

CONSTITUTIONALISM

in Turkey and the United States

A Comparative Perspective on Building Democracy

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- Dr. Christopher Cuccia, Academic Asst. VP, St. John's University (S.I.)
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Editor

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CONTENTS

Summary Report	pg6
Introduction	pg8
Dr.Azzedine Layachi's Remarks	pg9
Dr. Murat Somer:"Constitutions, Politics, Freedoms, and Secular Democracy: the Turkish Experience and the World"	pg10
Dr.William Byrne:"Constitutionalism in the United States"	pg14
Dr. Joshua Walker:"Democracy Without Democrats or a Model Democracy? Turkish Experiences with Constitutionalism"	pg20

Summary Report

Dr. Murat Somer explains how the U.S. and Turkish constitution differ from each other and emphasizes that the founders of the modern Turkish Republic wrote the first constitution not only to define the fundamental rights of citizens and the main institutions of the state but also to facilitate the transformation of the new republic into a developed Western nation.

Dr. Somer argues that there are at least three main issues that are considered by the Turkish actors who are attempting to write a new constitution. It is hoped that the new constitution will address these issues and be a source of solutions. The first of these three issues is the Kurdish question which has caused bloody rebellions in Turkey but has not been appropriately addressed during the history of the modern Turkish Republic. The analysis of this problem necessarily requires an examination of how the Republic of Turkey emerged after the disintegration of the Ottoman Empire. The founders established the new republic as a nation state that imposed a single Turkish identity on its citizens. The new constitution must redefine this national identity to include other ethnicities and minority groups. The second issue is the definition of secularism, which is interpreted and practiced rather differently in Turkey than in the U.S. Initially, this concept was utilized as a method for development and was institutionalized accordingly. However, Turkey is an industrialized and developing country that does not require strict interpretation and manipulation of secularism. The third issue that the new constitution attempts to address is liberal democracy. Although previous Turkish constitutions protected basic human rights and civil liberties, citizens of Turkey have not been able to enjoy these rights in any practical manner.

The next panelist, Dr. William Byrne, provides a brief overview of constitutionalism in the U.S. and explains how this concept has been translated into daily and political life. The founders of the U.S. government followed the British model of governance but replaced the House of Commons, the House of Lords, and the king of England with the House of Representatives, the Senate, and the president of the U.S., respectively. One of the significant characteristics of the American constitution is that it was established based on the separation of powers theory. Each branch of the American government is elected differently. Although the executive branch is very strong, this governmental branch must work with Congress to enact significant policies and is also subject to judicial review by the Supreme Court. In situations involving divided government, the House of Representatives, the Senate, and the presidency are controlled by different political parties; as a result, policy making becomes ineffective and the initiation of new reforms becomes highly constrained. Another feature of the U.S. Constitution is that it established the U.S. as a federal state in which power is divided between the state and federal government.

Dr. Byrne explains that freedom of religion is guaranteed by the Bill of Rights and details how this freedom has been exercised in the U.S. Although the Bill of Rights requires the separation of religion and state, certain states initially established official churches; however, these affiliations had been discontinued by the early 1800s. In general, Americans are able to freely exercise their religion and can found private religious schools and other institutions.

To explain the fact that all of the constitutions of modern Turkey were written by military generals, Dr. Walker states that the circumstances surrounding the creation of these constitutions must be considered. The Ottoman Empire was dragged into World War I and fought simultaneously on many fronts during the course of this conflict; this phenomenon produced tremendous consequences for the political structure of the Republic of Turkey, which emerged immediately after the conclusion of this war. During the Cold War, Turkey was caught between the West and the Soviet Union and was forced to address security threats from its neighbors and from communist regimes. Under these circumstances, political leaders were expected to possess military backgrounds; thus, it is unsurprising that military influences have shaped the political structure of Turkey.

Dr. Walker argues that the new Turkish constitution should be inclusive. Although the 2010 referendum in Turkey was a success with respect to facilitating Turkey's transition into a liberal democracy, the current Turkish government has initially attempted to create a new constitution by consulting only with elite and expert sources and excluding inputs from civil society organizations. Dr. Walker believes that the new Turkish constitution should be a collaborative product that incorporates contributions from every segment of the Turkish population, including Kurds, Alawites, other minority groups, and women.

Introduction

On September 12, 2010, the Turkish voters approved a set of important constitutional amendments that are expected to consolidate democratic practices in Turkey and support the country's application for membership in the European Union. This event and other recent developments in Turkey have differentiated this country from other nations in the region in many ways, particularly with respect to the current environments of popular upheaval against autocratic governments in the Middle East and North Africa.

Turkey has enjoyed a relatively long period of political stability and has prospered economically even during the midst of the recent global financial crisis. Moreover, Turkey has enjoyed good working relationships with both its European neighbors and the U.S. Furthermore, Turkey has steadily increased its economic and diplomatic role in the Middle East; in particular, in this region, Turkey's skillful use of its soft power is welcomed by many countries and may also contribute to Middle Eastern stability and prosperity. Turkey's recent emergence as a confident regional power in areas that are of particular interest to Western Europe and the U.S. has caused Turkey to become not only involved in security and economic development issues in its region but also increasingly cited as an example of democratic progress in a Muslim nation.

The recent constitutional amendments offer us an outstanding opportunity to take stock of the Turkish achievements that have occurred since the days of Mustafa Kemal Ataturk, the founder of the modern Turkish state, and to discuss the extent to which the Turkish constitutional environment and the evolution of this environment helps or hinders the fulfillment of Turkey's domestic and international ambitions. It will also be useful and interesting to compare this evolution with the path that has been followed by the U.S. since its constitutional debate of 1787. This comparison may be accomplished through an examination of the concept of constitutionalism, which refers to limitations on the exercise of political power, the protection of the fundamental rights of all citizens, and the ability of individuals to peacefully challenge not only rulers but also governmental policies, among other issues. The notion of constitutionalism is undergirded by various liberal political values, such as fundamental human rights, democracy, the separation of powers, and judicial review.

