



**WISE MEN BOARD  
REPORT**

**REPUBLIC, MODERN DEMOCRACY  
AND TURKEY'S TRANSFORMATION**



**WISE MEN CENTER  
FOR STRATEGIC STUDIES**

**Prepared By:  
Prof. Dr. Sami SELÇUK**

**Translated By:  
Hacer ŞARTEPE**

**REPORT NO: 23  
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BILGESAM PUBLICATIONS



## Wise Men Center For Strategic Studies

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## FOREWORD

When Turkish history is analyzed, it is seen that there are well educated wise men that stand behind the achievements. Though, the multi-dimensional development of the events and the complexity of the issues lead some wise people or intellectuals to have some difficulties in correctly perceiving the events on time and produce alternative policies. Following the improvements closely, making realistic previsions about the future and producing the right policies necessitate the gathering of wise people from various fields and who have different views, with young dynamic researchers in order to provide a synergy between them in flexible organizations.

The Wise Men Center for Strategic Studies (BILGESAM) has been founded for several reasons: To follow national and international developments and make realistic predictions, to perform researches on Turkey's bilateral and multilateral relations, as well as on security strategies, to provide decision-makers with realistic and dynamic solution proposals and policy options, which are in line with Turkey's national interests. BILGESAM's vision, objectives, working style, basic characteristics, its organization and publications can be viewed at <http://www.bilgesam.org/tr>

This report with the name of **Republic, Modern Democracy and Turkey's Transformation** was prepared by Prof. Dr. Sami Selçuk, the Former President of the Court of Cassation in compliance with the decisions taken in the Sixth Wise Men Board Meeting. The report was improved in line with the suggestion of the Seventh Wise Men Board Meeting and it was decided to be published among the publications of BILGESAM.

Hopefully, the report will pave the way for Turkey in many regards and contribute to the development process of Turkey. I also would like to extend my heartfelt thanks to Prof. Dr. Sami Selçuk, the Former Presaident of the Supreme Court of Appeals, who prepared the report and other members of the Wise Men Board, and lastly Hacer Şartepe who translated it from Turkish to English.

Assoc. Prof. Atilla Sandıklı  
President of BILGESAM



# **FIRST SECTION**



## **PRELIMINARY REMARKS**

Nowadays, some debates exist over the distinction between republic, democracy and even the second democracy. At the heart of these debates lies the uncertainty deriving from the contradiction of these concepts. This contradiction of concepts arises from the conflict between the understanding of a republic, which is the product of the French Revolution or which somehow has come to the forefront with this revolution, and the understanding of democracy, which is the product of the evolution of the Anglo-Saxon system. This uncertainty arising from the dilemma of these concepts dominates the atmosphere.

These two concepts can sometimes be used as the equivalent of each other or interchangeably. However, sometimes their scope can be perceived differently.

This is not peculiar to Turkey. But instead, France also experienced such a perception for a long time and even in today's France, such perception differences can be seen from time to time. For instance, Didier Maus, a lawyer on constitutional law, bases the republic on some principles as general will, representation, and the separation of powers. Maurice Hauriou, who lived in the early 20<sup>th</sup> century and who is rightfully among the biggest lawyers, maintains that a republic is a form of government based on election. Furthermore, Maurice Duverger, one of today's the most eminent lawyers on constitutional law, integrates the concept of "republic" with all forms of government and even regimes which are based on election and popular sovereignty. He further calls the systems in Great Britain and the other similar systems "republican monarchy" (*monarchies républicaines*).

This view regards the concepts of "democratic regime" and "republic" as identical. It is impossible to agree with this view.

Thus, it would be of great benefit to first touch upon the concepts of republic, monarchy and democracy.

Naturally, both republics and monarchies are forms of government.

The most striking difference between the two is the way of electing the leader of the state. Within the scope of monarchy, a family or a dynasty is entitled to presidency and it is something hereditary. On the contrary, in a republic, this authority belongs to the people themselves. It is the people themselves who, by election, either directly or through representatives choose the head of the state.

The concept of "republic" is, in essence, a compound word consisting of two words: "the thing/object that belongs to public/people" (*res publica*). Hence, when any political, public

and governmental object or position is a matter of subject, it is the free will of the public/people that is the determinant factor as such. This will is the common will of the free and virtuous citizens. That's why, "republic is a virtue" (Montesquieu). Likewise, the Turkish Constitution of 1921 is based on the basic principle of "de facto embrace of the fate of people by people themselves." In this sense, a republic as a way of administration was de facto established with the opening of the Assembly in the 23<sup>rd</sup> of April 1920. On the 29<sup>th</sup> of October in 1923, the name of this administration was legally proclaimed and the Chairman of the Grand National Assembly of Turkey was elected as the President.

On the contrary, democracy is the regime of rights and freedoms at the center of which being human beings. The determiner of democracy is not the form but the content. Any republic or monarchy does not mean democracy either. Yet, as a form of government, each democracy could be a republic or a monarchy. For instance, the system in England is a monarchic democracy while the system in Turkey is a republican democracy.

The legal and institutional reasons for these differences are more dramatic than that of sociological and cultural causes.

Therefore, without being republican, one can be democratic. Besides, as a form of government, a republic, compared with a monarchy, is much more akin to democracy. They are especially identical in terms of being "based on popular sovereignty." Nevertheless, this is not the exact criteria in practice. If a republican administration fails in attaining individual rights and freedoms, it can be said that, democracy wise, this republican administration is more disadvantaged than a monarchy, which is embodied by these rights and freedoms.

That being the case, a Turkey which is either less or more republican would not mean a Turkey which is more democratic. The problem originates from the content of the regime.

For example, of the twenty-one countries regarded as democratic by one of today's writers Arend Lijpart, ten countries adopt a republic-form government while eleven of which adopt monarchies.

Unlike France, Turkey does not take into account the difference between republics and democracies. It is for this reason that since Turkey has not been really able to adopt the individual rights and freedoms for republic, it has not yet achieved the democratic transformation.

Before going into detail, it would be of use to analyze the historical process.

## **COMMON POINTS ON WHY REPUBLIC AND DEMOCRACY HAVE DEVELOPED IN WESTERN SOCIETIES**

There lies such a sociological reality: there is not any society or people, while converting from a certain system or understanding to another, that undergoes a complete change culture-wise.

Traces of old customs and traditions and even their residues sometimes last long. This is also even the case in written law. For instance, even after the enforcement of the Code of Obligations in Switzerland, some institutions of early law virtually sustained their existence. The society was able to realize this distinction long afterwards.

After the collapse of the feudal system in Europe, old customs had long-lasting effects over Europe.

The most crucial of these effects is the custom of self-governance of the local units.

Indeed, in local units of many countries ranging from Spain to Russia, people kept on electing and questioning the leaders of the country themselves. These local governmental units, as a rule, had convened at almost any place and elected their leaders accordingly.

These commissions have, in essence, the characteristics of a micro-republic.

At times, the kings gathered the representatives of these commissions at the center and obtained information from them, learning about their tendencies and wishes.

The assembly of these local representatives who convened at the center in France, as it is known, is called “États généraux.”

“États généraux” comprised of priests, aristocrats, tradesmen (people, nobles, bourgeoisie) assembled in 1614, in a year corresponding to 175 years before of 1789. During this joint assembly, Miron, the President of the Tiers États (which is the representative of the nobles, the public and which is named as the “third class”) harshly criticized the King in the presence of the King himself. Then the King, on the same day, did not let the assembly of the “États généraux” to be held on next day. Those coming to the venue for the assembly got so furious and that they uttered words such as: “Was it not us who convened here yesterday?” Afterwards, they scattered. The Chairman, while opening the “États généraux,” which was only able to gather in 1789, wanted to emphasize the continuity of these assemblies and to evoke the feeling of the event taking place 175 years ago. Thus, he said that “it was very of

us who convened here yesterday. We will proceed with these assemblies as if nothing had happened.”

The Middle Ages, opposed to the dominant views, is not a period of sheer darkness. In this period, thinkers emerged who were great supporters of secularism and holy people (saints) like Augustinus and Tomassius who interpreted Christianity from the perspective of reason. The 12<sup>th</sup> century, called as “the century of cathedrals and universities” and the following 13<sup>th</sup> and the 14<sup>th</sup> centuries are also the centuries in which the Roman Law was revived by glossators and post-glossators. The western society experienced the Renaissance, Reform, the Enlightenment, French Revolution, Industrial Revolution, Marxist Revolution, modernity and the aftermath of modernity. In other words, it underwent the 17<sup>th</sup> and 18<sup>th</sup> centuries which were dominated by idealism and rationalism, the 19<sup>th</sup> century dominated by materialism and the 20<sup>th</sup> century which was known for its combinatory characteristics. In present day, however, the same western society is concurrently undergoing shorter term periods.

Furthermore, the development of the systems in western societies have been in two ways. While republican states and state of law have found the ground to prosper in the countries within Continental Europe, it has been democracy and rule of law that have dominated the Anglo-Saxon countries.

## **DISTINCTION BETWEEN REPUBLIC AND DEMOCRACY**

Basing on the understandings of “state of law” and the “rule of law” and on the famous analysis [‘Étes-vous démocrate ou républicain?’/ Are you a democrat or a republican?, *Le Nouvel Observateur*, November 30<sup>th</sup> - December 6<sup>th</sup> 1989] of Régis Debray, which is given as reference for public law, differences between a republic and a democracy can be listed as follows:

The sole God/reference point of those who are the supporters of a republic is the abstract reason. That’s why a person is not productive in this sense, from the perspective of a republic. However, the supporters of democracy regard the reason and the concrete experiment as the God/the reference point. Thus, the person is productive here.

