Political system choice under the 1924 Constitution

di Şule Özsoy Boyunsuz

Abstract: *La scelta del sistema politico sotto la Costituzione del 1924* - This paper examines the political system choice made by the 1924 Constitution by looking at constitutional and dispositional properties. It is argued by a certain literature that the political system choice of this constitution mixes assembly government's properties with parliamentarism, namely supremacy of parliament, fusion of powers and absence of executive power of dissolution. In the light of a brief explanation on what is meant by parliamentarism the paper refutes this argument. For that matter, the power of dissolution, its functions and forms in parliamentary systems are reviewed closely and reached a conclusion that the 1924 Constitution's political system is a type of parliamentary system. The paper claims that it is an unconstrained republican parliamentarism which is a majoritarian parliamentary system with no effective checks and balances. Such parliamentarism is shaped by revolutionary settings at the time to make it suitable for nation state revolution, not for pluralist democracy.

Keywords: 1924 Turkish Constitution, unconstrained parliamentarism, parliamentary dissolution.

1. Introduction

Declaration of the new Turkish Republic in 1923 heralded a new revolutionary era in which the Turkish nation state was formed. As a part of this new institutionalization Turkish Grand National Assembly (TGNA) codified a new constitution (Teşkilatı Esasiye Kanunu) in 1924.

This paper inquiries into the constitutional features of the 1924's political system and reviews executive and legislative functions in the Constitution since political systems are commonly described by looking at relations among legislative and executive organs.[1]

As legislative organs are usually formed by similar ways in democratic regimes, scholars focus on common features of executive organs to differentiate major characteristics among different political systems. Namely, the procedures for (s)electing and dismissing executive organs, and their interactions with legislative organs as well as constitutional and political powers of both organs.[2]

[1] E. Teziç, *Anayasa Hukuku*, 16th edt., İstanbul, 2013, 465, J. A. Chibub, *Presidentialism, Parliamentarism and Democracy*, New York, 2007, 34.

[2] R. Elgie, "*The Classifications of Democratic Regime Types: Conceptual Ambiguity and Contestable Assumptions*", 2 *European Journal of Political Research* (1998) 221; T.A. Baylis,

Among these features political powers are the most difficult to assess. Constitutional powers are little simpler to identify in comparison to political powers since they are described and defined by constitutions. But distinguishing or measuring political powers are not easy at all as they may not always attained by exercising constitutional powers or via constitutionally defined procedures and rules. Some of them are the result of informal institutions.[3]

Informal institutions are not set forth and enforced formally, hence their disguised nature is the source of uncertainty. Consequently, classifications of political systems must be based on formal institutions, and assessment of constitutional powers, setting aside informal institutions and political powers attained through them.

According to Elgie many scholars look at both dispositional and relational properties to explain how the power is attained and used, instead of looking at dispositional properties only. Looking at both properties creates ambiguity. The relational properties are prone to be interpreted differently by each scholar, and therefore relational properties are to be avoided as defining components.[4]

In the light of this viewpoint, the paper examines constitutional relations among executive and legislative branches without looking at informal institutions, relational properties to classify the political system in 1924 Constitution and argues that the basic definitional features of this political system fit parliamentarism.

However, this conclusion is only shared by some members of the literature.[5] Despite apparent parliamentary features of the constitution, neither the founding fathers nor some respected members of the doctrine referred to the chosen political design as a parliamentary system, but a mixed one.[6] Their common argument is that some features of the political system under the 1924 Constitution mirrors the assembly government adopted by the 1921 Constitution. Namely the supremacy of the parliament, fusion of executive and legislative powers in the TGNA, and absence of

Presidents versus Prime Ministers: Shaping Executive Authority in Eastern Europe, 3 *World Politics* (1996) 300.

[3] G. Helmke, S. Levitsky, *Introduction*, in G. Helmke, S. Levitsky (eds.), *Informal Institutions and Democracy: Lessons from Latin America*, USA, 2006, 5.

[4] Elgie, *The Classifications of Democratic Regime Types*, 220.

[5] M. Soysal, *Anayasaya Giriş*, 3.rd edition, Ankara, 2011, 197; H. N. Kubalı, *Türk Esas Teşkilat Hukuku Dersleri*, İstanbul, 1960, 161; K. Gözler, *Türk Anayasa Hukuku*, 4th edt., Bursa, 2021, 97; E. Özbudun, *1924 Anayasası*, İstanbul, 2012, 21; T.B. Balta, *Türkiye'de Yasama-Yürütme Münasebeti*, in İncelemeler, AÜSBF Yayınları no.100/82, Ankara, 1960, 1.; T. Güneş, *Parlamenter Rejimin Bugünkü Manası ve İşleyişi*, İstanbul, 1956, 128; Ş. Özsoy, *Cumhuriyet'in Kuruluşundan Bu Yana Türkiye'de Cumhurbaşkanlığı Seçimleri Meselesi*, in M. Öden, L.Gönenç et.al, (eds.) Erdal Onar'a Armağan Cilt I, AÜHF Yayınları, Ankara, 2013, 372.

