THE CONSTITUTTIONAL CONSEQUENCES OF MULTI-PARTY POLITICS IN PARLIAMENTARY GOVERNMENTS (*)

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Towards the end of 1960s, the theoretical problems of the state and parallel to that, the institutional approach to politics had been totally removed from the focus of political scientists. As Frederick M. Watkins observed, "the shift of interest away from the state may be taken, at least in part, as a reflection of the increasingly nonlegalistic character of contemporary political science" (Watkins, 1968: 155). On account of this, executive-legislative relations have been also neglected. The marxist and the western political thinking, in a different way but in a same conclusion, have discarded the problems of executive-legislative relations as an oldfashioned concern. It is really very surprising because executive-legis lative relations under multi-party politics produces important constitutional consequences in parliamentary governments.

In constitutional democracies mainly two forms of government are adapted : presidential and parliamentary governments. There is also one more form of government which we call assembly government. In this form of government, the power concentrates in legislature and at least in theory there is no separate executive (Verney, 1959:57-74). But assembly government is not frequently appliedin modern governments. Parliamentary government is the form of constitutional democracy in which executive authority emerges from legislature and responsible to it. This form of government differs from the arrangement of independently elected executive and legislative organs found in the United States and some Latin American countries. The government of the United States is presidential in the sense that its presidency is elected by the people and enjoys the vital position and occupies the central place among the other public institutions. But parliamentary government denotes a form of government in which constitutionally legislature is supreme and executive emerges from it and in practice, despite the continued increase in executive power in all the states in the

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Workl, exercises considerable influence in political affairs. The reason of this significant influence is the union of executive and legislative branches of the state and the cons ,itutional principle of legislative supremacy (Epstein, 1968: 419; Güneş, 1956; Okandan 1936).

Parliamentary government is the most widely adopted system of government but it seems important to remember that it is the British system which has provided an example for a great many countries (Verney, 1959: 17). For this reason, it is worthy of remark to tell how it works in England. Parliamentary government has evolved in peaceful manner in England. First there has been government by a monarch who has been responsible for the whole political system. Then there has begun an assembly of members who have challenged the King. At last the Assembly has taken over responsibility for government. The Monarch's role was increasingly that of an executive dependent on the good will of the Legislature. In the eighteen centuary the King was already losing his executive power to Prime Minister and ministers who came to regard the Assembly as the sovereign. Then ministers were chosen among the members of the Assembly and resigned if the Assembly took back its confidence from them. Bagehot felt that it is necessary to deny that executive and legislative powers were seperated in Britain and wrote like that in 1867: "the efficient secret of the English Constitution may be described as the close union, the nearly complete fusion, of the executive and legislative powers. No doubt by the traditional theory, as it exists in all the books, the goodness of our constitution consists in the entire separation of the legislative and the executive authorities, but in truth its merit consists in their singular approximation. The connecting link is **the Cabinet.** By that new word we mean a committee of the legislative body selected to be the executive body" (Bagehot, 1963: 65-66). It is important to understand that parliamentary government requires a certain fusion of the executive and legislative functions. The statement "Parliament is supreme" refers to Parliament but a Parliament which includes the members of the Government. In constitutional law in England, "the government is responsible to parliament" means that the Government is dependent upon the good will and support of other members of the Legislature.

In parliamentary government executive split in two: a Prime Minister becoming head of the government and the Monarch or President becoming head of the state. It does not automotically follow that the head of the state fills a purely formal office. It is characteristics of the parliamentary system that the King or the President cannot be held politically responsible. His ministers must bea responsibility for him . In parliamentary government, the head of the state appoints the head of government.But the government must have the confidence of the legislature. Then the head of the government appoints the ministry and the Prime Minister alone is responsible for the composition of the ministry The government shall be a collective body is the cardinal principle of parliamentary system. In parliamen-

tary system, the government is responsible to the legislature. We call it political responsibility. According to this principle, if the legislature thinks that the government is acting unwisely may refuse to give it support. By a formal vote of censure or by simply refusing to assent to an important government proposal, the legislature can force the government to resign. The defeat of the government by the legislature causes the government either resign or to request a dissolution of the parliament. The conflict of the executive and the legislature of the state is left to the electorate to resolve. In parliamentary form of government, the government as a whole is only indirectly responsible to the electorate because the government is not directly elected by the voters but is appointed indirectly from among the members of the legislature (Verney, 1959: 17-38).

I. THE RULES OF PARLİAMENTARY GOVERNMENT IN TWO-PARTY SYSTEMS

The rules regulating the relationship between government and parliament and the role of the Monarch or the President **vis-a-vis** his government are very clear in a two-party situation. The basic principle between government and parliament is that government must enjoy the confidence of parliament. This is the most salient feature of parliamentary government which distinguish it from presidential government. Prime Minister and his cabinet are responsible to the legis lature in the sense that they are dependent on the legislature's confidence and they can be dismissed from office by a legislative vote of no-confidence (Lijphart, 1984: 68). The government is a collective body, and the government (or the cabinet) is collectively responsible to the parliament, so its members cannot be removed by the opposition one by one. In the two-party system governments are expected to be defeated at the polls not in the legislature. It is the voters rather than opposition who decide whether the government enjoys the confidence of the country.

Under the two-party system, the cabinet contains the leaders of the party having the majority in the legislature. The cabinet places the policy before the legislature and expects the party to vote in its fovaur. The rules of parliamentary government are simple and these rules are presented briefly by the constitutional lawyer, Sir Ivor Jennings, in his book **The law and the Constitution** : "The government can be defeated only by the defection of a sufficient number of members of its own party. But nearly every question is now treated as one of confidence. The result of defeat will then be one of two alternatives. Either the government will resign and the Opposition come into power -a result which the dominant party **ex hypothesi** does not want : or the government will advise the Queen to dissolve Parliament. Whatever the constitutional powers of the Queen may be, it is quite certain that in normal times she could not refuse to dissolve Parliament when a Government lost its majority" (Jennings, 1959: 184-185).

In Britain a constitutional monarch cannot act personally and arbitrarily but the crown enjoys some prerogative powers which could be used to guard the Constitution against abuse. The central purpose of the crown's powers, essentially residual in nature, are to ensure the smooth functioning of parliamentary system. Two of these powers are important and designed to secure this end: the nomination of a prime minister, and the summoning and dissolution of parliament. As well as these prerogative powers the sovereign enjoys three rights: the right to be consulted, the right to encourage and the right to warn. And according to Bagehot, "a king of great sense and sagacity would want no others" (Bagehot, 1963: 111). There is one very significant constitutional principle in British Constitutional Law: the sovereign must be neutral in political matters and above the party battle (Bogdanor, 1983: 87).

Sir Ivor Jennings summarises the consequences of two-party politics in parliamentary government in England. "The result is that, though the composition of the House of Commons determines the nature of the Government, the Government controls the House of Commons and, therefore, the action of Parliament. The supremacy of Parliament means a strong executive, capable of taking decisions and, within the limits of political expediancy, forcing them upon the country. The attitude of the average elector illustrates this clearly. He rarerly makes up his mind upon the nature of a policy. He is content to allow the Government to continue with it until he sees the result. When he sees the consequences, or what he thinks to be the consequences, he votes accordingly. The truth is that the average elector in Great Britain has not made up his mind on the desirability of socialism, tariffs, 'economy', or anything else. If the policy does not produce what he wants, he votes against the Government. The Government does in truth govern, and the function of Parliament is first to register its decisions, secondly to serve as an outlet for individual and collective grievances, and thirdly to warn a Government when it is becoming unpopular" (Jennings, 1959: 187). We may safely say that, the government is responsible to the electorate under a two-party system because majority party controls the parliament. This system denies the individual member an opportunity to build personal following that might support him against his party's leadership. The electorate shows its understanding of the system by retiring the occasional rebel who tries to challenge the system (Huitt, 1968: 233).

