



On the Way to a New Constitution in Turkey

Constitutional History, Political Parties and Civil Platforms

January 2012



1. Introduction

Nowadays, creating a new constitution is the primary item on Turkey's political agenda. This short report will summarize the constitutional history of Turkey, stressing recent discussions about the process of creating a new constitution. The perspectives of civil platforms as well as political parties will be examined, since constitutions are written on behalf of all citizens, who live in a country, and everyone should have the right to express his or her own opinion.

2. The Constitutional History of Turkey

Early Developments 1921-1980

The **constitution of 1921** was the fundamental law of Turkey for a brief period, from 1921 to 1924. It was a simple document consisting of only 23 short articles. In October 1923 the constitution was amended to proclaim Turkey a republic. However, the first article of the constitution of 1921 had already *de facto* defined Turkey as a republic, declaring that "Sovereignty is vested in the nation without condition. The governmental system is based on the principle of self-determination and government by the people." One other important aspect of this constitution is that it was the first and last Turkish constitution, in which the preferred moniker of the country was "the State of Turkey" rather than "the Turkish State".

The **constitution of 1924**, formally titled the **Constitution of the Republic of Turkey**, replaced the constitution of 1921 and was ratified by the Grand National Assembly of Turkey following the proclamation of the republic on October 29, 1923. The preparation and enactment of the constitution was so fast that neither the public nor any advocacy group had an impact on the constitution. It was inspired by the constitutions of France and Poland. The constitution of 1924 lasted for 36 years until 1961: the longest time a constitution has ever remained in force in the history of Turkey.

The constitution of 1924 was amended seven times in total, two of which can be considered modal amendments. The most important amendments were as follows:

- Secularism was first introduced with the 1928 amendment to the constitution of 1924, which removed the provision declaring that the "religion of the state is Islam".
- With the amendment of December 5, 1934, women's rights to vote and be elected to parliament were recognized.
- The second article of the constitution was amended in 1937, secularism was explicitly upheld in the second article of the

Turkish constitution. The values of republicanism, nationalism, populism, statism and reformism were also enshrined in this constitution.

The 1924 constitution was maintained without change after the transition to a multi-party system in 1946. It came to an end with the military takeover of May 27, 1960. The revolutionary officers, with the help of opposition parties, started to prepare a new constitution to establish a more pluralistic mode of democracy, with all its attendant safeguards, while maintaining the modern and secular nature of the state.


The **constitution of 1961** was prepared by a constituent assembly composed of military leaders and indirectly elected civilians. The constituent assembly was made up of the National Unity Committee and the Representatives' Assembly. It was adopted by a referendum held on July 9, 1961, with 61.7 percent of the nation voting in its favor. For the first time in Turkish history, a constitution prepared by a constituent assembly was passed through a public referendum.

The constitution of 1961 introduced significant innovations. It strengthened the supremacy of the constitution by establishing a constitutional court, effectively restricting the powers of the elected branches of government, and strengthening the safeguards of fundamental rights and liberties through the rule of law. While the constitution of 1921 has generally been referred to by the Kurdish population, who favors "the State of Turkey" instead of "the Turkish State", some parties in the country refer to the constitution of 1961 as the most democratic constitution of Turkey.

In 1971, there was a second military intervention in Turkey's government, which used to be called as the "partial coup" of March 12, 1971. Rather than assume power directly this time, the military forced the resignation of the governing Justice Party (AP), which was replaced by a non-partisan administration. The constitution was amended twice, once in 1971 and again in 1973, under the influence of the military intervenors. The amendments cut back on individual rights and the power of the judiciary, and increased the power of the executive branch and the military.

The 1980 Coup d'Etat and a New Constitution

The Turkish Armed Forces intervened once again on September 12, 1980. This intervention was carried out by the National Security Council, which was composed of the chief of the general staff and four commanders. The National Security Council stayed in power longer than its predecessor. It exercised extraordinary powers until November 1983, when general elections were held. Before they withdrew from government, the council not only



prepared a new constitution but also adopted several hundred laws and law-amending ordinances that entirely restructured the constitutional and legal order of Turkey. Although the constitution was adopted through a nationwide referendum, the extraordinary conditions that prevailed under the military regime of the time called the reliability of this consensus into question.

