

The 1924 Constitution and the protection of fundamental rights

di Asli Topukcu

Abstract: *La Costituzione del 1924 e la tutela dei diritti fondamentali* - This study aims to set forth the understanding of democracy and the regime of the rights and freedoms of the Constitution of 1924. Also the problems related to the implementation of the Constitution will be examined. In this context, the development of fundamental rights and freedoms under the Ottoman-Turkish Constitutionalism and its effects to the Constitution of 1924 will be examined. The understanding of democracy and the intellectual and philosophic foundations that the Constitution of 1924 based on will be discussed. Besides, the extent of the fundamental rights - especially comparing the other constitutions of the same historical period - will be discussed. In this sense, the lack of social rights will be set forth. The effectiveness of the fundamental rights and the problems raising from the constitution and its implementation on the effective protection of fundamental rights will be studied.

Keywords: 1924 Constitution of Turkey, Fundamental Rights and Freedoms, Human Rights, Democracy

3583

1. Introduction

The 1924 Constitution, which is one of the long-lasting constitutions in the Turkish constitutional history, is one of the most important legal documents with its still controversial aspects and its impact on succeeding constitutions.¹

This study aims to set forth the understanding of democracy and the regime of the rights and freedoms of the Constitution of 1924. Also the problems related to the implementation of the Constitution will be examined. In this context, the development of fundamental rights and freedoms under the Ottoman-Turkish Constitutionalism and its effects to the Constitution of 1924 will be examined. The understanding of democracy and the intellectual and philosophic foundations that the Constitution of 1924 based on will be discussed. Besides, the extent of the fundamental rights - especially comparing the other constitutions of the same historical period - will be discussed. In this sense, the lack of social rights will be set forth. The effectiveness of the fundamental rights and the problems raising from the constitution and its implementation on the effective protection of fundamental rights will be studied.

¹ M. Soysal, *100 Soruda Anayasanın Anlamı*, 10th ed., Istanbul, 1993, 34.

2. Status of Fundamental Rights and Freedoms before the 1924 Constitution Period

In terms of Ottoman-Turkish constitutionalism, we can date the developments regarding fundamental rights back to the Charter of Alliance of 1808 (*Sened-i İttifak*).

The Charter of Alliance of 1808 is considered the first constitutional document of Ottoman Empire. After the Charter of Alliance of 1808, the reform period is followed by the Edict of Tanzimat of 1839 and the Edict of Islahat of 1856.

Basically constitutions include dispositions about the government model, government bodies and fundamental rights.² In this sense the Charter of Alliance of 1808 and Edict of Tanzimat of 1856 had been considered as unilateral declarations by the Sultan. The basic human rights are ensured such as the security of life, human dignity, right to property, right to a fair trial by these constitutional documents. Nevertheless, an effective legal remedy was not established to guarantee and enforce these provisions.³ Besides, these reforms had been an important starting point for the road to making a constitution.

The Ottoman Constitution of 1876 (*Kanun-i Esasi*) was promulgated by Sultan Abdulhamid II. Some scholars allege that the 1876 Constitution was a limited adaptation of the Constitution of France of 1875 and Constitution of Belgium of 1831.⁴ To be more precise, during the Ottoman constitutional developments period, the constitutions following the French Revolution principles were the main sources of inspiration for Ottoman intelligentsia.⁵

In respect of the rights and the liberties, the 1876 Constitution defines “Ottoman Nationality” as “*all subjects of the empire are called Ottomans, without distinction whatever faith they profess*”⁶ (Art. 8) and provides that all Ottomans are equal before the law (Art 17) and Turkish language recognised as the official language of the state (Art. 18). In addition, the Constitution guaranteed the fundamental rights such as the security of life (Art. 8), religious liberties (Art. 11), prohibition of torture (Art. 26), right to petition (Art. 14), right to education (Art. 15) and so on.

An important aspect of the 1876 Constitution in terms of the history of Turkish Constitutional Law is that its provisions on fundamental rights and freedoms remained in force for many years. The reason for this is that the 1921 Constitution, which came into force during the the National War of Independence, is a flexible and short constitution with its structure

² B. Chantebout, *Droit Constitutionnel*, 27th ed., Paris, 2010, 22-23; T.Z. Tunaya, *Siyasal Kurumlar ve Anayasa Hukuku*, 4th ed., Istanbul, 1980, 109-111; E. Teziç, *Anayasa Hukuku*, 14th ed., Istanbul, 2012, 10.

