

*"A constitution is not the act of a government,
but of a people constituting a government;
and government without a constitution is power without a right."*
Thomas Paine¹

INTRODUCTION

Let us begin to imagine that you wish to establish a student club in the Faculty of Law or Faculty of Political Sciences at your university. Unquestionably, you need to have a system of rules which sets out how the president of your club is elected and who is eligible to be a member and so on. Otherwise, this student club can never accomplish its objectives.

Like student clubs, all organisations -whether social clubs, trade unions or even the states- have constitutions that set out how people are chosen to run the organisation and the rules that affect the members of the organisation (Taylor, 2017: 4). In other words, every organisation that has defined objectives and departments or offices established to accomplish those objectives requires a constitution to describe the roles, rights and duties of the members of the organisation (Barnett, 2017: 5).

As you know, law is strongly connected to the state because the state creates law and the state itself is regulated by law. From a historical point of view, it was the increasingly effective and tightly organised state -whether it was a city-state, a principality, a kingdom or an empire- that succeeded in imposing law upon its citizens. The emergence of criminal law as a separate branch of law, next to private law, reflects this pattern (Heringa, 2014: 157):

"By prosecuting crimes as offenses against the state (and monopolising violence and the suppression of crimes) rather than considering them offenses against the victims, states drastically reduced the rates of violence among individual people, clans and tribes. With this enforced pacification and improved legal certainty, as well as with growing infrastructure, states boosted productivity and facilitated peaceful commerce among people. At the same time, we expect that the state itself be organised and regulated by law and that rulers exercise their power in accordance with legal norms, rather than arbitrarily."

This chapter focuses on the different aspects of constitution. Therefore, the chapter is divided into three sections: the first section introduces the definition

¹ The Rights of Man PART II, page 93, 1792, Thomas Paine, (born January 29, 1737, Thetford, Norfolk, England-died June 8, 1809, New York, New York, U.S.), English-American writer and political pamphleteer whose *Common Sense* pamphlet and *Crisis* papers were important influences on the American Revolution. Other works that contributed to his reputation as one of the greatest political propagandists in history were *Rights of Man*, a defense of the French Revolution and republican principles; and *The Age of Reason*, an exposition of the place of religion in society (Source: <https://www.britannica.com/>).

and content of constitutions; the second focuses on the classification of constitutions; the last briefly discusses the history of constitutionalism in the world and Türkiye.

1. MEANING OF CONSTITUTION

The term “constitution” corresponds etymologically to the Latin constitution whose root *statuo* (to set up) is a transitive form of *sto* (to stand).² Accordingly, two families of meanings are likely to stem from *constitutio*, namely the condition of an erect body or the bodily predisposition as regards health or strength and the action of building or of constituting something (Hasebe & Pinelli, 2013: 9. See also Alder, 2015: 4).

1.1. Definition of Constitution

The term “constitution” can have a narrow (formal) and a broad (substantive) meaning (Heringa, 2016: 3):

i. In its narrow (formal) meaning, a constitution is a central written document that sets out the basic rules that apply to the government of socio-political entities, in particular states. Such a central constitutional document can be called appropriately “constitution” but also, for example, “basic law” or “charter”.

ii. In a broad (substantive) meaning, meanwhile, a constitution comprises the entire body of fundamental rules that govern that socio-political entity; be they contained in a central document or in many documents, be they written down or be they customary rules. Substantively, therefore, a constitution is a body of law that

- *attributes power to public authorities;*
- *regulates the fundamental relations among public authorities;*
- *regulates the fundamental relations between the public authority and the individual.*

Like the above-mentioned definition, broadly accepted working definitions of a constitution would likely describe it as a set of fundamental legal-political rules that (Bulmer, 2017: 2):

- i. are binding on everyone in the state, including ordinary law-making institutions,*
- ii. concern the structure and operation of the institutions of government, political principles and the rights of citizens,*
- iii. are based on widespread public legitimacy,*
- iv. are harder to change than ordinary laws,*

² *Constitutio* affords the etymon for the word “constitution” not only in English-speaking and in Latin-speaking countries, but also in others, such as Russian-speaking countries. To the contrary, the ancient Greek *politeia* and the current German *Verfassung* exhibit different etymologic roots (Hasebe & Pinelli, 2013: 9).

v. as a minimum, meet the internationally recognized criteria for a democratic system in terms of representation and human rights.

1.2. Content of Constitutions

Constitutional law, in the broad sense, is typically divided into two branches: institutional law and human rights (Heringa, 2016: 4):

➤ Institutional law governs the way how the state and its institutions function, for example, the term and the power of a parliament, the prerogatives of a government, how voters elect their representatives.

➤ Human rights in the classical sense protect the citizens against the state, and thus regulate relationships between public authority and the individual.

Even though the content of constitutions varies from a country to another, constitutions usually consist of the following parts: Preliminary Chapter (or Preamble), General Principles, Institutions of the State, Fundamental Rights-Freedoms and Constitutional Amendment Procedure.

1.2.1. Preliminary Chapter (or Preamble)

The preliminary chapters (preambles) are the ideological parts of constitutions. They tend to be a declaration about nationhood and history, with references to important national events, symbols and aspirations. The preambles tend to be inspirational rather than legal or rational. Therefore, this part of constitution is not written in the form of an article but in the form of essay.³

What is the content of preambles?

The preambles of constitution have more concrete contents. Their contents pertain to subjects that can be divided into four typical major groups: *i) Goals and Values ii) History iii) God and Religion iv) Referring or calling upon other acts*. Within these major groups, preambles *most often contain* the following values: *Sovereignty, independence, territorial integrity, democracy, rule of law, social justice, justice, freedom, equality, equal and human rights*. The following are *less frequently cited*: *Peaceful international relations, prosperity, welfare, pluralism, humanism, protection of minorities, equality before law, self-determination*. Finally, the following are *only rarely cited*: *Family, protection of nature, brotherhood, multi-party system, separation of powers, an independent judiciary, decentralization and truth* (Constitutional Change: 2020).

³ Please note that it is controversial whether the preliminary chapter is inside the constitution or not. According to Article 176 of the Turkish Constitution, *"the preamble, which states the basic views and principles the Constitution is based on, shall form an integral part of the Constitution"*.

Please note that it is easy to obtain the constitution of every nation in the world from web sites (such as <https://www.constituteproject.org/>) so only relevant provisions of the constitutions i.e. American, Russian and Turkish are provided.

The shortest preamble among the analysed constitutions can be found in the constitutions of Greece (from 1975, 1986, 2001 and 2008) which contain only 11 words.

THE CONSTITUTION OF GREECE ⁴
*In the name of the Holy and Consubstantial
 and Indivisible Trinity*

PART ONE- Basic Provisions

The longest preamble can be found in the Constitutions of Iran (from 1979, 1989, 1994 and 1995) which contains 3,073 words, while other examples of extremely long preambles are rare. Namely, more than 1,000 words are contained in, along with the Iranian Constitution, in the Chinese Constitution (1,071 words) and in the Constitution of Papua New Guinea (2,108 words) (Constitutional Change: 2020).

The U.S. Constitution was proposed on September 17, 1787 by the Constitutional Convention in Philadelphia, Pennsylvania. It was then ratified by conventions in each state. It went into effect in June 1788 when ratified by nine states. The U.S. Constitution contains 4,543 words, including the signatures of 39 of the 55 delegates representing the states. The preamble of the US Constitution is quite short as follows:

THE CONSTITUTION OF THE UNITED STATES⁵
PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

⁴ The Constitution of Greece was created by the Fifth Revisionary Parliament of the Hellenes in 1974, after the fall of the Greek military junta and the start of the Third Hellenic Republic. It came into force in 1975 and has been amended in 1986, 2001, 2008 and 2019.

⁵ The United States Constitution was proposed on September 17, 1787, by the Constitutional Convention in Philadelphia, Pennsylvania. It was then ratified by conventions in each state. It went into effect in June 1788 when ratified by nine states. Since its passage, there have been 27 amendments; the first 10 are known as the *Bill of Rights*. The original document is on display at the National Archives and Records Administration in Washington, D.C.