The **1982 constitution** was stricter than the previous one, especially on the subject of fundamental rights and liberties. The number of irrevocable articles in the constitution was increased to three. While only the article defining the Turkish State as a republic has been irrevocable in the 1960 Constitution, the first four articles of the 1982 constitution were now immutable. They read as follows:

- Article 1 - Form of the State: The Turkish State is a Republic.
- Article 2 - Characteristics of the Republic: The Republic of Turkey is a democratic, secular and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk and based on the fundamental tenets set forth in the Preamble.
- Article 3 - Integrity of the State, Official Language, Flag, National Anthem and Capital.
- Article 4 - Irrevocable Provisions: The provision of Article 1 of the Constitution establishing the form of the state as a Republic, the provisions in Article 2 on the characteristics of the Republic and the provision of Article 3 shall not be amended, nor shall their amendment be proposed.

There are ongoing discussions about changing the current constitution, which had already been amended sixteen times. Ten of these amendments were implemented under the rule of the Justice and Development Party (AKP). The last initiative for an amendment was the one approved by a referendum held on September 12, 2010.

Among the amendments made before 2010, where 26 articles were amended, the most radical and comprehensive amendment was that of 2001, which involved changes to 34 articles, followed by the 1995 amendment, which amended 15 articles. The amendment in 2004 changed ten articles.

Some of the most significant amendments can be summarized as follows:


- The 1995 amendment abolished the ban on the political activities of associations and permitted them to engage in collaborative action with political parties and other civil society organizations.

- Articles 51 and 52, which govern the right to form labor unions, were extensively amended in 1995. Thus, parallel to the changes made in Article 33 regarding freedom of association, the ban on unions' political activities or their collaboration with political parties and other civil society organizations was abolished. The article was amended again in 2001, substituting the word "employees" for the word "workers", thus extending the right to unionize to public employees—without granting them the right to strike.
- Articles 68 and 69, on the regulation and prohibition of political parties, were extensively amended in 1995 and 2001. The 1995 amendment redefined and somewhat limited the grounds for the prohibition of parties.
- With the constitutional amendments of 1995 and 2001, the constitutional guarantees for political parties were significantly strengthened.
- The 2001 amendment regularized the restrictions on fundamental rights and liberties. Fundamental rights and liberties may be restricted only by law and solely on the basis of the reasons stated in the relevant articles of the constitution, without impinging upon their essence. These restrictions shall not conflict with the letter and the spirit of the constitution, the requirements of democratic social order and the secular republic or the principle of proportionality.
- The majority of the amendments made in 2004 were carried out in reaction to Turkey's new international commitments and its efforts to accede to the European Union. The phrase "death sentence" was removed from the constitution. State Security Courts were abolished. From the perspective of business law, it was stipulated that, in case of a conflict between domestic laws and international agreements concerning fundamental rights and liberties, to which Turkey had agreed, international agreements should take precedence.

A Serious Attempt to Replace the Constitution: The 2007 Elections and Their Aftermath

In the so-called "e-coup" attempt of April 2007, the Turkish military posted an electronic memorandum on its website declaring the army a guardian of the secular regime. This military intervention into politics restarted public discussions about the appropriate role for military in politics.

This debate about secularism overshadowed the election held in July 2007. In the election, the Justice and Development Party (AKP) won majority representation in the parliament for the second time. Because of the requirement that any political party win at least 10 percent of the vote to be represented in the Grand Assembly, Democratic Society Party (DTP), whose supporters are concentrated in Turkey's eastern Kurdish-populated cities, decided to have its members run as independent candidates to



bypass this requirement. The party won 20 seats in parliament in the 2007 election.

The AKP's victory and the aforementioned discussions about the military's appropriate role in politics led the party to prepare a new draft contained proposed changes to the constitution, which had been created during the period of military rule. The draft was prepared by a commission headed by Prof. Dr. Ergun Özbudun. Despite long discussions over the necessity of a new constitution, the draft and the election campaign promise of the party to enact a new constitution were left aside.

To reform the electoral process, a constitutional referendum about the election of the president was held in 2007. The constitution of 1982 had declared that the president of Turkey was to be elected by the Grand National Assembly of Turkey. In the 2007 referendum, it was proposed that the president be elected by popular vote instead of by parliamentarians. In addition, it was proposed that the presidential term be decreased from seven to five years, and that the president be allowed to stand for a second term. The final proposed reform entailed reducing the quorum of lawmakers needed for parliamentary decisions. Ahmet Necdet Sezer, who was the president at the time, preferred to hold a referendum over the proposed constitutional changes because he could not veto the law for constitutional changes for a second time. A referendum on October 21, 2007 drew 60 percent of eligible voters to the polls. Nearly 70 percent of the participating voters supported the constitutional changes.