³ E. Özbudun, *Chapter 2: Constitutional Law*, in T. Ansay, D. Wallace Jr. (eds.), *Introduction to Turkish Law*, 6th ed, Alphen aan den Rijn, 19.

⁴ M. Soysal, *Anayasaya Giriş*, 2th ed., Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları No: 271, Ankara, 1969, 59.

⁵ M.S. Gemalmaz, *Devlet, Birey ve Özgürlük*, Istanbul, 2010, 198.

⁶ For English translation of the Ottoman Constitution of 1876 see <http://www.anayasa.gen.tr>

prioritizing the independence. The provisions of the 1876 Constitution are in force unless they conflict with the 1921 Constitution. In this context, the 1921 Constitution, which did not give any place to fundamental rights and freedoms, tried to complete this empty area with the provisions of the 1876 Constitution.

As a brief consideration, all of these constitutional developments concerning the fundamental rights during the period between 1808-1921 may have been evaluated as an important step for the constitution-making processes after 1921.

3. The philosophical basis of fundamental rights and perception of democracy of the 1924 Constitution

3.1 A “Westernisation” Process

In terms of the Turkish Revolution, the concept of westernization is used especially to reveal the modernization concept in the reform processes. Different concepts as used modernization, enlightenment and westernization, they are basically used to express the reform process that Turkey went through at the beginning of the 20th century. However, it should be set forth exactly how these concepts should be evaluated. It should also be discussed to what extent the factor expressed by the phenomenon of "westernization" is similar to western approaches. In this context, the similarities and differences between the revolutions in the western world and the Turkish Revolution should also be revealed.

It should be noted that the phenomenon of modernization can generally be explained with two founding principles. These are the belief in reason and rational action and the recognition of individual rights. The acceptance of the scientific and rational, the implementation of the scientific at the social level and the assurance of universal rights are the main elements of modernization. In addition, progress towards modernization occurs when a society adapts elements from other societies to itself.⁷ There is a similar situation with regard to the Turkish Revolution.

The Turkish Revolution has been evaluated by some scholars with a focus on religion and state relations in the context of modernization. In this sense, it has been evaluated that secularization is the basis of the Turkish Revolution and that the institutions and rules that keep up with the times against traditional institutions and rules are the basis of modernization.⁸ Some scholars, on the other hand, consider the adoption of the results of these processes into the main foundations of the newly established state as a process of westernization, since the enlightenment and revolution processes that were previously experienced in the West did not occur simultaneously in the geography of Turkey. According to this view, westernization has been

⁷ A. Touraine, *Bugünün Dünyasını Anlamak İçin Yeni Bir Paradigma*, 2nd ed., Translated by: Olcay Kunal, Istanbul, 2017, 106-110.

⁸ N. Berkes, *Türkiye’de Çağdaşlaşma*, Ed. Ahmet Kuyaş, Yapı Kredi Yayınları, Istanbul, 2002, 17-23.

put forward as the "importation" of the results of the revolutions in the western world.⁹ In this context, it has been stated that the Turkish Revolution is a modernization movement, that it means the reshaping of the nation, and that it is a "Turkish Renaissance based on humanism, on free thought and human dignity".¹⁰

It should be noted here that the idea of westernization did not emerge with the Turkish Revolution and has a history dating back to the 19th century in the Ottoman Empire. The impact of this idea on the society has increased, especially since the 1880s, with the opening of high schools providing education based on positivist foundations, and its contribution to the raising of a generation close to the western and secular view. The views of westernization, national liberation and independence have been the only legitimacy element for the sovereignty of this segment of society.¹¹

The interpretation of the modernization movement of the Turkish Revolution in the sense of westernization can be interpreted as taking part in the western culture, which is generally accepted as the carrier of universal values. In this sense, it is necessary to reveal the difference between the western revolutions and the Turkish Revolution in terms of the Turkish geography which did not experienced the enlightenment, reform and revolution processes simultaneously with the western world.

The criticism has been put forward that the modern state in Turkey emerged differently from the western world, that modernization took place in the west with the change of the traditional society in a long period of time, and that the revolution took place in Turkey as a movement of intelligentsia.¹²

To make a brief assessment, firstly, while examining the French Revolution, the Turkish Revolution has a character that directly affects and completely differentiates both the political institutions and the social structure, while the French Revolution is mostly limited to political institutions¹³. As a similar fact to the French Revolution it should be noted that the intellectual ground was ready before the revolution since the Ottoman Period. Just like the intellectual wealth accumulated before the French Revolution, the process that developed since the Ottoman period also contributed to the environment that prepared the ground for the Turkish Revolution.