THE CONSTITUTION OF THE RUSSIAN FEDERATION⁶**PREAMBLE**

We, the multinational people of the Russian Federation, united by a common fate on our land, establishing human rights and freedoms, civic peace and accord, preserving the historically established state unity, proceeding from the universally recognized principles of equality and self-determination of peoples, revering the memory of ancestors who have conveyed to us the love for the Fatherland, belief in the good and justice, reviving the sovereign statehood of Russia and asserting the firmness of its democratic basic, striving to ensure the well-being and prosperity of Russia, proceeding from the responsibility for our Fatherland before the present and future generations, recognizing ourselves as part of the world community, adopt the CONSTITUTION OF THE RUSSIAN FEDERATION.

CONSTITUTION OF TÜRKİYE DATED 1982⁷**PREAMBLE**

Affirming the eternal existence of the Turkish Motherland and Nation and the indivisible unity of the Sublime Turkish State, this Constitution, in line with the concept of nationalism introduced by the founder of the Republic of Türkiye, Atatürk, the immortal leader and the unrivalled hero, and his reforms and principles;

Determining to attain the everlasting existence, prosperity, material and spiritual well-being of the Republic of Türkiye, and the standards of contemporary civilization as an honourable member with equal rights of the family of world nations;

The absolute supremacy of the will of the nation, the fact that sovereignty is vested fully and unconditionally in the Turkish Nation and that no individual or body empowered to exercise this sovereignty in the name of the nation shall deviate from the liberal democracy indicated in the Constitution and the legal system instituted according to its requirements,

The separation of powers, which does not imply an order of precedence among the organs of the State, but refers solely to the exercising of certain state powers and discharging of duties, and is limited to a civilized cooperation and division of functions; and the fact that only the Constitution and the laws have the supremacy;

That no protection shall be accorded to an activity contrary to Turkish national interests, Turkish existence and the principle of its indivisibility with its State and territory, historical and moral values of Turkishness; the nationalism, principles, reforms and civilizationism of Atatürk and that sacred religious feelings shall absolutely not be involved in state affairs and politics as required by the principle of secularism;

- ⁶ The Constitution of the Russian Federation was adopted at National Voting on December 12, 1993. The Constitution came into force on the day of its official publication. The text of the Constitution was published in Rossiiskaya Gazeta as of December 25, 1993. Russian *Российская газета*, is a Russian newspaper published by the Government of Russia. The daily newspaper serves as the official newspaper of record of the Government of Russia, publishing government-related affairs such as official decrees, statements and documents of state bodies, the promulgation of newly approved laws, Presidential decrees, and government announcements.
- ⁷ The Constitution was adopted by the Constituent Assembly on October 18, 1982 to be submitted to referendum and published in the Official Gazette dated October 20, 1982 and numbered 17844; republished in the repeating Official Gazette (Turkish *Resmi Gazete*) dated November 9, 1982 and numbered 17863 in the aftermath of its submission to referendum on November 7, 1982 (Act No. 2709).

That every Turkish citizen has an innate right and power, to lead an honourable life and to improve his/her material and spiritual wellbeing under the aegis of national culture, civilization, and the rule of law, through the exercise of the fundamental rights and freedoms set forth in this Constitution, in conformity with the requirements of equality and social justice; that all Turkish citizens are united in national honour and pride, in national joy and grief, in their rights and duties regarding national existence, in blessings and in burdens, and in every manifestation of national life, and that they have the right to demand a peaceful life based on absolute respect for one another's rights and freedoms, mutual love and fellowship, and the desire for and belief in "Peace at home; peace in the world";

With these IDEAS, BELIEFS, and RESOLUTIONS to be interpreted and implemented accordingly, thus commanding respect for, and absolute loyalty to, its letter and spirit;

Has been entrusted by the TURKISH NATION to the democracy-loving Turkish sons' and daughters' love for the motherland and nation.

1.2.2. General Principles Chapter

By definition, an organisation is accepted as a body of persons organized for some specific purpose. For this reason, the constitution of an organisation contains the fundamental principles which govern its operation. *General principles chapter of a constitution regulates the main principles of the state and answer whether this state is a unitary or federal state, a monarchy or republic state, a secular or religious state, capital city, official language and the symbols of the state and owner-holder of the sovereignty.*

We can see the general principles of the Turkish and Russian Constitutions as follows:

CONSTITUTION OF TÜRKİYE DATED 1982

PART ONE

General Principles

I. Form of the State

ARTICLE 1- The State of Türkiye is a Republic.

II. Characteristics of the Republic

ARTICLE 2- The Republic of Türkiye is a democratic, secular and social state governed by rule of law, within the notions of public peace, national solidarity and justice, respecting human rights, loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the preamble.

III. Integrity, official language, flag, national anthem, and capital of the State

ARTICLE 3- The State of Türkiye, with its territory and nation, is an indivisible entity. Its language is Turkish. Its flag, the form of which is prescribed by the relevant law, is composed of a white crescent and star on a red background. Its national anthem is the "Independence March". Its capital is Ankara.

IV. Irrevocable provisions

ARTICLE 4- The provision of Article 1 regarding the form of the State being a Republic, the characteristics of the Republic in Article 2, and the provisions of Article 3 shall not be amended, nor shall their amendment be proposed.

THE CONSTITUTION OF THE RUSSIAN FEDERATION**FIRST SECTION****Chapter 1.****The Fundamentals of the Constitutional System****Article 1**

The Russian Federation - Russia is a democratic federal law-bound State with a republican form of government.

The names "Russian Federation" and "Russia" shall be equal.

Article 2

Man, his rights and freedoms are the supreme value. The recognition, observance and protection of the rights and freedoms of man and citizen shall be the obligation of the State.

Article 3

1. The bearer of sovereignty and the only source of power in the Russian Federation shall be its multinational people.

2. The people shall exercise their power directly, and also through the bodies of state power and local self-government.

3. The supreme direct expression of the power of the people shall be referenda and free elections.

4. No one may usurp power in the Russian Federation. Seizure of power or usurping state authority shall be prosecuted by federal law.

Article 4

1. The sovereignty of the Russian Federation shall cover the whole of its territory.

2. The Constitution of the Russian Federation and federal laws shall have supremacy in the whole territory of the Russian Federation.

3. The Russian Federation shall ensure the integrity and inviolability of its territory.

Article 5

1. The Russian Federation consists of Republics, territories, regions, cities of federal importance, an autonomous region and autonomous areas - equal subjects of the Russian Federation.

2. The Republic (State) shall have its own constitution and legislation. The territory, region, city of federal importance, autonomous region and autonomous area shall have its charter and legislation.

3. The federal structure of the Russian Federation is based on its state integrity, the unity of the system of state authority, the division of subjects of authority and powers between the bodies of state power of the Russian Federation and bodies of state power of the subjects of the Russian Federation, the equality and self-determination of peoples in the Russian Federation.

4. In relations with federal bodies of state authority all the subjects of the Russian Federation shall be equal among themselves.

Article 6

1. The citizenship of the Russian Federation shall be acquired and terminated according to federal law; it shall be one and equal, irrespective of the grounds of acquisition.

2. Every citizen of the Russian Federation shall enjoy in its territory all the rights and freedoms and bear equal duties provided for by the Constitution of the Russian Federation.

3. A citizen of the Russian Federation may not be deprived of his or her citizenship or of the right to change it.

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Article 12

In the Russian Federation local self-government shall be recognized and guaranteed. Local self-government shall be independent within the limits of its authority. The bodies of local self-government shall not be part of the system of bodies of state authority.

Article 13

1. In the Russian Federation ideological diversity shall be recognized.
2. No ideology may be established as state or obligatory one.
3. In the Russian Federation political diversity and multi-party system shall be recognized.
4. Public associations shall be equal before the law.
5. The creation and activities of public associations whose aims and actions are aimed at a forced change of the fundamental principles of the constitutional system and at violating the integrity of the Russian Federation, at undermining its security, at setting up armed units, and at instigating social, racial, national and religious strife shall be prohibited.

Article 14

1. The Russian Federation is a secular state. No religion may be established as a state or obligatory one.
2. Religious associations shall be separated from the state and shall be equal before the law.