Referendum for Constitutional Changes on the Anniversary of the 1980 Coup

The public demand for an entirely new civil constitution had been increasing. In 2010, the Turkish parliament adopted a series of constitutional amendments. Although the amendments did not achieve the two-thirds majority of votes required to immediately implement the changes, they did receive a majority of 330 votes (60 percent), which was sufficiently to allow the amendments to be presented to the electorate in another referendum.

The reform package was accepted by parliament thanks to the majority AKP used to hold and the referendum process was initiated. On the twenty-first anniversary of the 1980 coup, a referendum was held for a more so-called "comprehensive" change to the constitution. It was crucial the referendum to be held on such a day, because AKP was claiming to come to terms with the constitution prepared by the military junta as a whole. Supporters claimed that the judiciary would be subject to extensive reforms, resulting in a more democratic judicial system. It was further promised that Turkey would be brought into conformity with European Union standards through new

regulations, which would also expand the human rights and civil freedoms of Turks.

The most off-discussed item in the referendum was the proposed repeal of Provisional Article 15 of the constitution, which exempted members of the Council of National Security, the Consultative Assembly and governments formed during the "September 12 period" from being prosecuted.

One other major point of discussion about the constitutional change concerned Article 10, which was interpreted as an attempt to lift the ban on headscarves in universities. The article originally states: "Women and men have equal rights. The state is responsible for implementing this principle." In the proposed changes, the AKP added the following sentence: "The measures to be taken for this purpose [securing equality] cannot be interpreted as contradictory to the principle of equality."


Finally, the independence of the judiciary was discussed primarily by leftist groups, though it was not given adequate attention by the oppositional parties in parliament, who rejected the constitutional reform. The number of people on the Supreme Board of Prosecutors and Judges (HSYK) was increased from seven to 21 and the president was given the right to appoint some of them.

Voter turnout in the referendum was 73.71 percent. 57.88 percent of participants voted for the constitutional reform, while 42.12 percent voted against it. Although voter turnout was generally viewed as high, opponents of the reform led a campaign to boycott the reform, emphasizing. Some were motivated to join the boycott out of their desire to solve the Kurdish problem. It should also be stressed that the Republican People's Party and the Nationalist Movement Party opposed the reform package.

The referendum was seen as a vote of confidence for the AKP government. But the debate continued over the question of whether or not the constitution would abandon its military and repressive character with a single change. Thus, an entire constitutional change was not become out of agenda, while Turkey was getting ready to new elections.

Developments since the Elections on June 12, 2011

In the elections on June 12, 2011, the ruling party of Prime Minister Recep Tayyip Erdoğan won a third term in parliamentary elections after receiving 49.83 percent of votes. The Republican People's Party's (CHP) won 25.98 percent, while the Nationalist Movement Party's (MHP) picked up 13.01 percent. Because of the 10 percent threshold required to win seats in parliament, thirty-five candidates, all of whom were backed by the Kurdish



Peace and Democracy Party (BDP) under their Labor, Democracy and Freedom Bloc alliance, were also voted in as independent candidates.

The AKP won 327 seats, which was slightly less than the 330 required to propose constitutional changes to a referendum without the support of other parties in parliament. However, all parties agreed on the need for a new constitution in Turkey.

At the opening of parliament, the BDP and CHP both boycotted the ceremony, as Hatip Dicle from the BDP had been stripped of his seat and eight other members had been denied their seats due to prison sentences that were considered politically motivated by both the BDP and the CHP. While the CHP has since reversed its decision, BDP followed it as late as the opening of the parliament on October 1.

The Kurdish question and the new constitution are on the agenda of the AKP government. It will try to solve the Kurdish dilemma in the framework of a new constitution. However, although the AKP government has started taking steps toward a solution to this historical problem by launching a “democratic opening” process, the actual process has adopted a nationalist and intolerant discourse, especially during elections. In the meantime, the Turkish army has intensified its fight against PKK guerilla forces just as Prime Minister Erdoğan lashes out at the Labor, Democracy and Freedom Bloc members’ boycott.

The ongoing war in the country also affects the constitution making process. Besides many people, including journalists, academicians, lawyers and the students have been taken under custody and arrested mostly on the basis of the anti-terror law. Trials are held by Special Court-Martials and the details of the trials are not shared with the public. Democracy and Freedom Bloc members argue that it is impossible to make a new constitution in these circumstances. This does not mean that they do not support the need for a new constitution. Indeed, it should be emphasized that the need for a new constitution is the most crucial point of agreement among the parties in the parliament.

