



**KEBIJAKAN PEMERINTAH TURKI MENCABUT  
UNDANG-UNDANG LARANGAN HIJAB TAHUN 2013**

**(TURKISH GOVERNMENT POLICY TO WITHDRAW BAN ON HIJAB  
LAW IN 2013)**

**SKRIPSI**

diajukan guna melengkapi tugas akhir dan memenuhi salah satu syarat  
untuk menyelesaikan studi pada Program Studi Hubungan Internasional  
dan mencapai gelar Sarjana (S1) Fakultas Ilmu Sosial dan Ilmu Politik  
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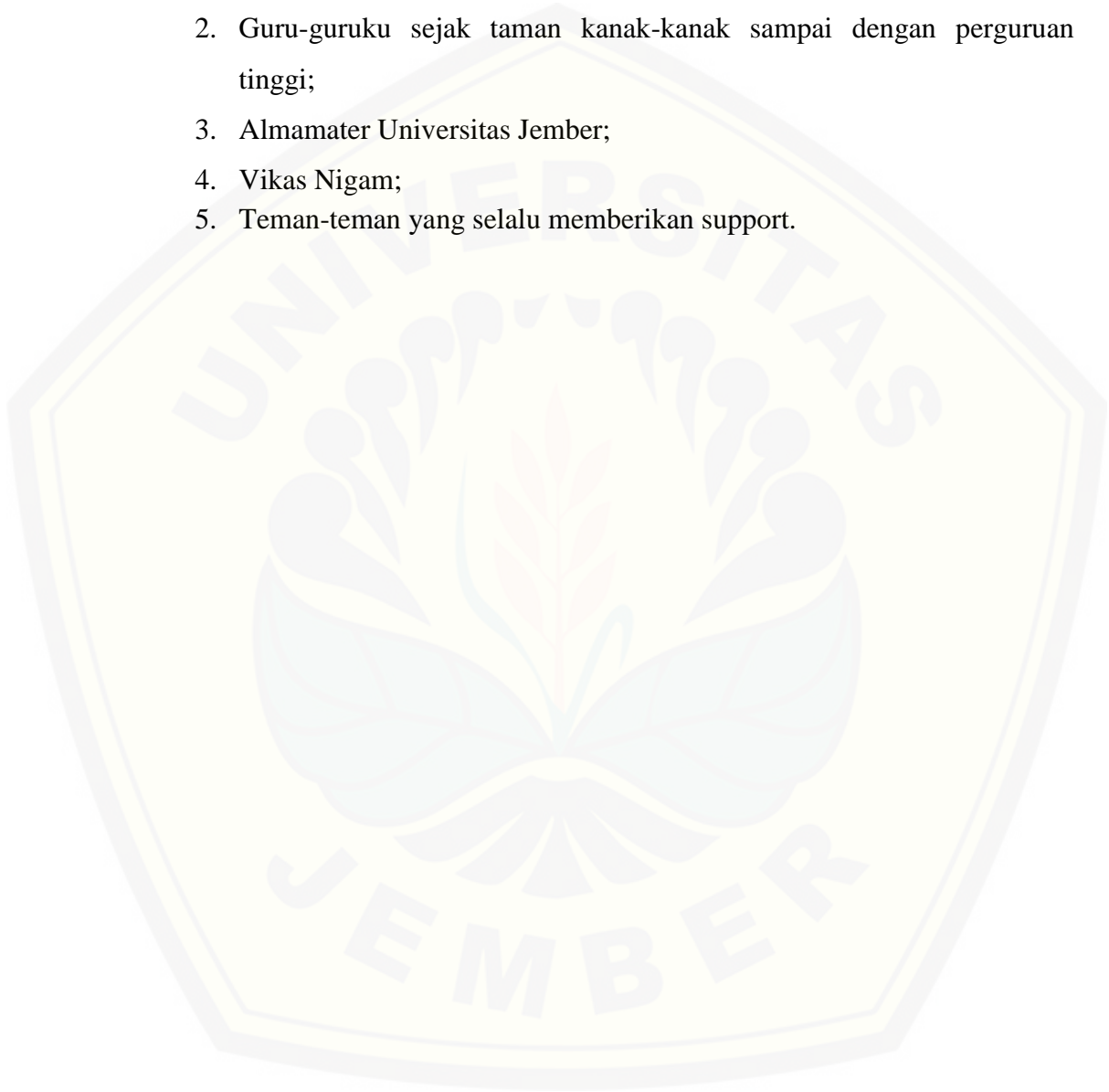
**JURUSAN ILMU HUBUNGAN INTERNASIONAL  
FAKULTAS ILMU SOSIAL DAN ILMU POLITIK  
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## PERSEMBAHAN

