars were dismissed from universities without reasonable grounds by martial alternative administration for the country. However, Latin American militaries, after the coups, establish militaristic governments and administrations. Thirdly, the most important difference is that after the coup has taken place the Turkish military insistently dictates its own agenda and ideology to the new civilian governments, especially that of secularism and Kemalist principles. However, in Latin America military coups do not dictate this kind of ideological persuasion to its people.

See Özbudun (1995), p. 305. Professor Özbudun was an eminent constitutional law professor at Ankara University. Unfortunately, Özbudun’s detailed analysis and arguments do not take place in his Turkish written books, including his constitutional law book. I would assume this is the case because he fears military harassment. If a book is considered unreadable to Turkish society, it might not affect the military’s power, since it influences very few people.

See Özdemir (1995a, b), Türkiye… p. 441.

Ibid. at 442–3.

Ibid.

See Hale (1994), p. 253. Hale misunderstands the situation when he claims that “new laws ended their [universities] independence from the government.” Universities lost their privileges within the system. But they did not lose their power. All universities in Turkey are still representatives of the state ideology [there are a few private universities that may differ]. Unfortunately, following state ideology instead of doing scientific research does not provide quality education. Mostly, professor titles pass from father to son or other family relatives. Before hiring a person into the academic world, professors check their background and references. Referees should also have the same ideology as future employer professor’s do. However, currently (in 2019) according to the same law, universities so may be responsible in the eyes of the state, their rectors are appointed by the President. Governments finance universities and now may able to control them. The aim of the Higher Education Law was supposedly clear to civil elites that universities should be controlled by the state via the President’s appointing power. The military expected all presidents of the country to have a military background or he/she should be supported by the military. Today (in 2019) the president of the country controls everything including appointments of the rectors.
law commanders, even though it openly violated their human rights. However, Turkish society believes that violations of human rights are a problem of the individual, not society or others not directly affected by such actions.

After establishing domestic security, the National Security Council established a Consultative Assembly, which shared legislative powers with the NSC, and in reality the final word belonged to the NSC. The Consultative Assembly and the NSC formed a Constituent Assembly. The Consultative Assembly was made up of 160 members chosen by the junta or its affiliates. A constitutional text was prepared by a fifteen-member committee under the chairman Orhan Aldikacti, a constitutional law professor at the University of Istanbul. Paradoxically, in a Turkish democracy almost all Turkish academia support and aid military interventions, and thus, their political agenda. During the process of making a constitution, constitutional and administrative law professors were in the front rows ready to support their military leaders.

The committee provided a draft in July 1982, which was later amended in the Consultative Assembly and then in the NSC. They inserted a number of crucial provisional articles into the constitutional text. The constitution was explained to the nation by junta leader Evren, and conveniently, any criticisms made about his speeches were banned. The Constitution of 1982 was presented to a public referendum in November 1982, with 91.27% of the nation participating. Later, the document was approved by 91.37% of the voters. With only one vote, voters chose both the constitution and a new president. A “yes” vote for the constitution was also

\[107\text{Ibid.}\] Hale again dismisses some facts including that before the coup, some professors were involved in the supporting of violence and terror between rightists and leftists. Universities were the arenas for this ideological war. However, this situation was not an excuse for the dismissal of eminent scholars from their university positions. In the late 1980s and the early 1990s most of them returned to their jobs. During my faculty years at Istanbul University, I witnessed formerly dismissed professors showing an increased amount of respect for human rights issues compared to other professors. Without facing discrimination or persecution, Turkish intellectuals hold their place behind power figures and the status quo instead of defending rights and progress.

\[108\text{See Özdemir (1995a, b), Türkiye…p. 472. Özdemir adds that during this time [1980–83] under military rule 178,565 people were taken into custody, 64,505 were arrested, 41,727 were charged with prison terms, 326 were sentenced to death and 25 were executed. Some were murdered under security forces torture practices.}\

\[109\text{Ibid.}\] During this time [1980–83] the NSC consisted of four military forces commanders and Chief General Staff, Evren.

\[110\text{Ibid.}\] p. 447. During this time [1980–83] the NSC consisted of four military forces commanders and Chief General Staff, Evren.

