

What is the state of affairs in Turkey's Constitution debate?

Turkey's current constitutional regime laid down by the 1982 Constitution is the product of the 1980 coup d'état, which aimed to ensure political stability and social peace at the expense of curtailing rights and freedoms and constraining the political sphere. Commissioned by the military junta and voted under severely repressive circumstances, the 1982 Constitution was almost stillborn in terms of legitimacy and ownership. Numerous calls by the civil society to change the text since the 1990s and periodic promises by political figures to do so bear witness to this reality.

While amendments to the Constitution within the context of the EU accession process have reformed and ameliorated the rights and liberties in Turkey, the repressive spirit of the Constitution remains intact. Moreover, the consistence and coherence of the checks and balances system has been disrupted with amendments in the past three decades.

The AKP government came to power in its second term with a pledge to scrap the 1982 Constitution. Accordingly, a group of renowned experts drafted a Constitution proposal as commissioned by AKP in 2007, and changes were introduced to the draft text by the party administration. While the final draft prepared by the AKP has never been made public, the original draft by scholars has been leaked to the press and been subject to a heated debate. The ruling AKP, with a change of heart, ultimately chose not to renew the full Constitution, but opted to amend few articles that would allow women wearing headscarves to enter universities. This attempt almost led to the closure of AKP by the Constitutional Court. Since then issues related to constitution seemed to have lost their political appeal for the AKP.

Recently AKP has decided to give second try by bringing to the Parliament an amendment package that included some 30 articles, including, notably, the composition of the Constitutional Court, the Higher Board of Judges and Prosecutors and party closures. The package had little to offer in terms of basic rights and freedoms, but rather seemed to address the specific and acute problems that AKP faced in ruling the country, particularly with reference to the separation of powers and the checks and balances between the executive and the judiciary. At TEPAV, we are of the opinion that the package not only further upsets the already skewed system of checks and balances, but may also exacerbate the political polarization in Turkey.

What is the Constitution Platform?

The Constitution Platform is an ensemble of grassroots organizations, professional organizations and trade unions in Turkey that have come together to advocate the need to re-write constitution through a participatory and deliberative approach that will also include the wider civil society. The Platform's motto is: The process of making of a Constitution is at least equally important as its contents!

The goal of the Constitution Platform is to lay the foundations of a civil society dialogue that is nurtured by information, knowledge and technical expertise, in order to facilitate the formation of a common ground for the exploration of the basic premises and principles of a new constitution, which can in turn serve as the social contract for Turkey's future.

The Constitution Platform believes that a democratic and pluralistic political system can be achieved via taking the fundamental rights and freedoms of Turkey's citizens under guarantee by establishing a solid and balanced system of checks and balances.

Furthermore, we anticipate that the mechanism of civil society dialogue, which will bring together representatives of all social segments in Turkey, can help foster communication and hence ameliorate social cohesion in what appears today to be a country characterized by fragmentation and polarization along deep-rooted social and political fault lines.

The Constitution Platform was initiated in 2007, when it organized a national workshop in Ankara with the participation of 250 individuals from 83 civil society organizations. The workshop was

organized in the format of a “Search Conference” and produced 35 basic principles on which the Constitution was advised to be based. A similar organization in Istanbul scheduled for February 2008 was cancelled at the last minute due to an unfavourable political climate. The Platform has recently announced that it will resume its activities, at a press conference on April 9, 2010. (You can find the full text of the press statement below).

What is the role of TEPAV?

The Economic Policy Research Foundation of Turkey (TEPAV) is a non-profit and non-partisan think-tank based in Ankara, founded in 2004 with a trust fund donated by the Union of Chambers and Commodity Exchanges of Turkey (TOBB). TOBB remains a supporter of TEPAV, although TEPAV’s funding comes from a diverse set of sources today, including international organizations and public bodies.

TEPAV maintains the secretariat of the Constitution Platform. Its mission includes the organization of national and regional workshops that aims the widest civil society participation possible, consultation with committees of constitutional law scholars and leading intellectuals on the basic issues to be addressed in the constitution, the production of briefs and reports to provide input and insight on the constitutional matters, and general administrative and organizational work on behalf of the Constitution Platform.