Within the scope of a republic, the state is not influenced by religion, yet it has effects on religion. In democracy, however, the state is under the influence of religion and vice versa.

On the one hand, a republic, based upon the abstract and monopolistic culture and civil obligations, is holistic. Likewise, since it is centralist, it is necessarily idealistic. On the other hand, since it is individualist, democracy, feeding from concrete and pluralist culture, rights and freedoms, is realistic, local and is against centralism. It is because of the fact that within the scope of democracy, anyone can have their own reality. It is for this reason that democracy does not entitle anyone or any institute to say that “my way of thinking is better than yours.” In Alain Touraine terms, democracy is defined as follows: “it is a way of life which grants as many people as possible with the most encompassing freedoms, with the most encompassing diversity.” Thanks to democracy, views find the chance of developing and mistakes are avoided alike. It provides the basis for compromise.

A republic may fail because of the excessiveness of governing, orienting and directing. Within a republic, “the state is the soul of the nationalist formation” (Pierre Nora). Nevertheless, the strength of democracy arises from its essence of either governing less or none. In a republic, the state governs the society while in a democracy, it is the society that governs the state.

A republic wants to see the human in a child. Thus, from the perspective of a republic, members of the society are all students waiting to be trained. The state means a father, a teacher and a trainer. Ultimately, a republic tends to associate society with school. As for democracy, it sees the child in a human. It even treats children as adults and endows them with freedom. Hence, from the view of democracy, each and every member of society is mature whose opinions should be taken into account. Unlike in a republic, the state is

neither a father, a teacher nor a trainer. Ultimately, a democracy tries to associate school with society.

Since a republic associates society with school, it constantly carries the risk of shifting towards positivism. When it shifts to positivism, it grows away from the critical mind; as a result, the number of conditioned minds increases more and more. On the contrary, as a democracy associates school with society, it grows away from positivism; it advocates the critical mind and increases the number of those moral individuals “who are free in thought, free in knowledge and free in conscience.”

While a republic aspires to first create a citizen and then an individual, for democracy, first comes an individual and then a citizen.

In a republic, the law is produced by the state and the state is governed by public servants. Thus, a republic solves problems in a vertical top-down order, through public officials and through organic intellectuals. If it fails, it has a recourse to the judiciary. However, in democracy, law is produced by people and the state is governed by law. Democracy, for the solution of problems, includes all horizontal layers of society and settles them through impartial arbiters. In case it fails in this, it primarily has a recourse to arbiter and lawyers. It is only when it finds no exit that it applies to the judiciary. Therefore, 1 lawyer exists for every 2,000 people in France, for 1,200 in Germany, for 1,000 in England and 1 lawyer exists for every 500 people in the USA.

A republic embraces and supports equality, but it is not egalitarian (*égalitariste*). In democracy, everyone –be it individual or the state- is equal before law.

“The state” is the last resort of a republic, whereas the last resort of the state is “the *la raison d’Etat*.” ” As for the last resort of democracy, it is the people themselves and the last resort of people, in this sense, is the “law.”

Of course, a republic has a few realities, a short-term ideal and a narrow horizon. Besides, it has a last stop and this last stop is the “state of law.”

However, democracy has many realities, an eternal ideal and horizon. It continually proceeds. “The rule of law” stands as its dynamic and creative principle.

Further elaboration on two principles will be provided below.

## **DISTINCTION BETWEEN THE RULE OF LAW AND THE STATE OF LAW**

It is inevitable for a society, which has not acquired the habit of questioning its own knowledge and the habit of referring to the words of its own mother tongue, to experience a contradiction of concepts.

A republic's intellectuals and lawyers, let alone those of the Ottoman era, have never contemplated over the reasons why the principle of the rule of law and democracy have developed in Anglo-Saxon communities, while the principle of the state of law and republic have prospered in continental Europe.

Hence, in the 2<sup>nd</sup> articles of the 1961 and 1982 Constitutions, among the attributes of a republic, "the state of law" was included, yet there was no mention of the "rule of law." Moreover, both the constituent powers and the implementers of constitution have interchangeably used this two principles and they were regarded as the equivalent of the other. (for instance, 1961 Constitution, Article 77, 92; 1982 Constitution, Article 81, 102).

The negative impact of this contradiction of concepts has been this: since Turkey could not make out this difference, during the structuring of its regime and its system of law, the state was inspired by the countries of continental Europe, especially France and to some extent Germany and other countries.

However, these principles are the outcomes of different phenomena and understandings.

"The principle of state of law" originates from continental Europe, in particular from France and Germany whereas "the principle of rule of law" (sovereignty and priority of law) has Anglo-Saxon origins.

Both the reasons and the outcomes of each principle are different from each other.

In the countries within continental Europe, especially in France where "the principle of state of law" has progressed, "state-centric" form of government exists, royalty or a republic. In each and every part of the society, the existence of state is felt; it is Jacobin and somehow aristocratic. In these countries, the main power producing the law is the very state itself. Thus, the law is constantly in favor of the state. The state, just because of the law it created, is in a conflict with its own citizens and has dominated over many things by making use of the law. The state quite often applies concepts, such as "public interest" and "discretion of the government," which all are ambiguous, open-ended and controversial in scope. This law teeming with such concepts is sometimes mysticalized and even the state uses the law as a

means of a political weapon. Likewise, the government is nourished by these concepts established by the law and it manipulates over individual rights.

It is for this reason that there has been differentiation between “private law” and “public law.”

In brief, in the countries where “the principle of state of law” has progressed, the society and the law are under the guardianship of the state and they play a passive role. In the macro sense, the state, in favor of guardianship, has a social contract organized in a top-down manner: constitution. The objective here is to restrict the giant “state leviathan” within the borders of law, thanks to the constitution.

There is no doubt that under the guardianship of such a powerful state (where it tends to crush the individual) it is too difficult to develop the awareness of a modern democracy.

What's more, under such a scene, it is hard to say that the interests of the state and the society overlap. The perception that prioritizes the interests of the state which is isolated from the society and that is under the guidance of the government is monist and close to pluralism.

In such countries and Turkey as well, the power of the state over the individual also maintains its presence today. Furthermore, when that Jakobin state is in trouble, it applies to something which the law could not reach somehow and which is blind, dark, uncertain and artificial: “La Raison d’E tat” (La Ragione dello Stato). In his speech in the French Court of Cassation in the <sup>January</sup> 6<sup>th</sup> 1989, (the date specifically chosen due to it being the hundredth anniversary of the Revolution), President François Mitterrand, complained about “La Raison d’E tat” (which is a concept that is self-reasoned) in this way: “The law and the justice, in no way, should be sacrificed for the sake of the thing named “La Raison d’E tat”. During all the years of my political responsibility I have never encountered such a thing with the name of the La Raison d’E tat. Whenever one mentions it, one can be sure that it is a pretext made up with the purpose of concealing something else”.

In William Pitt’s terms, the then Prime Minister, La Raison d’E tat corresponds to “obligation of state.” In the Commune Assembly in November 18<sup>th</sup> 1783 (206 years before Mitterrand’s term), Pitt said that: “obligation is the excuse for the violation of the freedoms of individuals; it stands as the pretext of the despot and as the creed of the slaves.”

All of these, combined, have turned the state in continental Europe into an object which, to the detriment of an individual, has immunity. The fighting in those countries are all with the intention of weakening that immunity.

Consequently, in continental Europe, the society is bound to statist rules and is quite closed. There is the sole power. As the law is monopolized by the state and is produced again by the state, it is statist. However, there is much more emphasis on the separation of powers, as fighting for liberalizing the judiciary has never yielded any result; an integrated judiciary has not been formed. Besides, there has been deviation from the principle of “unity in the judiciary” and more than one supreme judicial body has appeared.

In many countries within continental Europe (like Germany, France, Italy and Spain), the countries of Latin America, and the countries of Africa have all based their system of law on the principle of the state of law, where three supreme judiciaries have emerged: namely, the Constitutional Court, the Court of Cassation and the Council of State.

It cannot be said that “naturally, this is the case in Turkey as well.” Turkey, always basing on the “conditions of the country,” succeeded in corrupting anything and thus the system of law. In Turkey, there are six supreme judiciaries. Apart from the Court of Jurisdictional Disputes, there is the Military Court of Appeals and the Military High Administrative Court.

People in Turkey have always acted differently from the others. For instance, the Court of Cassation, as can be understood from its name, is in fact a “cassation court” (*cour de cassation* in French, *corte di cassazione* in Italian). In Turkey, this body is called ‘Yargıtay’ (“yargı” meaning “to judge” while the suffix “tay” refers to the appeals place where the judgement hearing is held), a term which is insufficient to reflect the scope of the institution and the conception. Within the scope of the courts of cassation, since there is not any hearing (judgment of learning) as there is in the court of first instance, and since people are not confronted with the evidences, it is not plausible for this auditing body to substitute for the court of first instance and to evaluate the evidences accordingly. The Court of Cassation has to be contended with the cassation of the judgment and it has to send a case file to the appellate court so that it again holds a hearing to solve the basic problem. It is for this reason that this court is named ‘the cassation court’ and by no means does it have the appellate jurisdiction either.

Instead of three separate judicial bodies (in other words, the separation of powers), one of the significant and natural results of not adopting the principle of judicial unification is this: whether it is judicial or administrative, the courts of first instance, when any provision of the law is not in compliance with the constitution or when any provision of the bylaw does not accord with the law, they shall not solve these discrepancies by themselves. The only act to be done by these courts is to send this claim of contradiction with the law to the competent authorities -the constitutional court or the administrative court- in order for them to make a resolution accordingly. Likewise, these courts have to wait for the result. In other words,

they have to render the issue “a problem that has to be wait.” That’s why the duration of the cases becomes longer.