3. The Political Parties Involved in the Process of Constructing the New Constitution

The Justice and Development Party (AKP)

The constitutional platform of the AKP has started to work on the new constitution. AKP Vice President Ömer Çelik was chosen as the coordinator of the constitution task force. Çelik stresses the negotiations that his group has undertaken with NGOs, but he places special importance on soliciting every citizen’s view on the new constitution, and establishing a system by which those views

can reach parliament. In line with this view, he has given South Africa as an example of a country, whose constitution was decided through an open, participatory process. Çelik has quoted former South African president Nelson Mandela’s statement that “people are free to be free”, saying that this statement should embody the soul of Turkey’s new constitution.


To assist the constitutional platform with its research, the constitutions of other countries including Germany, Austria, Belgium, Denmark, France, Italy, Ireland, Spain, Holland, Poland and Portugal, have been translated into Turkish so they can be used during the ongoing discussions over the new constitution of Turkey.

The AKP has also discussed the idea of soliciting public opinion from all Turkish citizens about the new constitution through SMS and e-mail. Although it is not so active yet, a website of <http://web.tbmm.gov.tr/yenianayasa/> is opened in order to share the ongoing process both at the level of political parties and the civil society and receive the public opinion. However, the latter aim has been criticized as a way of deceiving people, and the AKP’s philosophy of participatory constitutional process attacked as simply asking people for advice.

The Republican People’s Party (CHP)

The Republican People’s Party (CHP) has also been devoting attention to the new constitution. Even before the elections, CHP announced its new constitutional policy, which the party has stressed as “new” because the CHP was the first political party of the Turkish Republic and has generally been criticized as always supporting the status quo. The party established a constitutional platform of its own and prepared a report. CHP members have argued that even the immutable articles of the constitution could be rewritten, but they have not clarified this. The CHP holds that the republic should be a constitutional state based on secularism, democracy, and human rights. The party has also recommended that a new constitution-writing process be accompanied by a new law on political parties, wherein the threshold required to have a seat in parliament is no higher than 5 percent.

The most important policy promoted by the CHP is about local governance. The party has stressed the need for local government reform. However it has also supported the preservation of the unitary state structure. In response to the Kurdish population’s demand for an education in everyone’s mother tongue, the CHP has advocated “teaching of mother tongue other than Turkish”, where the difference between the two policies could not be understood clearly.



Regarding the constitution creation process, the CHP demanded that a constitutional council be formed, the members of which would be elected without any threshold and work solely on the constitution. The party has stressed the need for the participation of NGOs, occupational organizations, unions, academicians and students in this process.

The Nationalist Movement Party (MHP)

The MHP actually prepared a draft constitution, but decided not to announce it to the public to ensure a constitutional process based on social consensus. Instead, the party explained parts of its draft during the constitutional negotiations. MHP Vice President Semih Yalçın stated that his party would take part in any initiative, in or out of parliament, to make the new constitution. He added that the parliament should carry out the process with the participation of all parties and citizens. The MHP insists on preserving the first three articles of the constitution. In Yalçın's words: "We demand that the unified structure of the country be preserved and that nothing to be done to change the language of the state, its unity or its integrity. Anything that the MHP does not agree to will not be accepted by society at large."

The Peace and Democracy Party (BDP)

The Peace and Democracy Party (BDP), on the other hand, gives primacy to the Kurdish demand for democratic autonomy. Policies supporting democratic autonomy have already passed within the party legislation. A constitutional commission established in the party determines how this demand should be articulated within the constitution. The party stresses the need of a change in the law on political parties and on elections in order to secure the right of democratical representation. They demand arrested Kurdish politicians and all arrested deputies to be released and the required legal arrangements for the releases should be done. Turkish Penal Code and Code of Criminal Procedure should be rewritten with some significant changes and the Anti-Terror Law should be removed completely. They also stress that the Constitutional Commission should be open to the participation of NGOs, social parties and opinion leaders. Besides, a Truth and Justice Commission should be established and work in coordination with the Constitutional Commission. Both commissions should have the authority to work both within and outside the parliament. The commission members should not only be the deputies but also NGO representatives and experts. In short, the party gives importance to the process of making the new constitution, which may facilitate a more democratic environment to be established in Turkey.

The Parliamentary Constitutional Commission

After AKP had meetings with all single parties in the parliament about the new constitution and their participation in the process, the first meeting of the Parliamentary Reconciliation Commission for the New Constitution (Constitutional Commission, in short) was held on October 13. Regardless of the seats of the parties in the parliament, each has three members in the Commission. Mehmet Ali Şahin, Ahmet İyimaya, Mustafa Şentop from AKP, Süheyl Batum, Atilla Kart, Rıza Türmen from CHP, Tunca Toskay, Oktay Öztürk, Faruk Bal from MHP and Ayla Akat Ata, Sırrı Süreyya Önder and Altan Tan from BDP.