The panel will focus on key elements of the evolution of constitutionalism in both the U.S. and Turkey, including the following topics:

- The organization of command (a parliamentary system vs. a presidential system)
- The distribution of power among the governing institutions (the legislative, executive and judicial branches)
- The rights of individuals
- The freedoms of expression, association and movement
- The right to petition the government for information and redress
- The role of the military in politics
- Religion and the state

The comparative discussion of these points (many of which were addressed by the 2010 constitutional amendments in Turkey) will occur in a panel format that includes three speakers and a moderator. The first speaker, Dr. Murat Somer, will provide a primer on Turkish history, culture, and politics. The second speaker, Dr. William Byrne, will address constitutionalism in the U.S., whereas the third speaker, Dr. Joshua Walker, will discuss constitutionalism in Turkey. Dr. Byrne and Dr. Walker will first present brief historical background information about the U.S. and Turkey, respectively, and will then address the constitutional provisions that exist in these countries regarding each of the aforementioned points and how these provisions have been implemented.

The general aim of this symposium is twofold:

1. To contribute to the constitutional debate in the U.S. during "Constitution Week" in an innovative way, namely, by offering an international comparative perspective.
2. To provide more information about the society, political system and expanding diplomatic role of Turkey, a longstanding partner of the U.S.

Dr. Azzedine Layachi, moderator *

Political scientists around the world have been attuned not only to Turkey's recent actions in the context of international affairs but also to internal events in Turkey. In particular, many important developments have recently occurred in Turkey, including the passage of constitutional amendments; these developments will be addressed by the speakers of this symposium. This panel will examine the factors that underlie Turkey's increasingly confident and assertive role in various aspects of international affairs over the course of the past several years. One of the elements that has driven this trend is the consolidation of constitutionalism in Turkey. Constitutionalism refers to a constitutional order that establishes practices for governing a society that incorporate liberal doctrines regarding governmental limitations, the protection of the fundamental rights of individuals and groups, and various other concepts.

Turkey has frequently been touted as a potential model for the Middle Eastern and North African countries that are experiencing popular upheavals from individuals and groups that desire change. The residents of these nations regard Turkey as a politically stable Muslim nation that has experienced rapid economic growth despite the occurrence of the recent financial crisis in Europe. In fact, Prime Minister Recep Tayyip Erdogan has visited Egypt, Tunisia and other countries in North Africa to express support for the political movements in these nations and to inform the citizens of these countries that Turkey could be a potential benefactor and ally. He has most likely been suggesting to certain individuals that the Turkish model may represent a possible method of resolving the expansive and ongoing debate regarding future developments in Egypt, Tunisia, Yemen, and various other nations.

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Constitutions, Politics, Freedoms, and Secular Democracy: the Turkish Experience and the World

Dr. Murat Somer *

In any discussion of constitutionalism in Turkey and the U.S., these two nations are regarded as very different cases. However, although there are many distinctions between these countries, certain parallels may also be drawn between Turkey and the U.S., such as the recent polarization of politics in both nations. There are also important reasons why this subject is rather useful and interesting. One of these reasons is that Turkey is an increasingly important regional player in international affairs; therefore, an improved understanding of Turkey is becoming much more crucial with respect to diplomatic and political considerations. The prospect of Turkey becoming a strong secular democracy is not only important for Turkey but also for the U.S. and for various countries in the region, such as Tunisia, Egypt, and other nations. Turkey's journey in this direction will continue; as a result, if this process truly produces the outcome that we desire, Turkey will become a strong, secular and liberal democracy, as I will attempt to emphasize in later sections of this report.

There is also a less extensively known reason why this topic is of great interest. At the present time, many players in Turkish politics wish to write a new constitution. In particular, a great variety of civilian actors believe that the current Turkish constitution has become a barrier rather than a facilitator of political progress and the development of the Turkish political system. The U.S. Constitution has served as an important reference point during public debates about the existing and upcoming Turkish constitutions. For many actors in Turkey, during discussions of a new constitution, the example of the U.S. Constitution is frequently regarded as a positive model and example from which Turkey can learn.

However, we must be rather cautious in examinations of Turkish perspectives regarding the U.S. Constitution. Although certain important lessons for the Turkish context may be obtained from the U.S. Constitution, it must be noted that Turkish debates do not necessarily involve a completely correct interpretation of the U.S. Constitution. Turkish citizens may attribute all of the traits to the U.S. Constitution that they wish to see in a good constitution. Therefore, an accurate understanding of the U.S. Constitution is an important aspect of fully appreciating Turkish constitutional debates.

There are important differences between the U.S. Constitution and the various Turkish constitutions that have been established. Textbooks provide particular answers to the questions of what constitutions are and what purpose they serve; these answers are typically heavily influenced by the Anglo-American experience. Constitutions are fundamental political frameworks that establish the essential rights of individuals in a society and the basic institutions of a political system. Constitutions typically represent a compromise between different societal groups. Furthermore, in not only the Turkish setting but also the context of many developing countries, constitutions also function as an instrument for development. In fact, at the time that the Turkish nation state was founded, development was the primary goal, vision, and idea of the creators of the Turkish constitution. For the elites who founded the state and wrote this constitution, many fundamental principles, such as secularism, the establishment of democratic institutions and the specification of certain essential rights, were not simply

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values in their own right but were also desirable because they were expected to facilitate development. The major goal during the establishment of Turkey was the creation of a Turkish nation state that would be the equal of its most advanced Western contemporaries. Many actions during the founding of Turkey, including the writing of the initial Turkish constitution, were designed to serve these purposes. This consideration constitutes an important difference between the U.S. and the Turkish constitutions.

What are the issues in current Turkish debates that various actors hope to resolve through the writing of a new constitution? Two issues that arise in these debates are frequently discussed, whereas one disputed issue receives less emphasis than it merits. In particular, one issue that many individuals hope to address through the passage of a new constitution is the question of ethnicity, especially with respect to the Kurdish question. Turkey has experienced Kurdish issues since its foundation. In fact, this issue has created difficulties since the later periods of the Ottoman Empire; however, this problem has continued to persist because it has never been appropriately addressed. Moreover, this issue has inspired a bloody ethnic rebellion in Turkey that has continued since the 1980s. The Kurdish question is a major social concern in Turkey, and there is hope that a new Turkish constitution will help to address this issue.

