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REPORT

"FUNCTIONS AND DUTIES OF PARLIAMENTS OF TURKPA IN THE CONSTITUTIONAL SYSTEM AND THE ROLE OF PARLIAMENTARIANS"

STATUS OF NATIONAL PARLIAMENTS

In modern democracies the fundamental concept which identifies the status of national parliaments or rather defines the relations of institutions with each other is the principle of separation of Powers.

Governmental systems emanate in a wide range in different shades between the separation of powers and alliance of powers. Government systems are named here according to the relation between these powers.

In alliance of powers, if the wing where power assembled is execution it is named autocracy or dictatorship if the wing where power assembled is legislation it is named as parliament government system. And in separation of powers government systems are separated into two. Presidentialsystem and parliamentariansystem. The countries which depend on precise separation of powers and on that they could not abolish each other and have a break and balance system originating from the USA which is the inspirational source of this system generally is called the presidential system. And the systems where there is separation between the powers but on the other hand the execution originating from legislation and the powers that can affect each other are called the *parliamentarian system*.

Turkey Case

When Turkish parliament tradition is examined we see that there is a gradual transition from the principle of alliance of powers to the principle of separation of powers. The first Turkish Grand National Assemblyacts according to the alliance of powers, comprises the three powers within its responsibilities. Following the end of the Independence Struggle with

the 1924 constitution started to act according to the *principle of alliance of powers, separation of duties*.

Turkey, in real terms transferred to the principle of separation of powers for the first time with the 1961 Constitution. Turkish Grand National Assembly which appears during that time as a double winged parliament is in a very effective and respected status. However with the Constitutional Court founded during that period decisions of the parliament were started to be subjected to an external supervision for the first time.

Parliament Independency

Another sub-topic which identifies the status of the parliaments in the context of separation of powers is independency of parliaments. Parliament independency concept which implies determining its own working method, budget and organization without any external intervention is divided into three as procedural, administrative and financial independency. According to the **procedural independency** principle the parliament identifies its own working method itself through bylaw and while doing so does not confront with an intervention of an external organ. Here the supervision to be conducted by the Constitutional Court is not an intervention but a supervision of compliance to the constitution.And the **administrative independency** implies the capability of establishing the administrative organization that would ensure itself the adequate support in activities of the organ of jurisdiction and defining the rules to be applied by itself. Lastly, the **financial independency** implies capability of the organ of legislation of identifying its own budget and making its expenditures itself.

If we briefly summarize, it is rather difficult to measure the status of the national parliaments among the institutions according to objective criteria. In order to do this, looking into the force and powers of the parliament which would define its significance in the political structure, public perception, its place in the protocol and salaries and personal rights of the representatives of the institutions would facilitate the assessment.

Present Situation

With two military interventions experienced in time and the 1982 Constitution enacted afterwards in the name of rationalized parliamentarism most of the mandates of the parliament were abolished and its significance and efficiency reduced in the governmental system. And many mandates and executions it owned in the past as the power of appointment related to the supreme jurisdiction and its efficiency in supervision are restricted both with the Constitution and the Constitutional Court. Nevertheless, with some reforms made in recent years it reclaimed some of these mandates and even attained the power of appointment for some new institutions like Radio Television Supreme Council (RTÜK) and Public Controllership.

It is worthwhile to state that although it was occasionally interrupted with periods of military interventions there is an established belief for public sovereignty and for its representative, respectability of the Parliament. Although Turkish Constitutions did not

envisage a hierarchy between the powers by first regulating the legislation organ constantly, indeed indirectly acknowledged that the priority is within the Parliament. Likewise, the Speaker being in the first row in front of the representatives of the jurisdiction and execution in the protocol is an indicator of this. Additionally, in the absence, the Speaker substituting the President not the representatives of the legislation and execution is another indicator.

A similar regulation can be seen in comparing of administrative organization. In State Protocol Secretary General of the TGNA is in front of the Prime Ministry Undersecretary accepted to be the senior officer of the execution.

FUNCTIONS AND POWERS OF THE GNAT

In the Turkish Republic no one or any organ can utilize a State power which does not originate from the Constitution.Sovereignty unconditionally and unrestrictedly belongs to the nation and is exercised according the principals set by the Constitution through the authorized organs. Power of legislation is exercised by the TGNA and this power cannot be delegated.

In the article 87 of the Constitution functions and powers of the TGNA are itemized as below:

- Enactment, amendment and repeal of laws,
- Supervision of the Council of Ministers and the Ministers,
- Authorisation of the Council of Ministers to issue governmental decrees having the force of law on certain matters,
- Debating and approval of the budget draft and the draft law of final accounts,,
- Making decisions on the printing of currency,
- Making decisions on declaration of war,
- Ratifying international agreements
- Making decisions with 3/5 majority of the Turkish Grand National Assembly on the proclamation of amnesties and pardons according to the Constitution
- Exercising the powers and executing the functions envisaged in the other articles of the Constitution.