Coalition or minority mode of parliamentary government is similar to majority one in every aspect except the government in this mode relies on for the support in parliament not of a single party, but of two or more parties. In this mode of government parties may form a coalition government or one or more of them may remain outside and support the minority government with their votes. In this type of government, the legislature may very easily refuse to enact legislation of government or may topple it. In presidential government, parliament

may refuse to enact the legislation but cannot overthrow the government. Therefore, may be, the problem of executive instability is inherent in coalition or minority mode of parliamentary government (Lijphart, 1984: 74).

In a multi-party system, the rules of parliamentary government becomes unclear. It will not always be obvious who should be asked to form a government. Also, if the government of the day represents only a minority of the legislature, it is doubtful to give the right to dissolve the parliament. For the above reason, the Sovereign could be placed in an uncomfortable position, and the use of prerogative powers could become the subject of controversy (Bogdanor, 1983: 86-87). In a multi-party parliament without a firm majority coalition, cabinets are likely to be not unfrequently overthrown. Cabinet instability was endemic in the French Third and Fourth Republics and in the German Weimar Republic. It is not surprising to see that the two regimes that succeeded these Republics included almost all the constitutional measures to strengthen the cabinet. We may call this phenomenon as the stabilization of the parliamentary system (Lijphart, 1984: 74-75).

II. MULTI-PARTY POLITICS AND THE CONSTITUTIONAL CONSE - QUENCES

The first and main consequence of multi-party politics will be that single party majority government cannot be assured. Parliaments in which no single party holds an overall majority will give rise to serious constitutional problems. Conventions of the British Constitution concerning the formation of government and the dissolution of Parliament forcedly will come under çritical scrutiny. The Constitution will be in a state of flux. It will be difficult to prescribe how the political actors ought to act in multi-party situations. Multi-party politics will effect the British Constitution in a number of different ways. First it will make the formation of government more complicated because there will be more than one potential government capable of gaining the confidence of the Parliament. Second, it might imply that the Prime Minister's right to a dissolution of Parliament cannot be taken as an automatic process. Third, the increased likelihood of coalition or minority government will influence conventions relating to Cabinet responsibility and the relationships between exevutive and legislative. In each of these areas, the rise of multi-party politics will place the British Constitution under tension (Bogdanor, 1983: 85-86).

All these strains which can be seen in the British Constitution may also arise in written constitutions. As a rule, governments in France, Germany and Italy, as well as in a number of other European countries, have to be formed coalitions or minority governments by representatives of a number of parties, which compete with one another for popullar support. A coalition government is often unable to harmonize its political and administrative policies. It is from this

condition that arose the frequency of governmental crises and cabinet changes in the pre-fascist era of France, Italy, and Germany. This resulted in a popular demand for stable governments. The crucial problem upon which the constitutional debates of the postwar years in Western Europe have been centered is the constiIutinoal consequences of multi-party situations. In attemting to find a new and more satisfactory solution to this problem, the framers of the new Constitutions developed a number of interesting constitutional devices (Dunner, 1955: 82-83). Later in this article we will dwell on these news devices.

A. WHAT WAS WRONG IN THE EFFORTS OF THE STABILIZA - TION OF THE PARLIAMENTARY GOVERNMENT IN TURKEY

In order to understand how the multi-party politics had effected the Turkish Constitutional law, we must briefly outline our constitutional history. The Constitution of 1961 had been drafted and formulated by the Constituent Assembly (x), and was adapted by popular vote on July 9th, 1961. More than 6 million people voted for, but nearly 4 million voted against it. Most of the Articales of the 1961 Constitution were inspired by the postwar German, Italian and the Fourth French Republican Constitutions.

The Constitution of 1961 was a reaction against the constitutional deficiencies and abuses prevailled during the period of 1950-1960. The Constitutions of 1921 and 1924 established the "Grand National Assembly" as the main pillar of the state and they provided that sovereignty vested in the nation without resvation and condition. The nation could exercise its sovereignty through the "Assembly". The 1921 and 1924 Constitutiuns stated that legislative and executive powers concentrated and manifested in the Turkish Grand National Assembly. That was the system of "gouvernement d'assemblée" (assembly govermment) (Soysal, 1969: 151-188; Aldıkaçtı, 1982: 76-124). In fact the 1924 Constitution was a democratic constitution. It provided a single-chamber legislature with a marked ascendency over the executive. It had one vital weakness: it contained no checks and balances to prevent a possible abuse of power by the legislative body. This feature combined with the defects of a grossly inadequate electoral system of simple majority with multi-membered districts opened the way to deviations

(x) The constituent Assembly was composed of the National Union Committee and the House of Representatives. The members of the House of Representatives were 275: 28 members were elected by the Head of the State and the National Union Committee, 75 members were elected by the provinces (by indirect election), 74 by the political parties, 79 by various orgasizations such as bar associations, trade unions (including farmers), universities, and the press. Members of the Council of Ministers were included in the House of Representatives. It was this Constituent Assembly which had drafted the Constitution of 1961 (for the text of the Law of the Constituent Assembly see, Kili and Gözübüyük, 1985: 143-155).

from the democratic methods. The theoretical supremacy of the Parliament over the Government was completely reversed in practice. In reality, it was the Government which dominated the Assembly through its well-disciplined majorities in it (Kapani, 1962: 9). For this reason, the parliamentary form of government with a separation of powers, rejection of the principle of "assembly supremacy", a bicameral system, the supremacy of the judiciary with judicial control of the constitutioality of laws were the new institutions and the ways adopted by the 1961 Constitution to prevent the occurence of the omnipotence of the Assembly, from which Turkey had previously suffered much (Dodd, 1983: 63). We may briefly say that the 1961 Constitution aimed to limit the action of a popularly elected single House.

According to the 1961 Constitution, the government was composed of the President of the Republic and the Council of Ministers. The Council of Ministers was consist of the Prime Minister and the ministers. The Article of the Constitution stated that the executive function was to be exercised by the President of the Republic and the Council of Ministers but in fact, the President of the Republic had all the ceremonial and formal duties and had nothing to do with the use of executive powers. The real head of the executive branch was the Prime Minister and his cabinet.

The President of the Republic was elected by the Turkish Grand National Assembly (The National Assembly and the Republican Senate) from among its members, election would be secret ballot and by a two-thirds of majority of the plenary session of the Grand National Assembly. In case this majority was not obtained in the first two ballots an absolute majority would suffice (Article 95). After the election, the President and the Parliament were isolated from each other. According to the Article 98 the President of the Republic could not be accountable for his actions connected with his duties and all decrees emanating from the President should be signed by the Prime Minister and the relevant ministers. The Prime Minister and the minister concerned should be responsible for these decrees (Article 98). The President had no political responsibility and had no veto power over legislation. He could merely request a new discussion on a law returning it to the Parliament within ten days. If the Parliament passed the same law again then he could do nothing. We could deduce that, the real power and the responsibility rested with the Council of Ministers (Aldıkaçtı, 1982: 322-335).

The Prime Minister was appainted by the President of the Republic from among the members of either House. Although it was not clearly stated in the Constitution, in conformity with the general and the most important convention of parliamentary government, the President had to select a Prime Minister who was capable of commanding the support of majority, at least, in the lower House of the Parliament (The National Assembly). The other ministers were çhosen by

the Prime Minister from among the members of either House or from outside the Grand National Assembly. Under the 1961 Constitution if the party of a Prime Minister had a majority in the National Assembly, he could decide who would be be members of his cabinet. But if a coalition government had to be formed, then the freedom of the Prime Minister was restricted by the parties in the coalition. The ministers, according to the Constitution, chosen by the Prime Minister and were appointed formally by the President.

