

Democracy in Parliamentary and Presidential Systems and the Choice of Turkey: A Comparative Analysis

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For the last few years Turkey has been passing through controversial processes in political, social, economic and military aspects. In the summer of 2016 a coup attempt took place; it did not succeed but hot debates are continuing on its causes and results. Under these debates and state of emergency which was declared in July 2016, a referendum was held in April 2017 for transition from parliamentary to presidential system. Higher Board of Elections (HBE) declared that "Yes" camp won by a margin of 51 to 49 percent. Referendum process produced several debates including the role played by the HBE on the referendum day and they are not close to fading away soon. After 2014 presidential elections Turkey had adopted de facto semi-presidential system; this time it accepted presidential system. With such radical changes that she went through in the last years, Turkey in fact took a radically different path from established parliamentary regimes.

In this section, the basic discussion will be on the reasons and processes of transition from parliamentary to presidential system in Turkey. However, in order that the subject can be settled on more solid foundation and the validity or consistency of arguments for and against this transition can be discerned, the standing of world countries in terms of democracy will be reviewed in the first two parts of this section. Within this framework, Turkey's place in terms of constituents of democracy will also be evaluated.

Several comprehensive debates were held in comparative politics literature on the advantages and disadvantages of parliamentary and presidential systems:¹ the advantage of one system was noted as the disadvantage of the other in several studies. The interest on political systems is also in-

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1 For discussions on parliamentary and presidential systems, see Cheibub and Limongi (2011), Crepaz (1996), Diamond and Plattner (1993), Horeth (1999), Kerrouche

creasing in Turkey.² In this paper, general comparisons between political systems will not be discussed; instead, a different perspective will be taken and the results generated by different systems will be evaluated based on international indexes. First, the type of government of each country will be identified; then, the democracy levels of countries will be compared according to their government types. For this purpose, the status of countries will be reviewed based on such indexes as political rights and freedoms, economic freedoms, freedom of press, rule of law and constraints on government powers indexes which are essential constituents of democracy. In this manner, a solid foundation will be provided for the examination of the meaning of search for political system in Turkey and the consequential transition.

In this framework, the second part of this section will examine the content of the constitutional amendment and arguments for and against it. This part will be followed by the international evaluations and reflections on constitutional amendment and referendum process. Within this scope, evaluations of Venice Commission on constitutional amendment, the findings in OSCE report on referendum voting, and European Parliament decisions which relate the referendum with Turkey's bid for EU accession will be discussed. Especially the first two reports will be used to display the reasons behind European Council Parliamentarians Assembly decision dated 25 April 2017 for re-opening the monitoring procedure for Turkey.

In the final part, the rationality of Turkey's choice for constitution and system change and its potential results will be discussed. In addition, the real problems that Turkey is experiencing and the reasons and possible solutions to the deadlocks of the system will be evaluated.

(2006), Lijphart (1984), Lijphart and Crepaz (1991), Lijphart (1992), Stepan and Skach (1993).

2 For discussions on parliamentary and presidential systems in Turkey, see Akaş (2015), Alkan (2013), Bağce (2016), Bağce (2017), Boyunsuz (2017), Ergül (2005), Fendoğlu (2010), Gözler (2001), Gözler (2017), Kuzu (2016), Parla (2016), Toprak (2017), Tosun and Tosun (1999), Yazıcı (2011).

Parliamentary and Presidential Systems in the World

Several difficulties and uncertainties are encountered in classifying countries according to their political systems. One of the leading difficulties is that countries are not constant systems and they change just like other organisms and beings. A country which adopts a certain style of government in a certain period crumbles, disintegrates or experiences system change due to natural (such as disasters, social movements, revolutions, coup d'états or wars), internal and external political, economic and social conditions. In our age several countries have gone through transformations from one system to another. The events during and after the two world wars or changes in government systems of countries after the fall of Soviet bloc are still fresh in memories.

With the exception of radical changes, a country which adopts a certain type of government in a certain period can go through transformation depending on its internal dynamics or global conditions. The change experienced by semi-parliamentary (or semi-presidential) countries is especially remarkable. In European countries where president is popularly elected, the “formal”, “ceremonial”, or “symbolic” role of the president is underlined and it is emphasised that the head of the executive is the prime minister, and that political responsibility and authority rests with the prime minister and cabinet of ministers. In official documents, this emphasis is easily traceable.