Skripsi ini saya persembahkan untuk:

1. Ibunda dan Ayahanda Tercinta;
2. Guru-guruku sejak taman kanak-kanak sampai dengan perguruan tinggi;
3. Almamater Universitas Jember;
4. Vikas Nigam;
5. Teman-teman yang selalu memberikan support.



### MOTTO

“Sesungguhnya Allah tidak akan mengubah keadaan suatu kaum sebelum mereka  
mengubah keadaan diri mereka sendiri”  
(Terjemahan Surat Ar-Rad ayat 11)\*)



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\* Departemen Agama Republik Indonesia. 2006. Al-'Allyy AL-QURAN DAN TERJEMAHNYA. Bandung: CV Penerbit Diponegoro.

## SURAT PERNYATAAN

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Menyatakan dengan sesungguhnya bahwa karya ilmiah yang berjudul “Kebijakan Pemerintah Turki Mencabut Undang-Undang Larangan Hijab Tahun 2013” adalah benar-benar hasil karya sendiri, kecuali kutipan yang sudah saya sebutkan sumbernya, belum pernah diajukan pada institusi manapun, dan bukan karya jiplakan. saya bertanggungjawab atas keabsahan dan kebenaran isinya sesuai dengan sikap ilmiah yang harus dijunjung tinggi.

Demikian pernyataan ini saya buat dengan sebenarnya, tanpa ada tekanan dan paksaan dari pihak mana pun serta bersedia mendapatkan sanksi akademik jika ternyata dikemudian hari pernyataan ini tidak benar.

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**Kebijakan Pemerintah Turki Mencabut Undang-Undang Larangan Hijab Tahun 2013;** Ratna Indah Wulandari, 100910101009; 2017: 68 halaman; Jurusan Ilmu Hubungan Internasional Fakultas Ilmu Sosial dan Ilmu Politik Universitas Jember.

Turki merupakan Negara sekuler yang mayoritas penduduknya adalah beragama islam. Sistem sekularisasi ini telah diterapkan pada saat kepemimpinan Kemal Attatur. Beliau melakukan reformasi agama modern yang salah satunya adalah penetapan Undang-Undang larangan hijab bagi masyarakat muslim. Attaturk memberikan sanksi keras jika ada masyarakatnya yang melanggar aturan tersebut. Hal ini membuat masyarakat sipil muslim kehilangan hak mereka dalam bidang ekonomi, pendidikan, sosial, budaya serta kehilangan kewarganegaraan. Hilangnya hak sipil mereka membuat peremuan Turki menginginkan adanya perubahan Undang-Undang (UU) yang mendiskriminasi mereka. Pada tahun 2003 terpilihlah perdana menteri baru yaitu Recep Tayyip Erdogan dari partai keadilan pembangunan (AKP) yang beraliran islam. Erdogan membawa isu human right dan demokrasi untuk melakukan reformasi demi mengembalikan hak masyarakat muslim Turki. Hal ini mendapatkan reaksi pro dan kontra dari berbagai pihak terutama pihak kemalis yang selalu berusaha menggagalkan Erdogan. Oleh karenanya skripsi ini bertujuan untuk menganalisis bagaimana proses pencabutan (UU) larangan hijab tahun 2013.

Metode penelitian yang digunakan penulis dalam skripsi ini adalah metode pengumpulan data melalui studi pustaka dan metode analisis data deskriptif kualitatif. Metode deskriptif digunakan untuk menggambarkan dan mendeskripsikan mengenai fokus peristiwa yang sedang dianalisis dan kualitatif karena data yang diperoleh tanpa menggunakan data angka statistik Data-data yang diperoleh merupakan data sekunder melalui studi kepustakaan.