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The second issue that arises regarding the Turkish constitution is the question of secularism. Secularism is an important principle that has been

enshrined in the Turkish constitution. However, there has been no consensus on what secularism entails. The practice of secularism in Turkey is quite different from the practice of secularism in the U.S. Turkish secularism is somewhat more similar to French secularism than to American secularism, but there are several important differences between secularism in Turkey and secularism in France, and these two nations present very different contexts. There is insufficient consensus in Turkey about the nature of secularism. In fact, the political party of Prime Minister Recep Tayyip Erdogan was convicted of violating the principle of secularism several years ago by the Constitutional Court of Turkey.

The third issue that is debated with respect to the Turkish constitution is the question of liberal democracy, which is the most apt term that I can envision for describing this topic. Turkey has often been hailed as one of the few Muslim democracies. This distinction is valid; one of the major accomplishments of the Republic of Turkey has been its ability to smoothly transition to multi-party democracy in 1950 after its authoritarian regimes of the 1920s and 1930s. This democracy has been intermittently interrupted by military coups. However, Turkey has nevertheless generally remained an electoral democracy throughout the course of its existence, although this electoral democracy has been overshadowed by military and bureaucratic supervision. Importantly, the Turkish government has not been able to consolidate a liberal pluralistic democracy in which there is not only a competitive political system involving peaceful governmental changes that reflect election results but also a large variety of rights and freedoms for both individuals and minority groups. In particular, Turkey has consistently exhibited deficiencies with respect to ensuring legal rights and protections for women; freedom of expression; and freedom of thought. In recent years, several important advances have occurred with respect to these issues, but various improvements and reversals regarding these concerns have also occurred in the past. For instance, in 1960, Turkey had a very liberal constitution in theory, but liberal principles were not upheld in practice. During the 1970s, certain progressive measures were implemented in Turkey, but this progress was then thwarted by a military coup that occurred in 1980. On the whole, it appears that Turkey cannot truly consolidate a fully liberal democracy, and persistent deficits in freedoms and rights continue to plague the Turkish nation.

The above issues represent many of the concerns that various entities expect to resolve through the rewriting of the current Turkish constitution. Although I very much hope that this resolution will occur, I wish to emphasize that the creation of a new Turkish constitution should not be regarded as a magical remedy to all of the aforementioned problems. True cooperation and compromise in politics is the key aspect of ensuring that any constitution functions appropriately.

As an introduction, I would like to issue a few brief statements regarding Turkish history and how this history is integrally related to these three aforementioned issues that Turkey is attempting to solve. Modern Turkey was founded from the ashes of the Ottoman Empire; thus, any endeavor to obtain a better understanding of modern Turkey must involve an examination of the Ottoman Empire. The Ottoman Empire was a multiethnic, multinational empire. Moreover, religion played a very prominent political, social, and ideological role in the law of the Ottoman Empire, although religious powers remained subservient to the state. During the disintegration of the Ottoman Empire, the elites who founded modern Turkey, such as Mustafa Kemal Atatürk, were primarily attempting to rescue the Ottoman state by reinventing this state as the Turkish nation state. These individuals believed that various effects had altered the nature of the world and marked the end of the age of empires, and they sought to protect the Muslims in the core lands of the Ottoman Empire through the building of a strong nation state. These founders of Turkey believed that similarly to the other nation states that emerged from the collapse of the Ottoman Empire, which ranged from Greece to Bulgaria, Syria, Iraq, and many other countries, Turkey would need to be a nation state that possessed a single dominant identity. They conjectured that if the Turkish state included multiple identities such that citizens not only identified themselves as Turks but also as Kurds, Laz, Greeks or other designations, then the integrity of the state would be gravely endangered; moreover, as mentioned above, these founders of Turkey believed that the presence of multiple identities in Turkey would also endanger Turkish socioeconomic development. These principles underlie the way in which the state of Turkey was constructed.

In fact, the establishment of Turkey proved to be quite successful; by contrast, many other nations that were founded at the time of the creation of Turkey were colonized or semi-colonized by Western states or were threatened by Western domination. In Turkey, both the national identity and the state identity managed to attain a rather high level of legitimacy. At the present time, a large majority of the individuals in Turkey do identify themselves as Turkish, although they may also concurrently identify themselves as Muslims or as members of another societal group. However, certain minorities in Turkey, most notably the large Kurdish ethnic group, have not found representation within the current framework of the nation. Ethnic Kurds are a transnational, trans-state minority in the Middle East. In particular, they exist not only in Turkey but also in Syria, Iraq, Iran, and Azerbaijan. At the present time, this strong Turkish identity that was created during the course of the establishment of the Turkish republic must be recreated, reframed, and remapped in a manner that incorporates greater consideration of the Kurdish residents of Turkey.

A second issue that has arisen from the circumstances surrounding the establishment of the Republic of Turkey is that at the time that the state was founded, the question of secularism was regarded from the perspective of facilitating development. In particular, the founders of Turkey sought to regulate and control religion in the public sector such that religion could be utilized as a means of development and as a method of consolidating a national identity. At the present time, Turkey is an industrialized country with a strong state and national identity that does not need to perceive religion and secularism through the prism of development. Secularism can be redefined as a goal in its own right and as a guarantor of not only religious freedoms but also individuals' freedoms to think about and disbelieve in particular faiths.