In European countries there is an observable turn from semi-presidential to parliamentary system. In addition, among the most prominent countries governed with parliamentary system, there is a tendency towards direct or semi-direct democratic applications which will ensure more popular participation. Among these practices we can mention citizens proposing legislation, recalling the elected officials, and observing equality of opportunity in using rights to elect and be elected. For example, in official documents of Polish government, a report titled “Political System of Poland” includes the following expression: “*Republic of Poland is a parliamentary democratic republic with multi-party system where Prime Minister is the head of government and the President is the head of the state.*” (Embassy of the Republic of Poland, n.d.). In Finland, the government system is announced with the title “government is run by the prime minister”. In the official webpage of the government, the following information provided under the title “political leadership of the government” is remarkable: “*The Prime Minister is the political leader of the Government*

and is responsible for reconciling the differing views on Government policy held by the various groups represented in the Government. The Prime Minister is also responsible for coordinating Government work with that of Parliament.” (Finnish Government, n.d.). Similar tendency is also observable in a number of countries such as Portugal, Slovakia, Austria and Bulgaria.

The transition from one government system to another inclines towards parliamentary system in Asia as well. Mongolia, a country with semi-presidential system similar to Poland, is heading from a semi-presidential system with vast presidential powers to a parliamentary system with decisive powers and responsibilities vested on prime minister. There is another country in Central Asia which recently shifted from semi-presidential system to parliamentary system: Kyrgyzstan.³

One of the factors used to differentiate semi-presidential and presidential systems is the responsibility of the executive to the legislative or lack thereof. This feature is used as a litmus paper to separate parliamentary and presidential systems. One of the leading features of parliamentary systems is that after the elections the executive is constituted within the parliament and by the prime minister who is responsible to the parliament. The leading feature of presidential systems is, on the other hand, that the executive and the legislative are elected with separate elections and the executive is created outside the parliament under the management of the president. The separation of powers between legislative and executive is flexible in parliamentary system but in presidential system there is a more solid separation. Secondly, another determinant feature in differentiating parliamentary and presidential systems is whether the executive consists of one person or not. In parliamentary systems, the monarch or president acts as the head of the state with his/her symbolic and unauthorised-unaccountable role to balance the power of the executive and ensures harmony between all institutions. This role also provides a soft limitation to the representation of the executive by the prime minister only. In parliamentary systems, as members of government are also members of the parliament, prime minister is “*primus inter pares*”. Consequently, a mechanism of checks and balances is established between multiple factors within the executive in a parliamentary system. In presidential system, however, the ex-

³ For more information, see The National Democratic Institute (NDI) (n.d), and European Forum for Democracy and Solidarity (n.d.).

ecutive consists of one person (for detailed analyses, see, footnotes 1 and 2).

In the following sections of this study, scores and rankings made by indexes developed on such areas as political rights, democracy, economic freedoms, freedom of press, rule of law and constraints on government powers will be examined and selected countries will be compared in terms of their government systems, namely parliamentary, semi-presidential and presidential.

Democracy in Parliamentary and Presidential Countries

In this section, the democratic position of political systems will be discussed through such concepts as political rights and freedoms, economic freedoms, freedom of press, rule of law and constraints on government powers, which can be considered integral components of modern democracy.⁴

As regards *political rights and freedoms*, the report prepared by Freedom House displays and compares the situation of countries in terms of political rights and freedoms. In 2016 report, 195 independent countries and 5 dependent and disputed territories are included. The number of countries classified as “free” is 86, which represents 44 percent of the 195 countries in total. According to the report, the number of countries classified as “partially free” is 59 representing 30 percent of the countries. On the other hand, 50 of the 195 countries, meaning 26 percent, are classified as “not free” countries (Freedom House, 2016: 20).

Among the 200 countries included in political rights and freedoms index, 58 of the 88 countries (66 percent) classified as “free” are governed with parliamentary system, whereas 14 (16 percent) and 16 (18 percent) are governed by semi-presidential and presidential systems, respectively. Among the top 20 countries in political rights and freedoms index, 18 countries governed with parliamentary system. The number of presidential and semi-presidential systems is 1 and 1, respectively. Of the 200 coun-

4 The discussions in this section will make reference to the reports prepared by internationally recognized bodies such as Freedom House (2016), Heritage Foundation (Miller and Kim, 2016), Reporters without Borders (RWB, 2015), and World Justice Project (WJP, 2015), and based upon the detailed classification and analyses of political systems in Bağcı (2016).

tries included in political rights and Freedoms Index, the countries governed with parliamentary system with their mean of 75.97 are above the world average which is 60.35. Countries governed with presidential and semi-presidential systems are below world average with 52.73 and 54.15 mean values. It can be seen that among the 200 countries, there is considerable difference in terms of political rights and freedoms in countries governed with parliamentary, presidential and semi-presidential systems. The difference between mean scores of parliamentary and presidential countries was found as 23.24.

Turkey is in 124th rank in political rights and freedoms index with 53 points, and it ranks 69th among parliamentary countries. In political rights and freedoms index, Turkey is below world average, and at a level between presidential and semi-presidential systems.