It should also be noted that the Turkish Revolution and modernization were influenced by the intellectual foundations of the 18th and 19th century bourgeois democratic revolutions in terms of being based on western thought. The generation, including Mustafa Kemal Atatürk and his friends, is especially familiar with the views of philosophers such as Rousseau, Montesquieu, Voltaire, who influenced the French Revolution and prepared

⁹ E. Kongar, *21. Yüzyılda Türkiye: 2000'li Yıllarda Türkiye'nin Toplumsal Yapısı*, İstanbul, 2015, 243

¹⁰ İ. Giritli, *Modernleşme İdeolojisi Olarak Atatürkçülük*, in *4 Atatürk Araştırma Merkezi Dergisi*, (1988) 290.

¹¹ H. İnalçık, *Bürokrasi, Batılılaşma, Laikleşme*, Türkiye Barolar Birliği Dergisi no. 50, 2004, 61-63.

¹² H. İnalçık, *Atatürk ve Türkiye'nin Modernleşmesi*, 204 *Belleten* (1988) 992.

¹³ Gentizon, *Mustafa Kemal ve Uyanan Doğu*, Ankara, 1994, 164.

the intellectual foundations of the revolution.¹⁴ In this context, it is possible to characterize Atatürk's understanding of the state as an individualist, libertarian and democratic understanding that adheres to the principles of 1789.¹⁵

Turkish Revolution is a process in which the political field and the social field are handled together, affecting many fields such as the individual, family, society, political institutions, economy, religion and reshaping the society¹⁶, and the war of independence lies in its background. In this respect, the Turkish Revolution differs from many revolutions in history.

Starting from 1918 until the adoption of the 1924 Constitution and afterwards, the political and social revolution in Turkey started with an anti-imperialist structure at the first stage and then evolved into a structure with a democratic character.¹⁷ While some of these developments started before the 1924 Constitution, some of them took place while the 1924 Constitution was in force. In order to better understand the structure of the Turkish Revolution in terms of the protection of fundamental rights, it would be appropriate to briefly examine the understanding of democracy and rights and freedoms of the 1924 Constitution.

3.2 The Understanding of Democracy And Rights and Freedoms of the 1924 Constitution

While considering the 1924 Constitution as an “establishment”¹⁸ constitution, in Bülent Tanör's words, the national independence war, which expresses the liberation process, also included a freedom struggle. This struggle for freedom took place not only in terms of independence, but also in terms of individual freedoms. In other words, the war of national independence included not only the rights of the Turkish nation against other nations, but also their rights against the state. The ultimate goal of the cadres of the Turkish Revolution was always the establishment of a democratic republican regime based on the sovereignty of people.¹⁹

It is possible to observe the traces of the 18th century philosophy and the French Revolution in terms of rights and freedoms in the 1924 Constitution. These traces, based on the understanding of natural rights, can be seen especially in the fundamental rights and freedoms section titled “*The Public Rights of the Turks*” enshrined between Articles 68 and 88 of the Constitution. The definition of freedom is parallel to that in the Declaration of the Rights of Man and Citizen of 1789.²⁰ Accordingly, Article 2 of the 1924 Constitution defines freedom as making any kind of disposition that

¹⁴ B. Tanör, *Kurtuluş-Kuruluş*, 5th ed., Istanbul, 2003, 181.

¹⁵ A. Göze, *Siyasal Düşünceler ve Yönetimler*, 12th Ed., Istanbul, 2009, 373-380.

¹⁶ Gentizon, *ibid.*, 164.

¹⁷ Tanör, *ibid.*, 183.

¹⁸ Tanör, *ibid.*, 179-182.

¹⁹ M. Kapani, *Kamu Hürriyetleri*, 7th ed., Ankara, 1993, p108-109; see also, B. Lewis, *Emergence of Modern Turkey*, 2nd. ed., Oxford University Press, 1968, especially 256-281.