[6] S. Kili, *Turkish Constitutional Developments and Assembly Debates on the Constitutions of 1924 and 1961*, İstanbul, 1971,39; D.B. Çelik, *Kurucu İktidar-Hükümet Sistemi-Vatandaşlık ve İdari yapılanma Tartışması Çerçevesinde 1924 Anayasası'nın Yapım Süreci*, Ankara, 2016, 141; B. Tanör, *Osmanlı-Türk Anayasal Gelişmeleri*, İstanbul, 1998, 317; Ö. Anayurt, *1924 Anayasası'nda Meclis Yürütme İlişkileri*, 39 *Atatürk Araştırma Merkezi Dergisi* (1997) 684; E. Özbudun, *Türk Anayasa Hukuku*, Ankara, 2004, 31.

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executive power of parliamentary dissolution. Whereas the formation of the government and existence of investiture vote echoes parliamentary system. According to this view, the political system of 1924 Constitution merges some features of assembly government with parliamentarism.

The paper investigates constitutional, and political reasonings given for their argument and concludes that these reasons are not adequate to make the political system choice anything other than a parliamentary system since the constitution demonstrates the basic institutional features of parliamentarism.

Parliamentary systems in the world demonstrate great institutional and functional diversity despite having some common features[7]. Therefore, in the paper it is also asked what type of parliamentary system was chosen under the 1924 and answered that the chosen system is an unconstrained republican parliamentarism. 1924 promotes majority rule without checks and balances supported by a majoritarian electoral system that gives excessive representation to the majority.

The paper explains political and practical reasons why this type of parliamentarism was preferred and why there was a reluctance to categorise this political system as parliamentary at the time. The answer to these questions lies at the political environment and certain practicalities enforced by the republican nation state revolution.

2. Parliamentary System and the 1924 Constitution

Political systems define how executive and legislative organs are formed, and dismissed, what their constitutional powers are, and how much these powers are checked and balanced. Accordingly, parliamentary systems are traditionally understood as systems of fused government which is emerged from and responsible to the legislature. Origins and survival of the legislative organ and cabinet are not separated.[8]

At the same time, parliamentary systems show great divergence when it comes to cabinet formation and selection. Some systems require that all cabinet members should be selected from members of parliament (Britain), as others allow non-members of parliament to be in the cabinet (First version of 1982 Constitution) or does not allow members of parliament to become ministers at all (Holland). The only common feature here is that all prime ministers are to be members of parliaments, and all cabinets are politically responsible towards parliaments.

Two basic constitutional ideas are central to the classical understanding of parliamentary systems: parliamentary supremacy and organic and functional fusion of legislative and executive powers.[9] Historically, taking the power back from monarchs the parliaments as the

[7] A. Siaroff, *Varieties of Parliamentarism in the Industrial Democracies*, 4 *International Political Science Review* (2003) 445.

[8] K. Strom, *Delegation and Accountability in Parliamentary Democracies*, 3 *European Journal of Political Research* (2000) 261, 264; A. Lijphart, *Patterns of Democracy Government Forms and Performance in Thirty-six Countries*, London/New Heaven, 1999, 125.

[9] Strom, *Delegation and Accountability in Parliamentary Democracies*, 263.

representatives of people were considered having the supreme power.[10] In France, and in the rest of continental Europe, 'parliamentarism' was originally associated with democracy as opposed to monarchs' absolutism and was intended as a principle of legitimacy for the public power.[11] Under the German Empire, and to a certain extent under the Italian Kingdom and in France, parliamentary forms of governments were constitutional monarchies in nineteenth century and all were based on a separation of powers between parliaments and the monarchs.[12] Thus the separation powers was understood as monarchs compromise from their absolute power and letting parliaments to legislate on liberties and in return controlling the executive.

This is exactly the reason that the Founding Fathers of 1924 Constitution rejected separation of powers and declared that the TGNA as the single bearer of sovereign powers. The rejection of separation of powers and the supremacy of the parliament were two close-knit principles were defended several times by Mustapha Kemal Pasha. He regarded the principle of separation of powers as an essential part of the constitutional monarchy as it means splitting the power between people and the monarch. He was against all forms of monarchy, and one-man rules. According to him, separation of powers is needed if people share sovereign power with aristocracy and monarchs. Whereas there is no division in national common will. It is unified in the TGNA.[13]

Do the Founding Fathers' rejection of constitutional monarchy really mean that they also reject parliamentarism? The answer should be no to that question. They created a republican form of parliamentarism since declaring the parliament as the sole representative of national sovereignty does not oppose parliamentarism. Afterall throughout the nineteenth century parliamentarism was understood generally as the parliament's supremacy over other powers since it had the democratic legitimacy.[14]

Also, it must be said that the fusion of executive and legislative powers in the TGNA does not mean that executive power is exercised directly but via the council of ministers. The TGNA does not have the authority to dictate policy choices or alter the council of ministers' policies or implement any policy preference on behalf of the government.[15] These preferences are given to the Council of Ministers.