Due to all these reasons, as the state and the individual do not have an equal say before the law, there is a constant struggle in absorbing the state into the law. As a natural outcome of this, the law (particularly the judiciary power) is not that sound.

Any kind of power is formed in a top-down order within the monist states. Therefore, the fight for “the state of law” in this scope is the fight given to reduce the intervention of the state in society and its influence over the individual. The main purpose could briefly be explained with such a formula: “the less state, the more law.”

This is quite a narrow point of view. It is the implicit admission of the fact that the state may not be within the law.

In contrary to this, in the Anglo-Saxon countries, where “the principle of rule of law” has prospered, the society is contractarian and conciliatory. It regulates itself, in addition to being transparent and open. In such a society, individuals are competitive. It is not the state but an individual and the non-governmental organization that holds the power for taking a step. The state is not centrist. As the society is pluralist, there is not a single government, but instead the governing body consists of multiple parts. Multi-polar institutions and organizations take over some responsibilities of the state. Furthermore, pluralism leads to institutional fragmentation and division of work.

Society produces its own laws by itself. The law is created through the Socratic method and it is learned through experience and put into practice accordingly. Law is concrete, flexible and, most importantly, it is independent from the state. As it is the product of the society, an autonomous law comes to the forefront as the dominant and the sovereign power. The state is of secondary importance. The society is not under the guardianship of the state. But instead, it is the state that is integrated with the society. Hence, sometimes there has not been felt any need for a written constitution. Everything is settled under the light of the aforementioned law.

The state and individuals are in an equal position before this law which is generated and imposed by the society, and they are dependent on it.

The inevitable results of this are obvious: the law and the judiciary are independent from the state and are rather strong and sound. The unity and integrity of law is attained and no strict differentiation, such as the distinction between private law and public law, is encountered.

There has not been any need for the establishment of such supreme judicial bodies as the Constitutional Court, the Court of Cassation or the Council of State; a sole “supreme court” has been found sufficient and there has been compliance with the principle of “unity in the judiciary.”

At this instance, one can ask whether it is of importance to constantly say “the supreme judicial body” instead of “supreme courts.”

Of course, it is.

The saying “supreme court” is not an expression of respect, but it is a technical concept.

It would be of use to briefly touch on this concept.

However much the Turkish constitution talks about the existence of the supreme court, none of the supreme judicial bodies within our system of law have the characteristics of the supreme court in the sense of a dogmatic-technical law concept.

To call a body which conducts the auditing judgment as a *supreme court*, it has to embody the following criteria:

1. When required, it has to be able to use the appellate jurisdiction. Putting it differently, it has to be able to conduct a hearing (*debate* in English, *débat* in French, *dibattimento* in Italian) which is open to the public, in which the parties could efficiently participate and face the evidence as it is done in the court of first instances. In a scientific sense, via evaluating the material events and evidences, it has to be able to conduct “learning of the causes” (*cognizione, cognitio causae*), thus to be able to decide on whether an event is real and proven (certainty).
2. It has to be able to perform constitutional procedures.
3. It has to be able to conduct administrative procedures.
4. It has to create the basic principles of law in a nation wise.

Thus, the number of judges (in the countries adopting the supreme court system) is generally between 9-12. The court does not have any chairman. Rather, a chancellor and lord high chancellors exists. The number of works is between 50 and 200 and the resolution taken in relation thereof is equivalent to such. Countries like America, Canada, England, Holland, Japan, Romania, the Ivory Coast, and Turkish Republic of Northern Cyprus have adopted the supreme court system.

There are many important implications of adopting a sole supreme court and the principle of unity in the judiciary in the countries inspired from the Anglo-Saxon law.

The most significant of these implications is the following: what the courts of first instance need to do is to decide whether a provision of law is in compliance with a provision of constitution or a provision of bylaw is in congruence with a provision of law. If the court of first instance decides that a provision is contrary to the constitution or to any provision of law, it cancels the implementation of such contrary provisions. Moreover, since it cannot make it "the problem that has to wait," proceeding does not last long. Thanks to the implementation of the "principle of unity in the judiciary," the supreme court ultimately finds an exact solution to the problem and accordingly the court proceeding continues at a normal pace.

Therefore, in the countries adopting the supreme court system, the judiciary power is strong to the utmost level, and likewise, any subject is held from the perspective of the "principle of rule of law," which renders both the state and individuals equal before law. In short, in such countries, power is fragmented pursuant to the pluralist society and follows a bottom-up order.

That's why the fight for the rule of law is given for the purpose of preventing both the state and individuals from acting outside the frame of the law. The main objective here can be summarized with this formula: "the more society, the more law." The state is already an integral part of the law. This derives from the fact that it is not the state that runs and sustains the law. This is quite a broad horizon. It is also the proof for the fact that the state has to be always within the scope of the law.

The comparison of the Anglo-Saxon countries with those of continental Europe could not have been better summarized by anyone other than French lawyer, Cohen-Tanugi, who stated that "stateless law" dominates the Anglo-Saxon countries, whereas it is the "lawless state" that controls the countries in continental Europe. (*Le Droit sans l'Etat*, PUF, Paris, 1987).

Such a diagnosis by Laurent Cohen-Tanugi is rather to-the-point on this matter.

This progress has significant reflections as such. While countries like France, Germany and Italy have taken huge steps in the direction of democratization, they have not been able to attain the democracy level of the Anglo-Saxon democracies.

As can be seen, such a differentiation poses great importance for the Turkish republic.

## **DEVELOPMENT IN TURKEY AND THE DEMOCRACY PROBLEM**

According to Jacques Attali, in 1900s no country had been able to attain the democracy of today's world. Yet, looking at the year 2006, one can see the multiple party regime in 119 countries, corresponding to the 62% of the world's countries.

Only a very small number of these nations have been able to attain the desired, the long-awaited and optimal democracy.

Turkey, unfortunately, is not within this group. What Turkey has, instead, is the surface understanding of democracy, just to be able to say that "yes, we have a democracy," let alone the understanding of a modern one.

Negative developments in today's Turkey stem from many reasons.

Firstly, it will be beneficial to touch upon the historical process.

Apart from the historical details, the Ottoman Empire had adopted the multiple party regime in its last period.

There is no doubt that democracy which was aspired and desired by Atatürk and anyone alike would not have been expected to develop in the Ottoman Empire.

Moreover, neither the Seljukians nor the Ottomans had the appropriate basis for the prosperity of the modern democracy. Unlike the western societies, they had never felt the need for self-governing parliaments for local units.

Evidently, this was a big insufficiency. In such a society which adopted the policy of "siyasetenkati"<sup>1</sup> in a closed system, it would not have been expected to see anyone like Miron, the president of Tiers états with an awareness of self-governing.

It was not seen either.

Turkish society has been within the sphere of Islam.

The fact is that the age of Islam also underwent the process of enlightenment. This era raised thinkers and scholars such as Farabi, İbn-i Rüşd, İbniSina, Birini, Elcezeri, and Harezmi alike. Thousands of years before the present, El-Battani had been able to calculate the

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<sup>1</sup>The killing of the statesmen who may endanger the authority of the padishah in the Ottoman Empire.

duration of the earth rotation, being off by only 2 minutes and 24 seconds. Similarly, during the term of Caliph Me'mun, the basic terms of trigonometry were created. The findings of Khorasanian Giyasettin Cemşit also cannot be disregarded in this sense. Thanks to his method in trigonometry, the latitude of the Mediterranean had been calculated and the distance between parallels of latitude had been designated as 111,000 km. Furthermore, the number zero was introduced to the math by El Cabir, while it is İbni Heysem that established the science of algebra, proving the fact that matter is composed of atoms and molecules. Cabir bin Hayyam laid the foundations of the atomic theory.

However, this enlightenment process did not last long. Such people were called "misbelievers" by their successors. Laying the foundations for a big university, the first rector, Gazali first dealt with philosophy. Then, he despised and criticized philosophy himself. Birgivi, one of the important pundits, regarded astronomy as nothing more than a tool to determine the prayer times.

In the upcoming years, Ak Şemseddin and his student Fatih attached great importance to such sciences as mathematics and astronomy. Consequently, Ali Kuşçu and Takiyuddin Efendi showed great successes in mathematics and astronomy respectively. Yet, Yavuz, the descendant of Fatih put the transmitted sciences to the forefront and, threatening others with capital punishment, he prohibited the operations of the press in 1515 (Philip Mansel's book, *Constantinople*).

Being the great lawyer of the Ottoman Empire, Ebussuud Efendi (1492-1573), was born in the year when America was discovered. However, he was oblivious of this discovery, the actual size of the earth and the geography as well. He gave his famous fetwa and said: "we have conquered the world, there is not any place left to conquer. We know everything. We shall focus and deepen only into religious sciences."

This moment is the start of the dark period, as physical sciences, mathematics and geometry were all forbidden and the observatory was destroyed during this time. During the term of Murat IV, Kadizadeli Mehmet Efendi, who was the imam of Hagia Sophia Mosque, called anyone including Mevlana and Yunus Emre (and others who gave importance to sciences based on ration) unbelievers.

In the West, the press was founded in 1438 and, in 1455, the Gutenberg 42-line Bible was printed. In the Ottomans, the Jews published their first book in 1488, the Armenians in 1567, while the Greeks printed theirs in 1627. It is only in 1727, 187 years after the invention of the press and 100 years after the Greek, that the Ottomans, with official permission, were able to print their first book, "Vankulu Lügatı" (Vankulu's Dictionary). In the West, the first

newspaper came out in 1605 in Antwerp. However, for the Ottomans it was in 1840, 235 years after the West, that the first newspaper was published.