The first task of the Prime Minister, after having presented the list of members of his cabinet to both Houses, was to submit the program of his government for the approval of the lower House. In order to carry out the program and the policy of the government, the Prime Minister had to obtain a vote of confidence from the National Assembly. The procedure of a vote of confidence was arranged in such a way that the advantage was with the government; since an ordinary majority of the members of the National Assembly was sufficient. At that it was thought that it was not always difficult to obtain such a majority.

As stated by the 1961 Constitution, the Prime Minister, as head of cabinet, "promotes cooperation among the ministers, and supervises the implementation of the government's policy" (Article 105). The Prime Minister was the only one who could decide, after discussing the matter at the Council of Ministers, when to request a vote of confidence from the Parliament. The Council of Ministers was collectively responsible for the general policy of the government: the acts of each minister were the acts of all, and all stand for or fall together. Every minister had the obligation to refrain from opposing the decision of the government and to support them with all his energy. If the government was a coalition, it was possible for the Council of Ministers to leave certain matters and questions "open" in which ministers were free to say what he wanted and to differ from the others. It should be noted that the ministers were also responsible for the conduct of affairs in his field of authority and for the actions and activities of his subordinates. The Council of Ministers, as a whole body, had to wield power as the major executive organ of the state.

According to the Constitution of 1961, the Council of Ministers on the one hand and the Houses on the other hand had powers to use against each other. The Grand National Assembly through its power of control (such as "questions", "interpellations", "vote of censure", "parinquiry", and "parliamentary investigations") (Özbudun, 1962; Onar, 1977) might exercise an influence over the activities of the Council of Ministers. The Council of Ministers through the power of dissolution could balance the legislative organ of the state. But this was not an unconditional and automatic power like enjoyed by the Prime Minister of Britain. The drafters of the Constitution had devised a rather limited and watered down form dissolution. Even the term of dissolution was not used; it was called "the

renewal of the elections". The Article 108 was taken from the Constitution of the Fourth French Republic (Article 51, Paragraph 2). According to the 1961 Constitution, the Prime Minister could not request from the President new general elections for the Parliament, unless the Council of Ministers had been unseated twice by a vote of no-confidence within a period of 18 months and after that if the Council of Ministers was subject to a vote of no-confidence of the National Assembly for a third time. This means that the right given to the executive to dissolve the legislature was practically ineffective, and for this reason this power never used in the life of the Constitution.

It is important to note that, the drafters of the 1961 Constitution tried to make executive stable and effective. They tried to do this through a syslem of balances which should work, in their opinions, in favour of executive. For example, acconding to Article 89, the National Assembly could not force the Council of Ministers to resign, except upon a vote of no-confidence which was subject to cumbersome procedures. We must confess that, contrary to preferences for the stable executive by the Constitution, in practice the parliamentary form of government in Turkey was a coalition or minority mode of parliamentary government. After 1970s parties tried to form coalitions or minority governments and the weak governments followed one another. The executive and the legislative organs of the state could not cooperate in the governmental crises.

There were no constitutional limits on the National Assembly's power to deny the legislation of the Council of Ministers. The National Assembly could refuse to pass the legislation introduced by the government. The National Assembly had also very efficient power against the government : the vote on the budget. If the budget was refused by the Parliament, the government was left without funds. If we add to all these factors, the consequences of the proportional representation, we should not surprise to see that, after 1970s, no party had secured a comfortable majority in the Assembly. The cabinet crises had begun.

We may say that the Constitution of 1961 could not establish a well balanced executive-legislative relations, and that prevented the efficient and stable operation of the political process in Turkey. According to Karl Loewenstein, well balanced constitutional order must not prevent the dynamism of the political process, operated by reciprocal controls of the political power holders, from leading to constitutionally insoluble stalemates either within one and the same or among the several power holders (Loewenstein, 1965: 278-281). The exectutive and the legislative organs of the state were so put in a place that, under the 1961 Constitution, they could not cooperate in constitutional crises. The 1961 Constitution did not also provide the legal solutions of deadlocks between the two organs.

Certainly we cannot all blame the 1961 Constitution from the crises that occured in Turkey. After 1970s, Turkey has become a self-divided nation and

political opinion has turned into extreme ideological forms. The result has been drastic instability and from this, mainly two forms of opinion emerged. The first of these has always emphasized representation, participation, accountability and multi-party politics in political affairs and defended the Constitution of 1961. The other one has stressed "the law and order", and two-party politics as the most important problem in the Turkish society.

Turkey is one of the most rapidly developing society of the World. Since Atatürk, in 70 years, very important social, economic, and political changes have occured. As we all know, no change can occur without problems and troubles. Turkey's apperance from 1960 to 1976, from the point of view of economic growth, was not uninterrupted growing country. Although economic growth was not in good order because of political disorder, between 1966-1970, if it is compared with the period of 1962-1965, still Turkey was a growing country in the Word until 1976. After 1976 economic growth began receding sharply.

As a consequence of above mentioned economic situation, one interesting phenomenon has happened in Turkey after 1960: parliamentarians have become more representative of the society (Tachau, 1980: 238-239). This caused the reflection of pluralism of the society to the political elites of the country. Center-periphery cleavages have given its place to new conflicts which have been based on socia and economic antagonisms. This change has magnified political polorization and ideological differences. Parliamentarians reflected the polorization as it wasl without any change and never tried to solve it (Özbudun, 1975).

In political crises, how political elites will behave largely depends on whether the political system in that country is strong and well balanced. Countries who have a strong and well balanced political systems may overcome crises by changes in policies and without changing the bases of elite recruitment. In young and noninstitutionalized systems, where democracy and parliament are not product of lower classes, like Turkey, the social and generational bases of political elite recruitment must almost always be changed. If the system cannot do it in a peaceful way then the political elites of that country will be confranted the danger to be overthrown by counter elites. Briefly, we may say that in a period of economic crises and in noninstitutionalized political systems proportional representation and multi-party politics are luxuries which society may not afford.

We may also add that in young democracies, in above mentioned crises situations, it is pretty difficult to find a solution to the polorization in society without reflecting it in Parliament. The operation of a consensual democratic system depends on more or less equal income distrubution and strong institutionalized organizations which represent social and economic groups in society. In developing countries political elites do not have enough strength for satisfying the increasing demands of new social forces.

Not only social and economic changes cause political crises, but also, as stated by Juan Linz (1978), the quality of individual leadership, problem solving behaviour, and the political strategies of the executives play an extremely momentous role in the process of breakdown of democratic regimes. In the case of breakdown, political elites, wittingly or unwittingly, contribute to the erosion of democratic regime. It is very difficult to predicate when and how political elites will make such watchful and prudent or neglectful and careless decisions. In Turkey, political leaders, unfortunately, largely assisted to the breakdown of the democratic regime.

Now we have to discuss the role of the Constitution of 1961 in the process of the breakdown of democratic regime. The foollowings are the causes of acts of wearing out the regime of the 1961 Constitution: first of all, in the drafting process of the Constitution, the significant and the politically important part of the population and their leaders were excluded. This was the main cause of the later dissensus on the rules of the constitutional system. The excluded part opposed the Constitution from the outset and they always presented the Constitution as an obstacle in their ways. When this form of opinion came to power, it stressed "the law and order", and "the strong executive" and held the Constitution responsible for all the faillures. The ones who defended the Constitution exegerated the limitative aspects and functions of the Constituton.But they couild not show the positive content of the text. For this reason, this form of opinion largely lost its credibility in the society. The defenders of the Constitution had talked to halt terrorism before they came to power but they could not prevent subversive and seperatist activities designed to break the democracy. This situation helped the opinion that the nation suffered in late 1970 s because of the liberal 1961 Constitution. According to the public opinion the Constitution rendered the executive branch of government a powerless. So in the period of 1961 Constitution parliamentary political struggle unnecessarily depended on the constitutional matters and this stopped the dynamism of the political life. These factors overloaded the 1961 Constitution (Gerekçeli Anayasa, 1982: 203-215; Soysal, 1986: 123-125).