It is important to comprehend that in parliamentarism the power that comes with the supremacy goes to the majority group in the parliament and from there, to this majority's government. With the emergence of the political parties it became important if that majority belonged to a single political party or multiple parties. In any ways, the parliament includes the

[10] A. Bradley, C. Pinelli, "*Parliamentarism*", in M. Rosenfeld, A. Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law*, Oxford, 2012, 653.
[11] Ibid, 653.
[12] Ibid, 654.
[13] *Atatürk'ün Söylev ve Demeçleri I-III*, Türk Tarih Kurumu Basımevi, Ankara, 1997, 225.
[14] Bradley and Pinelli, *Parliamentarism*, 653.
[15] Özbudun, *1924 Anayasası*, 35-36.

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government, and they are together supreme.[16] In the reality of party politics supremacy of parliament does not mean legislative supremacy, and it is reduced to the roles of "making and breaking governments", not ruling the country.[17] Ruling the country is for the politically responsible part of executive branch; the cabinet. All this is true for the political system created by the 1924 Constitution as well.

1924 Constitution mirrors two basic constitutional principles of parliamentary systems; parliamentary supremacy and fusion of powers. There is a single source of legitimacy; parliamentary elections and thus the legislative branch, the TGNA (Turkish Grand National Assembly) is declared as the sole lawful representative of the nation and exercises the sovereignty in the name of the Nation (art.4). Furthermore, the Constitution sets forth that legislative power and executive authority merge together at the TGNA (art.5). As the exclusive and supreme representative of the national will, the TGNA is to exercise legislative power directly and executive power indirectly through the executive (i.e., President of the Republic and council of ministers).

The president and the whole cabinet are to be selected among the TGNA members. The TGNA elects one of its members for a single legislative period as the President of the Republic by simple majority. The President appoints the Prime Minister, who then decides over the list of ministers chosen from among the deputies. Upon approval of the President the Council of Ministers presents its program within a week to the TGNA and asks for a vote of confidence. If the TGNA' simple majority fails to give their vote of confidence, the Council of Ministers' constitutional role ends (Art.44). Due to the vote of confidence, the President may only appoint a deputy who can win the vote of confidence, and that person is usually the leader of the parliamentary majority.

Furthermore, collective and individual responsibility are assigned to the Council of Ministers (Art.46). The TGNA can remove the Prime Minister and his cabinet, or an individual minister if the General Assembly's majority accepts a motion to censure. The President, on the other hand, has no responsibility toward the Assembly. But his decisions are to be counter signed by the prime minister and cabinet members, who carried all responsibility (Art.39).

One can clearly see that the 1924 enjoys the typical features of parliamentarism such organic and functional fusion, the formation of the executive organ, and the countersignature rule.[18]

According to the Kare Strom, "*The belief in the unfettered rule by the popularly elected majority lies at the heart of the tradition of parliamentary government.*"[19] There is a single source of democratic legitimacy. Everything else stems from it. In this system, power is delegated from the parliament to

[16] D. Verney, *Parliamentary Government and Presidential Government*, A. Lijphart (ed.), *Parliamentary versus Presidential Government*, New York, 2004, 37.

[17] M. Laver, K. A. Shepsle, *Making and Breaking Governments Cabinets And Legislatures In Parliamentary Democracies*, New York, 1996, 13.

[18] M. Sosyal, *Anayasaya Giriş*, 3rd edt., Ankara, 2011, 192. Özbudun, *Türk Anayasa Hukuku*, 31; Kaboğlu, Sales, *Türk Anayasa Hukuku*, 31

[19] Strom, *Delegation and Accountability in Parliamentary Democracies*, 263;

the majority and from the majority to the cabinet. It is a "chain of delegation".[20] Parliamentary supremacy even turns into extensive delegation to the cabinet from the majority for certain parliamentary systems.[21]

For some writers the chain of delegation represents the main distinctive characteristic of parliamentary systems. According to this approach, in parliamentary systems all governments are formed with the endorsement by the parliamentary majority and may be dismissed by that majority, despite very divergent institutional preferences on other aspects, these are the definitional features.[22] Some writers include collegial or collective executive (a separate head of state and the cabinet) into these definitional characteristics.[23]

The political system design of 1924 Constitution certainly establishes the chain of delegation as well as the above-mentioned parliamentary features. All in all, according to this viewpoint the political system of 1924 Constitution is parliamentary.[24]