\[111\text{See Hale (1994), p. 256.}\

\[112\text{Ibid.}\

\[113\text{See Özbudun (1989), p. 207.}\

\[114\text{Ibid.}\

\[115\text{See Özbudun (1997), p. 235. Using a “No” vote was a courageous decision according to Erdoğan. Erdoğan also observes that the envelope of the electrode vote was seen through and the referendum was running under junta jurisdictions.}\

\[116\text{See Özdemir (1995a, b), Türkiye… p. 457. If the constitution was not approved by the nation, there would be no provision for a solution to this unexpected dilemma but President General Evren}
a yes vote for the president of the country, the only candidate junta leader General Full Staff Evren for a term of seven-years. With the new constitution’s provision, the NSC transformed itself into the presidential council for a six-year term beginning at the gathering of the new Parliament.\footnote{See Özbudun (1989), p. 208.} Another provision made was that during this six-year term the president would have veto power over the constitutional amendments. Parliament would be able to defeat the veto only if they had three-fourths majority of MPs.\footnote{Ibid.} It was evident that the military was returning to its garrison, but for at least six-years it would be watching the political system in order to prevent further crisis in the country.

After May 1983, political parties began to form under the approval of the Presidential Council.\footnote{See Özdemir (1995a, b), Türkiye… p. 460.} The military junta performed background checks on all individual party candidates for the election of November 1983. Only three parties in total were approved.\footnote{Ibid. p. 469.} In addition, Provisional article 4 of the Constitution ruled that the chairmen, general secretaries, and other senior office holders in the former political parties could not join or have any relations with political parties or run for election for the next ten years. However, in May 1987 Ozal’s government offered various constitutional amendments to a national referendum, including withdrawal of provisional article 4.\footnote{See Özbudun (1997), p. 238.} In September, the nation barely accepted the amendments with “yes” votes of 50.1\%, and “no” votes of 49.9\%.\footnote{Ibid.} In November 1983 an election was carried out under the control of military rulers. The 1983 election provided a victory for Turgut Ozal’s party, the Motherland Party [Anavatan Partisi] which won 211 seats out of a total of 400 in parliament.\footnote{Ibid. p. 470. This election clearly demonstrated to the military that because of violence the nation, in turn, approved military intervention, but the people never gave a clear majority to the military driven party in parliament. One of the three parties belonged to retired General Turgut Sunalp’s, the Nationalist Democratic Party [Milliyetci Demokrasi Partisi] which took a place in the 1983 election. His party was clearly supported by the military, and he won 71 members in parliament.} Before the coup, Ozal was responsible for economic affairs as a bureaucrat under the supervision of Prime Minister Suleyman Demirel. In the aftermath of the December election, the civilian government was established by Ozal.\footnote{Ibid. p. 460.} The Constitution also abolished the Senate; the military believed this locked the parliamentary system. Turkey now had a unicameral parliament, the Grand National Assembly. It was a milestone, the official end to a
military regime. The National Security Council was dissolved and council members resigned from their military duties to become the members of the new presidential council.\textsuperscript{125} With this, the junta leaders took their places in the legal system. The new military forces commander became a member of the new National Security Council.

After each military intervention, the Turkish military was able to leave its mark on domestic politics. Some were temporary, like the Presidential Council, but some were permanent, like the establishment of the National Security Council. From 1980 to 1983 the NSC enacted 535 legislations, and 91 decrees. These legislative pieces covered “all fundamental aspects of social and political life in Turkey.”\textsuperscript{126} Yet another Constitution and legal system of Turkey was established and shaped by the military. According to Özbudun, Turkey again missed the opportunity to make a constitution based on a broad consensus of the nation and instead focused on elite interests.\textsuperscript{127}

The main characteristic of the new Constitution was that the military’s position in the political system was entrenched as a powerful guardian via the presidency and the National Security Council.\textsuperscript{128} The Constitution of 1982 restricted and limited political activities of individuals, trade unions, associations, and cooperatives thus effectively eliminating political pluralism from Turkish society. In addition, the provisional article 15 of the Constitution blocked constitutional court review for the constitutionality of the laws enacted during the military or the NSC’s term [1980–83]. In other words, it provided full legal immunity for the former members of the junta. Occasionally, Parliament has sought to abolish this immunity; however they were not able to generate the majority support needed to accomplish this.

