

# Constitutional History

Since its founding, the modern Turkish state has been governed under four documents;

➤ Constitution of 1921

➤ Constitution of 1924

➤ Constitution of 1961

➤ Constitution of 1982

# Constitution of 1921

- April 23, 1920, following the de facto **collapse of the Ottoman Empire** in the aftermath of the First World War. **Mustafa Kemal Atatürk** was the major driving force behind the preparation of a Constitution that derived its **Sovereignty From The Nation** and not from the Sultan, the absolute monarch of the Ottoman Empire.
  - First Constitution Of The Republic Of Turkey
  - Introduced A Single Chamber Of Legislation, **Unicameral System** ,**Grand National Assembly**
  - In October 1923, the constitution was amended to declare Turkey to be a **Republic**
  - **Mustafa Kemal Atatürk** become the **First President** of the Republic of Turkey in 1923
  - It was the first and last Turkish constitution, in which the preferred moniker of the country was **"the state of turkey"** rather than **"the Turkish state"**.
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# Constitution of 1924

- Fundamental law of Turkey from 1924 to 1961
  - It was inspired by the **Constitutions Of France And Poland**.
  - Constitution of 1924 was amended seven times
  - **Secularism** was first introduced in 1928 which removed the provision declaring that the "religion of the state is Islam".
  - In 1934, women's rights to vote and be elected to parliament were recognized.
  - The 1924 constitution was maintained without change after the transition to a **multi party system in 1946**.
  - It came to an end with the military takeover of May 27, 1960.
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# Constitution of 1961

- Introduced an upper chamber of legislation, the **Senate**, to form a **Bicameral System**.
  - It was adopted by a referendum held on July 9, 1961, with 61.7 percent of the nation voting in its favor.
  - For the first time in Turkish history, a constitution prepared by a constituent assembly was passed through a **Public Referendum**.
  - Strengthened the supremacy of the constitution by establishing a constitutional court, restricting the powers of the elected branches of government, and strengthening the safeguards of fundamental rights.
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# Constitution of 1961

- In 1971, there was a **second military intervention in Turkey's government**, Rather than assume power directly this time, the military forced the resignation of the governing Justice Party (AP) which was replaced by a non-partisan administration.
  - Constitution was amended twice, the **amendments cut back on individual rights and the power of the judiciary**, and **increased the power of the executive branch and the military**.
  - The Turkish Armed Forces intervened once again on September 12, **1980**.
  - It exercised extraordinary powers until November 1983, when general elections were held.
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# Constitution of 1982

- The Turkish military passed the current constitution in 1982 following a coup.
  - Abolished the senate, reverting to a **Unicameral System**.
  - The Constitution asserts that Turkey is a **Secular and Democratic Republic** that derives its sovereignty from the people.
  - The sovereignty rests with the Turkish Nation, who delegates its exercise to an elected unicameral parliament, the Turkish Grand National Assembly.
  - Since its ratification in 1982, the current constitution has been modified many times.
  - The constitution was amended nineteen times, three of them through a referendum: **2007, 2010, 2017**, one of them partly through referendum: 1987
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# 2017 Constitutional Referendum

- Discussions of amending the system from **A Parliamentary System To A Presidential System** began in **2005** and have been an integral component of current President Recep Tayyip Erdogan's platform.
- In December 2016, the ruling Justice and Development Party (AKP) along with the Nationalist Movement Party (MHP) who together control 353 seats out of the 550 in the Grand National Assembly proposed 21 amendments.
- On January 21, 2017, the Grand National Assembly voted 339-211 in favor of the 18 proposed amendments.
- A constitutional referendum was held throughout Turkey on 16 April 2017

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- With 99.45% of ballots counted, the "Yes" campaign had won 51.37% and "No" 48.63%, and the electoral board called victory for "Yes".
  - As a result of its approval, **the office of the prime minister was abolished** and the existing parliamentary system of government was **replaced with an executive presidency and a presidential system**.
  - The number of seats in parliament was raised from 550 to 600
  - President was given more control over appointments to the supreme board of judges and prosecutors .
  - The referendum was held under a state of emergency that was declared following a failed military coup attempt in July 2016.
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**Grand National Assembly  
of Turkey**

# Introduction

- Grand National Assembly Of Turkey (TBMM) Usually Referred To Simply as **Parliament**
  - Legislative Power In Turkey Is Vested In **the Unicameral** Grand National Assembly
  - A Supreme Law Making Body
  - Control The Executive Authority
  - Duration of Grand National Assembly is five years
  - Founded In Ankara On 23 April 1920
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# Composition