Sovereignty belongs to the Nation, and the nation elects the parliament, the TGNA selects the presidents and the cabinet from among its members and delegates the executive authority to them by a majority vote. After that point the cabinet and its leader the Prime Minister exercise political power in the name of the Nation, on behalf of the parliamentary majority. The majority makes and breaks the government but do not rule directly. Politicly the chain of delegation became especially apparent under the 1924 Constitution after Turkey had returned to multi-party politics in 1945. The ruling majority delegated their power to its leaders as they formed the executive branch. The parliamentary supremacy turned into the supremacy of the executive.[25]

However not all writers describe parliamentarism by looking only at the formation and dismissal of executive organ, or chain of delegation, they include other aspects. They describe parliamentary system as mutual dependence of executive and legislative organs rather than mutual independence of presidential systems[26] Along with this view the legislative

[20] T. Bergman, W. Müller, K. Strom, *Introduction: Parliamentary Democracy and the Chain of Delegation*, 3 *European Journal of Political Research* (2000) 255-260.

[21] A. Siaroff, *Varieties of Parliamentarism in the Industrial Democracies*, 4 *International Political Science Review* (2003) 447; Ş. Özsoy Boyunsuz, *Başkanlı Parlamenter Sistem Cumhurbaşkanının Halk Tarafından Seçildiği Parlamenter Hükümet Modeli ve Türkiye İçin Tavsiye Edilebilirliği*, İstanbul, 2014, 9-21

[22] A. Lijphart, Introduction, A. Lijphart (edt.), *Parliamentary versus Presidential Government*, New York, 2004, 2-3.

[23] K. Gözler, *Anayasa Hukukunun Genel Teorisi*, I, Bursa, 2011, 589.

[24] Gözler, *Türk Anayasa Hukuku*, 97; Özbudun, *1924 Anayasası*, 21; Balta, *Türkiye'de Yasama-Yürütme Münasebeti*, İncelemeler, 1.; Güneş, *Parlamenter Rejimin Bugünkü Manası ve İşleyişi*, 128.

[25] Tanör, *Osmanlı-Türk Anayasal Gelişmeleri*, 351; B. Savcı, *Türkiye'de Meclis Hükümet Münasebetlerine Bir Bakış*, İncelemeler, AÜSBF Yayınları no.100/82, Ankara, 1960, 70-71.

[26] A. Stephan, C. Skach, *Presidentialism and Parliamentarism in Comparative Perspective*, in J.J. Linz, A. Valenzuela (eds.), *The Failure of Presidential Democracy: Comparative*

and executive branches have mutual balancing tools. Executive Power of dissolution counterweights the legislative majority's dismissal power.[27] The cabinet must get the political support from the legislative or may fall if it receives the vote of no confidence, whereas the executive must have the capacity to dissolve the legislative and call for an early election.[28] This perspective is also recognised by some members of Turkish literature.[29] They view executive power of dissolution as necessary feature of parliamentary system. Thus, they refuse to recognise the political system of 1924 Constitution as parliamentary as 1924 Constitution does not give executive branch power to dissolve the parliament and call for an early election.

3. Power of Parliamentary Dissolution and the Political System of 1924 Constitution

One needs to ask if executive power of parliamentary dissolution is really that important for mutual dependence and balance in parliamentary systems, or to define parliamentarism? If so, then one cannot call the political system of 1924 Constitution parliamentary, but a mixed system.

Some writers do not view this executive prerogative as a necessary part of parliamentary systems, and they often give Norwegian parliamentarism as an example since there is no official power of parliamentary dissolution in Norway.[30]

Furthermore, there is no single constitutional power or institutional design for mutual power balance. Parliamentary systems have different institutional designs to balance constitutional organs against each other. It is even possible to classify parliamentary systems by looking at the level of mutual dependence between legislative and executive branches as well as mechanisms of checks and balances.[31] In some parliamentary systems the power balance favours executive, in some others it favours legislative branch. It is also possible that constitutional organs counterbalance each other.

Institutional and political mechanisms are installed to check and balance power in all constitutional democracies. Those mechanisms allow individual or collective actors (veto players) whose agreement is required for

Perspectives, Vol. 1, the John Hopkins University Press, Baltimore-London, 1994, p120; Teziç, *Anayasa Hukuku*, 477.

[27] K. Strom, S.M. Swindle, *Strategic Parliamentary Dissolution*, 3 *American Political Science Review* (2002) 576.

[28] S. Skach, *Presidentialism and Parliamentarism in Comparative Perspective*, 120.

[29] Teziç, Anayasa Hukuku, 477-478; H.N. Kubalı, *Anayasa Hukukunun Genel Esasları ve Siyasi Rejimler*, İstanbul, 1964, 649-650; Özbudun, *Türk Anayasa Hukuku*, 329-330; Ö. Anayurt, *Anayasa Hukuku Genel Kısım*, Ankara, 2021, 360.