Another index which measures and reports freedom and democracy level of countries, conducted by The Heritage Foundation, is the *Index of Economic Freedom*. In 2016 index, the ranking was based on the evaluation of data from 178 countries. The index measures economic freedom based on 10 qualitative and quantitative factors in 4 groups including rule of law. Each of the 10 freedoms in these categories is scored between 0 and 100. The final score of a country is obtained based on the average of these 10 freedoms given equal weight. As a result of the ranking, countries are classified under five categories as “repressed”, “mostly unfree”, “moderately free”, “mostly free”, and “free” (Miller and Kim, 2016: 1-2).

In the 178 countries listed in economic freedom index, parliamentary countries are above world mean value with 66 points on average. Countries governed with presidential and semi-presidential systems are close to each other and below world mean values with 57 and 59 averages respectively. Although 71 percent of parliamentary countries is above world average, only 33 and 36 percent of presidential and semi-residential countries are above world average respectively. In economic freedom ranking, 16 of the first 20 countries are governed with parliamentary system. Even Norway is not included in the first 25 countries of parliamentary system with 70,8 points, whereas Egypt is in the first 25 countries of semi-presidential system with 56 points. Likewise, Nicaragua is among the first 25 presidential countries with 58,6 points. In 2016 ranking, Turkey ranked 79th in the world with 62.1 points, and 48th among parliamentary countries. Turkey was above world average but it was well below the countries governed with parliamentary system.

World Freedom of Press Index is being published annually by Reporters without Borders (RWB) since 2002. The purpose of preparing this index is to measure the freedom of information in 180 countries. Since 2013, each country is given a score between 0 and 100 for more comparability, “0” is the highest and “100” is the lowest score. Accordingly, the situation of media in countries are classified under five categories from “good” to “very bad” (Reporters without Borders, 2015).

Among the 180 countries listed in 2015 *World Freedom of Press Index*, parliamentary countries are above world mean value with 25.75 average score. Countries governed with presidential and semi-presidential systems are below the world mean value with 34.80 and 36.04 average scores respectively. 77.46 percent of parliamentary countries is above world average, whereas only 62.50 and 48.21 of presidential and semi-presidential countries can exceed world average respectively. In the Freedom of Press Index, 17 of the 20 “freest” countries are parliamentary countries. Even United Kingdom and Japan are not ranked among the top 25 countries of parliamentary system with 20 and 26.95 points respectively, whereas Peru, Gabon and East Timor which rank 92nd, 95th and 103rd in world ranking respectively are in the top 25 of semi-presidential countries. Likewise, Uganda, Brazil and Kenya which rank 97th, 99th and 100th in world ranking are among the top 25 of presidential countries. In 2015 Index, ranking 149th among 180 countries with 44.16 points, Turkey ranked 67th among 71 parliamentary countries. Turkey was well below the averages of all categories namely the world, parliamentary countries, presidential countries and semi-presidential countries. Her ranking in Freedom of Press Index has worsened in recent years.

Rule of Law Index is prepared by World Justice Project (WJP). The index is obtained by measuring 8 factors, namely Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice (WJP, 2015: 12-14).

Among the 102 countries listed in Rule of Law index, parliamentary countries are above world average with 0.63 mean value. Presidential and semi-presidential countries are below the world average, which is 0.57, with their respective mean values of 0.50 and 0.54. Sixty percent of parliamentary countries are above world average whereas only 33 percent of semi-presidential countries exceed global mean value. Countries governed with presidential system have the lowest mean values in *Rule of Law Index*, and only 17 percent of these countries have mean values above world

average score. In Rule of Law Index the share of parliamentary countries among the countries with mean values higher than average is 67 percent whereas the share of presidential countries is 15 percent. Among countries with lower mean values than world average, presidential countries represent 47 percent. And there are 16 parliamentary countries in the top 20 ranking of *Rule of Law Index*. Presidential and semi-presidential systems are represented by 2 members, each.

With 0.46 points Turkey ranks 80th in global list and 41st among 45 parliamentary countries to be followed only by Ethiopia, Bangladesh, Pakistan and Cambodia. Thus, Turkey is below average points of all groups namely the world, parliamentary countries, presidential countries and semi-presidential countries.