In the first meeting Mehmet Ali Şahin from AKP expressed that the new constitution should be the one to strengthen the fundamental characteristics of the Republic; Atilla Kart from CHP stated that the new constitution should be constructed together with the corporate structures to provide fundamental rights and freedoms to be exercised; Faruk Bal from MHP stressed the need for a new constitution to preserve the first three articles, reconcile the state and the citizens and to harmonize democracy and the republic and Ayla Akat Ata from BDP noted constitution making process should be the one to establish social peace and democracy concurrently.

Even from the first meeting, it was clear that CHP and BDP were the parties supporting the idea that the constitution making process was as important as the constitution itself and complementary legal arrangement should be done in order to assure the equal participation of each citizen and their freedom of expression.

The Constitutional Commission determined its bylaw made up of 15 articles. The Commission was decided to work in four phases; the first phase will be on participation, data collection and evaluation, the second on the determination of the principles and writing the text, in the third phase the text will be presented to the public and will be discussed and in the last phase the draft text will be rewritten based on the suggestions and turned into a proposal. The first phase, which started on November 1, will continue until the end of April. Most of the political parties that do not have seats in the parliament, NGOs, individuals and trade bodies, who want to contribute in the constitution making process, delivered their opinions to the Parliament in a written form until December 31, 2011. For this first phase, three subcommittees made up of one member from each party were formed. The subcommittees are receiving the ideas of political parties and constitutional institutions, trade bodies and NGOs and actual working bodies, respectively. They will continue to have meetings with the groups, the proposals of which were chosen to be presented, until the end of April.



Although the ongoing phase is conducted in order to ensure the participation of the majority of people living in Turkey, the political environment in the country does not seem to support the freedom of expression. The biggest disagreement in the Commission has been continuing on the legal arrangements that should be done on the way to a new constitution. Especially, after Prof. Büşra Ersanlı, a member of BDP council responsible from constitution making process was arrested within the extent of counter-terrorism operations known as KCK, the need of Anti-Terror Law and Turkish Penal Code to be rearranged was started to be stressed more. In a speech delivered in December 2011, Deputy Prime Minister Bülent Arınç announced that articles causing human rights' violations would be removed from Anti-Terror Law and Turkish Penal Code. However, while many people are arrested under the name of KCK operations on one hand, Minister of Internal Affairs İdris Naim Şahin expressed that scientific terror was another form of expression used by the terrorist organization through drawing pictures or writing poems and articles, on the other. Thus, whether the democratization of the constitution making process depending on securing the equal participation of all political groups with their right of expression will accompany the ongoing process in Turkey cannot be anticipated yet.

4. Civil Constitutional Platforms

Since the start of the discussions on the need for a new constitution in Turkey, many civil platforms have been established to determine what people need from a new constitution. In the following pages, the leading platforms will be discussed. However, as it is also mentioned at the last part, not only these platforms but nearly all civil organizations, trade unions and various associations start to take part in the constitution making process in Turkey as their participation is also supported by the parliament.

The Constitution Platform
(<http://www.anayasaplatformu.net>)

The Union of Chamber and Commodity Exchanges (TOBB), the Turkish Confederation of Employer Associations (TİSK), the Confederation of Turkish Trade Unions (Türk-İş), the Hak-İs Confederation, the Confederation of Turkish Public Employees Unions (Türkiye Kamu Sen), the Confederation of Turkish Tradesmen and Craftsmen (TESK) and the Union of Turkish Agricultural Chambers (TZOB) believe that Turkey needs a healthy constitution creation process and discussion process.

These seven groups came together in 2007 under the principle that the constitution creation and discussion process was as important as the content of the constitution. They held a "Constitution Platform National Workshop" in Ankara on October 8 and 9, 2007, with the participation of 250 people from 83 organizations. The workshop concluded with a declaration of the fundamental changes they want to take place in the constitution. They argued that the first four principles of the constitution should not be changed and stressed the importance of creating a more participatory constitution. These institutions ended their studies with the constitution making process became out-of agenda. But they started to work again after issuing a common press statement on April 9, 2010. They also called on all trade bodies and NGOs to participate in this process. The secretarial work of the Constitution Platform is carried out by Economic Policy Research Foundation of Turkey (TEPAV).