[30] M.S. Shugart, J.M Carey, *Presidents and Assemblies Constitutional Design and Electoral Dynamics*, USA, 1995, 26; Lijphart, *Patterns of Democracy*, 126; Gözler, Anayasa Hukukunun Genel Teorisi, 2011, 589.

[31] Siaroff, *Varieties of Parliamentarism*, 459; K. Strom, *Parliamentary Democracy and Delegation*, in K. Strøm, W. C. Müller, T. Bergman (eds.), *Delegation and Accountability in Parliamentary Democracies*, New York, 2003, 76-77;

a policy decision to interact.[32] There is no single institution design for this purpose, instead several different institutional and/or political veto players are created in different constitutional democracies. So empirical evidence suggests that checking and balancing power is a much more complicated task than creating a single constitutional power for executive branch, especially in parliamentary systems as the cabinet and legislative majority are fused.

Due to the above mentioned reasons a closer look at parliamentary dissolution mechanisms and its function in parliamentarism is necessary to develop a deeper understanding. Parliamentary dissolution means ending the legislative term of office and calling for an early parliamentary election. Following the dissolution, in some countries the parliaments adjourn immediately. But in some others, it is a renewal decision, so the parliaments work until the new ones convene.

Parliamentary systems display remarkable institutional divergence when it comes to parliamentary dissolution provisions.[33] There are several forms of parliamentary dissolution.[34] It may be decided by either executive organ, or the parliament itself (auto-dissolution) as some assemblies may decide an early election unilaterally and end their own term of office. Parliamentary dissolution can also be automatic when constitution requires it. It is also possible for electors to recall the whole assembly by collecting the constitutionally required number of signatures (collective recall), though it is rarely seen, usually in federal systems at the state level.

There are also institutional variations of each type of dissolution power. Strom and Swindle distinguish ten different forms of power of dissolution in 20 advanced democracies.[35] Parliaments may decide auto dissolution by a simple majority vote (Austria, Israel) or by absolute majority (1924 Constitution, Turkey), or a qualified majority (Britain, the two thirds of the total members of House of Common, the Fixed Term Parliament Act). Parliamentary dissolution may be decided by the head of state (Iceland, Italy), or prime minister (New Zealand, Sweden (1971-74), or cabinet (Japan, Sweden 1975-) unilaterally. Alternatively, it may be held by the head of state together with prime minister (Canada, Denmark, Australia, Ireland) or cabinet (Netherlands, Luxemburg, Belgium). In some countries prime ministers may only ask the head of state for dissolution if constitutionally defined conditions were met (the 1961 Constitution of Turkey, the German Basic Law) or cabinet takes the decision upon parliamentary majority's consent (Belgium, since 1995). It may be automatic as a result of certain constitutionally defined crisis (Britain, the Fixed Term Parliament Act since 2011, Israel, Turkey before 2007) or upon a constitutional amendment (Belgium, Denmark, Iceland). Most parliamentary systems feature a combination of several forms of

[32] G. Tsebelis, *Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism*, 3 *British Journal of Political Science* (1995), 289-325.

[33] Strom and Swindle, *Strategic Parliamentary Dissolution*, 576-577.

[34] Anayurt, *Anayasa Hukuku Genel Kısım*, 378-380.

[35] Strom and Swindle, *Strategic Parliamentary Dissolution*, 577.

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parliamentary dissolution (Britain, Australia, Canada, Belgium, Denmark, Iceland, Israel, the 1982 Constitution of Turkey before 2007).

Is it possible to argues that all types of parliamentary dissolution serve the same purpose, namely to counterbalance legislative power of dismissal? It is hardly the truth. In multi-party parliamentary systems, as explained before, the actual power belongs to the majority of legislature, and they form the government within, delegate the executive authority to them. In the light of this simple line of delegation, the same majority may call early election either via parliament or executive. The real difference is not created by giving the dissolution power to executive or legislative majority, but by creating a veto player other than the majority group or its leaders.

As for the 1924 Constitution, it sets forth an auto-dissolution. The TGNA may call an early election by the absolute majority's decision (art.25). In the process of making the 1924 Constitution, The TGNA debated the draft presented by the Constitutional Commission which contained executive power of dissolution given to the head of state. It was proposed in the draft that the president may call for early elections before a legislative term ended and upon consultation with the cabinet. This idea was fiercely rejected as it weakened the supremacy of the assembly.[36] In the original formula, the President was to take the decision with the cabinet. There was rule of countersignature for the president (art.39). The President needed the Prime Minister's and the relevant Minister's counter signature for every legal decision. So, the President was not sole decision maker there. However, it was making the President a veto player. The TGNA refuted a veto player limiting the majority's prerogative, even though it was not a strong one. The final version of the Constitution empowered the parliamentary majority, and indirectly its leader. In short, the 1924 Constitution did set out parliamentary dissolution and gave the power to the parliamentary majority. It was not a greatly different than the former British version of parliamentary dissolution giving the political initiative to the Prime Minister, leader of parliamentary majority. Both favoured the parliamentary majority and its leader rather than creating veto players counterbalancing the majority.