Constraints on Government Powers is a component of the Rule of Law Index prepared by WJP. This component measures the extent to which the governing elite is bound by law. It evaluates the restriction of executive power consisting of public officials and government bodies and their level of accountability before law. Therefore, existence of extra-governmental controls on government such as free and independent media are also taken into account. In 2015 *Constraints on Government Powers*, 102 countries are scored and ranked according to their commitment to constraints on government powers (WJP, 2015: 24). Among the 102 countries included in *Constraints on Government Powers* factor, parliamentary countries occupy the top ranks with 0.64 average score. With 0.51 and 0.55 average scores respectively, countries governed with presidential and semi-presidential systems are at the below global mean value which is 0.58. In *Constraints on Government Powers* factor, 60 percent of parliamentary countries are above global average compared to only 26 percent and 43 percent respectively of presidential and semi-presidential countries. The mean value of presidential countries is at the lowest level among the three systems. There are 14 parliamentary countries among the top 20 countries in *Constraints on Government Powers* factor whereas the number of presidential and semi-presidential countries is 3, each.

According to the data, government officials act less arbitrarily in parliamentary system, existing data confirm this situation clearly. These findings reveal the real reason behind such problematic propositions as “presidential system is more effective” or “parliamentary system is troublesome due to its dual structure”.

Turkey ranks 95th among 102 countries with 0.37 points. It is 43rd among 45 parliamentary countries to be followed only by Ethiopia and

Cambodia. According to this result, Turkey is below the average scores of all categories, namely parliamentary, global, presidential and semi-presidential. Turkey's rankings in *Rule of Law Index* and *Constraints on Government Powers* factor have degraded in recent years.

Turkey's Transition from Parliamentary to Presidential System

A number of hot debates have been sparked in Turkey on parliamentary and presidential systems since 1990s. The stances on government systems are usually built on personal opinions of political leaders which is why they lack a solid ground for evaluation. For example, Turgut Özal, the 8th president, pronounced presidential system during his prime ministry and presidency. The support for presidential system was later voiced by Süleyman Demirel, the 9th president (İçener, 2015).

Before and after the 2007 referendum which brought in popular vote for presidential election, the debates on presidential system gained new ground. It was claimed that, as the president would be elected by the people starting from the next election in 2014, executive would have a dual structure because both the prime minister and the president would base their legitimacy on the same source: popular vote. Occasionally the then prime minister Erdoğan accused bureaucratism as the reason for his push for presidential system.

The latest comprehensive debate was launched after the failed coup attempt of 15 July 2016. On October 1st the leader of the minor opposition party, MHP, mentioned constitutional amendment and presidential system in his speech at the parliament group which caught the immediate and intense attention of media. On October 17th and November 10th, the leaders of MHP and the governing AK Party came together to discuss the planned changes; on December 1st it was declared that an agreement was reached between two parties on a common text. On December 10th, the representatives of both parties shared the final text with the media.

The constitutional amendment package consisting of 18 articles which were supposed to realise the transition to presidential system was approved on the first days of 2017 by the parliament and submitted to referendum. The constitutional amendment proposal was accepted in the parliament on 21st January, 2017. The amendment consisted of 18 articles and envisaged radical changes in the government system of Turkey ("Türkiye Cumhuriyeti Anayasasında", 2017). The voting was scheduled for 16

April 2017 and the amendment was accepted with 51.41 percent of the votes.

Arguments for Transition: Promoting Democracy and Stability?

As regards the constitutional amendments, AK Party leaders and representatives emphasised that the amendment would strengthen the republic and improve Turkey's democracy. In several statements it was underlined that the presidential system which was being introduced with the constitutional amendment would be a government model and that the unitary system would be preserved. Therefore, according to AK Party brochure, what was aimed was not a change of regime but a change of government system. With both legislative and the executive being directly elected by the people, a government model which was more democratic than parliamentary system would be adopted. The brochure claims that with the understanding of "single country, single flag, single state, single nation", unitary structure would be preserved, republic and democracy would be strengthened, stability in government would be ensured and checks and balances would ensure resolution within government, and last but not the least, separation of powers would be fully realised.

Within this line of discussion, a number of justifications have been highlighted. For one thing, the amendment reduces the age of candidacy for parliament seats from 25 to 18 and, taking into consideration the increasing population of Turkey, the number of seats in the parliament is being increased from 550 to 600. According to the forerunners of "Yes" camp,⁵ this step is the result of the trust that government invests in the youth and their will to make sure that young people have a say in government. The candidacy age which was reduced from 30 to 25 in 2006 is being reduced to 18 with this amendment. It is contended that young people who use their voting rights at the age of 18 must also run for office which is the case in most democratic countries.