We may safely say that the 1961 Constitution was tattered by the weak kabinets and the Constitution had a very little responsibility for this 'powerlesness'. The main source of this weakness was in the legislature. In parliamenlary systems, as S.E. Finer says, the executive acts by and with the consent of the legislature and latter always gives that required consent because the executive is formed from its majority (Finer, 1970: 172-173). So in reality, the majority party is the "powerhouse" of governmental system. In Turkey there was no such majority in the legislature because of the electoral system. With the wrong decision of the Turkish Constitutional Court (E. 1968/15, K. 1968/13. Kt. 6 May 1968, AMKD 6: 170-175) d'Hondt without any barrage became nearly a constitutional principle, prevented

the formation of cabinet with a workable majority in the legislature. There is no guarantee that any electoral system can secure a governmental stability, but proportional representation does greater justice to minor parties and discourage the formation of governments with a majority. Throughout the 1970s, Turkey was ruled by series of shaky coalition governments that culminated in virtual paralysis of the Parliament by the end of the decade. The weak cabinets in Turkey could not able to deal effectively with severe economic crisis and bloody political violence bordering on civil war.

Turkey's military commanders assumed power from Premier Süleyman Demirel's coalition government in a bloodless coup on September 12, 1980 and disbanded the Parliament with the stated purpose of stopping the bloodshed that was claming 20 lives at the time of the takeover. From the outset,the military promised a return to full democratic rule. To pave the way back, the military set up a Consultative Assembly to draft a new Turkish Constitution (*). On November 7, 1982 the new Constitution was adopted in a national referendum, with more than 91 percent of the voters.

B. THE CHARACTER OF THE EXECUTIVE POWER AND FUNCTION FROM THE STANDPOINT OF THE CONSTITUTION OF 1982

In a presidential government the president is elected for a fixed term of office and only for this reason a high degree of executive stability is guaranteed. Cabinets in a parliamentary systems, as in Great Britain, may also be very stable, but in a multi-party parliaments without a firm majority coalition, cabinets are likely to be frequently overthrown. Cabinet instability was prevalent in the French Third and Fourth Republics and in the German Weimar Republic.

The parliaments of the French Fourth Republic repeatedly prevented the cabinet's work by voting against the legislative proposals of the Cabinet without forcing it to resign. Actually, an absolute majority vote against the cabinet was required in order to unseat it. The framers of the Fifth French Republic eliminated the possibility of such obstruction by giving the cabinet the right to make its proposals matters of confidence. The Constitution stipulates also that such proposals

(*) The new Constitution was also drafted by the Constituent Assembly.The Constituent Assembly was composed of the National Security Council and the Consultative Assembly. The National Security Council, which replaced Parliament, was consisted of the Army, Air, and Navy, and Gendarmaria Forces, under the Chairmanship of Chief of General Staff General Kenan Evren. The Consultative Assembly was composed of 160 members, 40 members were directly and the others indirectly selected by the National Security Council. According to the Law about the Constituent Assembly, the main goal was to prepare a new Constitution, Political Parties Law, Electoral Law and all other necessary measures and laws to reinstitute democracy in Turkey (For the text of the Law of the Constituent Assembly, see, Kili and Gözübüyük, 1985: 237 - 249).

be automotically adopted unless an absolute majority of the National Assembly votes to dismiss the cabinet. According Article 49 "the legislative text or motion shall be considered as adopted unless a motion of censure, tabled within the succeeding twenty-four hours, is voted under the conditions provided for in the previous paragraph." The previous paragraph prescribes that "the only votes counted shall be those in favour of the motion of censure, which may be adopted only by a majority of all members comprising the Assembly". And according to Article 50, "when the National Assembly passes a vote of censure, or when it rejects the programme or general policy declaration of the government, the Prime Minister must tender the resignation of the government to the President of the Republic" (Finer, 1979: 281-305). The President can dissolve the Assembly, when he deems it necessary. There is almost no constitutional constraint, except no further dissolution can take place within a year following the elections. All he must do is to make consultattion wilh the Prime Minister and the Speakers of the two Houses (Article 12).This means that, in the event of a vote of censure in Parliament against the Government, the President can dissolve the Assembly and call for new elections (Strong, : 1963 : 250)

In the Weimar Repuplic, cabinets were often brought down by negative majorities. Majorities of the right and the left usually combined their forces against the political center without forming an alternative coalition cabinet. In order to oppose the effect of this source of cabinet instability, the new Constitution of the Federal Republic of Germany (1949) adopted that a vote of no-confidence must be "constructive". A Chancellar can only be dismissed by Parliament if a new Chancellor is elected simultaneously. According to Article 67, Paragraph 1, "the Bundestag can express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and by requesting the Federal President to dismiss the Federal Chancellor. The Federal President must comply with the request and appoint the person elected" (Finer, 1979: 197-266). A similar requirement for a constructive vote of no-confidence is included in the new democratic Constitution of Spain, which was adopted in 1978 (Lijphart, 1984: 77). The new Constitution of the Federal Republic of Germany prescribes that the Chancellar must be elected by the Bundestag upon the proposal of the President and the person obtaining the votes of the majurity of the members of the Bundestag ought to be elected. The person elected must be appointed by the President. If the person proposed is not elected, then the Bundestag can elect within fourteen days of the ballot a Chancellar by more than one half of its members. If candidate has been elected within this period a new ballot shall take place without delay, in which the person obtaining the largest number of votes shall be elected. If the person elected has obtained the votes of the majority the members of the Bundestag, the Federal President must appoint him within seven days of election. If the person elected did not obtain such a majority, the Federal

President must within seven days either appoint him or dissolve the Bundestag (Article 63, Paragraph 4). The procedures of the Constitution of the Federal Republic of Germany for strengthening the cabinet have been made almost foolproof.

The cabinets in both the Fifth French Republic and in postwar Germany have been much more stable than their prodecessors. The new constitutional provisions have made an important contribution to this change in executive-legislative relations by creating a more positive atmosphere; but the principal explanation is the development of more stable, cohesive, and purposive parties and party coalitions in both countries (Lijphart, 1984: 76).

Cabinet instability was also endemic in the period of the 1961 Constitution. So it is not very surprising that the 1982 Constitution of Turkey included measures to strengthen the executive **vis-à-vis** Parliament. Kenan Evren, the President of the Republic, explained the purpose and the nature of the executive under the new Constitution like that: "The sole purpose of the powers invested in the President and the Council of Ministers under the new Constitution is to enable the executive branch of the government, which was rendered powerless by the 1961 Constitution, to function efficiently and purposefully in the light of the broad range of services expected from it as in every country. One can hardly suggest that the state truly exist in a country where the executive branch of government is deprived of the means to take initiative" (Evren, 25 Octoper 1982).

Prosessor Gözübüyük says that the 1961 Constitution prescribed "the executive function shall be carried out... within the framework of law", but now under the 1982 Constitution the executive is not only a function but also a"power" and in this way according to the writer the executive is made more powerful (Gözübüyük, 1983: 2). The Constitution of 1982 decrees that "the executive function and power shall be exercised and carried out... in conformity with the Constitution and the laws" (Article 8).We must carefully interpret the above provision in order to understand the character of the executive under the Constitoion of 1982.