In conclusion, the Turkish legal system still operates under the Constitution of 1982, with the military steering the ship. This Constitution consolidated the tradition of military construction of constitutional documents within a Turkish democracy. The Turkish Parliament, on many occasions, amended the constitutional articles of 1982 instead of establishing a civil one. Unlike the western experience, Turkish democracy was conceived within a military framework and today both co-exist along an essentially unstable path. This is unfortunate for a nation that believes in the rule of law and democratic principles. There is hope within the nation, however, that their engagement into the EU will substantially diminish the power of the military. Currently, for Turkey democracy’s main and largest problem is that the Constitution was established and derived by the military instead of by the nation’s democratic representatives, or Parliament. Thus, Turkey urgently needs a new, civilly prepared constitution based on a broad consensus from its own people’s interests and values and not only from those with upper-class status. In the following subsections I will

\textsuperscript{125}See Özbudun (1989), p. 210. Provisional Article 2 of the Constitution states that the five other members of the junta were to constitute a presidential council to remain in existence for six years after the reconvening of parliament. In November 1989, the presidential council terminated itself from the legal arena. In addition, Provisional Article 1 of the Constitution provided the junta leader, Mr. Evren with the Presidency for the following seven years, from the date of the acceptance of the new constitution in the referendum.

\textsuperscript{126}See Özbudun (1995), p. 307.

\textsuperscript{127}\textit{Ibid.} p. 306. See also Özbudun (1997), p. 235.

\textsuperscript{128}\textit{Ibid.} p. 236.
explore in-depth the problems caused by the Constitution of 1982 in terms of military and civil relations.

4.2 Separation of Powers and Check-Balance

Modern states are based on the principle of separation of powers, which is believed to eliminate arbitrary government actions and the potential for tyranny. Thus, state power is divided between three branches of government: parliament (legislative power), government (executive power), and the courts (judicial power). In this subsection, I will touch on another fundamental issue in Turkish democracy established by the constitution of 1982. Because of this constitutional framework, Turkish governments are inherently weak, forced to share its power with the president and the NSC.

All citizens need to be loyal to the nationalism of Atatürk in order to be a good citizen in the eyes of the state. Consequently, there is no protection for the citizen, if their thoughts or actions are against the modernism of Atatürk and/or its inherent secularism. But who defines the borders of Atatürkian nationalism and secularism? The constitution provides no definition. Turkish courts that support and defend the status quo, fail in many ways to protect civil rights and liberties. Is the military of Turkey, which gives life to these definitions, guilty of constitutional offences when involving in intervention? Or is it Turkish academia, ranked in third class social order, qualified to defend civil rights and liberties? In my point of view, from the sphere of Turkish politics, these definitions and borders were drawn by state elites without due respect to the rule of law. If the Atatürkian nationalist view is in conflict with human rights, what is a citizen to do? According to Turkish legal and political practices, nationalistic principles are the norm. Atatürk was a great soldier and statesman, who saved and established the Republic. Being human, he made both beneficial accomplishments and some errors along the way. If a person were to criticize him it does not mean they are an enemy of him or the state. Turkish elites should stop portraying Atatürk as God of the country. This demeans his legacy. Moreover, I think constitutions are not an ideal place to dictate nationalistic ideology.

There is no parliamentary supremacy in the Turkish constitutional system, as found in common law systems. The Constitution does not divide government branches in a definitive manner, unlike the American model. Until now, the weak separation of powers in Turkey seems to have been as functional as any classical parliamentary system. The republic’s elites are quick to justify this divergence from the classical model, insisting that Turkey’s uniqueness requires practices adopted from the West be modified to reflect Turkish ideas and culture. These elites further argue that the Turkish nation cannot fully “westernize”. Unlike the Western nations,
Turkey needs a strong fatherly leadership to guide/dictate the correct ways to behave and live, rather than a “western” citizen’s democracy.  

Interestingly, after every military intervention, the military has blamed the constitutions and political parties for being the responsible party. Ironically, it was the military juntas which prepared the constitutions, made their amendments, enforced them and then accused the politicians of locking down the constitutional system. Thus, it is difficult to comprehend the junta’s logics after each coup. The real aim of the juntas appears to be to maintain power and to re-build the system, once again, for the benefit of state elites.