²⁰ B. Tanör, *Osmanlı-Türk Anayasal Gelişmeleri*, 11th. ed., Istanbul, 2004, 308.

will not harm others. In addition, the catalogue of rights regulated in the 1924 Constitution is similar to the French Declaration of the Rights of Man and Citizen and includes classical rights.²¹

While examining the understanding of democracy in the period of the 1924 Constitution, it is evaluated that the Constitution has a democratic spirit, but that it reflects the understanding of democracy that is not pluralist but majoritarian. Majoritarian understanding of democracy, which stems from Rousseau's theory of general will, is based on the assumption that the general will formed by the majority is infallible, therefore there is no need for measures and institutions to protect the general will.²²

This assumption was embodied in the 1924 Constitution process with the view that the idea of national sovereignty was sufficient for the protection of individuals. The 1924 Constitution includes the concept of national sovereignty among the legal rules together with the parliament for the first time. The will of the majority and the general will are equated, and the national will has been seen parallelly to mentioned. In this context, the most basic guarantee of the fundamental rights of individuals is that the sovereignty is not dependent on the individual and is exercised by the parliament.²³ For those who made the 1924 Constitution, an understanding of sovereignty that was not dependent on the Sultan was not seen as a threat to the rights of individuals.²⁴

In terms of the approach to the concept of democracy of the Constitution, it should be evaluated that what kind of regime the 1924 Constitution, as the constitution of the revolution, produced. Facts such as the unconditional acceptance of the principle of national sovereignty, the abolition of the caliphate and the formation of the principle of laicism into a constitutional principle took place in the period leading up to the 1924 Constitution and in the period when the Constitution was in force. Then, have the methods applied in this process been democratic, although their ultimate aim is democracy? In this context, we primarily come across to the one-party regime.

After the Progressive Republican Party (*Terakkiperver Cumhuriyet Fırkası*) was dissolved in 1925 and the Free Party (*Serbest Fırka*), which was established by Mustafa Kemal Atatürk in 1930, abolished itself very soon, the one-party regime became entrenched and continued for 15 years. Thus, a process in which the political opposition is liquidated is observed. Elections are not free and competitive, with two degrees and one choice. Similarly, the judiciary is not independent and secure.

We should point out here that the single-party regime took care to preserve the appearance of constitutional government, but the democratic nature of the elections was completely eliminated due to the non-implementation of the basic principles regarding the elections mentioned

²¹ T. Işıksel, *Between Text and Context: Turkey's Tradition of Authoritarian Constitutionalism*, 11 *I-CON* (2013) 711-712

²² E. Özbudun, *Türk Anayasa Hukuku*, 11th ed., 2010, 33-34.

²³ Soysal, *ibid.*, 34-35.

²⁴ Y.Ş. Hakyemez, *Çoğunlukçu Demokrasi Anlayışı, Rousseau ve Türk Anayasaları Üzerindeki Etkisi*, 4 *Ankara Üniversitesi Hukuk Fakültesi Dergisi* (2003) 84-85.

above.²⁵ Also, Independence Courts and Martial Law Courts should be especially mentioned, and the main purpose of the judiciary appears to be the protection of the regime and revolutions.²⁶

“The regime of the revolution” cannot be described as a democratic regime with aforementioned aspects. However, it does not show similarities with totalitarian regimes in the world. In this context, there was a deviation from democracy, which was perceived as a temporary necessity and was not permanent within the framework of western and enlightened values. Although there was a one-party regime, there were also trials of multi-party regimes in 1930 and 1945. In addition, while military elements occupied an important place in the authoritarian and totalitarian regimes of the 20th century, the regime in Turkey did not have a militaristic character. The “revolutionary regime” cannot be considered as a totalitarian regime even though it cannot be accepted as democratic in a pluralist and liberal sense and has an authoritarian character.²⁷

4. The regime of fundamental rights and freedoms in the 1924 Constitution

After revealing the constitutional status of fundamental rights and freedoms before the 1924 Constitution and evaluating the democracy understanding of the Constitution, it should be stated how fundamental rights and freedoms were enshrined in the 1924 Constitution.

3589

4.1 Constitutional Ground

The 1924 Constitution, unlike the 1921 Constitution, reserved a special section for fundamental rights and freedoms, and a list of rights and freedoms has been included in this section.