Hasil penelitian menunjukkan bahwa proses pencabut UU larangan hijab Turki dimulai dari adanya input yang berupa sebuah tuntutan serta dukungan dari masyarakat, LSM, Organisasi maupun Kelompok Masyarakat yang menentang

keberadaan UU langan hijab tersebut. Mereka menginginkan adanya penghapusan dan pencabutan UU larangan hijab yang diberlakukan di Turki. Keberadaan UU larangan hijab di Turki telah membuat masyarakat muslim Turki dan para perempuan kehilangan hak-hak sipil mereka. Hal tersebut di atas yang akhirnya membuat Pemerintah Turki yaitu antara pihak eksekutif dan legislatif berunding mengenai isu hijab tersebut. Maka disinilah terjadi proses politik dalam upaya pembuatan kebijakan baru mengenai pencabutan UU larangan hijab





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Karya ilmiah ini disusun sebagai salah satu syarat untuk menyelesaikan Program Studi Ilmu Hubungan Internasional (S1) dan mencapai gelar sarjana Sosial pada Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Jember. Pada kesempatan ini penulis dengan rendah hati mengucapkan banyak terima kasih kepada:

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Jember, Juli 2017


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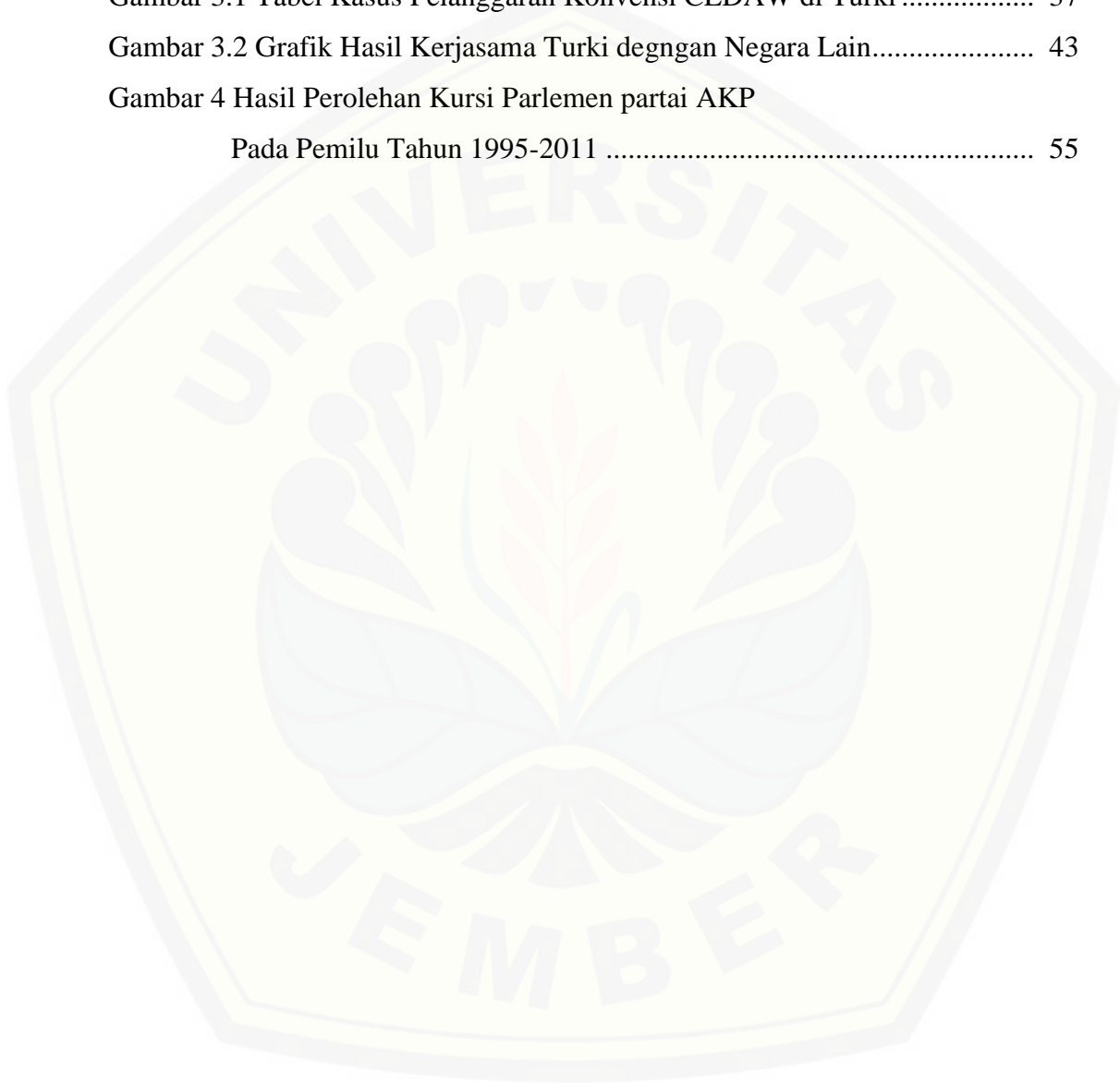
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**DAFTAR SINGKATAN**