An event could clarify the situation at those times: in 1776, Barod De Tott, who established Mühendishane-I BahriHumayun<sup>2</sup>, in his work “Mémoires sur les Turcs et Les Tartars” (volume 3, p.212-215) briefly says these: upon the recommendation of Baron, Mustafa the Third commands that an arithmetic school be opened. The school was supposed to be led by Baron. Claiming that they have a better knowledge of geometry and mathematics, some geometers objected to this and wanted to head the school. Therefore, they came together and Baron asked them about the sum of the angles of a triangle. Upon this question, professors and navy officers asked for some time to discuss about the question. Immediately came the answer: “it changes according to the triangle.” The padishah was not present during the session but there were two governmental officials.

This event occurred in 1777, three years after the Russians set fire to the Ottoman navy in 1770. In effect, it corresponded to 16 years before the 1789 revolution. In fact, the French Comte de Bonneval (Humbaracı Ahmet Paşa) already taught the professors mathematics. Despite that education which was given to the professors, the above-mentioned example clarifies the case.

At this time, Europe underwent an Enlightenment period and was headed towards what would be known as the Industrial Revolution. Two big names from the Enlightenment period: Frederick the Great and Catherine the Second. Both of them highly benefited from the great thinkers of the time. Of the Ottoman Sultans, Ahmet III requested three astrologers from Frederick the Great for the survival of the country.

Once Ottoman Sultans were regarded as the most glorious and superior one compared to the kings, and whose grand viziers were considered equal to kings, they started to be seen as equals to European ambassadors.

However, in the end, the Ottoman Empire fell, while the republic rose.

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<sup>2</sup>Marine school established during the Ottoman Empire.

## **TODAY'S TURKEY**

Even today, Turkey has not been able to attain the desired democracy in spite of the many surrounding democratic examples and the warnings of the European Union regarding this democratic insufficiency.

Certainly, there are many causes for this situation.

Among these causes, some come to the forefront.

1. The first comes with making the wrong choices: Turkey could not differentiate between the principle of the *state of law and republic* (which is a form of government and both of which have developed in the countries within Continental Europe) from the principle of the *rule of law and democracy* (which is a regime and both of which have progressed in the Anglo-Saxon countries.)

In particular, France has been taken as an example in this sense. Nevertheless, Turkey has failed in getting a historically correct diagnosis of France. Therefore, all the ruined structure of this country has been conveyed to the structure of the Turkish state and thus the seeds of today's negative developments were unconsciously planted during this period.

If one takes a look at France, one can see a France, which has overthrown royalty three times since 1789 and which has returned to the same royalty two times, has destroyed its republic four times and is currently undergoing its' fifth. In France, there have been nine coup d'état attempts and the country has changed its constitution fifteen times.

From this point of view, it is unfortunate that Turkey, as a state and society, has chosen the state-centric countries of continental Europe as models.

Historical and sociological experiences indicate that there is not any society which has developed by taking its state at its center, and those seeing the state at its center have not been able to create strong regimes. Through the state, one can pass to republic. Yet, through the state, one can not pass to democracy. It is only through a society by which one can fit in with democracy.

Today's Turkey has not been able to realize this distinction.

For now, in Turkey there is an atmosphere in which one says: "according to us, there could be republic without public. There could be democracy without people."

The conflict in today's Turkey arises between those who are in favor of sustaining the old structure and those who are in favor of shaking that old structure and forming a new one. In brief, it stems between those saying "according to us, there could be republic without public..." and those "wishing to integrate with contemporary values."

2. The second reason for not realizing the long-awaited democracy is that Atatürk and Kemalism have been misperceived, and this misperception still holds today. Turkish society has undergone an Atatürk revolution. The underlying principle of this revolution is crystal clear: being in some cases against public, again for the sake of public." This principle, of necessity, has changed during the transition period of the multiple party democracy into the one saying "being in favor of public by public itself and/or with public."

Misunderstanding and misinterpreting the Atatürk Revolution, the elites of republic have not been able to comprehend the latter principle. Or they could not dare to see "the bare-legged" (sans culottes)<sup>3</sup> -who are with time otherized by these elites- and who start to demand to be involved in power and penetrate into decision mechanisms.

There is no doubt that Turkey, as a republic, has followed a top-down, vertical order in going into the age of the enlightenment.

The Atatürk revolution is the aggregate of activities which aim at the transformation of the society; it poses the preliminary step for democracy.

In the first half of the 20<sup>th</sup> century in Europe, which is taken as an example by Turkey at that time, totalitarian regimes start to grab power.

As for Turkey, it newly emerged from war. There were almost no literate people at that time in Turkey. Furthermore, it cannot free itself from the structure of a clan/tribe. It does not undergo the processes of the Renaissance, Reform, Enlightenment and Industrial Revolution alike and any social stratification does not exist.

Under such conditions, one should swiftly catch up with time and prepare people of different cultural values for democracy and additionally create the rationalist/democrat person.

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<sup>3</sup> In the French Revolution, the sans-culottes were the radical militants of the lower classes, typically urban laborers.

This could be achieved in two ways: Being revolutionary/strict or evolutionary/flexible one.

Atatürk and his friends opt for the first way in order to save time.

Yet, there are some points to be emphasized.

Atatürk is authoritarian but not totalitarian. Contrary to his time, he declines all the calls for the close of the parliament, all offers for being padishah, and a lifelong presidency. He also opposes to fascism by calling it “tyranny” and does not want to go down in history as a dictator.

Atatürk says that “we can neither turn a blind eye to the realities nor assume that we are living in an ideal world. We, taking into account only our own country, cannot turn a blind eye to the world, either.” However, his attempts to introduce the universal principles of democracy to his country ultimately failed. He always suffers for not adorning the country with these principles. What he aspired to do was create a Turkey which would be at the center of the world and not on the peripheral, a Turkey that is not exposed to history but instead writes history itself and a Turkey that is in sheer harmony with time.

One, today, has to properly interpret Atatürk and his revolution under the light of these objectives.

Therefore, it is of utmost importance to thoroughly know about the various stances against Atatürk and his revolution.

There is a certain group of people continuously casting about Atatürk and his Revolution, intentionally damning it. This crusade-like group cannot be approved of in any way.

Such an attitude is of no help to anyone. If one, from a realistic point of view, takes a look at today's Turkey, the following scene appears: the conception of Atatürk is, no more, a name of a mortal one only, but instead it has come to be a social/national “value” just like a flag or a nation. This value is protected by the criminal law. Here, the thing that is protected is not the picture, the bust or the monument of his but rather, a common social feeling which is very human in itself: “commitment, love, respect and gratitude for Atatürk.”

For social peace, one has to band together under the umbrella of this national value.

As for the second group of people who oppose Atatürk, they can be said to be more dangerous. They are composed of “hidden anti-Kemalists” who are quite insufficient in knowledge and again who live with the shallowness and artificiality of this insufficiency. Just

like a hidden unemployment being an illusive kind of employment, “hidden anti-Kemalism” is of illusive nature as well”; it is not within the scope of Kemalism, but instead, it is against Kemalism. Sometimes, one may not even realize that it has such an ‘anti’ stance.

In order to not be deceived, one has to be fully grasp the history and the concept of Kemalism, thereby testing their awareness of history and Kemalism through the light of science.

The first group of those hidden anti-Kemalists, by manipulating the existing materials, are accustomed to the abuse of the statements of Atatürk of conjunctural importance to the benefit of their ideologies. For instance, they declare Atatürk, who during the inaugural of Turkish Grand National Assembly talked about “saving padishah and caliph” as the supporter of padishah/caliph, as someone against the republic and secularism.

When it comes to the second group of hidden anti-Kemalists, they draw the picture of an Atatürk who is stuck to modernism, attached to an image of artificial and fake westernization. They regard him as someone of monist, monolithic, totalitarian and a solemn Turkish identity. Such local “orientalists” (concept of author Edward W. Said) regard Kemalism as nothing but an aggregate of stylistic changes that are implemented with the purpose of eliminating the despised image of the East in the eyes of the West, making changes that exhibit no ties with the past.

As for the third group of hidden Kemalists, they turn Kemalism into a rigid ideology and narrow it down to something which is limited both in scope and time.

This type of anti-Kemalists imprisons him within the borders of Turkey’s “golden age” of 1930s, which no longer exists and cannot be reiterated either. Such people identify the 2000s with the 1930s, and fall into the impossibility of transferring the past into the future (anachronism). They even experience the paradox of talking with past tense in the present world which is renewed and rebuilt every day. They accuse those who approach Kemalism from the critical reasoning perspective as being traitors. They do not know or seem not to know the fact that a movement/view can survive only via criticism and if there is no criticism any movement whatsoever, it will get smaller and smaller and withdraw within itself, turning into a uni-dimensional structure and just fading away (pursuant the “law of inertia” by Newton). In fact, Kemalism, which is in itself civilized and shining, does not imply an end, but instead an eternity. It stands as the understanding that is not restricted to 1930s, but that which produces the future for the upcoming ones under the light of science.

All that anti-Kemalists do is to feel admiration for a legendary, extraordinary hero, just like a platonic admiration. What they miss, however, is that they never deliberate on something

and accordingly cannot get to the “core.” Hence, instead of deliberating over science, they reiterate their unsound discourses that are full of heroism and shallow words and slogans and as a result they commoditize Atatürk. As Umberto Eco states, this is the moment when a super hero who has put out a big fire is called ‘just a firefighter.’ It is at this time that Atatürk is rendered unsympathetic in the “confusion of weariness/boredom” (Aristeides Complex) within the society.

All these are the unfortunate results of the ideological allegiance to Kemalism under the leadership of the charming and tempting label of ideology, which is in itself a self-appointed one.