What factors determine the quality of a constitution? For many individuals who may subscribe to the notion of legal constitutionalism, the quality of a constitution is determined by the constitution's underlying principles and the style and approach that are adopted for the purpose of writing the

constitution in question. A good constitution is characterized by provisions that explicitly establish checks and balances among different institutions; the protection of individual rights; and the specification of fundamental rights and freedoms. If you write a perfect constitution, then democratic political entities will naturally arise. In a very simplified manner, many political figures in Turkey also think in this manner. If a concise constitution can be written that, similarly to the US Constitution, simply establishes the fundamental liberties and principles of the political system, these political figures believe that democrats will be created. However, there are other ways of perceiving this issue. The idea that democrats create a democratic constitution may be more valid than the notion that the converse relationship will occur. The truly important aspects of writing a constitution are not simply the writing itself, although the writing of a constitution is obviously very important, but rather the establishment of political consensus and agreement among the actors who must truly support the newly created constitution.

Certain political actors are democrats because of their ideology; these actors are concerned with protecting the rights of others. By contrast, other political actors are instrumental democrats. These instrumental democrats may not inherently care about democratic principles but may believe that democracy constitutes an acceptable compromise with respect to governmental structure and is therefore a good political system to accept. For instrumental democrats, a balance of interests between different political actors in the real political environment is crucial. Certain political entities will not compromise because they feel threatened and overly weak, whereas other political entities may feel as though they are sufficiently strong that they do not need to participate in compromises with their political adversaries. Both types of political actors tend to resort to authoritarian measures and undermine democratic processes. Thus, even the most perfect constitution will not be implemented if there is not a real balance of power between different actors or if either political democrats or instrumental democrats do not favor the constitution in question. Therefore, I would urge that in lieu of focusing on the notion of legal constitutionalism, the concept of political constitutionalism, which suggests that political support is truly the key to the construction of a good constitution, should be emphasized.

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Constitutionalism in the United States

Dr. William Byrne *

In these paragraphs, a basic overview of constitutionalism in the U.S. will be provided to allow for comparisons and contrasts to be drawn between the American and Turkish constitutional environments. The U.S. Constitution is very old; in fact, this constitution is the oldest written constitution in the world that remains in use. An examination of the historical origins of American constitutionalism can facilitate a greater understanding of this topic.

To a great degree, the U.S. Constitution followed the British model. In fact, the structure of the 18th-century British government is much more closely approximated by the structure of the U.S. government than by the structure of the contemporary British government. The 18th-century British government consisted of a House of Commons, a House of Lords, and the king of England. This political structure institutionalized the actual power elements that existed in medieval British society; in this structure, a degree of consensus among the major entities of the class-based system was required to accomplish any tasks. Most of the American colonies featured a similar governmental structure that included a royal governor and a legislature; many of these states retained these types of structures after American independence. Although American society lacked the aristocracy and monarchy that existed in Great Britain, the new U.S. Constitution exhibited remarkably close parallels to the unwritten British constitution.

Checks and balances that helped to limit government have been widely associated with mixed constitutional structure, such as the British form of governance. Although the U.S. system would not be “mixed” in the traditional sense because its foundations are entirely democratic, a desire to maintain similar checking functions produced a system in which each component of the U.S. government was designed to be different in nature and outlook from the other aspects of the American political structure. The British House of Commons was replaced by the U.S. House of Representatives, a relatively large body with members who were allocated by population, chosen by direct popular election, and elected to short, two-year terms. The British House of Lords was replaced by the U.S. Senate, a smaller body than the House of Representatives. The U.S. Senate included two senators per state who each served six-year terms, and were originally selected by state legislatures. This body was initially regarded primarily as a body that provided checks on the powers of over governmental institutions. In 1917, the method of selecting senators was altered to direct popular election. Although this shift and other changes have caused the Senate to become more similar to the House of Representatives, these two governing bodies remain significantly different because of the smaller size of the Senate relative to the House of Representatives and the fact that Senate representation continues to be allocated equally by state.

Clearly, the American system of governance replaced the king of England with the president of the U.S. The American framers followed both the British model and the separation of powers theories that had been advanced by various thinkers, such as the French writer Montesquieu, in establishing an executive power that was distinct from the legislative branch of government. Moreover, a distinct method for selecting the president was established that further emphasized the differences that existed among the diverse components of the American government. In particular, votes for president are cast by an electoral college; these votes are allocated among states based on each state’s combined total of

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House and Senate members. Originally, citizens voted for individual electors, who would then vote for the president; shortly after the establishment of the U.S. Constitution, states began to assign their electoral votes based on the popular vote for president within each state, with most states choosing to cast their votes in a bloc for the statewide winner. The president's term was set to four years, a term length that differs from the term lengths of both House and Senate members; since 1951, the president has been constitutionally limited to two terms.

The framers of the U.S. Constitution deliberately created a strong executive, but they nevertheless expected Congress to be the most powerful branch of government. However, since the early twentieth century, if not before, the U.S. president has frequently played a dominant role in American politics. In addition to being the chief executive, the president holds veto power over acts of Congress; a two-thirds vote is required to override a presidential veto. Moreover, as the one government official (besides the vice president) who is elected by the entire U.S. population, the president can have a powerful personal connection with the American citizenry. Nonetheless, U.S. presidents rarely enjoy *carte blanche* and often find themselves helpless in the face of the lawmaking and investigatory powers of Congress.

The U.S. president tends to dominate foreign affairs, and is the commander in chief of the American military. The U.S. has been quite successful in maintaining a de-politicized military, and there have rarely been questions about military obedience to civilian authorities. After leading the American forces in the Revolutionary War, George Washington made no attempt to assume political power but instead retired to his farm. He was only elected president significantly after the conclusion of the Revolutionary War and therefore clearly assumed the presidency as a civilian rather than a general. His example set the precedent for an apolitical American military; this precedent persists to this day.

In accordance with the separation of powers model, the judicial branch of government was created to be relatively independent of the other governmental branches. Supreme Court justices are appointed to lifetime terms through the joint actions of the President and Senate. Initially, the scope of the Supreme Court's power was disputed and unclear. However, the Supreme Court soon established the principle of judicial review, which refers to the ability of courts to strike down laws or executive actions that they consider to be in violation of the U.S. Constitution. A high degree of respect for rule of law in American political culture has allowed the American courts to exercise tremendous influence in shaping public policy through the power of judicial review.