In addition, it is claimed that the representation of the nation in the parliament is being improved. There is no reduction in the roles and authorities of the parliament; on the contrary, in addition to its classical tasks

5 See ("Erdoğan: Milletvekili Seçilme Yaşı", 2017). Prime Minister Yıldırım's parallel statements can be found in the media; for example, see ("Yıldırım: Seçilme Yaşı", 2016).

such as proposing laws, approving the budget, or electing members to the supreme courts, it will perform its oversight function more effectively and, by increasing the number of members of parliament, the representation of national will is being strengthened. With the change introduced by the 9th article of the constitution, it is emphasised that the authority for jurisdiction will be used by independent and impartial courts in the name of the Turkish nation. Changes in the formation and structure of Supreme Board of Judges and Prosecutors (SBJP) reinforce the principle of democratic government. With the proposed amendment, the number of members of SBJP is reduced from 22 to 13. The chairman of the board is still the Minister of Justice and undersecretary of the ministry continues to be a natural member. The board will work in two departments. Four members (3 from civil courts and 1 from administrative courts) of the board will be elected by the president and the remaining 7 members will be elected by the parliament (3 from Supreme Court of Cassation, 1 from Council of State, 3 among jurist academicians and lawyers) for a 4-year and renewable term. As a result, democratic legitimacy of the board is being strengthened. The elections held at courts of first instance are eliminated so as to prevent factionalism in the judiciary.

In the first days of 2017, the constitutional amendment proposal was brought to and accepted by the parliament. Both AK Party and MHP members emphasised “stability” during discussions inside and outside the parliament. They suggested that the amendment would introduce more stability and consensus to the country and that with this change, democracy was being strengthened and the people were claiming their place in the frontline of politics. People would hand the governing power to anyone they want. They are also concerned that parliamentary system can lead to some unstable consequences due to frequent changes of governments. Members of the two parties defended that coalition could be good in some countries, but when it comes to Turkey, the country gives back its gains during coalition periods which occur in every 10 years. When presidential system is introduced, instability will disappear for good as parliamentary and presidential elections will be held simultaneously.

Defenders of presidential system strongly attempted to establish an association between presidential system, political stability, and economic development. For instance, just before the amendment for constitutional change was introduced, Turkish Minister of Finance asserted that the “presidential system would make the economy boost” (“Başkanlık Sistemi”, 2016). In a similar vein, Minister of Development emphasised that

for the stability of political system and economic development presidential system was very critical: “Everyone should insist on this system as a government model which guarantees political stability and government stability. On one hand parliament should be strengthened and on the other hand the system has to guarantee stability in government” (“Başkanlık Sistemi”, 2015).

Arguments against Transition: Establishing Authoritarian Rule?

The arguments that constitutional amendment will weaken democracy instead of strengthening it are also widely debated. According to the members of the “no” camp, the President will be reduced from an all-comprehensive level to a lower one where he/she will embrace only the provincial and district organizations of his party while pushing off and marginalising the others. In order to strengthen national unity, the president has to be able to embrace the entire Turkish nation. When the president becomes the chairperson of a political party, the veto power that he holds will lead to such results. The parliament will prepare the lists of potential MPs of his party as the chairperson. Then, as the president of the state, he will approve or veto the laws that the parliament passes. The president will choose the members of parliament who will do nothing but being paid, sitting in fancy rooms, using publicly paid phones and riding luxury official cars. Parliament will be reduced to a much less effective level than it is today.

The chairperson of Union of Bar Associations claimed that all members of the SBJP will be assigned by the president in effect. Six of the members will be directly elected by the president and the remaining 7 members will be named in parliamentary committees and the plenary session. As the majority of the MPs are also from the ruling party, the president will act like the chairperson of his political party and choose the remaining 7 members which is “unacceptable”. He asserted that “the constitutional amendment targets a totalitarian regime by concentrating legislative, executive and even judiciary powers in the hands of one person, by-passing the parliament, and submitting the will of the nation to a single person. This one-man regime which is contrary to the pluralist social structure of Turkey is the death warrant of democracy” (“Türkiye Barolar Birliği Başkanı”, 2017).

A number of political parties including the major opposition party, Republican People's Party (CHP), People's Democracy Party (HDP), Felicity Party (SP) and Democrat Party (DP) objected the proposed amendment. CHP leadership claimed that (CHP Brochure, 2017) the purpose of the amendment was to introduce a change of regime and transition to an authoritarian regime with sovereignty concentrated in the hands of a single person. It laid the constitutional foundations of bringing an end to the already fragile Turkish democracy and replacing it with an authoritarian, totalitarian dictatorship. This regime is not based on separation of powers; instead, it concentrates all powers in the hands of the president. It is a dictatorship as the president gains control of the legislative and the judiciary in addition to the executive. The proposed regime lacks checks and balances mechanisms; the system is based on lack of restraints on presidential authorities. The approval and veto authorities of parliament are seen as blockage reasons and thus removed. The president of the new system concentrated all executive authorities in his hands; he will also act as the chairman of the party and interfere with legislative and judiciary. He will have far more powers than today's prime minister and ministers, but his responsibilities will be much less. As a party-member, the president will be allowed to choose MP candidates and thus interfere with the constitution of the Parliament, dissolve parliament whenever he deems necessary, through presidential decrees he will associate himself with legislative authority, and he will be allowed to veto laws. As the chairman of the party, he will prepare the list of potential MPs and chair the parliamentary group of the party. Thus, he will be able to shape and influence the parliament as he wished. He will also be able to assign the highest judges of the country as a party leader; as a result, the judiciary will be highly politicized. CHP leadership claimed that once presidential system was introduced, the order of the country would be established by a single person. In addition, 6 of the 13 members of Board of Judges and Prosecutors will also have been appointed by the president; thus, "a single man will construct the order which will interpret the laws of 80 million people."