It is mentioned in the joint statement of the Constitution Platform Initiative that: "What we need is a platform for open debate all around the country, to find common ground. As we seek common ground, we will be in need of an information infrastructure that will enrich overall wisdom. It is evident that a democratic milieu of open debate will be solidified and intensified with information. On the other hand, a healthy platform of debate will also contribute to the collective wisdom and experience of Turkey."

The Platform concentrates on its studies again with the intensification of constitution making process in Turkey. New institutions participated in the platform anew like Turkish Association of Industrialists and Businessmen (TÜSİAD), Independent Industrialists' and Businessmen's Association (MÜSİAD), Confederation of Businessmen and Industrialists in Turkey (TUSKON), The All Industrialists and Businessmen's Association (TUMSİAD), Turkish Enterprise and Business Confederation (TÜRKONFED), Association for the Support and Training of Women Candidates (KADER), Federation of Persons with Disabilities of Turkey, Education and Solidarity Foundation of Persons with Disabilities (ÖZEV), Capital Women's Platform, World Wildlife Fund and Civil Society Development Center. The platform started to organize "Constitution Meetings with the Citizens" under the slogan of "Turkey Talks", the first of which was held in Ankara on January 8, 2012. More than 300 people participated in the first meeting, where they had the chance to express their opinions about the new constitution.

The New Constitution Platform
(<http://www.yenianayasaplatformu.org>)

The New Constitution Platform has been working on the subject with the pioneering role of Osman Can (former constitution reporter), Adnan Özer, Ayhan Ogan, Balçıçek İter, Enver Sezgin,



Gülçin Avşar, Rohat Avşar and Veysel Uçum. Starting from December 12, 2010, the platform held more than 30 meetings on the new constitution in various cities around Turkey and some districts of İstanbul. The data gathered in the meetings were transferred to the Constitution Working Group, which declared the results of these meetings in a report. It was urged that the public opinion be received directly in the constitution creation process and that adequate tools for collecting this feedback be created. The platform also recommended that the parliamentary president direct the constitutional process after taking all political opinions into consideration. In addition to the report prepared on the results of the meetings, the Platform members Mehmet Uçum and Osman Can prepared a report titled 'Road Map for the first Civil and Democratic Constitution of Turkey'. In order to create an online discussion platform, a discussion platform was established on the website of www.anayasamiz.org, where the members of the website can make suggestions on the subjects to take place in the new constitution and they can discuss the suggestions made by all members. Suggestions are voted by the members and then added to the reports of the Platform. Some have claimed the platform was established with the support of the AKP in order to create a public constitutional platform that would surreptitiously adhere to AKP values and goals. The Platform had several meetings with AKP and they claim that their model of website was accepted by the parliament and applied for receiving the public opinion.

The Civil Solidarity Platform (<http://www.sivildayanismaplatformu.org>)

This platform was formed by the TGTV Foundation (representing 140 NGOs), the Hak-İş Confederation (representing 8 unions), the Memur-Sen Confederation, the Mediterranean Solidarity Platform (representing 10 NGOs), the Anatolian Platform (representing 40 NGOs), and many other local platforms from cities including Bursa, Denizli, Kahramanmaraş, Kayseri, Konya, Kütahya, Zonguldak and Edirne. The NGOs participating in this platform are generally known for their political conservatism. They describe their aim thus: "At this moment in our history, we demand to contribute to the restructuring of our country in line with democracy and law, and to keep society's attention on a democratic and civil constitution through protecting peace, unity and solidarity." The platform is trying to win parties over to this aim, and create awareness about it throughout the whole country.

The Democratic Constitution Movement (<http://www.demokratikanayasahareketi.net>)

This movement is formed by a group of intellectuals on November 7, 2010. The group organized meetings in 40 cities to discuss what kind of constitution would be best for Turkey. Since its first


meeting, the initiative has opened branches in approximately 20 cities. Following the local meetings, they organized a central "Constitutional Conference" in Ankara in April 2011. Around the same time, the platform organized a constitution workshop in İstanbul entitled, "Everyone's Constitution be Created by All of Us".

The members of the movement started a petition calling for a constitutional council to work on a new constitution over the next two or three years. The petition advocated that half of the council members be women, and that it consist of young people, workers, Alevi, Kurdish and Laz people, all ethnic and regional minorities, trade bodies, unions, universities, major public democratic organizations and representatives of political parties. The petition further demanded that members be elected without any threshold system. They completely reject the idea that the parliament can make the new constitution on its own, given the 10 percent rule that keeps certain parties out.