In addition to the formal branches of government, American politics has been profoundly shaped by the two-party system. In a typical parliamentary system of government, several political parties can cooperate in a legislative body to select a compromise prime minister and form a government. Because in the U.S., members of Congress and the president are elected independently through winner-take-all elections, strong incentives exist for broad coalitions to form *before* elections occur rather than after elections have already been resolved. These coalitions have taken the form of the two major parties, which have become semi-institutionalized. In fact, the same two parties have dominated American politics since the 1860s.

The American system creates a situation in which the chief executive must work with a legislature that is rarely dominated by his own party. In fact, polls have demonstrated that Americans

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typically do not want the same party to control the presidency, the House, and the Senate. This belief reflects a general American suspicion of concentrations of political power. If faced with a choice between limiting governmental action through divided governmental control and promoting an active government by entrusting one political party with full control of American political institutions, most Americans opt for a divided, constrained, and potentially ineffective government. The effect of divided political control of the government is the enhancement of the checks and balances that already exist in the American political structure, which can render it difficult for government to undertake new initiatives or implement needed reforms.

The U.S. political system is characterized not only by the separation of powers within the national government but also by federalism, which refers to the division of power between the national government and the states. Historically, the concept of federalism was derived from the idea that the national government represented a voluntary creation of the citizens of the existing, sovereign states. During the establishment of the current U.S. political system, Americans were highly suspicious of a large central government; therefore, the federal government was restricted to certain enumerated powers. In other words, any action of the federal government must be justifiable as an exercise of one of the stated powers that has been delegated to the government by the Constitution. The mere fact that a federal law or executive action does not violate a stated right does not guarantee that the law or action is constitutional; instead, a positive justification for the law or action in question must also exist. This issue is currently an active feature of the ongoing debate and litigation regarding the constitutionality of the federal government's mandate to purchase health insurance, which was enacted as an aspect of President Obama's health care law.

The precise scope of federal power has remained a topic of debate in the U.S. since the founding of the American nation. During much of the twentieth century, the federal government's powers underwent dramatic expansion. As the conditions of modern life placed greater demands on the U.S. federal government, broader conceptions of the scope of federal power were granted by the American courts and accepted by the American populace. As a result, contemporary federal activities include many initiatives that were originally unforeseen, such as the administration of the expansive retirement programs of Social Security and Medicare (although Rick Perry, the erstwhile Republican presidential candidate, has actually questioned the constitutionality of Social Security); civil rights enforcement; the regulation of food safety, working conditions, and environmental pollution; and aid to states and localities with respect to various issues, including social welfare programs, roads, and education. Notably, since the 1980s, there has been increased constitutional questioning of the scope of federal power and more frequent judicial rejection of certain specific expansions of federal authority. However, a large and active national government will certainly continue to characterize the U.S. for the foreseeable future.

Despite the breadth of federal power, state and local governments play a tremendous role in the daily lives of Americans. State and local authorities are the dominant governmental influences in numerous areas; for instance, these authorities administer the majority of the police powers and criminal laws; education funding and administration; and land-use regulation that exist in the U.S.

Unsurprisingly, American government and society are characterized by a strong emphasis on rights and a reliance on a rights-based framework in the context of public policy discussions. Several rights are explicitly stated in the original body of the U.S. Constitution, whereas many more rights are specified in the Bill of Rights, which was adopted shortly thereafter. Notably, most of the rights revolve around a concept that is currently referred to as "due process", which refers to procedural safeguards for legal and criminal matters. This notion reflects an American belief in the value of strict adherence to formal procedures as a guarantee of justice.

In addition to numerous due process rights, the U.S. Constitution guarantees freedom of speech, of the press, and of assembly. Although the precise meaning of these rights has varied somewhat over the course of time, since early American history, these rights have not only enjoyed broad and strong public support but also conveyed reasonably specific and well-understood meanings. This cultural background, combined with the power of judicial review and a strong respect for the rule of law, has caused the protection and enforcement of these rights to be relatively straightforward, although disagreements about these rights have occurred in various specific situations. In the U.S., speech protections have been particularly strong and broad; in particular, these protections extend to speech that certain individuals (or perhaps many entities) may deem offensive. In addition, high standards for proof of libel or slander exist in the U.S., granting extremely broad latitude to individuals and groups that wish to criticize public figures or organizations. (Libel and slander charges are frequently utilized by regimes around the world to silence opposing voices; for instance, this tactic has been employed in Venezuela.)

Partially because of the strong free speech protections that exist in the U.S., relatively few regulations are placed on political candidates, organizations, or donors. In contrast with many countries, which set strict limits on the duration of campaigns, the number of political ads that can be broadcast, and/or the spending of political candidates, the U.S. political environment is relatively freewheeling, and political campaigns can be nearly perpetual in nature.

The Bill of Rights also guarantees freedom of religion. However, religious freedom and the role of religion in public life are complicated topics. The First Amendment to the Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” For the most part, the second portion of this clause, which guarantees the free exercise of religion, has proven to be relatively straightforward. Complex and contentious situations sometimes arise; for instance, a religious group may wish to engage in an activity that others find repugnant (such as animal sacrifice), individuals may object to employers that require employees to work on their Sabbath, or local zoning laws may attempt to prohibit houses of worship. However, in general, individuals are free to establish religious communities, build houses of worship, and worship as they please without governmental interference. Religious groups can also operate schools, as long as they meet minimum standards, and many different religious groups of diverse faiths have established educational institutions. However, in the U.S., in contrast to many other countries, religious schools receive very little governmental funding and must instead be self-supporting.

The first portion of the religion clause in the First Amendment, which prohibits the establishment of churches, has proven to be more problematic throughout the course of American history. Originally, this clause was understood to simply imply that Congress could not designate an official national religion. Half of the states in the U.S. had established their own churches during the early years of American history, and the establishment of state churches was regarded as a constitutional and legitimate practice; however, states had discontinued their affiliations with particular churches by the early 1800s. In the U.S., there was (and remains) a general consensus that government should not be overly entangled with religion. This belief in separation between church and state reflected the shared views of two very different groups. One of these groups consisted of Enlightenment secularists; this group was exemplified by Thomas Jefferson. The second and much larger group of individuals who championed the notion of separation between church and state was composed of members of various dissenting Protestant churches; these churches frequently arose during the early days of American history, and the members of these churches resented established Protestant denominations. A strong belief in the role of one’s individual conscience in one’s relationship with God also existed in the U.S.; this belief implied that one’s religious beliefs should be adopted freely, and state churches were regarded as influences that interfered with this process. It was also widely believed that government entanglements with religion were more detrimental than beneficial to the affected religions.