With the 1982 Constitution the military provided extended powers to the president of the country, under the belief that future presidents would come from a group of retired senior military generals or military affiliates. This represents the breaking point in the separation of powers within a Turkish democracy. After the lack of legitimacy in constitution making, the second biggest problem of this unstable democracy is that the president has extended power. Turkey claims to follow the classical parliamentary system, yet in a classical parliamentary system, the monarch or the president has a largely symbolic place in the system. The Constitution of 1982 ruled that the president of the country is the head of the executive branch. Özdemir points out that, according to the Constitution, the president does not have political or legal responsibility, except in the case where treason is involved, therefore why should he be the

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129 See for parallel critics about the Turkish democracy, see Karatepe (1997a, b), Darbeler…, p. 70, and p.84.

130 See also Özdemir (1994), p. 62 and p.118.

131 See Tachau and Heper (1983).

132 See Özbudun (1995), p. 306.

133 See generally Özdemir (1994). In his book, Özdemir provides sufficient and strong evidence how the military involved presidential elections since the establishment of the republic.

134 See Tezic (2004), p. 401. Professor Tezic was one of the constitutional law professor in Istanbul University, with following the French school. In Turkey, legal scholars mainly follow the German or French legal schools. Turkish administrative and constitutional systems mainly are affected by the French legal system. Civil law is affected German or Switzerland legal movements. During my faculty years in Istanbul University in 1992, Mr. Teziç was my constitutional law professor. He was lecturing to students like a Rome Emperor from the podium. In Turkish politics literature, Mr. Tezic insists his lectures were advising to us social democratic ideology. Currently, he is the chairman of the Higher Education Board (in 2005). When the current government wishes to reform the universities of Turkey, Mr. Tezic makes public statements to media and warns the government not to pass the red lines of the system. In Turkey, trying to change or reform the academic world means destroying the state. In Turkish academia, after getting associate professor title, almost none of the professors continue academic studies. Universities belong to the state and from an administrative perspective, professors are hired by the state. In my view, Turkish society’s main problem is that state elites and the nation share the different values or ideology. The nation believes in republicanism with the traditional Turkish values, but the elites believe if the nation has this kind of democracy, they will lose their powers. Thus they offer the country unstable democracy. And their classic game is that when they began to lose power they call the military and send message to the Western world right, left, or Islamic fundamentalism is increasing in Turkey thus they have to stop it.
head of the executive branch? In the following section, I explore the dilemmas within the executive branch of government.

### 4.3 The Post-Modern Military Coup D’etat

On February 28, 1997, the Turkish military directly interfered in Turkish politics via the NSC. This time however, it was not a direct official intervention. Turkish literature refers to it as a silent coup or post-modern semi-official military coup because this time, the Army did not use guns. During Ozal’s presidency many Turkish and foreign observers believed Turkey would not have another military coup. Via the NSC the military made the coalition government sign the NSC document, which included 18 military commands though this did not yet force government to resign from office. In June 1997, however, the guardian of the country, the military, forced the elected government to resign.

Prior to February 28, 1997, the military established a special intelligence service, the Western Study Group (Bati Çalışma Grubu). It put all of Turkey under surveillance; people were scrutinized by this agency, especially civil officers, who were

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134 See Özdemir (1995a, b), Üçüncü…, pp. 238–9. Özdemir argues that it is possible to divide the executive branch between the President and the Prime Minister [cabinet]; however the president should be elected by the nation, not by the parliament like it happens in France. He adds that if Turkey would like to continue with the parliamentary system, she must limit the authority of the President and increase the Prime Minister Powers. Turkey may continue with the presidential system, but with this constitution, Turkish democracy can not cure its problems. There is hot debate going on in Turkey, on the adoption of the presidential system. The real problem in Turkish democracy is need for the elimination of the power of the military. Of course, the Turkish nation’s culture is familiar to a strong executive branch thus it may preferable the presidential system. It is interesting the state elites [military, bureaucracy, and academia] that are against the presidential system. However, political parties and a few legal scholars who are the out of the state ideology line support the presidential system. They believe in that way it is possible to eliminate the military’s power and establish strong governments. Another interesting thing is that until 2003 the state elites was supporting the EU membership, but when they realized they would lose power, they tried to destabilize the country to illustrate that it was not ready for the EU. Most people of Turkey support the EU membership (in 2005). See more about the debate of parliamentary and presidential system in Turkey; see Kuzu (1997). Kuzu argues parliamentary systems in general are evolving towards quasi-presidential or presidential systems. The Parliamentary system completed its life span, because this system is based on coordination of the powers of the branches of the government. Legislative power may strike down executive power in order to control and limit its power. However these two procedures were closed in parliamentary systems because of the political parties. He claims that parliamentary systems tend to have coalition governments, which are ineffective. France, for example, had 104 governments within 70 years before the 1958 Constitution, in which France chose semi-presidential systems. Italy had 12 governments from 1970 to 1980. In Turkey, coalition governments are one of the reasons for an unstable democracy.