Felicity Party declared that it was not against the presidential system in principle, but that the offered amendment did not envisage a model which was based on the rule of law and separation of powers; instead, it would lead to the supremacy of the executive. The party chairman Karamollaoğlu announced that they would vote "no" in the referendum for constitutional amendment which proposed party-member presidency. In a press statement, Karamollaoğlu stated that the offered amendment did not preserve

the principle of separation of powers and emphasised that concentrating all powers in one hand would create serious problems in the representation of “national will”. After the constitutional amendment text was signed by the President and published in Official Gazette, Felicity Party began to voice its criticisms more manifestly and shared in detail with the public its reasons for voting “no” in press statements, TV programs and referendum brochures. The main reasons were weakening of the parliament, failure to ensure separation of powers and judicial independence, and insufficient oversight on the executive.

Although MHP leader Bahçeli declared that he would vote “yes” in the referendum and urged the party members to vote in the same direction, an opposition group within the party participated in the “no” camp. The most influential name of this group, Akşener, opposed the constitutional amendment based on some reasons similar to the foregoing. She claimed that party-member president would assign rectors, assign BJP members, and then all MPs whose wills became virtually non-effective would be dependent on the will of a single man. Another opponent in MHP, Halaçoğlu, stated that what presidential system would introduce in Turkey was the dissolution of Republic of Turkey and a one-man rule. He claimed that constitutional amendment would pave the way for autonomy, federalism and disintegration. The increased powers of the president with the amendment were similar to the powers of Ba’ath regimes of Syria and Iraq. He will be able to do anything he wants anytime he wants without consulting anyone.⁶

In addition to the mainstream political parties, many civil society stakeholders⁷ in the “No” camp claimed that if the constitution was amended as the government proposed, it would symbolize the end of the democratic republic in Turkey. Having experienced a de-facto presidential system for the last 2-3 years, this amendment proposal envisaged a change of regime. Both in parliamentary systems and in presidential systems, there are indispensable elements such as separation of powers which is being abolished with the constitutional amendment. One of the results of this change is to hand the entire power to a single man and to grant him the authority to dis-

6 For Akşener’s statements, see (“Akşener: Referandumda Hayır”, 2017). For Halaçoğlu, see (“Muhelif MHP'liler”, 2017).

7 They include some influential NGOs such as Turkish Union of Bars (TBB), The Association of Human Rights and Victims (Mazlumder), Association of Human Rights (İHD) and Istanbul Culture and Arts Foundation (IKSV).

solve the parliament which consists of the representatives of the people. A single person obtains the authority to dissolve the parliament which represents the will and sovereignty of the nation.

International Reflections on the Constitutional Amendments and Referendum Process

The 2016 constitutional amendment which introduced presidential system in Turkey had wide reflections in the global arena. In particular some European bodies interested themselves in Turkish politics before and after the referendum. One of these bodies, the Venice Commission (European Commission for Democracy through Law), which is the European Union body specialised on constitutional law, made some essential points. The report published on March 13th, 2017 by Venice Commission evaluates the constitutional amendment proposed for referendum from the perspectives of democracy and human rights. According to the report, the amendment aims at founding a Turkish-style presidential system which represents a decisive disengagement from the well-established parliamentary tradition of Turkey. It is not based on the separation of powers logic which is the fundamental feature of democratic presidential systems. For example, the amendment proposes that presidential and parliamentary elections will be held simultaneously to prevent potential conflicts between the legislative and the executive. As a result, the formal separation of the two bodies will not be realised in practical terms and the role of the parliament, which has less power, will be marginalized. In addition, the political accountability of the president will be limited to the elections which are held in every five years.

The report also emphasises the social and political environment in which the constitutional amendment was passed and voted in referendum. The amendment was prepared and passed during a state of emergency declared after the failed 15 July coup attempt which imposed comprehensive restrictions on freedoms of expression and assembly. The situation is especially unfavourable for journalism activities. In a public debate environment which is becoming increasingly one-sided, and that side being pro-government, the possibility of holding a meaningful and inclusive referendum process is questionable. As a result, Venice Commission thinks that the constitutional amendment represents a dangerous U-turn from the constitutional democratic tradition in Turkey. The commission puts emphasis

on the threat that the proposed system can turn into an authoritarian and personal regime. In addition, it believes that timing is “rather meaningful” for such an important change thinking that a state of emergency is in force.