“ Despite the official separation of church and state, in the nineteenth and early twentieth century, significant levels of religious expression could be found in public institutions. For example, in the vast bulk of American communities, public school systems were essentially Protestant, with prayers and lessons reflecting a generic Protestant perspective. ”

Despite the official separation of church and state, in the nineteenth and early twentieth century, significant levels of religious expression could be found in public institutions. For example, in the vast bulk of American communities, public school systems were essentially Protestant, with prayers and lessons reflecting a generic Protestant perspective. During the twentieth century, however, the dominant views in the U.S. shifted towards the model that was proposed by Enlightenment secularists. At this time, religious minorities and, in particular, secularists also became more active in questioning the de facto Protestant establishment. Thus, broader interpretations of the restrictions on “church establishment” were established. This shift has led, for example, to judicial prohibitions on prayer in public schools and religious invocations at public school events.

“ The Constitution prohibits a religious test for public office, but religious affiliations, and the intensity or absence of religious belief, are often significant factors in voters’ evaluation of political candidates. ”

Despite the relatively strict separation of church and state in the U.S., religion remains an important factor in American politics, and frequently arises in various contexts during the course of political discussions and debates. The Constitution prohibits a religious test for public office, but religious affiliations, and the intensity or absence of religious belief, are often significant factors in voters’ evaluation of political candidates. However, the tremendous religious diversity that exists in the U.S., including not only the presence of different major religions, but also great diversity within the Christian faith, prevents any single religious group from being dominant. Until several decades ago, the “mainline” Protestant denominations, including the Episcopal Church, which was originally established in many of the U.S. colonies, were dominant influences on American public life. Today, it is noteworthy that among neither our current president nor any of the Republican presidential candidates in 2012 are members of traditional “mainline” Protestant denominations, as the “mainline” term has traditionally been defined. This phenomenon partially reflects the rise of evangelical Christianity, which has always been important in America but has become more prominent in recent years. Furthermore, it is striking that not a single member of the U.S. Supreme Court is a Protestant; instead, most of the current justices are Roman Catholics, whereas a few justices are Jewish.

Despite these shifts, in the U.S., high public office remains largely closed to individuals who lack Christian or Jewish religious affiliations. However, this condition is far from absolute. For example, there are currently two Muslim and two Buddhist members of Congress. (The U.S. tends not to follow a pluralist model, in which religious and ethnic minorities are formally recognized in government. For the most part, the U.S. instead follows a liberal model in which no special provisions are made for these types of minority identities.)

Americans are relatively religious, compared with citizens of most other Western countries. For example, approximately 90% of Americans profess to have a belief in God, over 80% of Americans claim to be affiliated with a religious group, and the majority of Americans pray at least once per week. However, in the U.S., there is both a high level of religious diversity and a broad distribution of voters across the spectrum from very religious to atheistic; as a result, one can rarely be successful in public policy discourses with arguments that are primarily framed in religious terms. Most of the public debate in the U.S. occurs within the secular sphere. Paradoxically, in certain ways, the U.S. can be regarded as both a very religious and a very secular nation.

Democracy Without Democrats or a Model Democracy? Turkish Experiences with Constitutionalism

Dr. Joshua Walker *

Turkish dynamism has caused Turkey to be regarded as the most prominent example of a Muslim nation with a democratic regime and a capitalist economy that is based on free market principles. Turkey is the largest and fastest growing economy in the Middle East, the sixth largest economy in Europe; moreover, Turkey is also an Afro-Eurasian, Caucasus, Baltic and Balkan country. Turkey is also both a trans-Atlantic and a trans-Pacific actor and a continental power that exhibits balancing capabilities. Despite the various events that have recently occurred in Turkey, such as the Turkish prime minister's visit to Arab and North African countries, tensions between Turkey and Israel, and developments in the relationship between Turkey and the U.S., it is important to devote attention to the ongoing work to draft a new Turkish constitution. To establish a truly liberal society, it is necessary to focus on long-term goals rather than recent, short-term events.

The history of constitutional issues in Turkey began during the Ottoman Empire and five constitutions have been written since then. The first of these five constitutions was written in 1876, during the reign of the Ottoman Empire. The second Turkish constitution was written in 1921; this document was the first constitution of the Republic of Turkey. Other Turkish constitutions were subsequently adopted in 1924, 1961 and 1982.

“ The founder of the modern Turkish republic, Mustafa Kemal Atatürk, was not only a great hero of the Turkish War of Independence but also a hero of World War I. “

The majority of Turkish history has been written by generals instead of democratically elected officials. This phenomenon does not imply that this history is unacceptable. Instead, we must examine

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the circumstances under which this history has been written. The founder of the modern Turkish republic, Mustafa Kemal Atatürk, was not only a great hero of the Turkish War of Independence but also a hero of World War I. The Ottoman Empire was coerced into participate in WWI as an ally of Germany; this participation in a world war produced disastrous consequences for the Ottoman Empire, which had already been crumbling prior to the start of the conflict. Colonel Mustafa Kemal earned his reputation as the sole victor of the Battle of Gallipoli and won the Turkish War of Independence, which could be regarded as a great tragedy from the Greek perspective. This background provides an interesting and relevant story because in contrast to the founding of other nations, the creation of the modern Turkish Republic was accomplished virtually singlehandedly by Atatürk.