The rights and freedoms included in the fifth part of the Constitution, entitled *The Public Rights of the Turks* (“*Türklerin Hukuk-u Ammesi*”), can be listed as follows: Right to liberty and security (art. 68), the principle of equality before the law and prohibition of all kinds of discrimination (art. 69), right to liberty and inviolability of life, property, honor and residence (art. 70, 71, 72), prohibition of torture and drudgery (art. 73), prohibition of confiscation and expropriation except for legal exceptions (art. 74), prohibition of arbitrary search (art. 73). 76), freedom of conscience and religion, the right not to be condemned for philosophical opinion and religious belief, and the right to perform religious services within the legal framework (art. 75), freedom of press (art. 77), freedom of travel (art. 78), freedom of assembly, association and company rights and freedoms (art. 79), freedom of education (art. 80), confidentiality of communication (art. 81); right to apply to the Turkish Grand National Assembly (art. 82), legal judge

²⁵ E. Özbudun, *Otoriter Rejimler, Seçimsel Demokrasiler ve Türkiye*, İstanbul, 2011, 86.

²⁶ Tanör, *ibid.* (*Kurtuluş-Kuruluş*), 341-344.

²⁷ Tanör, *ibid.* (*Kurtuluş-Kuruluş*), 346-351.

assurance (art. 83), citizenship (art. 88), right to enter the civil service (art. 92).

In addition, the right to elect and being elected (art. 10, 11) and the right to a fair trial (art. 58, 59, 60) regulated apart from the fifth section are also guaranteed in the 1924 Constitution.

While examining the regulation of fundamental rights, it should be evaluated that they were regulated very briefly in the 1924 Constitution and that rights and freedoms were mentioned by name without any detailed regulation. A detail on how to exercise fundamental rights is not included in the Constitution, and the restriction regime has not been specifically regulated.²⁸ However, it is understood from the regulation in Article 68 that the criterion of restriction by law is accepted in the limitation of fundamental rights. The regulation is as follows:

“Article 68: All citizens of Turkey are endowed at birth with liberty and full right to the enjoyment thereof. Liberty consists in the right to live and enjoy life without offense or injury to others. The only limitations on liberty -which is one of the natural rights of all- are those imposed in the interest of the rights and liberties of others. Such limitations on personal liberty shall be defined only in strict accordance with the law.”²⁹

Another characteristic regarding the regulation of fundamental rights in 1924 Constitution is that the rights are only recited without making a specific classification. Considering that there is no special restriction regulation, it should be evaluated that the Constitution is content to only recognize rights and freedoms, but does not make a detailed regulation.³⁰

Finally, the 1924 Constitution shows “Turks” in terms of the subject of rights. It should also be noted that how the Constitution regulates the expression “Turkish” in the context of citizenship.

In fact, the 1924 Constitution includes an important provision concerning the citizenship definition as follows:

“The name Turk, as a political term, shall be understood to include all citizens of the Turkish Republic, without distinction of, or reference to, race or religion. (Art. 88)”³¹

According to this definition, the citizenship was not defined in a religious or ethnic way; but it was described by geographic and political way and the determinant factor was the “*will of living together*”.³²

²⁸ A. Mumcu, 1924 Anayasası, 5 Atatürk Araştırma Merkezi Dergisi (1986) 396-397.

²⁹ For English translation of the 1924 Constitution see; E.M. Earle, *The New Constitution of Turkey*, 1 *Political Science Quarterly* (1925) 89-100 (emphasis mine).

³⁰ Ö. Anayurt, 1924 Anayasası'nda Temel Hak ve Hürriyetler, 2 *Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi* (2003).

³¹ Earle, *ibid.*, 89-100.

³² Tanör, *ibid.*, (*Osmanlı-Türk Anayasal Gelişmeleri*), 309-310.

4.2 Status of social rights

It has been stated that the 1924 Constitution followed the philosophy and understanding of fundamental rights that dominated the French Revolution. As a consequence, the rights guaranteed in the Constitution were limited to first generation rights. Although there are few rights in the catalogue of economic rights, such as freedom of work and contract and the right to establish partnerships, the state does not impose a positive obligation. In this context, it has been seen that social rights were not included in the 1924 Constitution. Rights related to the unions, strikes and collective bargaining were never discussed, and the social obligations of the state were not included. In this context, it can be evaluated that the 1924 Constitution stands up on a liberal state philosophy, and not a social one.³³

The only exception in terms of social rights is the right to free primary education and its obligation. It has been enshrined in the Art. 87 of the 1924 Constitution.