These hidden anti-Kemalists have fallen into a common mistake: Instead of transcending into a love of Atatürk from Kemalism, they have done the reverse. In the name of loving Atatürk, they have virtually overwhelmed him with that love.

Without doubt, Kemalism does not mean any of these.

There is no question that Atatürk and Kemalism should be defined within the frame of what they have achieved and defined with their permanent objectives instead of the manipulation and the abuse of those very objectives.

First of all, Atatürk is realistic and Kemalism is the preliminary period of democracy.

Secondly, Atatürk and Kemalism are pragmatic. He, in his sayings, “has felt in the very inner of himself the ability of his people for progress, and kept this like a national privacy in his conscience” and “divided the implementation process of this progress into stages.” Ultimately, he skillfully actualized his revolution.

Thirdly, Atatürk is neither an ideologist nor an ideocrat. Accordingly, Kemalism, in a much proper saying, is his revolutionary understanding that is neither an ideology nor ideocracy. But instead, it is the application of science into life.

Ideologies contradict with democracy and the objective of Kemalism. It is because of the fact that ideologies, which are inclusive of the imposition that is empirically misleading and ethically unfair, do not comply with democracy because of their fanatical characteristics.

Fourthly, Atatürk and Kemalism are in favor of science. The following statements belong to Atatürk:

“Science is the most realistic guiding light in life,” “it is the positive sciences that enlightens and guides the Turkish nation,” “I do not opt for a doctrine, it would get us stuck,” “we could have written a book only by polishing over non-applicable ideas and some theoretical details. Yet, we did not do so. We aspired to the tangible and intangible modernization and development of the nation and for this purpose, we opted for execution and taking action rather than depending on utterances or theory,” “as a moral heritage, I leave nothing like doctrine, dogma, static or stereotyped rule. What constitutes my moral heritage is science and reason. The upcoming ones may think that we could not exactly attain our goals but they what will approve are the facts that we have adopted reason and science as the guidance. Time flies so fast; even the understanding of happiness or unhappiness of nations, communities and people change in time. In such a world, claiming the existence of never-changing provisions would mean nothing but the denial of the development of reason and science. What I have aspired to conduct and achieve for the Turkish nation is crystal clear. If, after me, those wishing to internalize me act in accordance with this basic framework and accept the guidance and leadership of reason and science, they can be my moral inheritors.”

Fifthly, Atatürk and Kemalism, acting as catalysts, have melted the common memory of culture of the past in a national pot. In line with this, Turkish sentimental folk songs will be voiced by a variety of tunes, Yunus Emre will stay with Turkey, Turkey will feel Goethe and Baudelaire. Turkey will neither be losing its origins, nor emulating the west. It will not adopt the modern style on the surface. It is only the internalized/digested modernism that will be adopted. “It is because of the fact that there is nothing as original as feeding from others on condition that you digest them. On the very existence of a lion, there lies a sheep that the lion has digested” (Paul Valéry). Thanks to “haraset-i fikriye,” literally meaning the cultivation of ideas (Atatürk), genuine Turkish identity will take its indispensable place on earth.

To sum up, people can draw lessons from the past. Yet, they live only in the present and not in the past.

One cannot turn back time to 1930s. If it is done so, one loses the present time and can never see the future either. Only when we draw lessons from the 1930s but do not emulate the 1930s and only when we can generate the future under the light of science can Turkey be the inheritor of Atatürk and the real Kemalist values. Thus, a strong bridge between past and the future is being built.

It should be noted that Kemalism, which is a “plan of civilization,” is not a rigid ideology restricted to past tense. But instead, it is a development method that constantly revives itself and that looks at anything from the eyes of the science. Moreover, it should be remembered that one of the principles of Kemalism is revolutionism.

In short, the indispensable immediate aim of Atatürk and Kemalism is the republic while their long-term goal is democracy. Saying that "...all the requirements of democracy should be implemented one by one." Atatürk left the realization of this objective to the next generations.

It should be noted that Atatürk's understanding of democracy is far beyond that of today: he told his general clerk: "Oh child!<sup>4</sup> we, in this country, wish such an administration, such a regime that will one day –if there will be some people who are faced with increasingly getting stronger movement against the sultanate- enable even the supporters of the sultanate to establish a side.

This essence has never chanced since the inception of the revolution: "to make the nation prevail and national forces effective."<sup>5</sup>

In a nutshell, Kemalism suggests the maintenance of horizontal success of the vertical revolution and the melting of civilized values in the national pot by the cultivation of ideas (haraset-I fikriye). It is the discovery of the existing Turkish people. It does not imply a ready-made selling or losing one's origins. Nor does it mean imitating anything that is done by the west and losing the essence ultimately.

3. The third reason for not achieving the long-awaited democracy stems from not assessing the age properly.

At the very heart of the age lies the concept of "globalization" and thus the understanding imposed by it and in practice, there lies the concept of "change." It is because of the fact that globalization is the sociological and historical reality of today's age.

Today, one trillion data can reach from one part of the world to the other just in a second. Humanity has transcended from organic speed to mechanical speed and now to light speed. At present, the age of nanotechnology is experienced. It has been once again understood that knowledge is the big power and it is those who possess the network of knowledge that dominate the world eventually. Now one does not say "those places," but instead, any place is within the global network of knowledge of geography and hence, one can call any place as "these places," "third, cybernetics places." What's more, even "the end of geography" is mentioned.

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<sup>4</sup> Atatürk's way of addressing people.

<sup>5</sup> That saying constituted the main creed of Erzurum Congress in 1919 and the national struggle alike.

The concept of national state is losing its feature of being rigid. Sovereignty of the national state is not disappearing, but supra-national organizations get their share from this sovereignty as well. From now on, the “nation-state is becoming too small for the big problems of life, and too big for the small problems of life” (Daniel Bell). Independence, national identity and national values have come to be more preserved. Globalization is leading to disintegrations as much as it leads to integrations.

Social transformations take place in a much faster way, while a new mode of life is becoming widespread. Moreover, concepts and values change in scope.

Law is becoming integrated; human rights and freedoms are getting globalized.

On the one hand, natural, environmental and cultural values in any place of the world are being adopted as the common values of the world. On the other hand, everything is somehow systematically reduced to one dimension.

Under such circumstances, the world has come to be a “mega market.” Even if nation-states get disintegrated, markets are getting integrated.

The gap in income inequality is reaching incredibly high points. “Numerical gaps” (Jospin) are undergoing a dramatic increase as a result.

A world that is reshaped by globalization is appearing, which challenges anyone and is defined by the aftermath of modernism (postmodernism). Likewise, under such a world, complex structures wait for broad horizons and big thinkers and Turkey -like any other country-, has its own decisions to make.

Turkey will either be contended with one-day imitations or adopt and internalize democracy.

The former one leads the way to losing one’s identity, personality and ultimately being alone. Of course, Turkey rejects this path.

As for the latter one, it is a people-oriented view; it is the way for freedom, equality and humanity. Certainly, this is the way to be chosen.

However, there is an innocent wish, but quite a big wish: optimal democracy. It is this innocent wish for which Turkish people should be prepared.

The twentieth century has been the bloodiest of all, from which it is full of lessons to be drawn. The main reason for this underlies under the attempts of the totalitarian regimes to create a society which is reduced to “nobody” (O.Paz) consisting of prototype people.

In the first half of the twentieth century, one could not see the reality and this, in turn, resulted in devastations. Both nature and society are, in essence, pluralists. They do not let a prototype dominate. Furthermore, “the nature is not a clinic that produces prototype people” (Isaiah Berlin). If one impairs the pluralist structure of the nature, life will be upside down. If one impairs the pluralist structure of the society, then the society will turn into an unbearable hell.

It is because of the fact that people want to adopt (and to be adopted by) others. These or those people are all equal subjects of a competition. Equality ensures unity. Inequality, however, alienates, disintegrates and drifts people into conflict. Elimination of diversities is nothing but a cultural massacre. “In effect, all the efforts exerted for the purpose of eliminating the “other” have proven the fact that the other can not be annihilated” (J. Baudrillard). Any person who is honorable and who has a sense of embarrassment cannot bear the corrosion of diversities. Each and every person, even in their infancy, is the subject of law.

That’s why, the awareness that is reached by modern democracy is the awareness that people can never nationalize and that can only be humanized by the state.

A nature whose fabrics are not corroded and which balances itself; a society that feeds off of pluralism and improves itself are the sine qua non of life and peace.

Therefore, Eduardo Galeano (*Mirrors and the Things Disappeared*) asks such a question: “the twentieth century rising with the cries of peace and justice drowned in blood and has given birth to a world which teemed with unfairness. Likewise, the 21st century rising with the cries of peace and justice followed the footsteps of the previous century. When I was a child I used to believe that anything getting lost on the earth would go to the “Moon.” But astronauts landing on the moon neither found their adventurous dreams there, nor the promises that were not fulfilled in the world, nor their shattered hopes. Then there comes such a question: if they are not in the moon, where are they? Aren’t they lost on the earth? Or are they hiding somewhere on earth?”

And the answer given by humanity lies under modern democracy.

4. The fourth reason why Turkey has not been able to realize the desired/long awaited democracy lies under the fact that it has not been able to properly perceive and internalize the modern democracy.

Modern democracy suggests that individual can pursue the freedom of “the right to be himself and unique” and similarly pursue the values that one thinks and believes will make their life meaningful; modern democracy also means supporting the freedom of building a life upon these values.