We cannot deduce from the above provision that the executive, from now on, is not dependent on the law, and the principle of "legal administration" is eliminated. And we cannot also say that "regulations" and "by laws" are extraordinary administrative acts dependent on law (Tan, 1984: 35-36). Teziç says that the term "executive function" has only one meaning: except decrees having force of law (Article 91), no other administrative acts can change or abrogate the provisions of law (Teziç, 14 August 1982). The new Constitution follows the principle of legal administration. For this reason, Article 123 says that "the administration forms a whole with regard to its structure and functions, and shall be regulated by law". After this general principle, the Constitution, while dealing with regula-

tions (Article 115), central administration (Article 126), local administration (Article 127), and principles relating public servants (Article 128) refers always the term of "regulation by law" (Tan, 1984: 36).

Under the new Constitution, the executive is composed of the President of the Republic and the Council of Ministers. The President of the Republic is elected for a term of seven years from among its own members who are forty years, and who have completed their higher education or from among Turkish citizens who fulfill these requirements and those necessary for eligibility to become a deputy (Article 101). He cannot be elected for a second term (time) and in order to ensure his impartiality the Constitution makes it an obligation for him to sever all his connections with his party, if any, after his election. At the same time his status as a deputy of Parliament ends (Article 101, Paragraph 2 and 3).

The government is composed of the Prime Minister and the ministers. The Prime Minister is appointed by the President of the Republic from among the members of the Grand National Assembly. The Ministers are chosen by the Prime Minister either from within the Parliament for or from among those eligible for election as deputies (Article 109).

To ensure the executive to function efficiently and purposefully the new Constitution relies heavily on the powers of the President. The Constitution puts much power in the hands of the presidency, which has been a ceremonial office before. First of all, the President "shall ensure the implemenlation of the Constitution, and the regular and harmonious functioning of the organs of the state" (Article 104) may mean he can be everywhere and can do everything (Tanör, 1986: 120). The Council of Ministers, under the chairmanship of the President may declare martial law and rule by decrees having force of law, subject to later approval of the Parliament (Article 122, Paragraph 2 and 3). The President appoints many high level officials, including university rectors and supreme court judges (*).

The President is empowered to dissolve the Parliament and call for early elections in case of lengthy cabinet crises. Like the 1961 Constitution the term dissolution is not used, it is called again "the renewal of the elections". This is how it operates: If the government is overthrown through lack of confidence, and if a new government cannot be formed within fortyfive days or the new government fails to receive a vote of confidence, the President of the Republic, after consultation with the Speaker of the Grand National Assembly, may decide to hold new elections. Again, if a new government cannot be formed within fortyive days of the resignation of the Prime Minister without being defeated by a

(*) For example, all the judges of the Constitutional Court are to be selected by the President from among the candidates nominated by the institutions to which they belong (Article 146 Paragraph 2).

vote of confidence, or in the event after newly elected speakership council of the Assembly, the government canot be formed once more in fortyfive days, the President of the Republic, consulting the Speaker of the Grand National Assembly, may call new elections (Article 116). The power thus granted to the President aims the government from being at the mercy of the Assembly and to ensure governmental stability.

All decrees emanating from the President of the Republic, excepting those which are concluded by the President without the signatures of the Prime Minister and the relevant ministers in accordance with the Constitution and other laws, must be signed by the Prime Minister and the ministers concerned. The Prime Minister and the ministers concerned shall be accountable for these decrees (Article 105, Paragraph 1). The President of the Republic cannot be held accountable for his actions connected with his duties.

In parliamentary governments, president or monarch cannot be held accountable but all decrees coming from him is signed by the Prime Minister or the relevant minister (Aldıkaçtı, 1960: 100-101). In parliamentary form of government head of state must be impartial. He has no political responsibility means he cannot act alone. All his decrees must be countersigned. Under the 1982 Constitution, the President may conclude some decrees, in accordance with the provisions of the Constitution and other laws, without the signatures of Prime Minister and the relevant minister. This is an arrangement difficult to reconcile with the logic of parliamentary system. Countersignature has its use in parliamentary republics as a last resort to prevent the head of state from acting unconstitutionally and against the logic of parliamentary system (Verney, 1959: 30).

According to Article 125, paragraph 2, "the acts of the President of the Republic in his own capacity .. are outside the scope of judicial review" Gözübüyük says that "it is difficult to reconcile this kind of solution with the requirements of the supremacy of law." In this Constitution one must also note a certain weakening of the judicial power in favour of the executive. All these measures correspond to a search for a "strong state". This tendency is revealed in the term "the sacred state of Turkey", inserted in the Preamble of the Constitution (Tanör, 1983: 83).

From now on the General Secretariat of the President of the Republic has a constitutional status and according to the new Constitution it must be regulated by presidential decrees (Article 107). Presidential decrees were foreign to our constitutional law. Before the 1982 Constitution, there were no such kind of administrative act. Furhermore, the new institution is created, called the State Supervisory Council, and attached to the office of the Presidency. The purpose of the State Supervisory Council is to perform and further the regular and efficient functioning of the administration and its observance of law. It will be empowered to

conduct, upon the request of the President, all enquiries, investigations and examinations of all public bodies and organizations, all enterprises in which those public bodies share more than half of the capital, public professional organisations, employers' associations and labour unions, and public benefit associations and foundations (Article 108). Only the armed forces and judicial organs are outside the jurisdiction of the Council. The State Supervisory Council may create problems in the relations between the President and the Council of Ministers because the reports of the investigations of the Council, after getting the approval of the President, will be send to Prime Ministry and the Institution concerned. If the instructions have not been fulfilled then what would happen to relations between the two heads of the executive ? This is a diflicwlt question to answer

The President of the Republic is endowed with new powers in the event of constitutional revision. Constitutional amendments cannot be proposed by less than a third of Parliament and must be adopted by two-thirds of the Parliament. The President may ask to re-examine the draft amendment and if the Parliament insists on maintaining its position, the President may submit the draft amendment to referendum (Article 175). Moreover, for a period of six years from the opening of Parliament, a qualified majority of threequarters is required in order for the Parliament to readopt the draft amendment, if the President refers it to the Parliament for further consideration (Provisional Article 9).

The Prime Minister's status is also strengthened compared to the 1961 Constitution. According to the new Constitution, the Prime Minister, as a chairmanship of the government, frames the general policy of the government and implements the policy of the government in cooperation with the ministers (Article 112, Paragraph 1). Each minister is responsible to the Prime Minister (Article 112, Paragraph 2) and he is under obligation to supervise and to take necessary corrective measures in order to ensure that the ministers exercise their functions in accordance with the Constitution and the laws (Article 112,Paragraph 3). Furthermore, the Prime Minister may propose to the President to dismiss the ministers (Article 109, Paragraph 3). In this way, the new Constitution tries to give a more important place and influence to Prime Minister in coalition governments (Tan, 1984: 44).

The Council of Ministers is jointly responsible for the general policy of the government and each minister is also individually responsible for matters falling within his personal jurisdiction (Article 112, Paragraph 1 and 2). It must be emphasised that collective responsibility is the most important principle of the parliamentary government. The reference to ministers being responsible collectively shows the need for a cohesive strength within the government. It is a rule of pragmatic politics which generally guarantees that the government remains united because that is how votes are won (Ellis, 1980: 395).