Article 15

1. The Constitution of the Russian Federation shall have the supreme juridical force, direct action and shall be used on the whole territory of the Russian Federation. Laws and other legal acts adopted in the Russian Federation shall not contradict the Constitution of the Russian Federation.
2. The bodies of state authority, the bodies of local self-government, officials, private citizens and their associations shall be obliged to observe the Constitution of the Russian Federation and laws.
3. Laws shall be officially published. Unpublished laws shall not be used. Any normative legal acts concerning human rights, freedoms and duties of man and citizen may not be used, if they are not officially published for general knowledge.
4. The universally-recognised norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.

Article 16

1. The provisions of the present chapter of the Constitution comprise the fundamental principles of the constitutional system of the Russian Federation, and may not be changed otherwise than according to the rules established by the present Constitution.
2. No other provision of the present Constitution may contradict the fundamental principles of the constitutional system of the Russian Federation.

1.2.3. Institutions of the State Chapter

Another essential content of a constitution is the composition and powers of government because the main objective of a constitution is to provide outlines for the structures and powers of the government. In a wider sense, the organisation of government includes the division of powers amongst various departments, the organisation of particular agencies through which the state manifests itself, the extent and duration of their authority, the modes of appointment or election of public functionaries and the constitution of the electorate.

As you know, Montesquieu⁸ argued that these three functions (legislative, executive and judiciary) ought to be kept apart and should be assigned to three separate branches of the state: the legislature, the executive and the judiciary. Modern constitutions regulate the functions of different organs of the state, their powers and mutual relations. The American, Russian and Turkish Constitutions provide a clear example of Montesquieu's separation of powers model.

⁸ Montesquieu, in full *Charles-Louis de Secondat, baron de La Brède et de Montesquieu*, (born January 18, 1689, Château La Brède, near Bordeaux, France-died February 10, 1755, Paris), French political philosopher whose principal work, *The Spirit of Laws (L'Esprit des lois)*, was a major contribution to political theory.

L'Esprit des lois is one of the great works in the history of political theory and in the history of jurisprudence. Its author had acquainted himself with all previous schools of thought but identified himself with none. Of the multiplicity of subjects treated by Montesquieu, none remained unadorned. His treatment of three was particularly memorable.

The first of these is his classification of governments, a subject that was de rigueur for a political theorist. Abandoning the classical divisions of his predecessors into monarchy, aristocracy, and democracy, Montesquieu produced his own analysis and assigned to each form of government an animating principle: the republic, based on virtue; the monarchy, based on honour; and despotism, based on fear. His definitions show that this classification rests not on the location of political power but on the government's manner of conducting policy; it involves a historical and not a narrow descriptive approach.

The second of his most-noted arguments, the theory of the separation of powers, is treated differently. Dividing political authority into the legislative, executive, and judicial powers, he asserted that, in the state that most effectively promotes liberty, these three powers must be confided to different individuals or bodies, acting independently. His model of such a state was England, which he saw from the point of view of the Tory opposition to the Whig leader, Robert Walpole, as expressed in Bolingbroke's polemical writings. The chapter in which he expressed this doctrine—Book XI, chapter 6, the most famous of the entire book—had lain in his drawers, save for revision or correction, since it was penned in 1734. It at once became perhaps the most important piece of political writing of the 18th century. Though its accuracy has in more recent times been disputed, in its own century it was admired and held authoritative, even in England; it inspired the Declaration of the Rights of Man and the Constitution of the United States.

The third of Montesquieu's most-celebrated doctrines is that of the political influence of climate. Basing himself on doctrines met in his reading, on the experience of his travels, and on experiments—admittedly somewhat naïve—conducted at Bordeaux, he stressed the effect of climate, primarily thinking of heat and cold, on the physical frame of the individual, and, as a consequence, on the intellectual outlook of society. This influence, he claims, is not, save in primitive societies, insuperable. It is the legislator's duty to counteract it. Montesquieu took care (as his critics have not always realized) to insist that climate is but one of many factors in an assembly of secondary causes that he called the "general spirit." The other factors (laws, religion, and maxims of government being the most important) are of a nonphysical nature, and their influence, compared with that of climate, grows as civilization advances (Source: <https://www.britannica.com/>).

THE CONSTITUTION OF THE UNITED STATES⁹

Article. I.

Section. 1.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2.

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

....

Section. 3.

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

...

Article. II.

Section. 1.

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

...

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

⁹ Please note that some words now have different spellings: behaviour-behavior, chuse-choose, chusing-choosing, controul-control, defence-defense, encreased-increased, erasure-erasure, labour-labor, offences-offenses. Punctuation, hyphenation and grammar usage have also changed.

THE CONSTITUTION OF THE RUSSIAN FEDERATION**SECTION ONE****Chapter 1.****The Fundamentals of the Constitutional System****Article 10.**

The state power in the Russian Federation shall be exercised on the basis of its division into legislative, executive and judicial power. The bodies of legislative, executive and judicial power shall be independent.

Article 11.

1. The state power in the Russian Federation shall be exercised by the President of the Russian Federation, the Federal Assembly (the Council of the Federation and the State Duma), the Government of the Russian Federation, and the courts of the Russian Federation.

2. The state power in the subjects of the Russian Federation shall be exercised by the bodies of state authority created by them.

3. The division of subjects of authority and power among the bodies of state power of the Russian Federation and the bodies of state power of the subjects of the Russian Federation shall be fixed by the given Constitution, the Federal and other treaties on the delimitation of the subjects of authority and powers.

SECTION ONE**Chapter 4. President of the Russian Federation****Article 80.**

1. The President of the Russian Federation shall be the head of state.

2. The President shall be the guarantor of the Constitution of the Russian Federation, and of human and civil rights and freedoms. In accordance with the procedure established by the Constitution of the Russian Federation, he shall take measures to protect the sovereignty of the Russian Federation, its independence and state integrity, and ensure concerted functioning and interaction of all bodies of state power.

3. The President of the Russian Federation shall define the basic domestic and foreign policy guidelines of the state in accordance with the Constitution of the Russian Federation and federal laws.

4. The President of the Russian Federation as head of state shall represent the Russian Federation inside the country and in international relations.

Article 81.

1. The President of the Russian Federation shall be elected for a term of four years by the citizens of the Russian Federation on the basis of general, equal and direct vote by secret ballot.

2. A citizen of the Russian Federation not younger than 35, who has resided in the Russian Federation for not less than 10 years, may be elected President of the Russian Federation.

3. No one person shall hold the office of President of the Russian Federation for more than two terms in succession.

4. The procedure for electing the President of the Russian Federation shall be determined by federal law.

...

Chapter 5. The Federal Assembly**Article 94.**

The Federal Assembly -- Parliament of the Russian Federation -- shall be the supreme representative and legislative body of the Russian Federation.

Article 95.

1. The Federal Assembly shall consist of two chambers -- the Federation Council and the State Duma.

2. Two deputies from each subject of the Federation shall be members of Federation Council: one from the representative and one from the executive bodies of state authority.

3. The State Duma shall consist of 450 deputies.

Article 96.

1. The State Duma shall be elected for a term of four years.

2. The procedure for forming the Federation Council and the procedure for electing deputies to the State Duma shall be established by federal law.

Article 97.

1. Any citizen of the Russian Federation aged 21 and older who has the right to take part in elections may be elected deputy to the State Duma.

2. One and the same person may not concurrently be a deputy to the Federation Council and to the State Duma. A deputy to the State Duma may not be a deputy to any other representative body of state power or bodies of local self-government.

3. The deputies to the State Duma shall work on a permanent professional basis. Deputies to the State Duma may not be employed in the civil service or engage in any activities for remuneration other than teaching, research or other creative activities.

...

Chapter 7. Judiciary

Article 118.

1. Justice in the Russian Federation shall be administered only by law courts.

2. Judiciary power shall be exercised to constitutional, civil, administrative and criminal process.

3. The judiciary system of the Russian Federation shall be established by the Constitution of the Russian Federation and the federal constitutional law. The creation of extraordinary courts shall be forbidden.

CONSTITUTION OF TÜRKİYE DATED 1982

PART ONE

General Principles

VII. Legislative power

ARTICLE 7- Legislative power is vested in the Grand National Assembly of Türkiye on behalf of Turkish Nation. This power shall not be delegated.