For instance, in the U.S., George Washington was not the only individual who founded the country; in fact, there are “founders” of the U.S. rather than a single “founder” of the U.S. We must include Thomas Jefferson and other leaders on the list of American founding fathers. However, in Turkey, Atatürk represents a figure that is sufficiently powerful and politically charged that no contemporary individual can approach his legacy. In fact, there is an entire group in Turkey, the Kemalists, that has centered their entire ideology around becoming followers of Atatürk. In many ways, the Turkish political elite have treated the Turkish constitutional system as their private playground. There has been a huge gap between the official provisions of Turkish constitutions and the ways in which these provisions have been interpreted. Although the formal Turkish constitutions have been very liberal in many ways, each sign of actual Turkish liberalization has been accompanied by a setback. Therefore, an extended period of time has been required for Turkey to achieve its democratic goals. Despite the existence of official democratic policies in Turkish constitutions, Turkey has persistently featured an undemocratic political system. One of the reasons for this phenomenon is Turkey’s geo-strategic location. During the Cold War, Turkey was forced to defend itself against two fronts, the West and the Soviet Union. Therefore, generals were necessarily forced to play important roles in Turkish politics. After the conclusion of the two world wars in the twentieth century, the U.S. could return to a focus on its North American setting without being forced to address threats from the neighboring countries of Canada and Mexico. By contrast, during WWI, Turkey was forced to fend off other great empires that were trying to fragment the Ottoman Empire. Following WWII, the Soviets constantly coveted access to important Turkish ports. Thus, it is understandable that generals have written much of recent Turkish history.

The current Turkish constitution was written by the Turkish military in 1982. In fact, to a certain extent, all Turkish constitutions have been written by the military, with the possible exception of the 1876 constitution, which was written during the Ottoman Empire. In discussions of constitutional considerations in Turkey, many individuals refer to the Treaty of Sevres, which was an agreement that would have destroyed Turkey. If this treaty had been implemented, the country that is currently Turkey would instead have been divided into British, Greek, Italian, and French regions; in addition, Kurdistan would have been a part of Armenia, creating a very different Armenian nation than the Armenia that exists today. The role of the military in writing an entire Turkish constitution and ruling the country can be understood in light of the fact that much of the world sought to split Turkey into fragments.

“ Although the formal Turkish constitutions have been very liberal in many ways, each sign of actual Turkish liberalization has been accompanied by a setback. “

Beginning with Genghis Khan, all of the great leaders in Turkish political history have been military figures. In many

ways, Atatürk is an excellent fit for this trend. Atatürk was a great leader who created the Republic of Turkey. During the drafting of the constitution that was written during Atatürk’s time, the most important issue was the sovereignty of the Turkish people. These individuals gave their loyalties to one

leader, and this phenomenon has persisted throughout the regimes of Adnan Menderes, who was hung by a coup; Turgut Ozal, who died prematurely of a heart attack; and the current head of Turkey, Prime Minister Recep Tayyip Erdogan. Personal leadership from the ruling elite is highly relevant in Turkey; this phenomenon does not exist in the U.S. In the U.S., which features two political parties, the precise identity of a party's nominees is relatively immaterial because in general terms, both parties may do reasonably well in elections. However, in Turkey, personality and leadership are highly relevant to political outcomes. Among the approximately 40 major political parties in Turkey, only 21 parties won votes in the recent Turkish elections. Therefore, personality is a driving consideration in the minds of Turkish voters. The incumbent party has governed Turkey for the previous nine or ten years; however, the history of Turkish politics suggests that this party could readily be shut down by the Constitutional Court of Turkey or by a military coup of some sort; this instability necessarily produces a system in which personality plays a significant role. Thus, the current Turkish constitution is less important than individuals' interpretations of this document.

Comparing the U.S. and Turkey, in the 90th year following the establishment of the U.S., this nation was experiencing its Civil War, and Americans were struggling to establish a national identity; by contrast, Turkey, which was established in 1923 and has now existed for 90 years, is relatively more stable nation than the U.S. was during its 90th year of existence. Thus, I urge caution upon individuals who wish that conditions in Turkey could be similar to conditions in the U.S. The establishment of a presidential system instead of the current parliamentary system would not be straightforward and may not function as expected; for instance, the American presidential system has been shaped by a long and tumultuous history.

Turkey is currently experiencing a fascinating period of its existence. During the Cold War, Turkey served as a bridge, a bulwark and a wall against communist aggression. Turkey is a democratic nation with a majority-Muslim populace. In the post-9/11 environment, it has been important for the U.S. and its allies to develop relationships with nations of various religions and to cultivate an ally with a good understanding of the most troubled regions in the world. In particular, Turkey is an important nation in foreign affairs because if American or Western experts attempt to develop democratic institutions in the Middle East or various other regions, the local populations of these regions typically interpret these efforts (however well-intentioned) as indications of Western imperialism. However, if Turkish experts visit one of these regions and suggest development projects, the cultural and religious similarities between Turkey and the nations of these regions inspires more sympathetic views from local residents of these regions towards Turkish experts than towards Western experts. This phenomenon occurs even though the Ottoman Empire once ruled many of these regions and was previously regarded as imperialists. Moreover, the separation of church and state that developed within the context of Western and Judeo-Christian values may not be appropriate for certain regions of the world.

The fundamental difference between the current Turkish constitution and the U.S. Constitution is that although Turkey is a secular state, the Turkish constitution does not separate religion and the state. Instead, the Turkish government exercises control over religion. For instance, speeches during Friday prayers in Turkish mosques are not written by individual imams but are instead composed by the Diyanet, a state board that controls the religious affairs of Turkey. The way in which various religious groups in Turkey have been able to flourish is through skirting the system of state control over religion. By establishing brotherhoods and different religious movements that have been very powerful in Turkey, these groups have been able to grow as civil societies, a rather novel phenomenon in the Turkish political system. The major challenge in Turkey at the present time is the prevalence of anti-Israel and anti-Western rhetoric; in general, these statements have simply distracted Turkish attention from the implementation of actions that are truly necessary for the Turkish nation.