All institutional formulas giving majority an incentive to dissolve parliament serve their political interests to hold an early election at a convenient time.[37] It encourages strategic use of parliamentary dissolution. Parliamentary dissolution would not counterbalance majority's political power so long as it is given to the same majority. Why would a prime minister want to dissolve a parliamentary majority that supports her government, or a parliamentary majority end their term unless they want an early election for political reasons and expect more political gain in return? Research shows that actual use of executive power of parliamentary dissolution is not generally motivated by the need to solve serious political

[36] Çelik, *1924 Anayasasının Yapım Süreci*, 135-140; Kili, *Turkish constitutional Developments and Assembly Debates on the Constitutions of 1924 and 1961*, 36-37.

[37] A. Smith, *"Election Timing in Majoritarian Parliaments"*, 3 *British Journal of Political Science* (2003), 397-418

deadlock, but it is strategically employed by self-interested or partisan prime ministers or presidents.[38]

Executive power of dissolution or parliamentary majority's power of dissolution do not contribute to mutual dependence between the executive and legislative branches or create counterbalance in parliamentary systems. In fact, creating institutional and political veto players is way more important to counterbalance power of constitutional organs. For example, before 2011 reform, the British Parliament could not renew its own elections. The Prime Minister would ask the Head of State for parliamentary dissolution whenever s(he) wants an early election for political reasons. The real power was given to the leader of the majority and the government. So, the power was used for political gain.[39] In 2011 the Fixed Term Parliament Act changed it and required the decision of two thirds of the members of Parliament. This gave minority groups in the parliament a veto power and created veto players. Such formula counterbalances the majority's power.

Also, many constitutions rationalised parliamentarism by constraining circumstances and/or timing of the parliamentary dissolution.[40] It is a useful tool when there is a real crisis to form a government, or other type of emergency. For instance, German Basic Law art.68 gives the power of dissolution to the President in the event of a deadlock in cabinet formation and after the loss of a vote of confidence. That way constitutions limit arbitrary exercise of constitutional power by the majority, and counterbalance majority's power. Even then, parliamentary majorities in Germany sometimes abuse the procedure for parliamentary dissolution by refusing to give vote of confidence to their own governments deliberately, so that the President may call an early election, for example Chancellors Brandt, Kohl, Schröder governments.

Automatic dissolution is another method against government instability in rationalised parliamentary systems.[41] Parliamentary dissolution is regarded as a solution usually to government formation crisis. For instance, in Britain the power of dissolution is no longer given to the executive. The Fixed Term Parliament Act describes a deadlock situation in government formation in 14 days and sets out an automatic dissolution. Similarly, the Basic Law of Israel (art.11 and 36) describes two different types of deadlock regarding government formation and budget law and sets forth automatic dissolution.

In conclusion, power of parliamentary dissolution has several dimensions to it as well as different purposes in parliamentarism. It has neither a single form nor a single objective. Executive is not the only organ to exercise such power. Therefore, a single form of parliamentary dissolution cannot be viewed as an indispensable part of all parliamentary systems. As a result, it is not plausible to argue that the political system of the 1924 Constitution is not parliamentary because the Constitution does not set out executive parliamentary dissolution.

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[38] Strom and Swindle, *Strategic Parliamentary Dissolution*, 588.
[39] Smith, *Election Timing in Majoritarian Parliaments*, 397-418.
[40] Bradley and Pinelli, *Parliamentarism*, 664-665.
[41] Ibid, 655.

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4. Unconstrained Republican Parliamentarism of the 1924 Constitution

As briefly explained parliamentary systems show great institutional diversity. In some parliamentary systems cabinets have clear dominance over parliaments with a majoritarian setting, whereas in others parliaments are fragmented with polarised settings and cabinets are weak, or alternatively there can be a more balanced executive-legislative relations with serious checks and balances in the system.[42]

Those institutional differences are results of several dynamics shaping different models of parliamentarism such as parliamentary regulations, electoral laws, structures of political systems, developments of political parties.[43]

In the beginning of the twentieth century, parliamentary systems were still emerging and greatly affected by political systems, parties and electoral laws in everywhere. For Turkey it was the time for a republican revolution to form a secular nation state. So, the parliamentary system that they codified reflected all the ideas and intentions for the future.

The normative unification of powers in the Constitution channels Rousseau's idea of indivisible sovereign authority.[44] According to Rousseau sovereign power is common to all people; it is the power to make law in the form of common will and cannot be split.[45] Accordingly judiciary and executive branch do not possess sovereign powers. They only implement the law, perform the duties that are defined by the general will which has the supremacy.