UU	= Undang- Undang
HAM	= Hak Asasi Manusia
LSM	= Lembaga Sosial Masyarakat
SDM	= Sumber Daya Manusia
PBB	= Perserikatan Bangsa-Bangsa
DPR	= Dewan Perwakilan Rakyat
PNS	= Pegawai Negeri Sipil
NGO	= <i>Non-Government Organization</i>
AKP	= <i>Adelet Kalkinma Partisi</i>
ANAP	= <i>Anavatan Partisi</i>
CEDAW	= <i>Convention on the Elimination of all form of Discrimination Against Women</i>
TNGA	= <i>Turkish National Grand Assembly</i>
IHRC	= <i>Islamic Human Rights Commission</i>
UE	= <i>Uni Eropa</i>

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## BAB 1

### PENDAHULUAN

#### 1.1 Latar Belakang

Turki merupakan salah satu negara yang mayoritas penduduknya adalah beragam Islam namun Turki juga merupakan salah satu negara sekuler yang memisahkan antara agama dengan negara. Sekularisasi Turki dimulai sejak terjadinya reformasi Turki yang merubah bentuk negara Turki dari kekhalifahan menjadi negara republik. Hal ini tidak lepas dari peran presiden pertama Turki yaitu Kemal Attaturk. Kemal Attaturk yang menerapkan proses sekularisasi dengan tidak meninggalkan prinsip-prinsip Islam namun bertujuan untuk memisahkan antara agama dengan negara. Attaturk berpandangan bahwa agama tidak memiliki hubungan atau keterkaitan dengan negara sehingga Attaturk meletakkan kedaulatan secara mutlak pada pemerintahan atau negara. Di lain sisi pada kenyataannya Attaturk menjalankan konsep Barat pada sekulerisasi Turki dengan cara melakukan reformasi agama modern.<sup>1</sup>

Pada masa pemerintahan Kemal Attaturk dikeluarkan sebuah Dekrit kabinet tahun 1925 yang memperkenalkan serangkaian reformasi yang salah satunya adalah reformasi dalam berpakaian untuk menghilangkan simbol-simbol agama bagi pegawai pemerintah dan masyarakat Turki. Attaturk melarang pegawai negeri menggunakan pakaian yang terkait dengan keyakinan agama. Hal ini dibuktikan dari adanya larangan pemakaian kerudung atau hijab pada pegawai negeri dan masyarakat Turki.<sup>2</sup> Reformasi yang dibuat oleh Attaturk ternyata telah memberikan dampak negatif yaitu perampasan hak-hak sipil muslim Turki dan membuat masyarakat muslim Turki menjadi menderita. Hal ini semakin diperparah dengan adanya sanksi yang diberlakukan bagi masyarakat muslim jika mereka berani melanggar peraturan tersebut. Salah satu sanksi yang diberlakukan

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<sup>1</sup> Pengertian Reformasi Agama Modern adalah konsep reformasi agama yang menolak adanya kesultanan dan kekhalifahan yang kemudian diganti dengan nasionalis Turki. Diakses dari <http://www.rokhim.net/2012/04/sekularisme-kemal-al-turk.html> [pada tanggal 27 April 2014]

<sup>2</sup> Maryati. 2013. *Turki Akhiri Larangan Berkerudung*. Diakses dari <http://www.antarane.ws.com/berita/399688/turki-akhiri-larangan-berkerudung> [pada tanggal 27 April 2014]



apabila mereka melanggar peraturan tersebut yaitu dicabutnya status kewarganegaraan mereka.