VIII. Executive power and function

ARTICLE 8- Executive power and function shall be exercised and carried out by the President of the Republic in conformity with the Constitution and laws.

IX. Judicial power

ARTICLE 9- Judicial power shall be exercised by independent and impartial courts on behalf of the Turkish Nation.

PART THREE

Fundamental Organs of the Republic

CHAPTER ONE

Legislative Power

I. The Grand National Assembly of Türkiye

A. Composition

ARTICLE 75- The Grand National Assembly of Türkiye shall be composed of six hundred deputies elected by universal suffrage.

...

CHAPTER TWO**The Executive Power****D. Duties and powers**

ARTICLE 104- The President of the Republic is the head of the state. The executive power shall be vested in the President of the Republic.

CHAPTER THREE**Judicial Power****I. General provisions****A. Independence of the courts**

ARTICLE 138- Judges shall be independent in the discharge of their duties; they shall give judgment in accordance with the Constitution, laws, and their personal conviction conforming to the law.

No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions.

No questions shall be asked, debates held, or statements made in the Legislative Assembly relating to the exercise of judicial power concerning a case under trial.

Legislative and executive organs and the administration shall comply with court decisions; these organs and the administration shall neither alter them in any respect, nor delay their execution.

1.2.4. Fundamental Rights and Freedoms Chapter

A very important way of curbing the power of the state and that of protecting the individual from it is to commit the state to respect fundamental rights and freedoms (Heringa, 2014: 175). Therefore, the provision of fundamental rights in a constitution is considered an essential tool to establish a limited and free government (Subramanian, 2017: 39). This is clearly shown by Bradley and others as follows (Bradley & Ewing & Knight, 2018: 3):

“Constitutional law not only recognizes the existence of the state power, which may be justified by reference to the wishes of the majority of the people, but it also seeks to protect individuals and minority groups against collective action that would ride roughshod over their rightful claim to live free from oppressive and intrusive conduct. The need to protect fundamental human rights is today recognized far more widely than it was in the early years of the 20th century and it now plays a large part in our constitutional law.”

It can be easily seen that a chapter on fundamental rights and freedoms takes (and should take) up a large portion of every constitution. For instance, in its second chapter, the Russian Constitution grants and guarantees the rights and freedoms of the people. It is the lengthiest chapter of the constitution containing 47 Articles (from Article 17 to 64).

**Table 1: List of the Rights and Liberties of Man and Citizen
in the Russian Constitution**

THE CONSTITUTION OF THE RUSSIAN FEDERATION

SECTION ONE

Chapter 2.

Rights and Liberties of Man and Citizen

Right to Equality (Article 19)

Right to Life (Article 20)

Rights to Personal Dignity (Article 21)

Prohibition of torture, violence or any other harsh or humiliating treatment or punishment.

Nobody may be subjected to medical, scientific or other experiments without voluntary consent.

Right to Personal Freedom (Article 22)

The right to freedom and personal inviolability.

Arrest, detention and keeping in custody shall be allowed only by an order of a court of law. No person may be detained for more than 48 hours without an order of a court of law.

Right to Privacy and Family Life (Articles 23-24-25)

The right to privacy, to personal and family secrets, and to protection of one's honour and good name.

The right to privacy of correspondence, telephone communications, mail, cables and other communications.

Prohibition of gathering, storing, using and disseminating information on the private life of any person without his/her consent. (Article 24)

The home shall be inviolable.

No one shall have the right to enter the home against the will of persons residing in it except in cases stipulated by the federal law or under an order of a court of law. (Article 25)

Right to National Identity and Language (Article 26)

The right to determine and state his national identity.

The right to use his native language, freely choose the language of communication, education, training and creative work.

Freedom of Movement (Article 27)

The right to freedom of movement and to choose the place to stay and reside.

Freedom of Conscience, Religious Worship, Thought and Speech, Peaceful Assembly (Articles 28-29-30-31)

Political Rights and Freedoms (Articles 32-33)

The right to participate in the administration of the affairs of the state both directly and through their representatives.

The right to elect and to be elected to bodies of state governance and to organs of local self-government, as well as take part in a referendum.

The right to turn personally to, and send individual and collective petitions to state bodies and bodies of local self-government.

Right to Economic Freedom or Economic Rights (Articles 34-35-36-37)

The right to freely use his or her abilities and property for entrepreneurial or any other economic activity not prohibited by the law.

The right of private property.

The right of inheritance.

The right to make free use of his or her abilities for work and to choose a type of activity and occupation.

<i>The right to work.</i>
<i>The right to individual and collective labour disputes with the use of means of resolution.</i>
<i>The right to rest and leisure.</i>
Social Rights (Articles 38-39- 40-41-42-43-44)
<i>Everyone shall be guaranteed social security for old age, in case of illness, disability and loss of the breadwinner, for the bringing up of children and in other cases specified by law.</i>
<i>The right to home.</i>
<i>The right to health care and medical assistance.</i>
<i>The right to a favourable environment, reliable information about its condition and to compensation for the damage caused to his or her health or property by ecological violations.</i>
<i>The right to education.</i>
<i>The freedom of literary, artistic, scientific, technical and other types of creative activity and teaching.</i>
<i>The right to participation in cultural life, to the use of institutions of culture, and access to cultural values.</i>
Protection of Human Rights (Articles 45-46-47-48-49-50-51-53-54-61-63)
<i>The right to defend his or her rights and liberties by any means not prohibited by the law.</i>
<i>Nobody may be deprived of the right to have his (her) case heard in the court and by the judge within whose competence the case is placed by law.</i>
<i>Any person accused of committing a crime shall have the right to have his (her) case examined by a court with the participation of a jury in the cases envisaged by federal law. (Article 47)</i>
<i>The right to qualified legal counsel. (Article 48)</i>
<i>Presumption of Innocence. (Article 49)</i>
<i>Nobody may be convicted twice for one and the same crime. (Article 50)</i>
<i>Nobody shall be obliged to testify against himself, his (her) spouse or close relatives, the range of whom shall be determined by federal law. (Article 51)</i>
<i>Everyone shall have the right to State compensation for damage caused by unlawful actions (inaction) of State government bodies and their officials. (Article 53)</i>
<i>A law, which introduces or increases liability, shall not have retroactive force.</i>
<i>Nobody may bear liability for an action, which was not regarded as a crime when it was committed. If, after an offense has been committed, the extent of liability for it is lifted or mitigated, the new law shall be applied. (Article 54)</i>
<i>No Deportation of Citizens. (Article 61)</i>
<i>Rights of Foreigners and Grant of Political Asylum. (Article 63)</i>

Part II of the Constitution of Türkiye (from Articles 12 to Article 74) regulates fundamental rights and freedoms. The state cannot make a law, which takes away or abridges any of the rights of the citizens guaranteed in Part II. Moreover, the fundamental rights, individual rights and duties included in the first and second chapters and the political rights and duties listed in the fourth chapter of the second part of the Constitution cannot be regulated by a presidential decree.