Speaking about the law on formation of government in 1921 Mustafa Kemal Pasha explained that the national will was created by every individual living in the society and represented in the TGNA.[46] According to Mustapha Kemal Pasha the best way to govern is to negotiate. The people together are sovereign, and their unified common will is carried out by legislative, executive, and judicial authority via the TGNA.[47] It is a single power and formed and expressed by the TGNA. It cannot be acceptable to hand over this duty and authority to single person, only the TGNA can be responsible for all.[48]This perspective was still alive under the 1924 Constitution.

They did not codify typical institutional choices weakening the assembly such as decrees having the force of law, also there was no effective checks and balances against the majority in the TGNA that could prevent the abuse of power or the authoritarian turn.[49]. Absence of constitutional

[42] Siaroff, *Varieties of Parliamentarism in the Industrial Democracies*, 459.
[43] Bradley and Pinelli, *Parliamentarism*, 653.
[44] J.J. Rousseau, *The Social Contract and The First and Second Discourses*, New York, 2002, 171
[45] Ibid., 175.
[46] *Atatürk'ün Söylev ve Demeçleri I-III*, 225-227.
[47] Ibid., 230-231.
[48] Ibid., 232
[49] Kili, *Turkish Constitutional Developments*, 22; Özbudun, *Türk Anayasa Hukuku*, 33.

review, or other independent institutions checking and balancing the majority pave the way for uncontrolled assembly majority.

However, the original design of the 1924 Constitution was somewhat different in the draft presented to the General Assembly of the TGNA by the Constitutional Commission.

In the draft the president was elected for seven years, that was three more years than the legislative term, but it was rejected alongside another proposal to allow presidential candidates outside the TGNA to run for the office.[50] The draft gave the president power to dissolve the parliament, and veto legislations. Likewise, the assembly rejected to give both powers.

Instead of the term "veto", the founding fathers preferred the formulation "sending legislation back" (yasayı geri gönderme). Although a qualified two-third majority was proposed to overrule a presidential veto, the qualified majority requirement was rejected and replaced by a simple majority requirement by the TGNA. The presidency was designed to check and balance the parliamentary majority in the draft proposal, even thought he was a member of parliament selected by the majority. But the TGNA did not accept those proposals. It is hard to comment on if the given proposals were not rejected the president could check and balance the majority to which he belonged.

In the final version of the Constitution the supremacy of parliament was preserved without any limitations. In political practice theoretical supremacy of the majority easily turned into the supremacy of the executive due to the parliamentary chain of delegation without checks and balances, and the assembly served as an enabling tool to alter the legal and social structure during the revolutionary secularist period of single party rule.[51] They transitioned Turkey from a theocratic multinational, segmented society, built a secular national identity and a nation state. This was a revolution achieved under the authoritarian rule. The TGNA's constitutional supremacy as the sole representative of the Nation was a tool to legitimise the secularisation process.

The structure of the Constitution neither prevented one party rule nor preserved it. Turkey transitioned to single party rule and re-transitioned to competitive politics without any constitutional change. Only a small group of lawyers and intellectuals saw the political systems of the Constitution defected for a democratic regime in 1945 when returning to the multi-party regime.[52]

However, under the multi-party politics the defects of the unchecked republican parliamentarism started showing. Understanding of democracy was too majoritarian to give democratic opposition a breathing space. The idea that the majority is capable of anything without any control was at the very core of the 1924 Constitution and it harmed pluralist democracy. Only in 1955 constitutional debates started arguing for a better equipped constitutional checks and balances.[53]

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[50] Ibid., 134.

[51] Kili, *Turkish Constitutional Developments*, 21.

[52] B. Tanör, "*Cumhuriyet Anayasacılığımızda Üç Model*", in Cumhuriyet'in 75.Yıl Armağanı, İÜ Yayınları, İstanbul, 1999, 215.

[53] Ibid.

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The parliamentary supremacy and fusion of powers caused the delegation of political power from the parliamentary majority to the cabinet.[54] The prime minister (Adnan Menderes) became the strongest actor as he was the leader of the political majority in parliament and the ruling Democratic Party. The President (Celal Bayar) who was selected by the parliamentary majority for three consecutive term of office and had strong affiliation with the ruling majority party as their former leader during this time of ten years[55]. There was no constitutional rule guaranteeing his impartiality.

The election system was also feeding the majoritarian soul of the Constitution. It was a type of simple majority system. Electors voted for party lists in voting districts, the list of a single party with the whole candidates in it winning simple majority was elected, and minority votes got no seats. Unfairness of the system became very apparent under the multi-party politics. The ruling party taking over power in 1950 (the Democratic Party) became a predominant party with the help of this extremely unfair election system controlling government for three consecutive periods. [56] For instance, in 1950 election, the DP gained %54.9 of the votes and %85.6 of the seats in the TGNA whereas the main opposition CHP gained %41 of the votes and %14 of the seats. In 1957 election the DP got %47.9 of the votes and nearly %70 of the seats in the assembly, whereas the main opposition CHP got %41 of the votes and % 29 of the seats.