Another European body which took active part in referendum debates was Organization for Security and Co-operation in Europe (OSCE), a body with 57 members (including Turkey). In order to observe the Turkish referendum on constitutional amendment in 2017, OSCE assigned a core team of 11 staff from 7 participating states and 24 long-term observers headed by Tana de Zulueta from Italy. OSCE essentially interpreted the voting procedures.⁸ However, it also gives brief description of the background of the voting. In that section the report interprets that the constitutional reform package “transfers some of the parliament’s key oversight functions to an executive presidency” and “empowers the president to appoint some high-level positions in the judiciary”. It also cites the Venice Commission report (2017) stating that “the proposed amendments would result in a system where the separation of powers and the independence of judiciary are not assured” which will result in a presidential regime without checks and balances necessary “to safeguard against becoming an authoritarian one”. In another reference to the Venice Commission report, OSCE team agrees that “in its opinion on the amendments to the Constitu-

8 For example, observers stated that the Turkish referendum “fell short of international standards” as both sides “did not have equal campaign opportunities”. The report claimed that the “voters weren’t provided with impartial information on key aspects of what they were voting for”. In addition to the report, the statements of OSCE team members are also eye-opening. For example, Tana de Zulueta, head of the ODIHR limited election observation mission, said that “the referendum took place in a political environment in which fundamental freedoms essential to a genuinely democratic process were curtailed under the state of emergency, and the two sides did not have equal opportunities to make their case to the voters.” Another team member, Cezar Florin Preda, who was the head of the PACE delegation, told that “in general, the referendum did not live up to Council of Europe standards. The legal framework was inadequate for the holding of a genuinely democratic process”. The report itself brought grave criticism to the referendum process. Among the preliminary conclusions, the report claimed that “voters were not provided with impartial information about key aspects of the reform, and civil society organizations were not able to participate. Under the state of emergency put in place after the July 2016 failed coup attempt, fundamental freedoms essential to a genuinely democratic process were curtailed” (OSCE, 2017: 1). In addition, the practice of voting 18 amendments affecting 72 articles of the constitution in a radical way was contrary to the international good practice of referenda (OSCE, 2017: 2).

tion, the Venice Commission noted that the state of emergency did not provide for the due democratic setting for a constitutional referendum.”

Finally, on July 6th, European Parliament voted to suspend accession negotiations with Turkey. The report prepared by Turkey rapporteur Kati Piri had called that if the constitutional reform package was implemented unchanged, Turkey’s accession negotiations should be officially suspended⁹; the report was accepted with a wide margin. It is significant that European Parliament relates suspension of accession negotiations with Turkey, which is a first of its kind in the history of enlargement, to the constitutional reform package and asserts that this package will endanger democracy in Turkey.

Conclusion

The transition of Turkey from parliamentary to presidential system does not have any dimension which is rational and supportable in terms of stability or democracy. This is because of the fact that when countries ruled with parliamentary and presidential systems are compared, it can be seen that parliamentary countries are strikingly superior. Presidential countries are less stable and more problematic in terms of democracy. It should be noted that the USA is an exception among presidential countries. The facts that checks and balances mechanisms are well-established, legislative and executive are elected on different dates, the president is elected for a fixed term, a strong parliament exists and, last but not the least, most powers are transferred to the states due to its federal structure, ensure that the system works without too much trouble. Its position as the global superpower allows for the sustainability of presidential system in USA in economic terms.

The political system voted in Turkey in April 2017 is radically different from the American presidential system. It consists of several changes which are not compatible with a democratic presidential system. From this perspective, in order to understand the change that Turkey went through, it would be better to look at Latin American, African and Central Asian countries instead of USA system.

9 See European Parliament (2017).

In such presidential countries as Brazil, Costa Rica, Guatemala, Mexico, Mozambique, Nicaragua, Palau, Sudan, Uganda and Zimbabwe presidential and parliamentary elections are held on the same day. Both elections are held once in every four or five years. In some other presidential countries, the two elections are held on different dates. Azerbaijan, Belarus, Benin, Chad, Congo, Cyprus, Indonesia, Kazakhstan, Philippines, South Korea, Ruanda and Tajikistan¹⁰ can be given as example to the countries where presidential and parliamentary elections are held separately.