The powers of the executive are to some extent circumscribed by reference to the continuing doctrine of "supremacy of parliament". According to the Constitution, legislative power is vested in the Grand National Assembly and this power cannot be delegated (Article 7). The Turkish Grand National Assembly through its power of control, such as questions, parliamentary inquiry, parliamentary investigations and interpellations, can exercise an influence over the activities of the government (Article 98, Paragraph 1). Questions may be put to the Prime Minister or the ministers to be answered in the name of the Council of Ministers for oral or written answers in order to get information (Article 98, Paragraph 2). Parliamentary inquiry is investigation conducted on a special subject for obtaining information (Article 98 Paragraph 3). Parliamentary investigation is an inquiry concerning the Prime Minister or the ministers in order to decide whether to refer the matter to the High Court of Justice (Article 100). Now it is more difficult to unseat the government by using the device of interpellation because the motion of interpellation can be made either on behalf of a political party group or by the signatures of at least twenty members of the Assembly (Article 99, Paragraph 1). (Before the signatures of ten deputies were enough.) In order to overthrow the Council of Ministers or a minister an absolute majority of the total number of members is required in the voting, in which only the votes of no-confidence is counted (Article 99, Paragraph 5).

Efforts have been made to encourage better party discipline within Assmbey groups which may be helpful under multi-party situtations. Under the 1982 Constitution, a member of the Assembly who resigns from his party is prohibited from running in the next election on ticket of any party in existence at the time of his resignation. In addition to that a deputy who resigns for the purpose of joining another party can be expelled from the Turkish Grand National Assembly (Article 84).

To avoid the experience of the near past when the National Assembly became stalemated due to the multi-party situations, the criteria for political parties to obtain reperesentation have been tightened. According to the new Law of Elections, if any party fails to get 10 percent of the vote nation-wide, none of its delegates will be permitted to be seated in the Assembly. Also, any independent candidate or parties failing to obtain or pass the quota in the province will be denied a seat (Article 33 and 34).

As Professor Yayla says, under the 1982 Constitution the powers of the Council of Ministers under emergency and ordinary situations can be effective if it has a majority in the Assembly. But the President of the Republic, as head of the state, has powers coming directly from the Constitution. The political side of the executive, the Council of Ministers, is under the supervision and control of the impartial President of the Republic (Yayla, 1984: 54). Dodd says, "the new Consti-

tution, like nearly all constitutions, is really an attempt to solve the problems of the immediate past, and is intended to prevent their recurrence. If political parties should again not be able to provide stable and effective government, and the country should fall again into near anarchy, then the President will be able to step in- if with the consent of the Council of Ministers" (Dodd, 1983: 78).

Strengthening the cabinet and Prime Minister has changed parliamentary government from its nineteenth century manner, but this has not violeted the cardinal principle of executive responsibility to parliament. However, increasing the power of the head of state must be understood as a step away from parliamentary form of government (Epstein, 1968: 423). We may deduce that the position of the President of the Republic has been regulated in the new Turkish Constitution with a great deal of inspiration from the 1958 French Constitution, from the point of view of his relation with the Assembly, with high judical organs, and with the Council of Ministers. Under the 1982 Constitution, the executive has two heads, and two of them are real power wielders in the political system. But only one of them, the Council of Miniserts, is responsible to the Grand National Assembly. This in an arrangement difficult to reconcile with the principles of parliamentary government.

Can we call the political regime established by the 1982 Constitution as semi-presidential? According to Professor Duverger, a political regime can be considered as semi-presidential, if the constituon combines the following three elements: (1) the President of the Republic elected by universal suffrage; (2) he possess significant powers; (3) a Prime Minister and ministers who posesess governmental power can stay in office so long as they have only if the Parliament does not show its opposition to them (Duverger, 1980: 166). As stated by the 1982 Constitution, the President has important powers, but he is not elected directly by the people, so we cannot call the constitutional regime of Turkey as semi-presidential. But we must know that an important and independent policy making role for an elected president seems incompatible with the parliamentary system. The counter parliamentary tendency is likely to be stronger when a president equipped with constitutional authority, is popularly elected. In that case he can claim a popular mandate and such a president ceases to be the non-partisan, dignified head of state typ - ified by a modern constitutional monarch (Epstein, 1968: 423).

We know that the President in Turkey has much more powers now, but we do not know whether he may be all powerful or a mere figurehead or share his powers with the Parliament. This will depend largely on the situation of the parliamentary majorities . If there is not a parliamentary majority then the President will be in a intermediary position, neither figurehead nor all powerful. So in multiparty situations there will be a great coincidence between the Constitution and practice. If there is a coherent and stable majority in the Parliament, then the

President's position will depend on his relations with the parliamentary majority If he is the leader of the majority, then he may be all powerful. But if he is only a member of the majority, he may become a mere figurehead.

The new Constitution, like the 1961 Constitution, tries to ensure the political neutrality and impartiality of the President of the Republic. According to Article 101, the President-elect must resign from his political party and his status as a member of the Parliament terminates automatically upon his election. But the appointment to the office is in the end made by the Grand National Assembly. We have to accept what Dodd says about the role of the President in the constitutional system. "No political party seems likely to shun the tempation of obtaining a president sympathetic to its own policies; the provision enabling him to be elected by an absolute majority of the membership of the Assembly may not prevent to this from happening. Moreover, if the President should continue to be appointed from outside the Assembly, say, as might most seem likely, from the military, who is to say that in conditions of competitive politics the military will not itself over the next decade become deeply politicized?" (Dodd, 1983: 79).

The 1982 Constitution is notable for the hindsight it manifests in providing a solution for every trouble that has menaced the Turkish society in the immediate past. After the adoption of the Constitution, we know that we possess the necessary means and what we can do if we ever face the same problems. However, if we never have the same problems of the multi-party situations then the whole text is bound to be obviated.

We know that if want to maintain the constitution and establish a healthily functioning democracy then "it is essential that that part of the population which desires the maintenance of the constitution should be larger than that which does not" (Aristotle, 1962: 174). The basic guarentee of the maintenance of constitution depends alway on the acceptance of it by the population. A successful revival of constitutionalism in Turkey will depend less on the constitutional inventions then on the dominant movements of thought and feelings.

C. THE CONSTITUTIONAL PROBLEMS OF MULTI-PARTY POLITICS

We know that the two-party system has very large advantages. First it empowers the electorate to choose its own government, and secondly, we know where the responsibility is because the majority in the popular house should be composed of members of the same party. In multi-party systems there are no such clear formulas (Laski, 1938 : 75). The problems that are likely to arise under multi-party siluations are three specific kinds. The first is the difficulty of determining who should be asked to form a government. The second is the problem

of determining what type of government should be formed: a coalition or a minority government. The third is the difficulty of determining the powers of the caretaker government. All these situtations propounds great difficulties for parliamentary form of government.

The central difficulty in who should be asked to form a government is that whoever is first asked by the head of state will enjoy a considerable advantage. In parliamentary government, it is very important that the head of state should not be put in the position of appearing to be giving an advantage to one contender at the expense of his opposites (Bogdanor, 1983: 120). Rodney Brazier, in his article about "Choosing a Prime Minister", examines the conditions of government formation in Great Britain. He says that the idea that the role of the monarch has been reduced in the selection of a new Prime Minister to a mere figurehead is correct in many instances. As the writer observes the political parties have taken over the choices of the Sovereign but it is wrong to assume that the prerogative of choice of a Prime Minister is as limited today as might have been supposed. The prerogative of choosing a Prime Minister may be used where a coalition is needed, or when Parliament is dissolved; or where a coalition government disintegrates and the Prime Minister, in an attempt to prevent another group trying to achieve a Commons majority, tries to frustrate that grouping by requesting a dissolution; or where a House of Commons is returned in which no party has an overall majority and the sitting Prime Minister cannot continue at the head of a minority government because of active opposition towards him. Brazier concludes that there has undoubtedly been a shift of constitutional responsibility from the Monarch to the political parties, but there remain possible circumstances in which the Monarch would have to exercise his prerogative choice unaided by the political parties (Brazier, 1983: 416-417). While using his prerogative the Crown must be very careful and should not put itself in the position of appearing to be giving an advantage to one party at the expense of the others. Even where there is no majority party in the Parliament, which may accur in multi-party systems, the head of state is effectively limited in his choice by the fact that the Prime Minister, in order to remain in office, must have the support of a parliamentary majority. For the head of state to insist on his own preference, rather than Assembly's, would violete a principle of the system (Epstein, 1968: 423).