Sejak diberlakukannya Undang-Undang (UU) pelarangan hijab tersebut telah terjadi kasus-kasus diskriminasi dan perampasan hak muslim Turki. Selain seseorang dipecat dari pekerjaannya, masyarakat Turki juga tidak akan dapat bersekolah jika mereka menggunakan jilbab. Hal ini disebabkan karena adanya pelarangan hijab yang juga diberlakukan di sekolah-sekolah. Larangan hijab ini pada akhirnya membuat para perempuan Turki terpaksa melepas kerudung dan jilbab mereka agar mereka dapat bersekolah dan meneruskan pendidikan serta untuk tetap bisa mendapatkan pekerjaan. Tindakan perempuan Turki yang melepas kerudung atau jilbab mereka sebenarnya akan membuat masalah baru seperti aksi kejahatan dan kriminalitas pelecehan seksual serta pemerkosaan.<sup>3</sup>

Terpilihnya Recep Tayyip Erdogan sebagai Perdana Menteri baru Turki tahun 2003 membawa perubahan baru bagi Turki. Erdogan mulai menjabat sebagai perdana menteri Turki setelah memenangkan pemilu Turki pada Februari 2003. Erdogan terpilih kembali menjadi perdana menteri pada pemerintahannya periode kedua yaitu pada tahun 2007 dan menjabat hingga periode saat ini.<sup>4</sup> Erdogan merupakan seorang Perdana Menteri Turki pertama yang berasal dari partai berbasis Islam yaitu Partai keadilan pembangunan yang bernama *Adalet Kalkinma Partisi Party* (AKP) yang telah memenangkan kursi parlemen sebanyak 363 kursi pada tahun 2002. Partai AKP disini menunjukkan bahwa dirinya merupakan partai berbasis Islam yang fleksibel yang mampu menampung semua kepentingan masyarakat Turki. Partai AKP juga sangat menjunjung tinggi kebebasan dan nilai-nilai demokrasi. Karena hal inilah AKP akan mengajukan agenda reformasi untuk melakukan perubahan terhadap konstitusi Turki terutama masalah larangan hijab. AKP berpandangan bahwa UU larangan hijab tersebut dianggap sebagai bentuk diskriminasi yang bertentangan dengan nilai-nilai demokrasi seperti pembatasan penggunaan simbol-simbol agama. Keberadaan UU

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<sup>3</sup> *Ibid*

<sup>4</sup> Anonim. Tanpa Tahun. *Recep Tayyip Erdogan*. Diakses dari <http://merdeka.com/profil/mancanegara/r/recep-tayyip-erdogan/> [pada tanggal 18 April 2014]

larangan hijab tersebut harus dihapus untuk memperjuangkan hak-hak muslim Turki.

Masyarakat Turki memang telah menganut sistem sekuler sejak Attaturk menerapkan konstitusi sekuler tahun 1995 dengan harapan menjadi Negara Turki Modern yang berkiblat seperti Negara-negara Eropa. Akan tetapi kenyataannya, konstitusi sekuler ini telah mendiskriminasi masyarakat perempuan Turki karena adanya UU larangan hijab. Oleh sebab itulah masyarakat perempuan Turki berusaha untuk menuntut adanya perubahan konstitusi yang telah mendiskriminasi hak mereka. Masyarakat perempuan Turki berharap tidak ada lagi konstitusi yang membatasi hak mereka. Karena hal inilah, para perempuan Turki banyak melakukan aksi demonstrasi untuk menuntut agar konstitusi Turki tersebut diamandemen terutama masalah larangan hijab.