135 See Cornell (2004), unfortunately, the power balance between the civil and military governments passed towards the military side after Ozal’s death.

136 See Kocabas (1997), pp. 456–68. During February 28, the second chief of the general staff, Çevik Bir sent an order to military bases, which stated that all religious groups, institutions and individuals must be found and recorded and also all mosques preachers should be followed to see
classified into groups, such as Islamic, non-Islamic, communist, nationalist, etc. Those who did not drink alcohol or prayed daily lost their government jobs. Anyone that subscribed to religious or observant newspapers or magazines was subject to abuse. Phones were tapped, and all communication was under surveillance. Also many individuals were blacklisted by the military in the name of protecting the Republic. The entire nation became extremely fearful of being seen with religious or observant persons. A struggle was taking place under the mask of secularism; interfering with people’s religion, beliefs and life style. In their fight to defend the nation from control by Islam, actions were taken that were against the principles of democracy, rule of law, and human rights. These kinds of interferences are common under military regimes, not pluralistic democracies. This type of interference needs to be recognized as anachronistic and of Jacobean primitiveness.

After the government’s fall, the military seemed to take a more prominent role in day-to-day politics. Behind the scenes, the military supported the constitutional court case that eventually closed down Erbakan’s party [Welfare Party] in early 1999. The Welfare Party members of parliament established a new party, the Virtue Party (Fazilet Partisi, FP). In the 1999 election, the Virtue Party won 15% of the votes, a fall from 21.5% in the 1995 election. The Virtue Party was closed down in 2001 by the constitutional court, which led to the break-up of the party into two rival factions, a more “traditionalist party” (the Happiness Party, Saadet Partisi) and a “modernist party” (the Justice and Development Party, Adalet ve Kalkınma Partisi) that identifies itself as “a Muslim-democratic party similar to Christian Democratic parties of Western Europe.”

if there is any preaching against secularism. In addition, wards, who wears religious traditional clothes should be determined and brought to the attention of the office of the chief of the general staff. See Bayramoğlu (2002), p. 36.

137 See Ali Bayramoğlu, ibid.
138 Ibid. at p. 2. See more Kocabaş (1998).
139 See Mazlumder (2005).
140 Ibid.
141 Ibid.
142 See Mehran Kamrava (1998), p. 275.
143 See Cornell (2004).
144 Ibid.
145 Ibid. The constitutional court reasoned that the Virtue party was the continuation of the Welfare Party thus it has to close down in the name of the protection of secularism. One of the problems with secularism in Turkey is that the constitution of Turkey does not define or explain what secularism is. This provides the courts arbitrary interpretation of secularism. Since the establishment of the Republic, the Turkish Judiciary System defended and backed up successive military interventions and the status quo. The military thus never touched the judiciary. Özdemir proposes that the judiciary and military interventions could be one of the best PhD dissertations, if some one would study it. The last tragic comedy from the constitutional court of Turkey came out during March of 2005. The issue is that one of the eminent constitutional law professors, Mustafa Erdoğan, was interviewed [interview’s headline, For Turkey: the Best is Presidential System] by the daily Star Newspaper on December 15, 2004. Erdoğan claimed that “when the left is in the government office, the constitutional court does not produce any verdict against them. The court blocks the right centre
During the February 28, 1997 post-modern coup, many individuals were taken into custody and arrested by security forces for participating in religious meetings and rituals. Women were warned about the disciplinary penalties for wearing headscarves, for religious identifications, and for worship in official or private institutions. After investigations were carried out, these women could be prosecuted.

The Military organized a public news meeting and identified religious media as an enemy of the state.