And the functions and powers delegated to the TGNA in the other articles of the Constitution are listed as follows:

- Amending the Constitution,
- Ratifying the development plans,

- Drafting the TGNA bylaw,
- Ratifying, amending or rejecting the statutory decrees,
- Ratify, alter the duration of the state of emergency, extend the period, for a maximum of four months only, each time at the request of the Council of Ministers, or may lift the state of emergency.
- During the state of emergency or state of siege, ratify the decrees having the force of law to be enacted by the Council of Ministers the Council of Ministers meeting under the chairmanship of the President of the Republic
- Election of the Speaker and the Bureau of the Assembly
- Election of members for the Constitutional Court,
- Election of members for the Radio and Television Supreme Council,
- Election of the Comptroller and the members of the Court of Accounts
- Election of the Public Chief Auditor,
- Making the decision for renewing the election of the TGNA before termination of the period,
- Giving vote of confidence during formation or tenure of Council of Ministers,
- Be able to bring the President before the Supreme Court for treason,
- Giving permission for sending Turkish Armed Forces abroad and let existence of foreign armed forces in Turkey
- Supervision of State Economic Enterprises.

DEPUTYSHIP

Eligibility to be Elected Deputy and Acquiring Membership Title

Eligibility to be elected deputy is regulated in the 76th article of the Constitution. According to this article, "Every Turk over the age of 25 is eligible to be a deputy.

Persons who have not completed their primary education, who have been deprived of legal capacity, who have failed to perform compulsory military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of

involvement in acts of terrorism, or incitement and encouragement of such activities, shall not be elected deputies, even if they have been pardoned."

Loss of one of the conditions constituting eligibility to be elected as deputy or recognition of one of those conditions not born afterwards membership is dismissed.

The deputies take their offices by taking their oaths

FACTORS THAT SHALL AFFECT TODAY AND FUTURE OF PARLIAMENTARISM

Since the parliaments are the institutions which are the direct addressees of the problems of the society through its representatives in the governmental system they need to update and be the most dynamic institution in the governmental structure.

To comply with the social change and respond to new needs and find solutions for the new problems the parliaments have to restructure, build new units and develop new methods constantly. By many authors 19th century is accepted to be the *golden age of the parliaments*. Indeed, in the period when modern democracies evolved the parliaments were loaded with further meanings and functions and the parliaments were more efficient than today. However many developments and transformations experienced in the 20th century the golden age of the parliaments ended and now the idea of the parliament is in crisis started to grow stronger. Especially, many mechanisms strengthening the execution wing and making the legislation wing the second in the parliamentarian system with the name of parliamentarism enlivened in several developed democracies.

Against all these developments, especially in the last few decades in order for the parliaments to keep their efficiency had to restructure the legislation structure, methods and procedures and also the administrative organizations which provide support to them. With termination of bi-polar world in the re-established for the countries which gained their independence newly this restructuring need has a more vital importance. In today's world changing demands and needs present differences in national or regional wise. But still some basic issues and trends which are on the agenda of all world parliaments are as follows:

Civil Society Participation

Having the efficiency decreased in decision making mechanisms of the parliaments brought about the discussions on legitimacy crisis. Nevertheless, as a result of developing communication tools with increasing of the decision making mechanisms and also enrichment of pluralist democracy applications civil society organization began to become more efficient.

Equality of Woman and Man

It is a reality that women are now started to be seen in the politics more efficiently as in other fields of life. Either with contributions and encouragements of international organizations like United Nations (UN), Parliamentary Assembly of the Organization of the Islamic Conference (PAOIC), Parliamentary Assembly of the Black Sea Economic

Cooperation (PABSEC) and Parliamentary Assembly of Turkish Speaking Countries (PATSC) or in relation with internal dynamics it is seen that the issue of participation of women to legislation process in the world parliaments more intensely placed on the agenda.

Parliamentarian Diplomacy

Parliamentarians helping each other to develop the mutual understanding among the countries, ensure improvement in supervising the government and representing the nations and all international activities conducted by the institutions for enabling democratic legitimacy can be qualified as *parliamentarian diplomacy.*

New Trends under Supervision of the Administration

Strong status of the legislation in the last century with the developments in the last few decades has started to restore a more balanced status. It can be said that at present a more accountable administration will display a general trend on the world. In order for the administration to become more accountable and responsible parliaments have got a major role.

Increasing Role in Budget Process

Budget right is a right which provides the resource for development of the parliaments and known to be the most vital instrument of the parliamentarian supervision on execution. Nevertheless, with the start of the modern state penetrating into every field of life the budgets becoming more complex and technical decreased the influence of the parliaments on the budget. It can also be stated easily that the parliaments have a tendency to increase in time their influence on the budget and through these means increase the supervision on the execution.