Peran masyarakat perempuan Turki ini sangatlah dibutuhkan oleh pemerintah Turki untuk mendorong terwujudnya perubahan konstitusi. Erdogan bersama Partai AKP berusaha untuk mewujudkan keinginan dari masyarakat perempuan di Turki. Akan tetapi upaya pencabutan larangan hijab yang dilakukan sangatlah tidak mudah. Hal ini dikarenakan terdapat dua kelompok dalam sistem politik Turki yaitu kelompok sekuler dan kelompok Islam. Kelompok dari partai sekuler berpandangan bahwa larangan hijab merupakan perwujudan dari Republik Turki Modern yang dibentuk sejak pemerintahan Kamal Attaturk. Apabila pemakaian simbol-simbol agama itu masuk kedalam institusi negara maka dianggap dapat menghilangkan ciri dari Sekularisme Republik Turki Modern. Namun disisi lain kelompok Islam berpandangan bahwa ciri dari sekuler yang sebenarnya adalah memberi kebebasan bagi setiap individu untuk melaksanakan ajaran agama sesuai keyakinan masing-masing<sup>5</sup> Oleh karenanya kelompok Islam selalu berusaha untuk tetap menggunakan simbol-simbol agama.

Pada paket reformasi yang dilakukan oleh AKP berusaha untuk tidak menunjukkan simbol-simbol keagamaan dalam memperjuangkan islam khususnya masalah larangan hijab di Turki. AKP lebih memilih dengan menggunakan alasan

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<sup>5</sup> Ikhwanul Kiram Mashuri. 2013. *Trik Erdogan Memperjuangkan Jilbab di Turki*. Diakses dari <http://www.republika.co.id/berita/kolom/resonansi/13/11/11/mw2lel-trik-erdogan-memperjuangkan-jilbab-di-turki> [pada tanggal 27 April 2014]

Hak Asasi Manusia (HAM) dan demokratisasi tersebut tidak akan ditentang oleh kelompok sekuler. Langkah kedua yang dilakukan oleh AKP adalah dapat meningkatkan kesejahteraan rakyatnya dengan menunjukkan bukti pertumbuhan ekonomi Turki, pengurangan pengangguran dan korupsi.<sup>6</sup> Keberhasilan dalam mensejahterakan rakyat Turki membuat AKP dapat mengeluarkan paket reformasi yang lain termasuk masalah pencabutan undang-undang larangan hijab.

Perjuangan AKP dengan Erdogan dalam memperjuangkan masalah hijab ini dimulai sejak tahun 2004 dimana Erdogan mengajukan Amendemen undang-undang larangan hijab yang melarang masalah perzinaan. Namun ternyata usaha yang dilakukan Erdogan banyak mendapat kecaman dari pihak oposisi.<sup>7</sup> Kecaman yang didapat oleh Erdogan ternyata tidak membuatnya putus asa dalam melakukan usaha pencabutan larangan hijab. Erdogan dan AKP justru lebih hati-hati dan lebih serius lagi dalam melakukan berbagai tindakannya untuk memperjuangkan Islam. Keseriusan usaha yang dilakukan ini sedikit demi sedikit telah mencapai keberhasilan. Hal ini dibuktikan dengan merubah konstitusi dan pencabutan larangan penggunaan jilbab di kalangan Universitas pada tahun 2008. Pada tahun 2012 AKP kembali berhasil mencabut aturan larangan hijab di berbagai sekolah Islam dan sekolah umum.<sup>8</sup> Usaha AKP akhirnya mencapai keberhasilan yang besar pada tahun 2013. Tepat pada Oktober 2013 Pemerintah Turki yaitu Erdogan berkata dalam pidatonya bahwa dia telah mencabut undang-undang larangan hijab bagi pegawai negeri sipil atau pada lembaga negara kecuali hakim, jaksa, polisi dan angkatan militer.<sup>9</sup> Erdogan juga berkata bahwa dia bersama AKP akan terus melakukan berbagai upaya untuk mengembalikan lagi hak-hak rakyatnya.