“ the Turkish government exercises control over religion. For instance, speeches during Friday prayers in Turkish mosques are not written by individual imams but are instead composed by the Diyanet, a state board that controls the religious affairs of Turkey. ”

The 1982 Turkish constitution is not relevant to the current Turkish republic because in 1982, Turkey was a poor and inward-looking state that was challenged by its powerful neighbors. At the present time, Turkey is much stronger than it was in the past; in particular, over the course of the past ten years, Turkey's GDP has tripled, and Turkey's GDP is quadruple of annual economic output during the 1980s. Turkey is currently significantly more self-confident than it has been in recent decades, although Turkish leaders may become overly arrogant in the relationships between Turkey and its neighbors. Moreover, many problems that date from the very beginnings of the Turkish republic have not yet been solved.

“ However, the new constitution must be inclusive instead of reflecting the efforts of a single political party. Kurds, Alawites, women and every segment of the society should participate in the writing of a new Turkish constitution. “

On President Obama's first trip overseas, he visited Turkey and issued the following statement to the Turkish parliament: “Our history is something that we are not proud of, but if you look at me standing before you as an African American, we have been able to build strength through our diversity”. Turkey is in the same situation. An admission of past wrongdoings in Turkey should not be regarded as a weakness but instead perceived as a way of strengthening Turkish society and looking forward to the future of the country. Turkey's global, regional and domestic challenges are interlinked and may affect the nation's next constitution. A recent major constitutional referendum occurred in 2010, and constitutional changes were approved by the Turkish populace. However, according to my survey and research data, many of the voters who cast ballots during this referendum did not possess detailed information regarding the issues upon which they were voting. Instead, the referendum was largely a popularity contest between the Turkish prime minister and his opposition. In essence, the ruling party used this referendum to attempt to convince Turkish voters that any drafting of a new and successful constitution should occur under the auspices of the current ruling party. However, the new constitution must be inclusive instead of reflecting the efforts of a single political party. Kurds, Alawites, women and every segment of the society should participate in the writing of a new Turkish constitution. New partnerships must be built. To date, the EU has not been able to work very successfully with Turkey with respect to Turkish attempts to join the EU. If the EU continues to experience a lack of success in its attempts to collaborate with Turkey in developing new institutions and establishing a new Turkish constitution, then a new problem may arise for the nations of the West. This statement is not intended to imply that Turkey will become another version of the Islamic Republic of Iran or Afghanistan. However, an important opportunity to reshape Turkish culture and governance will be missed if collaborative effort on a constitution cannot be achieved. Similarly to the manner in which the U.S. borrowed from aspects of the British political system, Turkey and its democratic allies must form collaborative partnerships. Ahmet Davutoglu, a former professor and the current Turkish Foreign Minister, has discussed the notion of strategic depth; this concept represents an excellent perspective on international politics. I would argue that Turkey is in need of democratic depth. Many Turkish Islamists use Islam as a rallying cry, whereas Turkish secularists hail the legacy of Ataturk. Instead of accusing each other, these groups must cooperate and realize that there is a method of achieving a greater good for everyone. Turkey is at a historical crossroads and should opt to continue on the path of the liberal reforms that it began many years ago. Although the 2010 referendum has triggered several liberal reforms in Turkey, this referendum represents only a starting point for Turkish development. In fact, from their conception, these Turkish reforms have consistently demonstrated flaws because the Turkish government only consulted experts during the course of designing the reforms in question; by

contrast, other actors in Turkish society were not asked for their input into the recent changes in Turkey. Reforms cannot be an elite-driven process. The modern world is a global and interdependent environment. Turkey trains police personnel, lawyers, and politicians from around the world; this training is implemented not only by the Turkish government but also by civil society organizations. For instance, today's event is occurring in a Catholic university; Turkish Cultural Center is a truly Turkish-American organization in which a Muslim group has been engaging in interfaith dialogue. These types of events and discussions must occur at all levels of society. Instead of perceiving cooperation as not only a weakness and a problem for the Turkish constitutional process but also a hindrance to Turkey's influence in its region, people in Turkey need to cooperate to solve the issues that continue to plague Turkey today. Resolutions to various issues, including concerns about civilian-military relationships, the role of secularism, or the ethnic composition of Turkey, can be implemented within a constitution that is worthy of the Turkish republic that we celebrate. At the end of the next decade, when Turkey celebrates its centennial, we should be able to recall this moment as the beginning of a powerful movement that extended far beyond the scope of any single leader or any particular political party.

“ Reforms cannot be an elite-driven process. “

Peace Islands Institute

Mission

Peace Islands Institute (PII) aspires to facilitate a forum of mutual respect and collaboration, both welcoming and accepting varied viewpoints and voices with the intent to develop original and alternative perspectives on vital issues that our society is facing, generate solutions to these issues, support successful practices, thus promoting education, friendship and harmony and acting as an island of peace for all peoples in a society of different ethnic, cultural and religious backgrounds.

Vision

In a diverse world, where even the farthest point is a click away, every culture, race, religion, tradition and nation become neighbors. We have to live and interact together in this “global island” we call Earth. Peace Islands Institute (PII) serves to act as the soil for fruitful dialogue, peace, and civil service just as the soil on this “global island” gives forth flowers of different colors, scents and shapes. PII envisions a world becoming an island of peace in the ocean of our universe; a community in which people from all walks of life interact with each other and cooperate to serve their communities, thereby strengthening civil society and promoting the development of human values.

Goals

- Facilitate unity for building peace, education to eradicate ignorance, welfare to fight against poverty and hunger, progress to promote development
- To develop original and alternative perspectives on global and social issues as they relate to our lives, as well as present explanations and solutions.
- Support successful practices in peace building.
- Build relationships among diverse cultures and traditions.
- Unite different point of views on common global issues
- Provide educational platforms for global and social challenges.
- Encourage people to actively engage in solving social and global problems of humanity.
- Encourage business owners to be part of a philanthropic economy to end problems like poverty and hunger.
- Provide an atmosphere of peace and understanding for all people, regardless of race and cultural tradition.
- Prepare annual reports for both non-governmental agencies (NGOs) and governmental agencies on social issues.

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CONSTITUTIONALISM

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