In Sweden the role of the Monarch in nominating a Prime Minister has been entirely delegated to the Speaker of the Parliament. In Belguim, the Netherlands, Denmark, and Norway **infomateur** is used, in order to protect the Monarchy from the exigencies of multiparty politics, to conduct negotiations. The **informateur** is a person selected by the Monarch with the task of discovering who may form the government. The task of **informateur** varies with the constitutional traditions of different countries. In Denmark and Sweden, the **informateur** tends to

play a passive role but in Belgium and the Netherlands he plays a more active role (Bogdanor, 1983: 129-131).

In Turkey under the new Constitution, the government is composed of the Prime Minister and the ministers. The Prime Minister is directly appointed by the President from among the members of the Grand National Assembly. The ministers are chosen by the Prime Minister either from within the Parliament or without and formally appointed by the President (Article 109). The President must be careful to choose the one, as a Prime Minister, who can command the majority of the Parliament because the government thus formed has to present its programme to the Assembly within a week and ask and obtain a vote of confidence in the Parliament (Article 110). This means that, the government formation in Turkey is intended to produce a government which enjoys the support of a parliamentary majority. Turkey tried to codify the parliamentary process. But it is not an accurate way of codifying the parliamentary process in Great Britain, because the conventions of British parliamentary life put a premium upon the formation of a minority single-party government rather than a majority coalition. In Britain the Queen must look for a government which can survive in the Commons (Bogdanor, 1983: 135).

As I explained before, under Article 116, if after a vote of no-confidence the government cannot form a new cabinet within 45 days, or if the cabinet thus formed also receives a vote of no-confidence, or if the Prime Minister resigns, the President may call for a new election. The President does not need the proposal of the Prime Minister while using his power of dissolution. All he needs to do is to consult to the Speaker of the Assembly but these views are not binding.

The power of dissolving parliament, like the choice of Prime Minister, is in the hands of the head of state in Great Britain. But for a head of state to dissolve parliament against the wishes of his Prime Minister, or to refuse to dissolve when the Prime Minister advises him to dissolvee, would interfere with the regular working of parliamentary government. Originally, dissolution was the prerogative of the head of state but the exercises of authority over this matter is now the Prime Minister's. The Prime Minister needs the power to dissolve parliament as a means of retaining the support of a majority. Members of the Prime Minister's majority will be more likely to continue voting for him if they believe that his parliamentary defeat might mean not his resignation but a new election. This seems applicable in a multiparty parliament, where a Prime Minister might threaten dissolution to keep coalition members in line (Epstein, 1968: 423; Karamustafaoğlu, 1982: 126 - 135).

The President of the Republic in Turkey must be very careful while appointing a Prime Minister because he must be impartial arbiter while regulating the political game. Several features have been introduced with a view to conferring on

the President the role of neutral head of state. But we must admit that it is difficult, if not impossible, to secure the neutrality by constitutiunal provisions. For this reason, the advantage of the monarchy is frequently claimed. Monarchy provides a head of state for a democratic regime who is an apolitical and impartial symbol of unity. Thisis an important asset for democratic societies, because any elected head of state is necessarily a member of one of the subsocieties (Lijphart, 1984: 86).

In a multi-party situations, there will be controversy not only over who is asked to form a government, but over what type of government is formed. If a general election fails to give one party a majority in the legislature then single-party majority government is impossible. The consequence must be either a minoty government which can control less than half of the seats or a coalition government which can command a majority in the legislature.

The chances of survival of a minority government depend in part upon whether or not the Prime Minister is able to secure a dissolution at a time of his own choosing. Also the ability of a government to decide for itself what is to count as a vote of confidence helps a minority government to stay in office (Bogdanor, 1983: 140-141). Under the 1982 Constitution, as we mentioned above, the process of dissolving the Assembly is made easier, but the 1982 system gives it to the head of state and if there is an alternative government the President may not use his power of dissolving. For this reason, there will be a strong pressure on the government to come to terms with the other parties.

As compared with a majority government a minority government probably will increase the power of parliament. Without a majority in parliament, a government will also lack a majority in the committees. If the cabinet wishes to secure the passage of law, it must consult and come to terms of the other parties (Bogdanor, 1983 : 163).

There are three types of coalition governments in democratic countries: an all party government of national unity, a coalition which is a step towards the fusion of a section of one party with another, and a coalition in which two or more parties, unable to gain a majority, agree to share power by combining together. The first two are the product of crises circumstances and may be helpful in emergency situations but they are not normal kind of coalitions. The third one is a normal response of the political system to multi-party politics with proportional electoral systems (Bogdanor, 1983: 179).

Duverger described multi-party politics as a "parliamentary game". According to him, the object of this game is to form and control the government. A durable cabinet "must find support from a coalition of associated parties: their alliance is always uneasy and intrigues are perpetually being hatched in the lobies

of parliament to break up the early combination and replace it with a new one (Duverger, 1951: 400).

The central problem of a coalition is how to combine government solidarity which requires common policies, with the preservation by the independent parties composing the coalition of their separate identities. The smaller party in a coalition must be alert to ensure that it is not regularly outvoted in cabinet discussions. Also the small party will be particularly sensitive not to be held responsible for cabinet policy while being unable to exert any real influence over it. For this reason, coalitions cause strains among the parties composing them. There are tensions between the party leaders and their parliamentary and extraparliamentary organizations who may come to feel a sense of disappointment. Bogdanor says that "it is for this reason that coalitions are so peculiarly liable to disintegrate through internal disagreement. Therefore special institutional arrengements have to be made to secure inter-party agreement at every stage in the life of a coalition government from its formation to its dissolution" (Bogdanor, 1983: 181). The general effect of all the above mentioned factors is to weaken the position of the Prime Minister. In a coalition the Prime Minister cannot choose for himself who his cabinet colleagues are to be. He must accept the nominations of his coalition partners. The Prime Minister may veto a nomination of his coalition associates but cannot choose which ministers from another party he is willing to accept. The Prime Minister will also lose the power of reshuffling his cabinet. He must have to secure agreement with his coalition parties on cabinet changes.

In the 1982 Constitution of Turkey the Prime Minister's status is strengthened compared to the 1961 Constitution. According to the new Constitution, each minister is responsible to the Prime Minister (Article 112, Paragraph 2), the Prime Minister must ensure that the ministers exercise their functions in accordance with the Constitution and the laws and may take corrective measures to this end (Article 112, Paragraph 3), and the ministers can be dismissed by the President upon the request of the Prime Minister (Article 109, Paragraph 3). The Constitution tries to invigorate the position of the Prime Minister in a coalition government.

Under the 1982 Constitution, the power of dissolving parliament is given to the President under certain circumstances and the use of it made easier. This may force the parties to form a coalition government. As Professor Finer points, the dissolution power serves the same purpose in all the constituions: "it provides the means whereby a deadlock deriving from a legislative majority hostile to the executive, i.e. the cabinet can be broken. It is broken by a fresh appeal to the electorate. Such an appeal brings about the only circumtances in which the parliamentary or cabinet style of government can work: namely, where the legislative majority and the executive branches are of the same mind"(Finer, 1979: 55-56).