The vast legislative and executive constitutional powers of the 1924 Constitution facilitated the authoritarian trend to silence opposition and sustain the ruling parties' dominance.[57] Absence of effective checks and balances of the 1924 Constitution, especially the constitutional review, helped this authoritarian rise and caused the eventual abolition and replacement of this document.[58] This civilian, competitive authoritarian

[54] Kili, *Turkish Constitutional Developments*, 22.

[55] They were a source of complaint from the opposition starting in 1945, since the opposition often claimed that presidents should be impartial and independent from daily politics to unite the people. See R. Akın, *Gaziden Günümüze Cumhurbaşkanlığı 1923-2007*, İstanbul, 2009, 55. The public demand for an impartial president standing above daily politics has continuity in Turkish politics, especially during the presidencies of Özal and Erdoğan this demand became obvious. See Özsoy, *Cumhuriyetin Kuruluşundan Bu Yana Türkiye'de Cumhurbaşkanlığı Seçimleri Meselesi*, 367-432.

[56] Soysal, *Anayasaya Giriş*,208; B. Tanör, *İki Anayasa 1961-1982*, fourth ed, İstanbul, 2012 7.

[57] Kili, *Turkish constitutional Developments*, 23; Tanör, *Osmanlı-Türk Anayasal Gelişmeleri*, 352-355

[58] Especially the absence of constitutional review and complaint let the majority legislate unconstitutionally and violate individual and political freedoms. For instance; altering the election district to punish/prevent opposition (gerrymandering), seizing assets belonged the main opposition party the CHP, punishing the critical press by cutting their income coming from the state announcements, harming judicial independence and academic freedoms. See Tanör, *Osmanlı-Türk Anayasal Gelişmeleri* , 352-355.

period [59] led to the 1960 military coup and a period of military authoritarian rule.

5. Conclusion

The political system of 1924 Constitution is parliamentarism, based on constitutional and dispositional features of legislative and executive branches. This conclusion is safely drawn from how executive is formed, how the legislative and executive are dismissed, what their constitutional powers are, and how much these powers are checked and balanced in the 1924 Constitution.

In doctrine there are several approaches to define parliamentarism. The paper adopts a minimalist approach to parliamentarism and understand it as systems of fused government which is emerged from and responsible to the legislature. Also, it was argued that the executive power of dissolution is not a main component of parliamentarism. Parliamentary systems have great institutional diversity when it comes to power of dissolution. It is not possible to single out unique form of it for definitional purposes. It is also hardly plausible to argue that executive power of dissolution is the only tool to create counterweight against legislative branch.

In the light of this perspective the paper rejects the argument claiming that the 1924 system is not parliamentary because the constitution declares the supremacy of parliament, fusion of executive and legislative powers in the TGNA, and the absence of executive power of dissolution. The paper puts forward a counter-argument that none of these features are against parliamentary system. The founding fathers believed that separation of powers meant necessarily constitutional monarchy. They were republican and fiercely against it. Thus, they refuted separation of powers and instead took the power from Caliphate Sultan and gave it to the parliament as the Nation's sole representative.

In fact, they created a majoritarian republican version of parliamentarism. It was the political system in which they built a secular nation state and revolutionised not only the law but the society as well. The parliamentarism in the Constitution lacked checks and balances since they wanted to change drastically without any internal obstacle and started a

[59] This concept has been defined by Levitsky and Way as "a hybrid regime type, with important characteristics of both democracy and authoritarianism". In addition to generally accepted four criteria that are famously described by R. Dahl as free and fair competitive elections, full adult suffrage, protection of civil and political liberties especially speech, press, association, absence of non-elected authorities such as military, monarchy that limit elected officials, Levitsky and Way offered additional fifth criterion: existence of a reasonably level playing field between incumbents and opposition. In these regimes elections sometimes are not free, but competition is hardly fair. Often incumbent parties violate basic rights especially freedoms of speech, press and association. Most importantly there is no even playing field between the ruling party that excessively manipulates state institutions and resources and opposition. Some of these manipulations are straight violations of basic rights, but others are often subtler such as de facto control of private media and finances through informal patronage arrangements. See, S. Levitsky and L.A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, New York, 2010, 5-6.

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secularisation. The Supremacy of the TGNA served as an enabling tool to alter the legal and social structure during the revolutionary secularist period of authoritarian single party rule.

Their parliamentary system was unconstrained and republican. Under this majoritarian system, the supremacy of parliament was turned into the supremacy of the executive without checks and balances, and harmed pluralist democracy immensely.

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