- Grand National Assembly consists of 600 members.
  - After the 2017 constitutional referendums, new Assembly increased the number of MPs from 550 to 600.
  - All members are directly elected by the people by secret ballot on the basis of adult suffrage.
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# Eligibility Of Deputy/ Legislator

- With the referendum of 2017, every Turkish citizen over the age of eighteen (before 2017 was twenty-five) is eligible to be a deputy.
  - He/she must have complete primary education and has not been convicted of serious crime or been involved in "ideological and anarchistic activities".
  - Male candidates are required to have performed the compulsory military service.
  - Members of higher judicial and educational institutions as well as civil servants and members of the armed forces must resign from office before standing for election
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# Immunities for Deputy/ Legislator

- Legislators are granted parliamentary immunities, such as freedom of speech and, with some qualifications, freedom from arrest.
  - They can be deprived of their membership in the assembly by the decision of an absolute majority of its members.
  - A deputy who resigns from his party may not be nominated as a candidate in the following elections by any party in existence at the time of his resignation.
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# Powers and Functions of GNAT

1. Legislative Powers
  2. Control over the Executive
  3. Control over Finance
  4. Judicial Powers
  5. Redressal of Grievances
  6. Parliamentary Enquiries
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## Legislative Powers

- The primary function of the Grand National Assembly is to enact new laws and make alterations in the existing laws.
  - Grand National Assembly may delegate the power of issuance of decrees to the Council of Ministers.
  - Such decrees hold the validity of law so long as these remain operative. A law passed by the Assembly which authorizes the executive to promulgate decrees, shall also specify its scope, duration and underlying principles.
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## Control over the Executive

- The Assembly can effectively control policy process by asking questions, moving resolutions and different motions.
  - The Assembly enjoys the most effective power to pass a no confidence motion against the Cabinet and remove the ministers from the office.
  - All the treaties made with foreign countries and declaration of war, got to be ratified by the Assembly.
  - The Grand National Assembly is fully authorized to allow the use of army in respect of fulfillment of treaty obligations or those of international law.
  - The Assembly is competent to allow the stay of foreign troops in Turkey or give them free passage in Turkish territories.
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## Control over Finance

- The Assembly enacts finance Act and appropriation Act on the basis of estimates of expenditure and proposals for raising funds.
- The legislators undertake exhaustive deliberations on the budgetary proposals and frequently move cut motions to tame the government.

## Judicial Powers

- Though its legislative powers and fiscal control, National Assembly can indirectly affect organization of judiciary and its working.
  - It can also grant general amnesty but it does not apply to the crimes committed against national ideology and country's solidarity.
  - National Assembly exercises the right to confirm death sentences given by the courts.
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## Redressal of Grievances

- During exhaustive deliberations on the floor of the House, public problems are thoroughly examined and freely discussed.
- By passing different resolutions, the House can express its opinion, condemning or appraising certain policies.

## Parliamentary Enquiries

- Request for holding parliamentary enquiry can be made with the support of one tenths of the total membership of National Assembly, against the conduct of any minister or even against the Prime Minister.
  - The Assembly discusses the case thoroughly and makes final decision by majority vote. The affected party has the right to present its case in the Supreme Court.
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## Proposal And Drafting

Bills can be proposed by any member of parliament

## Scrutiny

Once a bill has been proposed by a member of parliament, the legislative process involves three steps:

- The Speaker of the GNAT forwards the bill to an expert committee.
  - The expert committee prepares and submits its examination report to the GNAT Speaker's Office.
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- The GNAT convenes with a quorum of at least **one third of total members** and discusses the general outline of the bill. If it resolves on moving forward with the general outline, the parliament proceeds to discuss each article of the bill.
- On an affirmative vote of **an absolute majority** of the members present in the session (but in any case not below one fourth of the total members), the bill is deemed accepted and is transferred to the President for review.

## Enactment

- Laws passed by the GNAT are approved by the President within 15 days of submission for review or sent back to the GNAT within the same term for reconsideration. If the GNAT re-passes the law without any amendment, the President must approve it, or can initiate a cancellation lawsuit before the Constitutional Court.
  - On the approval of the President, laws are published in the Official Gazette and come into force by virtue of that publication.
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# Amendment Process

- An amendment to the Constitution can be proposed in writing by at least **one third of the total number of parliament members** (that is, 200 members). The GNAT must then examine and discuss the amendment proposal, and if the applicable decision quorum is met, the proposal must be submitted for review by the President.
  - President has different options regarding the proposal, depending on the number of parliament members that have voted in favour of the proposal.
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President can do one of the following:

- Refer the proposal back to the GNAT for reconsideration.
- Hold a referendum on the proposal.
- Approve the proposal.

On approval by the President or as a result of a referendum, the constitutional amendment is published in the Official Gazette and comes into force on publication.

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