Table 2: List of the Fundamental Rights and Duties in the Turkish Constitution

CONSTITUTION OF TÜRKİYE DATED 1982	
PART TWO	
Fundamental Rights and Duties	
CHAPTER TWO	IV. Freedom of work and contract
Rights and Duties of the Individual	V. Provisions relating to labour
I. Personal inviolability, corporeal and spiritual existence of the individual	A. Right and duty to work
II. Prohibition of forced labour	B. Working conditions and right to rest and leisure
III. Personal liberty and security	C. Right to organize unions
IV. Privacy and protection of private life	D. Activities of unions
A. Privacy of private life	VI. Collective labour agreement, right to strike, and lockout
B. Inviolability of the domicile	A. Rights of collective labour agreement and collective agreement
C. Freedom of communication	B. Right to strike, and lockout
V. Freedom of residence and movement	VII. Provision of fair wage
VI. Freedom of religion and conscience	VIII. Health, the environment and housing
VII. Freedom of thought and opinion	A. Health services and protection of the environment
VIII. Freedom of expression and dissemination of thought	B. Right to housing
IX. Freedom of science and the arts	IX. Youth and sports
X. Provisions relating to the press and publication	A. Protection of the youth
A. Freedom of the press	B. Development of sports and arbitration
B. Right to publish periodicals and non-periodicals	X. Social security rights
C. Protection of printing facilities	A. Right to social security
D. Right to use media other than the press owned by public corporations	B. Persons requiring special protection in the field of social security
E. Right of rectification and reply	XI. Protection of historical, cultural and natural assets
XI. Rights and freedoms of assembly	XII. Protection of arts and artists
A. Freedom of association	XIII. The extent of social and economic duties of the State
B. Right to hold meetings and demonstration marches	CHAPTER FOUR
XII. Right to property	Political Rights and Duties
XIII. Provisions on the protection of rights	I. Turkish citizenship
A. Freedom to claim rights	II. Right to vote, to be elected and to engage in political activity
B. Principle of natural judge	III. Provisions relating to political parties
C. Principles relating to offences and penalties	A. Forming parties, membership and withdrawal from membership in a party

XIV. Right to prove an allegation	B. Principles to be observed by political parties
XV. Protection of fundamental rights and freedoms	IV. Right to enter public service
CHAPTER THREE	
Social and Economic Rights and Duties	
I. Protection of the family, and children's rights	A. Entry into public service
II. Right and duty of education	B. Declaration of assets
III. Public Interest	V. National service
	VI. Duty to pay taxes
	VII. Right of petition, right to information and appeal to the Ombudsperson
A. Utilization of the coasts	
B. Land ownership	
C. Protection of agriculture, animal husbandry, and persons engaged in these activities	
D. Expropriation	
E. Nationalization and privatization	

1.2.5. Amendment Procedure Chapter

Constitutional amendment refers to changes made to an existing constitution. When a constitutional amendment procedure is regulated, there are two objectives needed to be optimized. On the one hand, the amendment procedure should be easy to reflect the changes that have occurred within society. Therefore, it should prevent the constitution from becoming a historical anachronism. On the other hand, the constitution needs to be protected from short-sighted or partisan amendments. Therefore, it is unlikely that it will be capable of being amended in the same way as other laws. Usually, a special procedure should be followed in order to effect a change to a written constitution (Parpworth, 2014: 5).

THE CONSTITUTION OF THE UNITED STATES

Article V

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

The American, Russian and Turkish Constitutions have specific provisions for the constitutional amendment process. We must note that in the long history of the U.S. Constitution, over 5,000 amendments have been introduced in

Congress. Only 33 of these have been formally proposed by Congress, and none has ever been proposed by a special convention. Of the 33 amendments proposed by Congress, 27 were ratified. The first ten amendments known as *the Bill of Rights* were passed as a package by the first session of Congress in 1791. The original document is on display at the National Archives and Records Administration in Washington, D.C. However, in the short history of the Turkish Constitution of 1982, the Constitution has been amended 23 times; the amendments have concerned more than 110 of the 177 articles of the Constitution. In three instances, the amendments were partly (1987) or fully (2007, 2010, 2016 and 2017) approved through a referendum. Four of the constitutional amendments so far failed to enter into force.

Table 3: Constitutional Amendment Process in the USA in accordance with Article V

PROPOSAL	HOW MANY TIMES WAS THIS WAY USED?	RATIFICATION	
OPTION I- CONGRESSIONAL METHOD: PROPOSAL BY TWO THIRDS OF BOTH HOUSES OF CONGRESS	OPTION I USED SUCCESSFULLY 26 TIMES	PASSEGE BY THREE QUARTERS OF 50 STATE LEGISLATURES	The text requires no additional action by Congress or anyone else after ratification by the required number of states. Thus, when the Office of the Federal Register verifies that it has received the required number of authenticated ratification documents, it drafts a formal proclamation for the Archivist of the USA to certify that the amendment is valid and has become part of the nation's frame of government.
OPTION II CONVENTION METHOD: PROPOSAL BY TWO THIRDS OF NATIONAL CONVENTION CALLED BY CONGRESS ON REQUEST OF TWO THIRDS OF 50 STATES LEGISLATUES	OPTION II USED ONCE TO REPEAL PROHIBITION (AMENDMENT 21)	PASSEGE BY THREE QUARTERS OF SPECIAL STATE CONVENTIONS	

Table 4: List of the Amendments of US Constitution

No.	Subject	Ratification		
		Submitted	Completed	Time span
1 st	Prohibits Congress from making any law respecting an establishment of religion, impeding the free exercise of religion, abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the right to petition the government	September 25, 1789	December 15, 1791	2 years, 81 days
2 nd	Protects the right to keep and bear arms	September 25, 1789	December 15, 1791	2 years, 81 days
3 rd	Places restrictions on the quartering of soldiers in private homes	September 25, 1789	December 15, 1791	2 years, 81 days
4 th	Prohibits unreasonable searches and seizures and sets out requirements for warrants based on probable cause	September 25, 1789	December 15, 1791	2 years, 81 days
5 th	Sets out rules for indictment by grand jury and eminent domain, protects the right to due process, and prohibits self-incrimination and double jeopardy	September 25, 1789	December 15, 1791	2 years, 81 days
6 th	Protects the right to a fair and speedy public trial by jury, including the rights to be notified of the accusations, to confront the accuser, to obtain witnesses and to retain counsel	September 25, 1789	December 15, 1791	2 years, 81 days
7 th	Provides for the right to trial by jury in certain civil cases, according to common law	September 25, 1789	December 15, 1791	2 years, 81 days
8 th	Prohibits excessive fines and excessive bail, as well as cruel and unusual punishment	September 25, 1789	December 15, 1791	2 years, 81 days
9 th	Protects rights not enumerated in the Constitution	September 25, 1789	December 15, 1791	2 years, 81 days
10 th	Reinforces the principle of federalism by stating that the federal government possesses only those powers delegated to it by the states or the people through the Constitution	September 25, 1789	December 15, 1791	2 years, 81 days
11 th	Makes states immune from suits from out-of-state citizens and foreigners not living within the state borders; lays the foundation for sovereign immunity	March 4, 1794	February 7, 1795	340 days
12 th	Revises presidential election procedures by having the president and vice president elected together as opposed to the vice president being the runner up in the presidential election	December 9, 1803	June 15, 1804	189 days
13 th	Abolishes slavery, and involuntary servitude, except as punishment for a crime	January 31, 1865	December 6, 1865	309 days
14 th	Defines citizenship, contains the Privileges or Immunities Clause, the Due Process Clause, the Equal Protection Clause, and deals with post-Civil War issues	June 13, 1866	July 9, 1868	2 years, 26 days

15 th	Prohibits the denial of the right to vote based on race, colour or previous condition of servitude	February 26, 1869	February 3, 1870	342 days
16 th	Permits Congress to levy an income tax without apportioning it among the various states or basing it on the United States Census	July 12, 1909	February 3, 1913	3 years, 206 days
17 th	Establishes the direct election of United States senators by popular vote	May 13, 1912	April 8, 1913	330 days
18 th	Prohibited the manufacturing or sale of alcohol within the United States (Repealed December 5, 1933, via the 21 st Amendment)	December 18, 1917	January 16, 1919	1 year, 29 days
19 th	Prohibits the denial of the right to vote based on sex	June 4, 1919	August 18, 1920	1 year, 75 days
20 th	Changes the date on which the terms of the president and vice president and of members of Congress end and begin (to January 20 and January 3 respectively)	March 2, 1932	January 23, 1933	327 days
21 st	Repeals the 18 th Amendment and makes it a federal offense to transport or import intoxicating liquors into U.S. states and territories where such transport or importation is prohibited by the laws of those states and territories	February 20, 1933	December 5, 1933	288 days
22 nd	Limits the number of times that a person can be elected president: a person cannot be elected president more than twice, and a person who has served more than two years of a term to which someone else was elected cannot be elected more than once	March 24, 1947	February 27, 1951	3 years, 340 days
23 rd	Grants the District of Columbia electors in the Electoral College, their number being equal to those of the least populous state	June 16, 1960	March 29, 1961	286 days
24 th	Prohibits the revocation of voting rights due to the non-payment of a poll tax or any other tax	September 14, 1962	January 23, 1964	1 year, 131 days
25 th	Addresses succession to the presidency and establishes procedures both for filling a vacancy in the office of the vice president, as well as responding to presidential disabilities	July 6, 1965	February 10, 1967	1 year, 219 days
26 th	Prohibits the denial of the right of US citizens, eighteen years of age or older, to vote on account of age	March 23, 1971	July 1, 1971	100 days
27 th	Delays laws affecting Congressional salary from taking effect until after the next election of representatives	September 25, 1789	May 5, 1992	202 years, 223 days

Source: https://en.wikipedia.org/wiki/Main_Page

THE CONSTITUTION OF THE RUSSIAN FEDERATION

SECTION ONE

Chapter 9. Constitutional Amendments and Revisions

Article 134.