ANNEX: Joint Statement by the Constitution Platform Initiative on April 9, 2010:

“We are reinitiating the Constitution Platform for a new Constitution”

Turkey needs a new Constitution built on universal principles, which will in turn lay the basis for the country’s democratization.

In contemporary democracies, the power and legitimacy of constitutions stem from public support it gathers and the collective will behind it. For this reason, it is of vital importance that Constitutional amendments are built on wider social consensus. The New Constitution should be established through a participatory process which targets the widest consensus possible.

There is a widely accepted and long voiced consensus that Turkey needs a new Constitution. We, as TOBB, TİSK, TÜRK-İŞ, HAK-İŞ, KAMU-SEN, TESK and TZOB¹, with the endorsement of our member network spread all over Turkey, represent this consensus on the need for a new Constitution for our country.

We established the Constitution Platform in 2007 in order to create a common ground for debate on the fundamental principles of the prospective Constitution, the main code to represent the collective will.

During the national workshop held in Ankara, 250 people from 83 different NGOs agreed on 35 principles that should form the basis of the new Constitution. The common ground found at the workshop took the non-amendable articles of the Constitution and the Constitutional amendments introduced since 1995 induced by the EU harmonization process as granted, and identified a number of principles that the new Constitution should be based upon. This experience has demonstrated that a Constitution that will mark cohesion rather than differentiation can be drafted under a participatory process.

¹ TOBB: Union of Chambers and Commodity Exchanges of Turkey; TİSK: Confederation of Employers Unions of Turkey; TÜRK-İŞ: Confederation of Workers Unions of Turkey; HAK-İŞ: Confederation of Turkish Real Trade Unions; KAMU-SEN: Confederation of Trade Unions for Public Employees of Turkey; TESK: Confederation of Turkish Tradesmen and Craftsmen; TZOB: Union of Agricultural Chambers of Turkey

We see now that the Constitutional amendment package on the agenda of the Parliament includes certain steps that were long overdue in the context of the European Union harmonization process. Nevertheless, as we have stated before, the need for a democratic and civilian Constitution prevails. Turkey, with a participatory approach, should transform the existing consensus in this regard into a new democratic, civilian, egalitarian, and emancipatory Constitution.

Unfortunately, the efforts to launch a new Constitution have failed in the past. We must succeed this time. We should finalize this process, make the societal consultation process work, and establish a new Constitution.

We can achieve this if an open debate is established. Open debates are the core of democracies. Furthermore, democracy is the prerequisite for a strong economy and solid social system.

It is both necessary and possible for Turkey to establish a new Constitution via a participatory process. Turkey does have the democratic credentials and the background to pursue a peaceful debate on its own future.

What we need is to establish a platform for open debate all around the country to find the common ground. As we seek the common ground, we will be in need of information that will enrich the public wisdom. It is evident that a democratic milieu of open debate will be solidified and intensified with information. On the other hand, a healthy process of debate will also contribute to the collective wisdom and the democratic know-how of Turkey.

In this context, we have come together under the Constitution Platform Initiative Group. We represent different perspectives and societal segments. We do not have the same stance vis-à-vis numerous social issues. However, we unanimously agree that Turkey needs a new Constitution.

In line with these facts, we, as the Constitution Platform Initiative, have decided to

- a. Launch a platform of open debate via national and local workshops under the general title 'Turkey Talks for the New Constitution',
- b. Establish the common ground as to how the new Constitution should be shaped,
- c. Communicate our findings to the Parliament, and
- d. Contribute to the democratization process in this context as civil society organizations.

As the initiative group, we hope that, as was the case in 2007, the Constitution Platform will expand with the participation of all NGOs organized around Turkey and we hereby call on everyone to participate in and contribute to this process.

"It always seems impossible until it is done".

It is possible to write a new Constitution designed upon participatory processes and tailored to eliminate the fundamental problems of Turkey.

It is possible to write a Constitution that does not confine Turkey to the status quo.

It is possible to write a Constitution that promises inclusion and cohesion.

It is possible to write a Constitution that allows us to live peacefully together.

It is possible to write a Constitution that will pave the way for an advanced democracy and a stronger economy.

It is possible to achieve holistic democratization in Turkey.