Yes, the Republic of Turkey has not been able to reach that modern democracy. However, it can be attained. For this purpose, it is obligatory for each and every institution and group to adopt democracy as the superior concept and principle and to adopt the sine qua non and all the conditions of democracy alike. Adopting such an understanding of law and ethics, which places “human” at the center, should be the inevitable start so that, from a purely rationalistic human (the immediate goal of the republic), one can reach the long-awaited wish of democracy: the humanity that is rationalist, free and productive.

The essence of democracy lies under freedom. At the very center of democracy, there is the individual that is free, equipped with rights and freedoms and that is free from any pressure. Everything takes shape and is positioned according to that individual.

For the freedom of the individual, first comes the assurance of the freedom of mind. For this end, the state has to adopt an impartial stance towards any idea or belief. Such a state being impartial towards ideas would ensure the freedom of thought, and similarly, the state that adopts an unbiased stance towards the beliefs would assure the secularism.

On the basis of democracy lies freedom, and democracy is not afraid of freedom. It severally secures thinking in some way or another, believing in something or not. It ensures expressing the things that are believed or not uttering them at all. It is because of the fact that freedom of thought and judgment protects both forum internum and the forum externum. It is well known that how pointless it has been to restrain thoughts since the era of Socrates. It is obvious that “one cannot sing the songs of freedom with a closed mouth” (Alfonso Reyes).

In democracies, freedoms cannot be restrained with the excuse that they have the possibility of being misused. Opposing views nourish each other. Similarly, the critical mind stands as the permanent source for development.

Freedoms cannot be the excuse for imposing restrictions on themselves. Such an attitude means that a democracy which makes a mistake in fact tries to avoid and correct it.

Prohibition of freedoms with the aim of protecting them would result in the confinement to a vicious cycle.

Democracy does not let extreme views to be kept inside and consequently be them increasingly marginalized as a reaction to this. What it does, instead, is that democracy opens them to public, make them discussed and tone them down. This process, as a result, immunizes the society.

In a society where anyone can openly talk about anything, nobody needs to veil and disguise themselves. Identities are known well and hence, nobody gets suspicious of another within such society. Freedom stands as the prerequisite for morality.

Freedom should apply to anyone and be nourished by equality. In a civilized society, every person is responsible for the assurance that every other person lives humanly.

Democratic life holds the right of the individual to transform their way of life into culture. It does not impose a certain culture upon others.

Diversity that is peculiar to humanity and multi-cultural fermentation alike present the source of treasure for the unity in humanity. The unity that is peculiar to humanity presents the source of treasure for diversity in humankind.

Freedom and pluralism adopt the relativity of reality/correctness. Within this scope, relativity requires dialogue/discussion with the belief that "two heads are better than one." The dialogical principle is the major vector of the critical mind. That's why, within the scope of criticism, one should acquire the consciousness of Montagne saying "instead of attacking, we shall thank those criticizing us."

Relativity is the starting point for compromise; it requires a critical mind and in a parallel fashion, the critical mind requires tolerance. Discussion is a kind of colloquium, not a duel. Even the mistaken party contributes to the resultant proper thinking.

Today, science does not provide anyone with the power of proposing unquestionable and absolute realities, especially in such fields as philosophy, sociology, ethics and the law. Neither the nature nor the society does consist of exemplary beings. Rather, both have pluralist structures. Therefore, the state cannot make interventions in pluralism and if it does, structural defects and disorders will arise. What makes the individual an individual is its uniqueness and originality. Likewise, what makes the society livable is its multiple rationality, multiple-orientation and multiple realism. It is for this reason that in a democratic society, nobody is entitled the right of guardianship or to be a master.

“Fish exist in water while people can exist in culture” (N. Uygur). In a modern state, understanding of citizenship cannot be built upon a monopolist, single culture. If it is done so, common values/grounds that differentiate a society from a group will disappear.

It is a natural phenomenon in a society teeming with multiple realities and correctness to see differences of opinion. This natural phenomenon is compulsory for the society to acquire a dynamic structure. Otherwise, to the extent that the identities and private space of people are constricted, there will be shift towards authoritarian and totalitarian systems and this would annihilate the social dynamism. In such a case, progress comes to a halt. On the other hand, if diversities are perceived as the source of richness and the views multiply, one can achieve the peace in which the *unitas multiplex* and the understanding of “alone and free like a tree and in brotherly love like a forest” (poet Nazım Hikmet) dominates.

In democracy, each person is included in decision processes as much as possible. Pluralism stimulates internal dynamics while freedom nourishes the culture of competition and compromise. A prerequisite for being a society that produces solutions, not a fight, is not to leave the table for some reason or another; but instead to continuously stay at that table and participate in debate.

Turkey is at the door of the European Union, which is the most effective story of the history, plan of civilization and the “recipe for good life and democracy.” This stands as the solution from ‘local to global’ and from ‘global to local’ alike.

Turkey may, alone, achieve several things. But, such an achievement would be an “autistic performance.”

Even today, Turkey has not yet been able to attain the success that the countries that started this democratic journey after Turkey have achieved.

Such a designation would be enough to documentarily explain this failure.

Turkey is often warned on this subject by the European Union in hopes of attaining the membership it awaits. Moreover, Turkey wants to integrate its law with that of the European Council countries, yet it has been punished with record-high sentences from the European Court of Human Rights.

Turkey is the only country to be sentenced twelve times in one day (July 8th 1999) for violating the freedom of thought. Besides, Turkey plays the leading role in the cases submitted to the court: In 2005, out of 50 cases, 39 corresponding, 78% belong to Turkey; in 2006, out of 60 cases, 35 corresponding, 52% belonged to Turkey and between the years

1999-2006, out of 205 ECHR convictions, 123 sentences (in other words, 61%) went to Turkey.

As for the cases suspended at the European Court of Human Rights at the end of December 2009, the following scene emerges: of the 119,300 cases, 28% belong to Russia, 11% to Turkey, 8.4% to Ukraine and 8.2.% goes to Romania. As for the year 2008, out of the 1,545 judgments, 264 go to Turkey while 244 judgments are given to Russia. Between the years 1998-2008, in 10 years, there were given 1,652 resolutions of infringement against Turkey. In short, in terms of numbers, Turkey has the highest level in this sense. Statistics between the same dates indicate that among 47 states, Turkey's sentences were in this way: 164 case files exhibited violations of the right to life and persecution and ill-treatment, 360 case files highlighting the restriction of individual freedom, 528 case files were as a result of the violation of the right to a fair trial, 169 case files discussed the breach of the freedom of thought, 28 case files as a result of the infringement of the freedom of assembly, 453 case files regarding the infringement of private property were opened all against Turkey.

It is also essential to assess this data: according to the Independent Education Union, for every 10,000 people, there are 1,400 books allocated in the U.S., 2,100 books in England and France, and 1 book allocated in Turkey.

Literature circulation is 100,000 in Azerbaijan, out of 7 million people, while it is (at most) only 100,000 in Turkey, with its' population of 72 million. According to the United Nations, an average Japanese citizen reads 25 books yearly, a Swiss national reads 10, a French citizen reads 7 books, and a Turkish person reads 0.1 book. On average, a Norwegian spends \$137 yearly on books, a Belgian and an Austrian \$100, a South Korean \$39 and a Turkish person spends \$0.45. A Turkish person, on average, reads only six hours per year. Among these books are the stories of Keloglan<sup>6</sup> and Hz Ali<sup>7</sup>, narratives and publications on sexual life.

Turkey lacks in staying current with modern technology. In a year, 6,000 people die in car accidents, and triple this number becomes disabled as a result. Likewise, a computer is used like a typewriter. What's more, peasantry and urbanism come to be intertwined. People still leave their shoes in front of the doors and smoke in the lifts.

Bureaucrats in Turkey work 150 days in a year. In the USA, the Congress commences working at 7 in the morning, while in Sweden, work starts at 8 a.m.

The Turkish nation does not like being held accountable for something.

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<sup>6</sup> Stories of traditional folktale character Keloglan.

<sup>7</sup> The fourth caliph of Islam.

An hour of Turkish Grand National Assembly costs 50,000 TL (Turkish Liras).

One in three children are deprived of higher education.

In Dicle,<sup>8</sup> 22 billion cubic meters of water exist yearly, but villages are deprived of water.

In 2006, on a university exam, 750,000 students could not answer questions like the following:  $15 - (8 - 3) = 10$ .

This, at a glance, is today's Turkey.

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<sup>8</sup> A district of city of Diyarbakır, which is among the provinces of the southeastern Anatolia.



## **SECOND SECTION**



## **TRANSFORMATION**

In light of these designations, it will be easy to draw the road to be taken.

It is Turkey's indispensable aim to raise democratic people and to actualize a modern democracy.

Modern democracy can only be realized by individuals carrying the *"awareness of democrat people."*

Many confuse a democratic person with a tolerant one.

However, tolerance bears the element of tolerating the difference. Unless this element, toleration, is not replaced by the element of right to tolerance, one cannot get the democratic person.

A democratic person is the one who, beyond tolerance, can say "the other is the equivalent of me" and who can both challenge each other and the others, respect them and who can reasonably debate with anyone. Likewise, the democratic person carries such characteristic features: when the rights and freedoms of the other people are infringed, they can challenge those infringers as if their own rights and freedoms are breached. Again, the democratic person is the one who is always open to rationalistic criticism, debate, questioning and perception. A democratic person has acquired the awareness of Voltaire who says that "I may not agree with what you say, but I will defend to the death your right to say it."

Democracy, alike, is the ruling of free people with free will by free people themselves composed of such democrat people.

However, some impediments exist that need to be overcome in this scope.

## **IMPEDIMENTS TO BE OVERCOME**

One can divide the impediments to be overcome into two parts.

### **1. Legal Impediments**

There is no doubt that among the leading legal impediments firstly comes the 1982 Constitution.

The reasons for this are evident.