Proposals on amendments and revision of constitutional provisions may be made by the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation, legislative (representative) bodies of the subjects of the Russian Federation as well as groups of deputies numbering not less than one-fifth of the total number of deputies of the Federation Council or the State Duma.

Article 135.

1. The provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation may not be revised by the Federal Assembly.

2. In the event a proposal to revise any provisions in Chapters 1, 2 and 9 of the Constitution of the Russian Federation shall be supported by three-fifths of the total number of deputies of the Federation Council and the State Duma, a Constitutional Assembly shall be convened in accordance with the federal constitutional law.

3. The Constitutional Assembly may either confirm the inviolability of the Constitution of the Russian Federation or develop a new draft of the Constitution of the Russian Federation which shall be adopted by two-thirds of the total number of deputies to the Constitutional Assembly or submitted to popular voting. The Constitution of the Russian Federation shall be considered adopted during such poll if more than half of its participants have voted for it, provided more than half of the electorate have taken part in the poll.

Article 136.

Amendments to Chapters 3-8 of the Constitution of the Russian Federation shall be adopted in accordance with the procedures envisaged for the adoption of a federal constitutional law and shall come into force following the approval thereof by no less than two-thirds of the subjects of the Russian Federation.

Article 137.

1. Changes to Article 65 of the Constitution of the Russian Federation, which determines the composition of the Russian Federation, shall be made on the basis of the federal constitutional law on admission to the Russian Federation and the formation within the Russian Federation of a new subject and on a change of the constitutional-legal status of the subject of the Russian Federation.

2. In the event of a change in the name of the republic, territory, region, federal cities, autonomous region and autonomous area, the new name of the subject of the Russian Federation shall be included in Article 65 of the Constitution of the Russian Federation.

Table 5: Constitutional Amendment Process in Russia in accordance with Article 135-7

PROPOSAL	CONTENT OF AMENDMENT	PARLIAMENTARY PROCESS	CONSTITUTIONAL ASSEMBLY	ROLE OF THE PRESIDENT
President	In the event a proposal to revise any provisions in Chapters 1 (The Fundamentals of the Constitutional System), Chapter 2 (Rights and Freedoms of Man and Citizen) and Chapter 9 (Constitutional Amendments and Review of the Constitution) of the Constitution of the Russian Federation	Support by three-fifths of the total number of deputies of the Federation Council and the State Duma	Option I- ELABORATE AND SUBMIT FOR REFERENDUM	Signed and executed by the President
Government			Adopted during such poll if more than half of its participants have voted for it, provided more than half of the electorate have taken part in the poll.	
State Duma			Option II- ELABORATE AND ADOPT BY 2/3 MAJORITY.	
The Federation Council Legislative (representative) bodies of the subjects of the Russian Federation Groups of deputies numbering not less than one-fifth of the total number of deputies of the Federation Council or the State Duma			Adopted by two-thirds of the total number of deputies to the Constitutional Assembly or submitted to popular voting. Option III- DISMISS THE PROPOSAL	

CONSTITUTION OF TÜRKİYE DATED 1982

PART SEVEN

Final Provisions

I. Amending the Constitution, participation in elections and referenda

ARTICLE 175- Amendment to the Constitution shall be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Türkiye. Bills to amend the Constitution shall be debated twice in the Plenary. The adoption of a bill for an amendment shall require a three-fifths majority of the total number of members of the Assembly by secret ballot.

The consideration and adoption of bills for the amendments to the Constitution shall be subject to the provisions governing the consideration and adoption of laws, with the exception of the conditions set forth in this Article.

The President of the Republic may send back the laws on the amendments to the Constitution to the Grand National Assembly of Türkiye for reconsideration. If the Assembly readopts, by a two-thirds majority of the total number of members, the law sent back by the President of the Republic without any amendment, the President of the Republic may submit the law to referendum.

If a law on the amendment to the Constitution is adopted by a three-fifths or less than two-thirds majority of the total number of members of the Assembly and is not sent back by the President of the Republic to the Assembly for reconsideration, it shall be published in the Official Gazette and be submitted to referendum.

A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Grand National Assembly of Türkiye directly or upon the sending back of the law by the President of the Republic or its articles deemed necessary may be submitted to a referendum by the President of the Republic. A law on the amendment to the Constitution or the related articles that are not submitted to referendum shall be published in the Official Gazette.

Entry into force of the laws on the amendment to the Constitution submitted to referendum shall require the affirmative vote of more than half of the valid votes cast.

The Grand National Assembly of Türkiye, in adopting the law on the Constitutional amendment shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually, in case the law is submitted to referendum.

Every measure including fines shall be taken by law to secure participation in referenda, general elections, by-elections and local elections.

Table 6: Constitutional Amendment Process in Türkiye in accordance with Article 175

PROPOSAL	LEGISLATIVE APPROVAL QUORUM	ROLE OF THE PRESIDENT	REFERENDUM	OTHER ISSUES
<p>Proposal in writing by at least one-third of the total number of members of the Grand National Assembly of Türkiye</p>	<p>I- A three-fifths majority of the total number of members of the Assembly</p> <p>$3/5 < \text{Majority} < 2/3$</p>	<p>I- QUALIFIED VETO*</p> <p>May send back the laws on the amendments to the Constitution to the Grand National Assembly of Türkiye for reconsideration or submit the bill to referendum</p>	<p>I- Obligatory (three-fifth majority decision of the Grand National Assembly of Türkiye after overriding the presidential veto)</p>	<p>Bills to amend the Constitution shall be debated twice in the Plenary.</p>
	<p>II- Ratify the bill (Upon the reconsideration, two-thirds majority decision of the Grand National Assembly of Türkiye)</p>	<p>II- SUSPENSIVE VETO***</p> <p>May send back the laws on the amendments to the Constitution to the Grand National Assembly of Türkiye for reconsideration or submit the bill to referendum</p>	<p>II- Optional (two-thirds majority decision of the Grand National Assembly of Türkiye after overriding the presidential veto)</p>	<p>The Grand National Assembly of Türkiye, in adopting the law on the Constitutional amendment shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually, in case the law is submitted to referendum.</p>
	<p>II- A two-thirds majority of the total number of members of the Assembly</p> <p>Majority > 2/3</p>	<p>II- Ratify the bill (Upon the reconsideration, two-thirds majority decision of the Grand National Assembly of Türkiye)</p>	<p>III- Optional (two-thirds majority decision of the Grand National Assembly of Türkiye)</p>	

* **Absolute veto:** Constitutions may grant the President an absolute veto power that cannot be overturned by the legislature. In principle, this means that no bill can come into effect without the President's approval even if a large majority of legislators are strongly in favour.

** **Qualified veto** is that power of veto which can be overridden by the legislature by again passing a bill second time but comparatively with the higher majority.

*** **Suspensive veto** is that power of veto which can be overridden by the legislature by again passing a bill second time with the same or simple majority.