The movement has recently started to stress more about the need for the concurrent arrangements that should be done on the way to a new constitution. They note: "1. The Parliament should make regulations to remove the barriers on the freedoms of religion, expression and organization, primarily Anti-Terror Law, Turkish Penal Code and Press Code. 2. As the new constitution will be a new start, the political cases should be ended and proclaiming political general amnesty should be thought as confidence building measures. 3. Military operations should be ended, actual state of emergency situation being experienced in the country, primarily the guarding system, should be terminated. 4. Arrested deputies should be released and the obstacles preventing their political activities should be removed.

The Libertarian Constitution Platform (<http://www.anayasa.org>)

This platform was established by the union members, members of civil organizations and left-wing individuals, who emphasize the need to solve Kurdish problem in Turkey. The platform's members argue that, despite the 10 percent threshold required for represented in the parliament, the election results have nevertheless enabled the representation of different political opinions in the parliament. However, the decisions of the Supreme Election Board and special courts that prevented elected deputies from becoming parliamentarians, affected the representative structure of the parliament. Thus, they believe that the biggest priority should be amending the laws on elections, political parties, associations and union, meetings and demonstrations, the Turkish penal code and the anti-terror law. The Platform has recently been working on the concurrent



arrangements that should be done on the way to a new constitution in partnership with the other civil organizations.

The Libertarian Constitution Platform holds that, in order for the new constitution to be civil, democratic and legitimate, organized civil society has to participate in the constitutional creation process. At the same time, though arbitrary discussions that do not reach any end result are not successful example of democratic participation. Thus, on behalf Turkish parliament, the parliamentary constitutional commission should also institutionalize the participation of civil society within the creation process of the constitution. Civil society representatives should have the right to participate in this process.

The Women's Constitutional Platform

Consisting of more than 200 women's organizations, Women's Constitutional Platform was formed in order to guarantee equality among women and men under the 2007 constitution of Turkey. The platform announced their demand that 26 articles of the draft prepared by academicians under the leadership of Prof. Dr. Ergun Özbudun for Justice and Development Party be changed. They drew attention to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which Turkey signed in 1985 and pointed out that the constitution had to be in accordance with the international agreements Turkey had already signed.

The platform argued that the preliminary article of the constitution should clearly emphasize that Turkish citizens reject any kind of discrimination, racism and hate-based violence, demand peace and social consensus and believe in equality, desire to live in a constitutional democracy based on human rights and the rule of law, are bound to an egalitarian, pluralistic, participatory and liberal democracy, adhere to the principles of social justice, and are sensitive to environmental issues and animal rights. They also lobbied to add "ensuring the effective equality of women and men" to the article that defined the role of the state. In addition, they argued that "ethnicity, sexual orientation, sexual identity, marital status, age and disability" should be added to the possible reasons people might faced discrimination and that discrimination on these bases should be prevented by the constitution. They demanded that the constitution protect affirmative action or positive discrimination.

The platform continued meetings even after the conclusion of the constitutional debates in 2007. They are working on revising their already proposed demands in order to make a contribution to the current constitutional process. The platform gives special emphasis on working with other platforms and organizations in order to develop their proposed demands.

The Ecological Constitution Initiative (<http://ekolojikanayasa.org>)

The Ecological Constitution Initiative described its aim as opening a discussion that would make the new constitution a civil and democratic one that protected the rights of nature and upheld ecological principles. The initiative held a preliminary workshop on February 19, 2011 and a final meeting on May 15, 2011, after organizing local preparatory meetings in Ankara, İzmir, Adana, Trabzon, Diyarbakır, Tekirdağ and Bursa.

The members of the initiative demand that the constitution not define "man" as an independent being, the interests and future of whom are separate from the environment. They hold that the definition of good citizenship should include the duty to not harm nature and to be its custodian on behalf of future generations. They stress the importance of signing international agreements to protect the environment and the perspective that nature has no national boundaries.

On December 17-18, Ecological Constitution Initiative and Women's Constitutional Platform had a common two-day long workshop named Green Dialogue. Both initiatives discussed how the new constitution can be both responsive to women's needs and ecology friendly. It was an important attempt for platforms working on different agendas to come together for the new constitution.

Other Civil Organizations and Unions

In addition to the aforementioned platforms, which were established to discuss the new constitution required in Turkey, many civil organizations have brought the subject onto their agenda. The Foundation for Political, Economic and Social Research (SETA) prepared a report titled 'New Constitution Package in the Context of Human Rights and Democratization'; The Association of Human Rights and Solidarity for Oppressed People (MAZLUMDER) prepared a detailed report on the new constitution. Besides, small National Assemblies of Turkey, which are the dialog groups in the cities where representatives of civil society and professional organizations discussing general issues of Turkey, has put the new constitution of Turkey into its agenda for discussions.