In 2002, after two big economic crises under the coalition government of the Democratic Left Party and the Nationalist Action Party, the Turkish nation went into an early election forced by other political parties, media, and the nation. All of Turkey again showed up at the ballot boxes proving that the post-modern military coup was definitely not approved by the nation. 1983 electoral law required parties to win at least 10% of the national vote to qualify for any parliamentary seats. The reason for this law was to establish major governments in order to prevent fringe parties from reducing Parliament to a state of chaos, which had occurred before the 1980 military coup. Because of the 10% quota, only two parties won seats in Parliament, the modernist wing of the Virtue Party, or the Justice and Development Party (the JDP) won 363 seats out of 550 and the Republican Public Party (the RPP) won the remaining 179. Interestingly, Erbakan’s Happiness Party (the traditionalist wing of the Virtue Party) received only 2% of the vote from the voters.

Since the early 1970s, Erbakan’s anti-Semitic, careless political actions and politicization of Islamic values have harmed truly devout Muslims of Turkey. According to the Quran’s order, a Muslim cannot be a part of any racist movement, including governments with its decisions. And when we scrutinize the quality of court judges most of them do not have enough intellectual capacity or experience. They cannot understand the important events for Turkey and they interpret legal norms ideologically at ultra level. For example, the headscarf was not banned in Turkey with the legal statute, but because of the constitutional court’s hard interpretation of the secularist understanding.” Because of these sentences the Ankara Public Prosecutor’s office opened the case against Erdoğan stating that he passed the line of the criticism and assaulted verbally the personal dignity of the court’s judges. This offence is punishable up to four years.

See “Anayasa Mahkemesi Üyeleri, Prof. Dr. Mustafa Erdoğan’a Hakaret Davası Açtı [The Members of the Constitutional Court opened Verbal Assault Case against Professor Mustafa Erdoğan], Milli Gazete Daily Newspaper (March 1, 2005), online, http://www.milligazete.com.tr/0132005/haberler.htm (accessed March 1 2005).

146 See Mazlumder (2005).

147 See Kocabaş (1998), pp. 229–35.

148 See generally ÇaHA (2003), pp. 95–116. The author observes that the real reason behind the February 28 military coup was to eliminate Anatolian business grown capital against the Istanbul business world. The same argument was also supported by Kocabaş. See more Michael Rubin (2005), pp. 13–23.

150 See Ergun Özbudun, “The Institutional Decline of Parties in Turkey” in Larry Diamond & Richard Gunther, eds., Political Parties and Democracy (Baltimore, John Hopkins University, 2001) 240–1.

151 See ÇaHA (2003), p. 95.

152 Ibid. p. 106.
anti-Semitism. Certainly, it became evident that the Turkish nation never approved of the military interventions or the politicization of Islam. Using a Canadian frame of reference, most Turkish people stand between the Liberal Party and the Conservative Party. Ozal was a liberal-conservative who diminished the military power, however temporarily, and most of the nation loved and applauded him. The current Turkish Prime Minister, Erdoğan, is like Ozal, a liberal-conservative politician trying to take the nation into the EU. However, he still struggles with state elites, including the military, academia, and other intellectuals. Luckily, the current Chief of the General Full Staff, Hilmi Özkok, seems to be a liberal Western style soldier, who knows the borders of the military and shows respect to civilian authority. Unfortunately, Turkish democracy depends on personal character rather than institutions. So it all depends on who is in office, which can and does change.

4.4 Conclusion

With successive military interventions, Turkish democracy became increasingly unstable, lacking in the development of civil society and democratic institutions. Preparing a constitution under the authority of military became a tradition in the Turkish legal system. The current Constitution of Turkey facilitated a powerful President and the National Security Council in order to let the military oversee and supervise the system. Many appointed powers are given to the President rather than the Prime Minister of Turkey. The President is elected by Parliament and the Prime Minister is elected by the nation. An un-elected President is constitutionally the head of the executive branch. In other words, the current Constitution diminishes the classical parliamentary system in Turkish politics. Since the 1982 Constitution was crafted, big problems and arguments have occurred between the President and Prime Minister. Therefore, this ironic situation needs to be fixed by the Parliament of Turkey, reducing the power of the President.