Table 7: List of the Amendments of Turkish Constitution of 1982

NO.	SUBJECT	LAW NO.
1	With these amendments, the age of voters was reduced from 21 to 20 (m.67), the number of deputies was increased from 400 to 450 (m.75), the procedure for amending the Constitution was relatively facilitated (m.175) and the ban on politics to most politicians before 12 September 1980 Abolished (Provisional Article 4).	Law No 3361 of 17.05.1987
2	The amendment aimed at taking local elections one year early. However, it was rejected in a referendum on 25 September 1988. Therefore, the relevant constitutional amendment failed to enter into force.	Law No 3467 of 06.08.1988
3	Article 133 of the Constitution was amended and the monopolization of the state in radio and television broadcasting was terminated.	Law No 3913 of 08.07.1993
4	The Preamble of Constitution which sets out the basic philosophy of the Constitution and 13 articles have been amended and one article has been repealed.	Law No 4121 of 23.07.1995
5	Provides for an amendment regarding the composition of the State Security Court, which shall no longer include military judges.	Law No 4388 of 16.08.1999
6	The privatization system was granted constitutional status (art.47); in the concession conditions and contracts related to public services, it was accepted that international arbitration may be applied for settlement of disputes if one of the parties is foreign. (m.125 / 1) and the duty of the Council of State to examine these transactions, is restricted within 15 months (m.155 / 2).	Law No 4466 of 13.08.1999
7	Findings obtained through illegal methods shall not be considered evidence. No one shall be deprived of his/her liberty merely on the ground of inability to fulfil a contractual obligation. Family is the foundation of the Turkish society and based on the equality between the spouses. Instead of dissolving it permanently in accordance with the above-mentioned paragraphs, the Constitutional Court may rule the concerned party to be deprived of state aid wholly or in part with respect to intensity of the actions brought before the court.	Law No 4709 of 03.10.2001
8	Article 86, titled "Salaries and travel allowances" was amended and the status of the members and retired-members of parliament was developed.	Law No 4720 of 21.11.2001
9	Those who are included in the paragraph 2 of article 76 of the Constitution titled "the ability to be elected as a deputy" and counted in cases that prevent them from being elected as parliamentarians, who have been convicted in terms of "inciting crimes for inciting and promoting ideological and anarchic actions" "anarchic" phrases were removed; instead, the phrase "terrorism" was introduced. (Paragraph added on December 27, 2002; Act No. 4777) Apart from the above specified situations, if all the seats of a province or electoral district fall vacant in the Assembly, a by-election shall be held on the first Sunday after ninety days following the vacancy. The third paragraph of Article 127 of the Constitution shall not apply for elections held per this paragraph.	Law No 4777 of 27.12.2002
10	Law No 4841 was sent back to the Turkish Grand National Assembly to be re-negotiated by the President. Thereupon, no attempt was made by the Turkish Grand National Assembly and the related change could not enter into force.	Law No 4841 of 04.04.2003

11	Law No 4960 was sent back to the Turkish Grand National Assembly to be re-negotiated by the President. Thereupon, no attempt was made by the Turkish Grand National Assembly and the related change could not enter into force.	Law No 4960 of 29.07.2003
12	<ul style="list-style-type: none"> •Capital punishment has been cancelled out from Article 15 in 2004. •The immunity of private life and family life without any exception has been accepted. •In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail. 	Law No 5170 of 07.05.2004
13	Section article 133 regarding radio and TV administrations and state-financed news agencies and adds a new paragraph (composition of the high authority in charge of the organisation and regulation of the radio and TV activities (nine members), and its functioning) The phrase "The Radio and Television Supreme Council" was added by the first Article of Act No. 5370 dated June 21, 2005.	Law No 5370 of 21.06.2005
14	It amends Articles 130 paragraph 8, 160 paragraph 1, 161 paragraph 2, 162 paragraph 1 and 163 of the Constitution of the Republic of Türkiye (concerning the budget).	Law No 5428 of 29.10.2005
15	Amends Article 76 of the Turkish Constitution No. 2709 dated 07 November 1982; It changes the number 30 by the number 25 (age for being eligible to be a deputy).	Law No 5551 of 13.10.2006
16	It adds a temporary Article 17 concerning the first general election following the entry into force of this Law. PROVISIONAL ARTICLE 17- (Added on May 10, 2007; Act No. 5659) In the first general elections held after the entry into force of this Act on the addition of a provisional article to the Turkish Constitution, the last paragraph of Article 67 of the Constitution shall not be applied to the provisions of Parliamentary Elections Act No. 2839, dated June 10, 1983, concerning the inclusion of independent candidates on joint ballot paper.	Law No 5569 of 10.05.2007
17	It amends: Article 77 of the Constitution by replacing the word "five" by "four"; Article 79 paragraph 2 concerning the General Administration and Supervision of Elections by adding after the words "election returns" the "election returns of the President" and in the last paragraph, after the word "referendum" adds the words "election of the president of the Republic by referendum"; Article 96, paragraph one concerning the quorums required for sessions and decisions; Article 101 concerning the qualifications and impartiality of the President of the Republic, Article 102 concerning the election; It adds a temporary Articles 18 and 19 concerning the election of the President of the Republic and the consequences on Laws.	Law No 5678 of 31.05.2007
18	It repeals temporary Articles 18 and 19 added to the Turkish Constitution.	Law No 5697 of 16.10.2007
19	Amends paragraph 4 of Article 10 (concerning the equality before the law) and adds after the words "in all their proceedings" the words "in utilization of all forms of public services". Paragraph 6 of Article 42 on the right to education has been changed to include a phrase preventing anyone being denied access to education except for a reason openly stated in law. However, these amendments have been annulled by the Constitutional Court decision dated 05.06.2008. Please see the Official Gazette dated 22.10.2008 and numbered 27032.	Law No 5735 of 09.02.2008

	<ul style="list-style-type: none"> • The right to individual application to the Constitutional Court has been brought. • Economic and Social Council has been established. • Precautions taken to protect women cannot be interpreted as violence of the principle of equality. 	Law No 5982 of 07.05.2010
20	<p>Amends several provisions of the Constitution of the Republic of Türkiye No. 2709 dated 07.11.82: Article 10 (equality before the law), Article 20 (Privacy protection), Article 23 (Prohibition to leave the country), Article 41 (Family law and children's rights), Article 51 (More than 1 union membership), Article 53 (Collective bargaining), Article 54 (Strike and lockout), Article 69 (Political party closure), Article 74 (Ombudsman), Article 84 (Membership in parliament), Article 94 (Parliament's presidential board), Article 125 (Recourse to judicial review), Article 128 (The right to collective bargaining), Article 129 (The right to apply to courts), Article 144 (Judicial oversight), Article 145 (Military Justice), Article 146 (Organisation of Constitutional Court), Article 147 (Term of office and membership), Article 148 (Functions and powers), Article 149 (Functioning and trial procedure), Article 156 (Military Court of Appeal), Article 157 (High Military Administrative Court), and Article 159 (Organisation of the HSYK).</p>	
21	<p>Replaces the title of Article 59 by "B. Development of Sport and arbitration" and adds a paragraph concerning discipline decision, appeal, and arbitration.</p> <p>*(Paragraph added on March 17, 2011; Act No. 6214) The decisions of sport federations relating to administration and discipline of sportive activities may be challenged only through compulsory arbitration. The decisions of Board of Arbitration are final and shall not be appealed to any judicial authority.</p>	Law No 6214 of 17.03.2011
	<ul style="list-style-type: none"> •Judicial power shall be exercised by independent and impartial courts on behalf of the Turkish Nation. •The Grand National Assembly of Türkiye shall be composed of six hundred deputies elected by universal suffrage. •Every Turk over the age of eighteen is eligible to be a deputy. Persons (at the time of election) having affiliations with military service shall not be elected as a deputy. •Elections for the Grand National Assembly of Türkiye and elections for the presidency shall be held every five years and on the same day. 	Law No 6718 of 20.05.2016
22	<ul style="list-style-type: none"> •The President of the Republic is the head of the State. The executive power shall be exercised by the president. •The names of the Military Court of Cassation and the Military High Administrative Court are removed from the article. •The Council of Judges and Prosecutors shall be composed of thirteen regular members; and shall comprise two chambers. The Council's four members are appointed from among judges and prosecutors by the president. Seven members are appointed by the Grand National Assembly. The minister of justice is the head of the council and the undersecretary is its natural member. 	
	<p>The Act amends the Turkish Constitution as follow:</p> <p>It amends article 9 by adding the word "impartial" after independent and reads "Judicial power shall be exercised by independent and impartial courts on behalf of the Turkish Nation."</p> <p>It changes "five hundred fifty" deputies by "six hundred" deputies of article 75.</p>	Law No 6771 of 21.01.2017
23	<p>It amends para 1 of article 76 by replacing the age of being eligible to become a deputy from over 25 to 18 years old; and replaces the sentence "who have not performed compulsory military service" of para 2 with "who have ties to military service".</p> <p>It amends article 77 "Election term of the Grand National Assembly of Türkiye and of the President of the Republic" and reads as follow: "Elections for the Grand National Assembly of Türkiye and for the President of the Republic shall be held on the same day every five years.</p>	

A deputy whose term of office expires is eligible for re-election. If the required majority is not reached in the first ballot of the presidential election, a second ballot shall be held according to the procedure in Article 101." It amends article 87 regarding the duties and powers of the Grand National Assembly of Türkiye.