It was also encouraged by the Constitutional Commission, which asked civil platforms to deliver their proposals or mention their demands for the new constitution till the end of the year in a written form. Constitutional Commission used to announce the proposals delivered to them by the civil platforms although they removed the list and detailed proposals from the website (<http://yenianayasa.tbmm.gov.tr/stkteklifleri.aspx>) for the time



being. Followings are some of the civil platforms, which delivered their proposals to the Constitutional Commission: Women's Constitutional Platform, Monitoring and Evaluation Report on Constitutional Changes (AMGIAD), Wise Men Center for Strategic Studies (BİLGESAM), Bodrum Democratic Thought Platform, Diyarbakır Bar Association, Initiative against Thought Crime, Ecological Constitution Initiative, İstanbul Chamber of Commerce, İzmir Center of Law, Marmara Group Foundation of Strategic and Social Researches, Confederation of Public Servants Trade Unions (Memur-Sen), National Turkish Union of Student, Social Policies, Gender Identity and Sexual Orientation Studies Association (SpoD); Institute of Strategic Thinking; Association of Turkish Electronic Industrialists (TESİAD); Confederation of Turkish Trade Unions (TİSK) Turkish Law Association; Turkish Veterinary Medical Association; Turkish Bar Associations; Children's Summit Organization of Turkey; Confederation of Progressive Trade Unions (DİSK); Turkish Union of Chambers and Exchange Commodities; Turkish Association of Industrialists and Businessmen (TÜSİAD); Independent Industrialists' and Businessmen's Association (MÜSİAD); Umut Foundation; Association of Protecting Citizens' Tax Payments and New Constitution Platform. In addition to these, Turgut Özal University and İstanbul Bilgi University presented their proposals to the parliamentary commission. Among the non-parliamentary parties, The People's Voice Party and Social Democrat Party prepared constitution drafts.

Constitutional Commission has started meetings with these platforms since the very beginning of the new year. Most of these platforms and more others will have the chance to present their proposals to the commission with a meeting. However, it should also be remembered that all these meetings do not ensure their demands to be accepted at all.

Friedrich Ebert Stiftung's Agenda on the New Constitution

Friedrich Ebert Stiftung (FES) has also taken the new Constitution of Turkey into its agenda. FES organized an international meeting with the title of "On the Way to a New Constitution: Experiences from South Africa, Spain, Germany and Poland" in partnership with Social Democracy Foundation (SODEV), Global and Local Thought Association (KÜYEREL), Foundation for Economic, Political and Social Research (TÜSES) and İstanbul Bilgi University on October 15, 2011. The partners decided to work together on the subject under the same title of 'On the Way to a New Constitution'. Meetings were held with the participation of lawyers for discussing the necessary legal arrangements need to be done in order to support equal participation of all citizens on constitution making process by ensuring their freedom of

expression. The demands for these legal arrangements are planned to be presented to the Parliament.

Friedrich Ebert Stiftung will also support a conference planned to be organized in partnership with the same institutions to establish a platform for discussion on the new constitution. The conference, which is decided to be held at the end of March, primarily aims to make the voices of disadvantaged groups to be heard on the way to a new constitution.

5. Outlook for the Following Period

The content of the constitution depends on which method is used in its creation. The most crucial point stressed is the need for a "civil" constitution. As nearly all parties have stated, Turkey needs a civil and democratic constitution, both in content and in the process of creating it. Since even the structure of the parliament is limited by the constitution that was devised under military rule, in the form of 10 percent threshold requirement for party representation in the parliament, it is debatable how much input minority parties will be able to have in the constitutional process. If democracy is to be a defining characteristic of the process, all opinions should be expressed and heard. Some of the civil platforms, which take the new constitution of Turkey on their agenda, have already started to stress the importance of the method the new constitution is to be made and the necessary legal arrangements that need to be done in order to democratize the constitution making process, as it was mentioned. Despite there has not been an official announcement yet, it seems also to be on the agenda of the government. The following process in Turkey seems to continue at both aspects, where the content of the constitution to be discussed at one level, while the need for a democratic and participatory method for making the constitution on the other.

Prepared by Özlem Kaya

A PhD candidate studying in Boğaziçi University Atatürk Institute for Modern Turkish History.