With military intervention, the Turkish military amplified its own power and privileges within the legal system and virtual politics of Turkey. Establishing its own companies, military judiciary systems, uncontrolled budgets and spending, as well as its involvement in national intelligence organization definitely gave Turkey “an untouchable military power.” The military of Turkey is still the most powerful institution in the country. In other words, Turkish democracy demonstrates that those who are appointed are more powerful than those who are elected. Evidently, there are some legal amendments needed in order to comply with EU standards in terms of civil and military relations in Turkey. However, change has still not established civilian control over the military. In 2005, at the foot of the EU door, Turkish democracy runs under military rule, and the military is above the Turkish system, like Damocles sword.
5 Alternative Conclusions from 2005 to 2018: Personal Experience

Here I will write down my first hand experience, as a scholar of constitutional law, what I believe occurred in Turkey in a political sense from from 2005 to 2018. The Justice and Development Party took in hand charge of the entire system as of 2002; however, full control of the entire process took some time. To that end current President Erdoğan (formerly the Prime Minister prior to his election in 2014) had been co-operated mainly with the Gülen group. Known as the cemaat/hizmet until 2014, until Erdoğan officially named them the Parallel State Organization (PDY), as of 2016 they became known as Fethullah’s Terrorist Group (FETÖ), and joined with other known Islamic groups in order to eliminate the other ones from the government and state. This partnership seemingly worked very well until 2010, to be disturbed by new constitutional amendments.

It became very evident, especially after February 7th, 2012, that Gülen has serious qualms about Erdoğan. Gülen’s men tried to detain the chief of the Turkish Secret Service (MIT) Hakan Fidan, then take down Prime Minister Erdoğan. The failure to complete this task led to the verbal debate (rife with insults!) as was covered and aided by media outlets, particularly news stations.\(^{153}\) On December 17 and 25th, 2013 Gülen followers tried to take down Erdoğan’s government via using debated issues concerning bribery of state officials, in this case four ministers and son Bilal Erdoğan. Again failure resulted, which led to a different approach in trying to aggravate one another. As such, political war officially began between Erdoğan and Gülen. The cases, resulting raids and detainments led to the closure of institutions that were linked to Gülen began and continued until July 15th, 2016. Gülen’s military officers attempted a military coup d’edat; President Erdoğan again thwarted their efforts as a result of national backing and overall general support by channels of private information. The new constitutional referendum that took a place on April 16th, 2017 aimed to change the government system of Turkey. The new system, named “Cumhurbaşkanlığı Sistemi” (People’s Presidential System), was accepted with a vote distribution of fifty-two percent to forty-eight percent. The new system is based on the single entity o power that is the president’s will, and has no realistic means of curbing single person-like use of political influence. It has also allowed for many loopholes of escape for any wrongdoing individuals in politics, most notable the president himself.

After July 15th, 2016, many government officials, including teachers of any educational level and military personnel, were fired from their jobs under the name of fighting against the internal spread of FETÖ (Fethullah’s Terrorist Group)’s thoughts and teachings. Currently, the rough estimate stands at about one-hundred-fifty-thousand individuals. I classify these individuals as 1) Those who opposed and fight against FETÖ 2) Were members of FETÖ 3) Those who have no connection with

\(^{153}\) Ozturk (2015)
FETÖ, but have a strong voice as an oppositionist, especially leftists and claimants of pro-Kurdish independence as a fundamental right.

In the Western world, members of FETÖ currently make use of the third aforementioned group of people to attempt to prove their innocence. I have to note that, FETÖ’s impoverished followers that lack education (known as Anatolian Turks in the literature) that know not of the truth of the organization were intentionally fired from their jobs in order to confuse the responsible leaders of FETÖ itself. Thus, the hidden upper circle (known as crypto-FETÖ in writing) kept their positions in the government by doing away with those that oppose FETÖ, in spite of abundant and clear evidence displaying that they indeed do oppose, not work for, the group.

On closing remarks, FETÖ is still very strong in Turkey and plays with the system of political influence. Thus, some strongly claim that President Erdoğan has struck a deal with the highest order (hard core) of FETÖ who thus shield him from harm, and are protected by him in turn. Time will tell if this holds true or not, as until very recently members of members of FETÖ with prominence as politicians were completely unscathed. However, a relatively small number did resign to avoid further inquiry—a sure sign of a highly exclusive elitist system of governance.

Currently, politics in Turkey stand on a very unstable bedrock of Erdoğan versus Gülen, but other weeds looking to sprout on this rock include former PMs Ahmet Davutoğlu and Binali Yıldırım, former PM and former president Abdullah Gül, and groups that follow the philosophies of Çakmak, Atatürk, and İnönü. Whichever one takes root surely spells troubled times for the shifting structure of Turkish political and social life…The last sentence is that no one is above the President Erdoğan’s executive orders either official or unofficial ones.

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