Since the 1982 constitution has lost its legitimacy in presence of the conscious of the society, it cannot govern Turkish society.

Although this constitution presents Turkish people with a “state with constitution,” it yet cannot achieve a “*constitutional state*”; it blocks all the means of rights and freedoms since it brings about an order that is open to dictatorship, it deprives people of the means that will eradicate dictatorship; it advocates the structuring of oligarchy (and not democracy) and also supports the conflict and tensions of centre and periphery, powers and authorities; it does not let people breathe and move freely.

Likewise, basing on an epistemologically unsound ground, it excludes civil society. Although it talks about “democratic state,” it does not encourage “democratic society” based on civil society. What’s more, it does not promote civil society but on the contrary, promotes the state authority.

The 1982 Constitution, instead of performing its role of ensuring state-individual balance, is in favor of the state to such an extent that even on the issue of judgment of public servants, it implemented a system which is rather outdated related to the days when public officials were on leave. In other words, this system carries the 19<sup>th</sup> century into the 20<sup>th</sup> and 21<sup>st</sup> centuries.

While the same Constitution attaches the utmost importance to the principle of “secularity” (articles 2, 4), it impairs the essence of other principles.

Even though this constitution abandons the understanding of the sacred state, it elevates the state from being just a means to the original purpose. This understanding has been so much identified with 1982 Constitution that it is not plausible to transform this constitution into the one which brings the individual, who is equipped with rights and freedoms, to the forefront. It is not possible because the state is not within law, but instead above the law.

The Constitution has created the “nobodies” (O. Poz) regime, which has devastated the theory of liberal democratic constitution. As a result of this, this text has been anti-constitutional and disregarded the fact that the legislation has been made for people.

This Constitution, on the one hand, being afraid of its people and individuals, has protected itself and almost nine hundred legislations that are against law. It has also rendered the individual weak and helpless. It does not believe in pluralism and liberalism and it approaches its individuals and people with utmost alertness. It is for this reason that it ruins both the core and the scope of rights and freedoms. Because of its' very nature, it is against rights and freedoms on every subject and field. It disables the public opinion and makes not voicing anything, and not participating in something, a rule. It envisages a state which does not “base upon” rights and freedoms and respond to social needs and which is self-enclosed and rarely “respectful.” What’s more, in defiance of nature, it assigns this state the duty of maintaining the natural order. Since it fails in drawing the legal map of the state, the 1982 Constitution always allows for situations stemming from this failure that are to the detriment of the individual.

Furthermore, via the dilemmas of ordinary/emergency regime and civil/military authority, it orients the balance to the disadvantage of democracy. It creates areas that are immune and exempt from judicial control and regards the judiciary as a hindrance.

The 1982 Constitution has achieved a state of law in which, just like a spider web, with anyone breaking free of that web succeeds and those stuck within fails. Therefore, it cannot establish a firewall built with the principle of the rule of law which is not passed by anyone.

In the final analysis, it is obligatory to revoke the 1982 Constitution which, in its content and formation, is teeming with mistakes and whose possibility of being put to a vote and being accepted is not possible and nor approved. Likewise, it is again compulsory to abandon this constitution, which is like the by-law of the police, imposing a militant democracy upon people and which is crippled with formation mistakes. Any society made up of conscious individuals cannot bear such a constitution.

Similarly, with such a constitution, one cannot be admitted to the European Union.

Apart from the constitution, among the regulations in need of an amendment is the Political Parties and Election Law.

The 80<sup>th</sup> Article of the Constitution reads that each member of parliament is the representative of the whole Turkish people, not only of the electoral district. They can freely

express their ideas and vote. Therefore, they have the privileges of being immune and not being responsible (Article 83).

The legislative power is to audit the executive power.

As for the implementation, since members of parliament are determined by the general presidents and their fate are written by these very general presidents, members of parliament cannot be the representative of their own areas, let alone the whole people. They are only the representatives of their general presidents. Hence, the executive power could be, to some extent, audited by the party in opposition, and the legislative power is excluded and surrounded by the executive power. In this way, their privileges of being irresponsible and immune then do not apply to them.

This understanding of bluff has been effective for so long.

Additionally, the Political Parties Law has constricted the political sphere.

## **2. Structural Impediments**

Both as a society and as human, Turkey has to give up its wrong methods; what Turkey needs, in particular, is a revision in its' education system.

The first obstacle derives from the Turkish contradiction with science, although it is regarded as "the most realistic guidance."

Turkey does not exactly comply with the laws and the data of physics, mathematics, in short with nature, sociology, economics and history. Additionally, since people do not draw lessons as such, they are always defeated by natural and social earthquakes.

The second impediment follows the former one.

Science lives hand-in-hand with concepts and is maintained through questions. However, Turkish people first unconsciously and totally impair the content of the concepts, especially those borrowed from the West and those which are the products of thousands of minds. They then redefine/restructure these very concepts at their will. Just like the insect of Kafka, these concepts undergo a metamorphosis.

Turkish people do not approach the subjects from the perspective of scientific curiosity and methodical suspicion, and never question their own knowledge. When the time comes for science and concepts to challenge them, they stumble. In some cases, people may do even

the worse. They may even market the aforementioned concepts, which are redefined and restructured themselves, to the originators of these concepts.

As for the third obstacle, it lies under the fact that Turkey, as a society and even now, “live the age before criticism.” “Such a society is as ill as the one that can sentence even Socrates with capital punishment” (Karl Popper). It is evident that Turkey has been late in opening to the West. Martin Hartmann suggests that “maybe one can achieve something through copying, imitation and translation. However, not being open to criticism has been one of the long-lasting weak points that Turkish people need to change” (Martin Hartmann, German Turcologist, 1909). This is the case that applies to present time as well.

The fourth impediment is the prejudices that deviate the country from the right course. The most important of these is the excuse proposed under the name of “the conditions of Turkey” that is anytime applied.

The fifth hindrance is the communitarian approach; blindly believing in that people belonging to that community does not commit any mistakes.

The sixth impediment goes for distrust towards people.

In fact, democracy is the administration belonging to people, not to the elite.

If one conforms to the requirements of transparency in politics and administration and when the facts are directly conveyed to people, this time people can make the rightist decision with their common sense. One needs to believe this.

The approach of assessing events from the perspective of paternalist state and seeing people as children to be educated does not accord with democracy.

The birthplace of democracy is people. With a system that perceives its people as threats, with people resentful of its state, neither one can stimulate the dynamics of the state nor can they put democracy into practice.

In the long run and when compared with the history of the other societies, one can see Turkish people who achieved a legendary war of independence, established the Republic, who despite all the difficulties, have overcome all the challenges and passed the democracy exam, who have opened up more to the outside world, expanding and thereby being the source of pride and hope thanks to its economic and cultural dynamics. Such people, of course, cannot be underestimated.

The seventh impediment is the awkward and sick state which comes far behind disputes with its own people in the courts, does not trust its people, and which opens and expands into itself and cannot meet the expectation of its people. Such a sick state can only be cured through democracy. Either way, these obstacles can be multiplied.

## **ACTIONS TO BE TAKEN**

In order to achieve a modern democracy, there is an urgent need to implement a legal order that ensures the freedoms of thought, belief, organization, communication and election, guaranteeing these pursuant to the rule of law.

The basis for this lies under creating a new constitution; the 1982 Constitution, which was prepared during the state of emergency, certainly has to be abandoned.

In democracy, the owner of sovereignty (quod titulum) and its executer (quod exercitium), the sole source of legitimacy/legality and the absolute determiner on the issues relate to its own fate, is the people who are autonomous and who possess free will.

Constitutions are social contracts/compromises on common life, indispensable values, principles, rules and institutions which closely relate to the fate of any people. Likewise, constitutions are the main papers that determine the fate of the autonomous and free society, the fate of the free people, and help establish the state.

In any judicial system, the validation of an agreement/a compromise lies under the consent which bases upon conscious and free will.

The Sine qua non of a democratic constitution is fairly evident. There is no need to rediscover the sun, for example. First, there should be compromise on these rules, and the details should be handled by legislation. At this point, no power can make the Turkish people adopt a text of constitution that will dominate the unconscious of the Turkish people and enslave their minds, again likely deadening their moral and democratic sensitivity.

Only when a new constitution, which, feeding from human dignity, rights and freedoms of individuals undertakes the state to protect these rights and freedoms, which is established upon the rule of law, can a pluralist, liberal and participatory democracy in all respects be put into practice. A new constitution that is written with the awareness of “constitutional patriotism” can be created, where the individual, the state and democracy will all again be able to breathe.

There is not any power to resist this big wish.

As it seems that there is a compromise on the need of a new constitution, it seems easy to find its way to carry this out.

The only way which can be agreed to by all is to authorize a “founding congress” with the power of preparing constitution.

The Constitution should ensure the following: sine qua non of democracy, participation of effective and active authorities in decision mechanisms, determination of the ruling party through regular and free elections, pluralism via more than one party, providing the parties in the status of minority with the chance of coming to power, and lastly ensuring the fundamental rights and freedoms. It also needs to replace the master and the guardian state with the one that serves for its people.

The basics of the constitution and that of the main legislations related to political parties and election should be rearranged in accordance with the understanding of modern democracy and pursuant to global criteria of supra-national law.

In modern democracies, power is vertically distributed between center and the periphery, while it is horizontally distributed between the legislative, executive and the judiciary power.

Within this scope, these powers have to be reorganized independent of each other and in a well-balanced way; "the principle of separation of powers" in the modern sense has to be concretely implemented.

The executive branch has been much strengthened in the existing order and has completely influenced both the legislative and the judiciary powers.