There are different reasons that the 1924 Constitution did not include social rights. Firstly, the protection of social rights at the constitutional level was just developing at that time. Social rights were widely included in the Mexican Constitution of 1917 and the Weimar Constitution of 1919. However, for example, the implementation of the social rights regulated in the Weimar Constitution could not be realized effectively and could not go beyond having a “*programme value*”.³⁴

Finally, it should be noted that while discussing the draft of the 1924 Constitution, one of the constitutions that was especially taken into consideration is the Polish Constitution of 1921, and this constitution also included social rights. However, the 1921 Polish Constitution was never discussed in terms of the social rights in the parliamentary debates while drafting the 1924 Constitution.³⁵

4.3 Lack Of Judicial Review

The 1924 Constitution did not bring judicial guarantees for the fundamental rights and freedoms. It should be noted that the rights and freedoms do not have judicial guarantees, and the criteria for the limitation of fundamental rights and freedoms are not regulated. Considering the issues such as the fact that a Constitutional Court was not established in this period of time and the independence of the judiciary was not fully ensured, the

³³ Tanör, *ibid.*, (*Osmanlı-Türk Anayasal Gelişmeleri*), 311.

³⁴ B. Tanör, *Anayasa Hukukunda Sosyal Haklar*, 2nd ed., Istanbul, 2022, 154.

³⁵ While evaluating the provisions in which the 1921 Polish Constitution inspired the 1924 Constitution, we come across provisions regarding the status of the president but not the social rights. In the debates of the 1924 Constitution in the Turkish Grand National Assembly, the direct references to the 1921 Polish Constitution are related to the issue of the chief command of the president, who will have the power of attorney for the president and the provisions regulating the responsibility of the president. See; Gazette of TGNA Minutes, C.1, i: 30, 6.4.1340; C.2, i: 24, 30.3.1340; C.1, i: 36, 13.4.1340.

understanding of majoritarian democracy consolidated and led to the failure to protect minority rights.³⁶

An important reason why the idea of a supervisory body was not formed and an institution such as the Constitutional Court was not introduced is the identification of national sovereignty with the TGNA in the 1924 Constitution. The strongest guarantee to protect the rights and freedoms of citizens has been interpreted as the exercise of sovereignty only by the Parliament (TGNA). The regime of the revolution, with the understanding that threats to fundamental rights could come from the monarchy, acted on the assumption that there was no need to protect the freedoms of the citizens against the parliament, since the Parliament represent the nation. The 1924 Constitution-maker may have adopted this understanding, fearing that the measures to limit the will of the parliament, due to both the French Revolution and the National War of Independence, would also mean limiting the will of the nation.³⁷

However, the fact that the parliament, which consists of representatives of the people as a result of the elections, does not share its authority with any other body and is the sole possessor of sovereignty, makes it possible for the parliament to slide into arbitrariness.³⁸

5. Conclusion

The Constitution of 1924 was into effect during 36 years and amended 7 times including the amendment concerning the official religion (1928 and 1937) and the right to vote and to be elected for women (1934). On the other hand, there has been a transition to a multi-party system on 1946 and the Constitution became insufficient in terms of the new political situation. The government took authoritarian measures while increasing the tension between the democrats and the republicans. As a result, Turkish armed forces seized control of Menderes government and made the coup d'état on 27 May 1960.

The reason why detailed regulations were made in the 1961 Constitution in terms of fundamental rights and freedoms should be sought in the fact that this Constitution was a “reaction constitution”. The system of the 1924 Constitution, which specifies fundamental rights only as a principle and gives wide discretion to the legislator regarding their regulations, has enabled restrictions to be imposed by law to the extent of eliminating freedoms in practice. Taking this situation into consideration, the 1961 constitution-maker introduced detailed provisions guaranteeing the use of fundamental rights and envisaged general criteria limiting the discretion of the legislator.³⁹

³⁶ Özbudun, *ibid.* (*Türk Anayasa Hukuku*), p34-35.

³⁷ Hakyemez, *ibid.*, 85.

³⁸ B. Dinçkol, *1924 Anayasası Döneminde Siyasal Muhalefet*, 2 Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi (2015), 343.

³⁹ M. Caniklioğlu, *Anlamı, Kapsamı ve Sınırlarıyla Temel Haklar ve Anayasalarımız*, Mahmut Tervfik BİRSEL'e Armağan, İzmir, 2001, 481; Işıksel, *ibid.*, 713-714.

Aslı Topukcu Oder
Yaşar University Faculty of Law
Department of Constitutional Law
Selçuk Yaşar Kampüsü, Üniversite Cad., No: 37-39, Ağaçlı Yol, 35100, Bornova/İzmir, Türkiye
aslitopukcu@gmail.com