It repeals the title of article 98 and amends article 98 relating to the activities of the Grand National Assembly of Türkiye.

It amends article 101 on the nomination and election of the President of the Republic. It amends article 104 concerning the duties and powers of the President of the Republic; article 105 regarding the President's criminal liability; article 106 on the Vice Presidents, Acting for the President and Ministers; article 116 on the renewal of elections to the Grand National Assembly of Türkiye and for the President of the Republic; repeals the title "III. Extraordinary administration procedures" and replaces it by "III. Administration of States of Emergency" and amends article 119; adds a new para to article 142 regarding the formation, duties and powers, functioning and trial procedures of the courts; amends article 161 and its title with "Budget and Final Accounts".

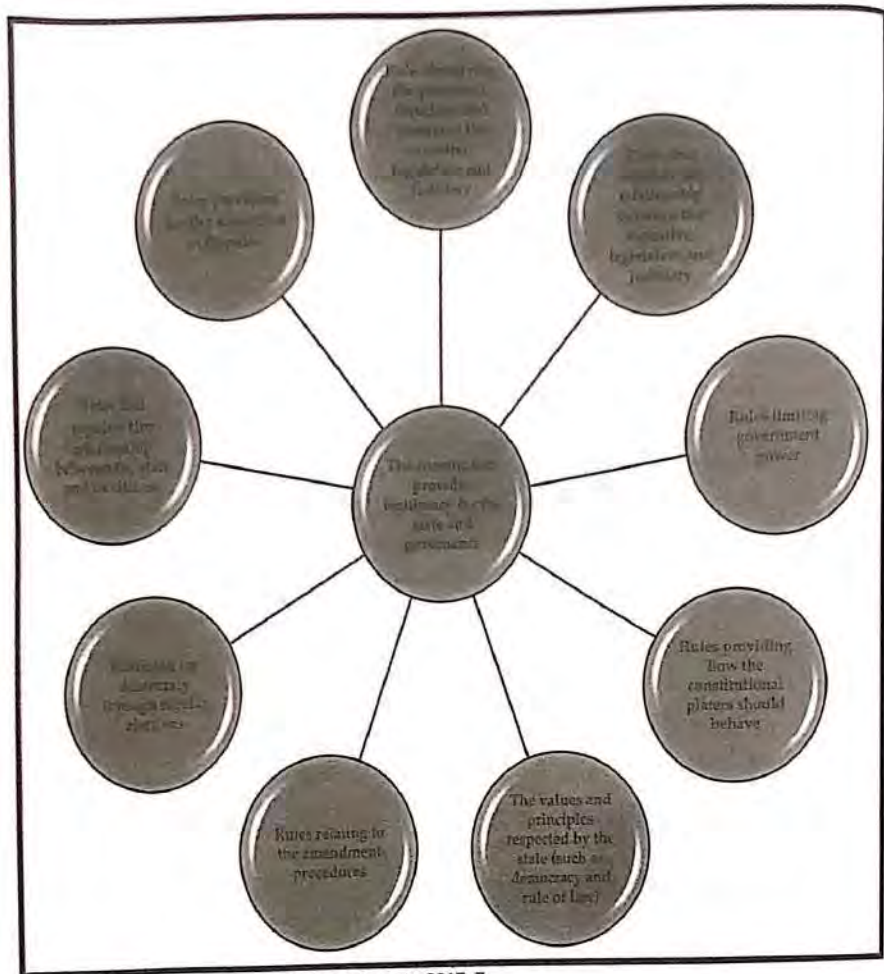
It repeals several provisions: E. Authorization to issue decrees having the force of law; articles 91 (B. Censure), 99 (C. Parliamentary investigation), 100 (B. Election), 102 (G. General Secretariat of the President of the Republic), 107 (II. Council of Ministers), 109 (B. Taking office and vote of confidence), 110 (C. Vote of confidence while in office), 111 (D. Functions and political responsibilities), 112 (E. The formation of ministries, and ministers), 113 (F. Provisional Council of Ministers during elections), 114 (G. Regulations), 115 (2. Declaration of state of emergency because of widespread acts of violence and serious deterioration of public order), 120 (3. Rules regarding the states of emergency), 121 (B. Martial law, mobilization and state of war), 122 (H. Military justice), 145 (D. High Military Court of Appeals), 156 (E. High Military Administrative Court), 157 (B. Debate on the budget), 162 (C. Principles governing budgetary amendments), 163 and 164 (D. Final accounts).

It adds a provisional article 21 regarding the arrangements required to be undertaken by the Grand National Assembly of Türkiye after the entry into force of this Act and the amendments made.

1.3. Functions of Constitutions

There is no doubt that constitutions play important roles in complicated political processes trying to respond to a set of conflicting demands, which either encourage or impede the productive translation of those demands into effective decisions. According to Graham and Marques, the principal functions that constitutions can exercise to facilitate are called "system maintenance". The functions of constitutions are defined as follows (Graham & Marques, 2000: 8-9):

- **Legitimization of the state authority:** *Functional constitutions not only create "the people" and define the state, but also justify and legitimize the political authority which assumes sovereignty over both. In this sense, political nations are not "natural," but are instead invented and reinforced through a series of political tools, one of which can be a constitution.*
- **Recognition of the rights and freedoms of citizenship:** *Most constitutions express limitations that are placed on the ability of the government to legislate or otherwise act against the rights of citizens. These "limitations," however, can represent obligations on the part of governments to provide resources to ensure that these rights can be asserted in practice.*
- **Delineation of the roles and the limits of the authority of different political actors:** *Constitutions generally express the principal roles and functions of different political institutions and the procedural limitations that govern the relationships between different political actors. This typically means some form of separation of powers that clearly establishes the extent of authority belonging to any one branch of government or political office, as well as the formal mechanism for political recruitment (for example, popular election).*
- **Establishment of mechanisms for adjudication:** *In the event of conflict between political actors, a mechanism is required to render a final interpretation of constitutional norms. This mechanism can represent "special enforcement," as in the case of a constitutional court, or "political enforcement," as in the case of a supreme parliament or referendum process. In certain cases, this function also includes the mediation of disputes between citizens.*
- **Expression of basic beliefs and symbolism:** *Constitutions, either explicitly or implicitly, provide a coherent reflection of the basic beliefs adopted by a regime. For example, the preamble may outline a set of core values that are embraced by the regime or a foundational narrative to stir an emotional reaction from the citizenry and promote some form of nationalism.*
- **Provision of the flexibility of amendment:** *Given the likelihood that evolving moral standards or regional development patterns will eventually result in new political demands, functional constitutions provide a mechanism to allow amendment.*
- **Provision of a mechanism for effective citizen participation:** *While the idea of the constitution belonging to "the people" is a longstanding one, it is only in the 20th century that constitutions have begun to incorporate popular participation into their amendment clauses, mostly in the form of referenda.*



Source: Barnett, 2017: 7.

1.4. Essentials of Good Constitutions

Like all other legal norms, good constitutions must have the following qualities (Subramanian, 2017; 42-43).

- a) **Clarity or definiteness:** Every article (clause) of the constitution should be written in simple language. It should express its meaning clearly without leaving any scope for confusion.
- b) **Brevity:** The constitutions should not be lengthy. It should contain only important things and unimportant things should be left out. But the brevity should not lead to a gap in constitution having some issues unexplained.
- c) **Comprehensiveness:** The constitution should be applicable to the whole country. If it is a federation then it must organize the structure and power of the center and provincial government.