In this scope, a picture has to be drawn in which the legislative power can audit the power of execution, members of the parliament are the real representatives of people and in which they can make use of the privileges of immunity/being not responsible to the utmost degree.

The election threshold should not exceed 3% in order for the will of people to be properly reflected to the legislative power. This regulation has to be reviewed so that all parts of the society is integrated with democracy.

Half of Turkey's citizens are made up of women, therefore, if the number of women representatives in the Grand National Assembly of Turkey does not proportionately accord with that general number of women in Turkey, then the national assembly cannot be properly reflected to the parliament. This contradictory situation certainly has to be changed.

Parliamentary immunity should be arranged within the borders of the modern law. To reach this aim, committing a crime should not be within the scope of that parliamentary immunity. Furthermore, the parliamentary immunity should be restricted to the participation of those members in the the Grand National Assembly of Turkey and it should not be applied in all the red handed cases.

Taking into consideration the old experiences, one has to turn to the institution of “senate” for sound legal arrangements.

The judiciary has been the leading power in every period of history. The judiciary takes the shape of a mystical power during metaphysical period, the shape of a divine power during theological times and secular power during the positivist period.

The prerequisite for the impartiality of the judiciary lies, without any doubt, under its being independent.

In democracy, it is compulsory for judges making use of this power to be independent from the legislation, execution, from any other judge, public opinion or from their own personal beliefs and opinions so that they can make decisions without being under the influence of anyone or anything.

In a case in which the judges are not independent, when a decision is made that does not accord with the views of the politicians, the politicians start to play with the judiciary. Likewise, the judiciary under the influence of the politics starts to produce dirty laws as well.

In order to realize the rule of law and the long-awaited law, the following should be ensured:

- Rendering the judiciary power, which is the sole interpreter and the voice of law, independent from other powers,
- In particular, the judiciary power's overcoming the encompassing role of the executive power,
- Making the judiciary power (which purifies and legitimizes the state through the filter of the law and which makes the judges that use this power) independent. This is not a privilege granted to judges, but instead a prerequisite for the good of the society.

Therefore, in many countries, personal rights and services of the judges and prosecutors are entitled to independent institutions. Problems have to be firmly settled by also taking into consideration the regulations in comparative law, in addition to taking into account the experiences, problems and criticisms in Turkey and in the countries where these regulations are made. The method of comparative law does not imply the abstract enquiry of the regulations made with the written law of those countries.

Turkey, in terms of its order of law and its implementation, is experiencing a depression in its judiciary and justice.

In order to overcome this depression and especially in order to not be sentenced so often by the European Court of Human Rights, implementation of “the right of individual communication” will be a rather rational method.

However, one has to be quite cautious and sensitive during the implementation of this right.

In the countries within the Anglo-Saxon law system, this right is granted to the Supreme Court, the sole organ at the peak of the order. This is quite natural and does not lead to any problem. It has not led to any problem, either.

When it comes to the countries within the law system of continental Europe, three separate judicial branches are seen at the peak of the judiciary. These are namely the Constitutional Court, the Court of Cassation and the Council of State. These three judicial branches are constitutionally equal to each other but differ in their competencies. Thus, giving the right of individual communication to one of these branches will impair the principle of equality. Likewise, the branch granted with the right of individual communication will be placed to a higher position compared to the court of cassation and the council of state, which are the executors of the basic law (code, codice, codico). It is for these reasons that the task of inquiry and the final assessment have to be certainly given to a commission made up of the members of these three judicial branches.

Turkey should not be late in adopting the institution of an ombudsman.

According to the 9<sup>th</sup> Article of the Constitution, “judicial power is used by independent courts on behalf of the Turkish nation.”

This provision of the Constitution has not been exactly implemented until now. The judiciary, by a jurisdiction pursuant to the laws that are enacted for the nation, to some extent, has been able to put into practice the provision. This provision can be executed with the implementation of the principle, “involvement of people in the jurisdiction” and thus with the adoption of a jury that consist of the representatives of people. If a jury is not adopted, people will not be aware of the warnings of the jury which tells the legislative power about the legal arrangements that people do not approve. Under such a circumstance, provisions that do not comply with legal arrangements in law cannot be avoided and subsequently the law does not show progress.

The most practical way of implementing a competent practice of law is the one that depend on the proper law teaching. For this purpose, training at law schools has to be reviewed, new methods for the solution of the problems have to be developed, special attention has to be paid to the training of those who have internalized the principles of law and justice.

Moreover, to reach this aim, those who are chosen to be within high judicial branches should be the ones who have completed their doctorates and who have, at least, passed one of the exams of the western languages.

Furthermore, one should be aware of the fact that every mistake made within law, which is increasingly getting shallow itself, is like a volcanic crater which is about to explode. In a parallel fashion, emancipating people from the pile of the cases produced by a twisted law which 'judicializes' every family and drifts the state and its individuals into a dispute stands of utmost importance, in this sense. Within this scope, it is also obligatory to get rid of the residues in written law and in practice and similarly, it is compulsory for people who have laid hopes on the mafia as a result of the "justice that's getting stale with time" (B. Brecht) to overcome their ill fate.

What is urgently needed is a law which does not prohibit views, beliefs but instead, which ensures the ground for discussing in peace and which acts in sheer harmony with justice and liberates people. Furthermore, what is needed is an unbiased and a strong state, that takes its legitimacy from law and acts under the sovereignty of such law, that believes in its own people and has a neutral stance towards any view or any belief.

Likewise, such a state can only be attained through a constitution, which, wholly depending on the rule of law, aspires to raise free individuals and people, which strives to realize rights and freedoms that are regarded as the universal ethics code of people.

Law is a consistent whole and a system. It does not depend on chance. It assesses events from the perspective of general, objective and normative criteria. It does not change its criteria according to an event and/or people. Everyone is equal before law; same criteria are applied to any phenomenon. No law system can bear double standards.

During the application of any regulation, great significance has to be paid to this wholeness and in no way should the integrity of law be impaired.

Transparency of governing has to be realized. A governing body which depends on people's basic values, prioritizes an individual and a citizen instead of the state, and which establishes a fair balance between the two. Similarly, such governance to be applied has to be efficient, effective and transparent that can account for its public at anytime. Moreover, it has to be able to act in accordance with science and perform the task of regulation (régulation) in the globalizing world.

What's more, one has to ensure a society which disregards the differences in thought, belief, culture, origin and which bears respect for any kind of diversity, which is pluralist, liberal and participatory basing on equality.

The best way to learn and preserve democracy is to meticulously and continuously apply it. Besides, democracy is a regime that has to be experienced, attained and developed through experience and every day life.

It has to be noted that democracy, when its principles and dimensions are well managed, provides people with the invaluable means for peace, progress and it opens the doors that are otherwise impossible to open. If there is a deviation from any of these principles and dimensions, then democracy does not accept any fault and stumbles. At the expense of drifting the whole system into depression, democracy retrieves those means which are presented by itself.

Turkey has to be well aware of the very attitude of democracy.

It is incumbent upon Turkey to realize democracy if it aims at a Turkey which contributes to history with universal values which are not impaired and abused; a Turkey which is not at the periphery but instead at the center of the world; a Turkey which is not exposed to history but rather the one which makes history and acts in harmony with time.

If this is not achieved, there will be a bigger danger. It is because of the fact that "an order that cannot solve the general problems in life loses its integrity, breaks down and dissolves. Or it triggers another system that can settle its own problem thereby makes itself undergo a metamorphosis." (Edgar Morin, Le Monde, on September 10<sup>th</sup> 2010)

## **Prof. Dr. Sami Selçuk**

### **The Former President of the Turkish Court of Cassation**

Prof. Dr. Sami Selçuk was born in 1937 in the Taşkent district of Konya, Turkey. He graduated from Konya High School in 1955 and Ankara University's Faculty of Law in 1959. He served as a reserve officer for his military service in Merzifon, a town in Amasya district. Selçuk worked as the prospective judge in Sütçüler, Akşehir and Yenice respectively and being at the office of Supreme Court of Appeals Prosecutor's Office after 1972. Being the member of the judicial council on September 21<sup>st</sup> 1982, Şelçuk was elected as the Head of Penal Department of the Supreme Court first in July 10<sup>th</sup> 1990, secondly on July 13<sup>th</sup> 1994 and thirdly in July 13<sup>th</sup> 1998 by the High General Assembly of the Supreme Court. He did his doctorate at Ankara University's Faculty of Law, becoming an associate professor in 1986.

Many of his works have been published and translated. Furthermore, his essays and writings have been published both in Turkish and foreign languages within both domestic and foreign publications and daily press such as *Varlık* (Istanbul), *Türk Dergisi* (Turkish Journal), *Revue Penitentiaire et de Droit Penal* (Paris), *Revue de Droit Penal et de Criminologie* (Brussels), *Archivio Penale* (Milan), *Cuadernos de Política Criminal* (Madrid) on such subjects as language, secularism and Kemalism. He was chosen as the First Presidency of the Court of Cassation at July 7<sup>th</sup> 1999 by the High General Assembly of the Supreme Court.

On June 15<sup>th</sup> 2002, he retired from this office because of the legal age limit. After his retirement, he became one of the academic members of the Bilkent University's Faculty of Law and was elected as the Head of the Department of the Criminal Law. Currently, he gives lectures on penal law and the law of criminal procedure. Selçuk also speaks French and Italian.

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Interview with Ret. Ambassador Özdem SANBERK

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**Wise Talk -7: UN Sanctions and Iran**

Interview with Assoc. Prof. Abbas KARAAĞAÇLI

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**Wise Talk -8: Missile Defense Systems and Turkey**

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**Wise Talk -9: Today's and Tomorrow's Developing and Changing Turkish Navy**

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Emine AKÇADAĞ