The result of a coalition government would probably be the increase o the power of the cabinet **vis-à-vis** the Prime Minister. This increase would accrue not to the cabinet but to the coalition partners which compose it. For this reeson, it is to be expected that coalition government would change the meaning of collective responsibility. We may say that collective cabinet unanimity would not be strong enough to work or last properly under multi-party situations.

Unanimity means the state or fact of being unanimous and in parliamentary systems unanimous refers to all agreeing or (of agreements and statements) supported by everyone in the same way. Collective unanimity is the most important element of collective responsibility. Collective responsibility had grown with the rise of political parties, so that the government would be able to present a united front to the Monarch, and later the government could maintain its position in Parliament by this device. Under a coalition government collective responsibility cannot mean collective unanimity because an agreement to differ can be useful to the survival of cabinet government by not pressing contentious issues too far From time to time, a coalition government can find functional to abandon collective unanimity, because the central problem faced by a coalition is that it is likely to break up through disagreement on details.

But as Bogdanor says that "there must of course be limit to the extent to which the conventions of cabinet governmet can be loosened by a coalition. If the government is to survive, there must be some issues upon which ministers agree to stand together" (Bogdanor, 1983: 194). The cabinet, as a collective body, is responsible for formulating, controlling, and directing the policy of the executive branch. The collective responsibility of the government is central to the working of a parliamentary constitution (Finer, 1979: 52-54). There can be questions or problems which are so central to the policy of the cabinet that the coalition will collapse if ministers are in disagreement with one another.

It is interesting to see whether the 1982 Constitution of Turkey offers more specific guidelines on this topic. The Parliament can dismiss the Council of Ministers by a vote of confidence (Article 110, 99, and 111). And the Council of Ministers are jointly responsible for the implementation of the government's general policy (Article 112). This implies that the government is a collective unity that stands or falls together. If the Prime Minister is brought before the High Court of Justice, the Government must be considered to have resigned (Article 113, Paragraph 3). The Prime Minister is the sole auther of general policy and we have to infer from that if he resigns his entire team must also resign with him. But under a coalition government the collective responsibility of the cabinet must be loosened and at least collective responsibility must not mean collective unanimity.

The one more problem that may arise under multiparty situation is the difficulty of determining the powers of the caretaker government. Caretaker govern-

ment is a government which holds office for the usually short period between the end of one government and the appointment of a new government. Caretaker government does not have the confidence of parliament. In parliamentary government the source of power of the cabinet is the confidence of the Assembly. The problem can be formulated like that: does a government which is only continuing to carry out its functions fully enjoy the prerogatives and powers of an ordinary government? Usually a caretaker government is formed for a specific period, e. g., until elections have been held. In most countries with parliamentary governments the solution is same: The government after its resignation carries its duties but only in a specific manner. Caretaker's powers are limited to the despatch of current affairs of the state. In France, Belgium, Holland, Italy and in some Scandinavian countries the same above solution has been adopted (Klein, 1977: 278-279).

From the legal point of view, caretaker government's powers are not limited because they are legally appointed. Although they would be legally entitled to do so, there is general consensus that they would not decide heavy political questions. If the government has resigned as a result of a vote of no-confidence it should not continue its policy because its policy has been defeated. The logic of parliamentary government requires that the government which no longer has parliamentary support for its policy cannot be in a position to continue that policy. Such a continuing government should not have the right to engage the future of the state. Thus the concept of the "despatch of current affairs" is under one form or another is the most accepted practice in parliamentary governments, as regards the status and powers of a caretaker government (Klein, 1977: 282).

There may be two kinds of caretaker government under the 1982 Constitution of Turkey. One of them is prescribed by the Constitution. According to the Constitution, in the event of a decision to hold new elections under Article 116 (the dissolution of parliament by the President of the Relublic), the Council of Ministers resigns and the President appoints a new Prime Minister to form a "provisional government" (Article 114, Paragraph 3). The provisional government is composed of the political party groups in proportion to their parliamentary membership, provided that the ministers of Justice, Interior and Communications are chosen from among the independent deputies or outside of the Assembly (Article 114, Paragraph 5). The provisional government must be formed within five days following the publication in the Official Gazette of the decision to hold new elections. The Provisional Council of Ministers is not subject to a vote of confidence and remains in office for the duration of the elections, and until the new Parliament convenes (Article 114, Paragraphs 5,6, and 7). Also according to the same Article, the ministers of Justice, Interior and Communications resign before general elections to the Parliament and the Prime Minister appoints independent persons from within or outside of the Assembly.

The other kind of caretaker government is not prescribed by the Constitution but as a convention the President of the Republic asks the resigned Prime Minister "to continue and carry his duties until a new government is formed". Although there are no constitutional rules, a government that has resigned or lost confidence must continue its duties until a new government is formed. And it is accepted as a convention that the continuing government may only handle current affairs and matters. The adoption of the concept of the "despatch of current affairs" is explained as the principle of continuity of the state. According to this view, one cannot abandon the concept of the state without government but there is necessity of restraining the caretaker government's powers because it is no longer responsible to the Grand National Assembly (Armağan, 1978 ; 122-123).

III. CONCLUSION

The first part of this article described the parliamentary system of the government in the world. It was suggested that multi-party politics is likely to lead, sooner or later, a hung parliament in which no party has an absolute majority. Under muti-party situations prevalent in most continental parliamentary regimes, it is certain that no single party will be able to secure a working majority. Coalition or minority governments constructed with much difficulty. Coalition or minority ministries lack as a rule the desired degree of unity and responsibility They cannot easily carry out a coherent policy because their work has to be based, upon bargaining. In such conditions, governments are relatively unstable (Babbett, 1964: 35) We have tried to show how new constitutional provisions have been created in order to solve the problems of multi-party politics.

We cannot suggest that a two-party situation is indispensible for the working of parliamentary government, but it provides the most satisfactory conditions for the working of the system. We need harmonious cooperation between the government and the legislature. Of course this can be secured under coalition government and sometimes it is conceivable that too few parties are just as detrimental in particular settings as too many parties to parliamentary government. Leon D. Epstein says that "maintaining a strong and effective executive yet one responsible to a legislative body has proved difficult, if not impossible, even in many European circumstances. And without such an executive that is, without parliamentary government that is also cabinet government-the system seems unable to cope with all of the domestic and foreign problems of state in the modern world" (Epstein, 1968: 425).

The second part of this article shows the constitutional consequences of multi-party politics and the solutions of the Constitution of Turkey in a comparative way. We may say that in a period of economic and social crises minority

and coalition governments are luxuries which society may not afford. The 1982 Constitution of Turkey has wanted to establish a stable two-party system with single-party governments alternating in office. There are also many provisions in the Constitution trying to solve the problems of multi-party politics. And we have tried to examine carefully these provision in order to understand the Constitution better.

Every legal document is prepared to regulate the contingencies of the future and the new Turkish Constitution tries to forsee what may happen in course of time. The 1982 Constitution tries to overcome the ills that paralysed the society prior to September 12, 1980. But it is known that it is difficult to establish a healthily functioning democratic parliamentary government only by constitutional norms. It is very easy to describe parliamentary government in a constitution but it is almost impossible to show the ethical and political requisites of parliamentary government in constitutional provisions. But the success of parliamentary government is hidden in these requisites. For this reason we agree what Bassett says on this subject:"Unless people generally are willing to seek the widest measure of agreement about what is to be done; unless they are prepared to discuss with a view to reaching agreement; unless they are willing to modify their own particular view about what ought to be done and unless they resist the temptation to impose their own views upon the rest of the community; no kind of democratic government can function satisfactorily" (Bassett, 1964: 110). Constitutional inventions can help but the dominant movements and thought are more important for the functioning of parliamentary government.

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