Although almost none is a champion of democracy, some presidential systems are more problematic than others. The assignment of ministers and some top-level bureaucrats require parliamentary approval. Azerbaijan, Belarus, Benin, Kazakhstan, Mexico, Palau, Philippines, South Korea, Rwanda, Tajikistan and Uganda seek parliamentary approval for the assignment of ministers. In Chad, Congo, Costa Rica, Ivory Coast, Guinea, Guatemala, Indonesia, Mozambique, Nicaragua, Sudan, and Zimbabwe, assignments are made directly by the president and parliamentary approval is not sought (IPU, n.d.). The system adopted in Turkey leaves the assignment of ministers to the president alone and parliamentary control and approval is not in question. The simultaneity of elections and assignment of ministers by the president alone without seeking parliamentary approval shed light on the nature of the constitutional amendments in Turkey. Likewise, in that scope, many presidential countries in the world allow for control through oral or written questions, but in Turkey asking questions to the president will not be allowed; in addition, ministers are also exempted from information and accountability responsibilities through answering oral questions.

Turkey did not adopt parliamentary system for the first time with the new Republic in 1920s. Albeit a little late, Turkey experienced the evolution from monarchy to parliamentary system in 19th century. Similar to the restraining of absolute monarchy and establishment of parliamentary system in England, the political system in Ottoman Empire gained a constitutional structure with reform movement. After the First World War, parliamentary system was maintained by the young republic. This means that Turkey has an experience of almost 150 years with parliamentary system.

¹⁰ Data here are compiled from "Parline Database" of Inter-Parliamentary Union (n.d.).

With 2017 constitutional amendment, Turkey broke with its historical and institutional past and adopted presidential system.

During this amendment, one provision not related to presidential system was injected to the system which could only be seen in authoritarian and party-state systems: the president could also be the chairman of a political party. This practice is not witnessed in democratic parliamentary and presidential systems. However, with its polarizing and fragmenting potential, this practice is observed in some authoritarian African countries such as Angola, Zambia and Zimbabwe.

Unlike other provisions of the constitutional amendment, party-member presidency went into effect immediately after the referendum. President Erdoğan became a member of AK Party in early May; a few weeks later he was the elected chairman of the party. This development appears to have deeply affected political, social and economic conditions and the relations between governing and opposition parties. The president being the chairman of a political party during his term triggered the debates on his impartiality and respectability, and gave a serious blow to his capacity as the representative of all citizens.

Judiciary was also reshaped in this process of radical change in political system. Election of members of BJP and its functioning was reorganized and within one month after the referendum, the terms of existing members ended and new members were elected by the president and AK Party and MHP parliamentarians, a practice which ignited the debates on the impartiality and independence of judiciary. The major opposition party and pro-Kurdish HDP did not attend the voting for BJP seats (“TBMM, Hakimler ve Savcılar”, 2017). As part of the arrests of members of parliament, the chairman of major opposition party, Kemal Kılıçdaroğlu began his “march for justice” from Ankara to Istanbul in June 2017. It seems that debates on reshaping of politics will continue in the following months, even years.

Transition from parliamentary system to presidential system in Turkey seems at distance from a democratic framework both in terms of content and the method of transition itself. The discussions in this section show that, amidst intense debates and objections, presidential system will make problems of Turkish democracy more chronic instead of making contribution to their solution. The long-term problem of Turkey was the failure to regulate the structure and functioning according to the principles of parliamentary system and to adequately constrain the executive according to the rule of law principle (Bağcı, 2016: 259). The reports of Venice Commission and OSCE list these problems in their relation with the latest change

in political system. The events of 2016-2017, the implementation of state of emergency and the constitutional change under state of emergency led European Council Parliamentary Assembly to re-open the monitoring procedure for Turkey in terms of human rights and freedoms, rule of law and democracy, which is a clear indication of the status and choice of Turkey.

The fundamental problem of Turkey is its unwillingness to constrain the executive power. In this referendum process, the executive organ itself introduced the demands for constraining government power as the causes of instability and presented practices aiming at concentrating power in one person in an uncontrollable fashion as “stability”. If it could be seen and expressed that the source of the political crisis in Turkey was inadequate constraints on the executive which concentrated most of the power in its hands so that other institutions suffered various weaknesses, the solution could be sought in a more accurate and realist framework. It could be understood that what made problems chronic were 10 percent election threshold and political party system which had been applied for more than three decades which lacks democratic qualifications. The solution of legitimacy problems experienced in the country could be sought not in making the executive stronger than other branches of government and immunizing it from oversight in many respects, but in further institutionalisation of democracy. The current and future problems of Turkey can be solved by participatory democracy, rule of law, constraining government power, accountability, freedom of press, and existence of a civil society independent from government which are basic components of any democracy. We hope that Turkey can draw conclusions from all these experiences by exploring democracy and the importance and meaning of its constituents.

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