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<sup>6</sup> *Ibid*

<sup>7</sup> Agency France-Presse. 2013. *Turki cabut Larangan Berhijab*. Diakses dari <http://plasa.msn.aquila-style.com/fokus-wacana/turki-cabut-larangan-berhijab> [pada tanggal 20 April 2014]

<sup>8</sup> Zulqa'dah. 2013. *Alhamdulillah, Erdogan Berhasil Cabut Aturan Pelarangan jilbab di Lembaga Negara dan Sekolah*. Diakses dari <http://www.eramuslim.com/berita/dunia-islam/alhamdulillah-erdogan-berhasil-cabut-aturan-pelarangan-jilbab-di-lembaga-negara-dan-sekolah.htm> [pada tanggal 20 April 2014]

<sup>9</sup> *In October 2013, Turkey lifted rules banning women from wearing headscarves in the country's state institutions - with the exception of the judiciary, military and police*. Anonim. Tanpa tahun. "The Islamic veil across Europe", diakses dari <http://www.bbc.com/news/world-europe-13038095> [pada tanggal 18 Mei 2014]

Berdasarkan penjelasan di atas, akhirnya penulis merasa tertarik untuk meneliti tentang : **Kebijakan Pemerintah Turki Mencabut Undang-Undang Larangan Hijab Tahun 2013.**

## **1.2 Ruang Lingkup Pembahasan**

Ruang lingkup pembahasan ini merupakan bagian yang penting dalam sebuah karya tulis ilmiah. Hal ini dikarenakan ruang lingkup pembahasan digunakan untuk membuat penulis agar lebih fokus terhadap permasalahan yang akan dianalisa. Ruang lingkup pembahasan ini juga digunakan oleh penulis untuk mempermudah pengumpulan data dalam mengkaji permasalahan agar lebih terarah dengan baik sehingga fokus pembahasannya tidak akan keluar dari konteks permasalahan. Dalam hal ini penulis membagi ruang lingkup pembahasan menjadi dua batasan yaitu batasan materi dan batasan waktu.

### **1.2.1 Batasan Materi**

Batasan materi biasanya digunakan untuk menetapkan beberapa titik fokus pembahasan agar pembahasan tersebut tidak meluas dari alur pembahasannya. Batasan materi yang digunakan oleh penulis dalam karya tulis ilmiah ini adalah pembahasan mengenai bagaimana proses politik dalam mencabut UU larangan hijab di Turki, dampak dari adanya undang-undang larangan hijab dan peran yang dilakukan oleh kelompok perempuan dan peran pemerintah dalam masalah pencabutan UU larangan hijab di Turki.

### **1.2.2 Batasan Waktu**

Batasan waktu digunakan oleh penulis untuk menentukan rentan waktu dari pembahasan yang akan dikaji. Batasan waktu yang digunakan oleh penulis dalam karya tulis ilmiah ini adalah mulai tahun 2004 sejak Erdogan mengajukan perubahan konstitusi mengenai larangan perzinahan sampai pada tahun 2013 ketika Erdogan menjabat undang-undang larangan hijab di lembaga negara bagi Pegawai Negeri Sipil (PNS) kecuali Hakim, Jaksa, Polisi dan Tentara.

### 1.3 Rumusan Masalah

Berdasarkan latar belakang yang telah dijabarkan oleh penulis tersebut, maka penulis akan merumuskan masalah agar dapat dikaji lebih mendalam. Adapun rumusan masalah yang diambil oleh penulis adalah : **Bagaimana proses politik dalam pencabutan Undang-Undang larangan hijab di Turki tahun 2013?**

### 1.4 Tujuan Penelitian

Tujuan dari penelitian yang dilakukan oleh penulis mengenai Kebijakan Pemerintah Turki mencabut Undang-Undang larang hijab tahun 2013 adalah untuk mengetahui bagaimana proses dari pencabutan UU larangan hijab serta alasan apa yang mendasari dan melatarbelakangi keputusan Pemerintah Turki Erdogan untuk mencabut undang-undang larangan hijab.

### 1.5 Landasan Teori / Konseptual

Dalam karya tulis ilmiah ini, penulis menggunakan teori sistem politik yang dikemukakan oleh David Easton untuk melihat bagaimana proses politik dalam mencabut UU larangan hijab, siapa saja yang berperan dalam mendukung suksesnya pencabutan UU larangan hijab di Turki.

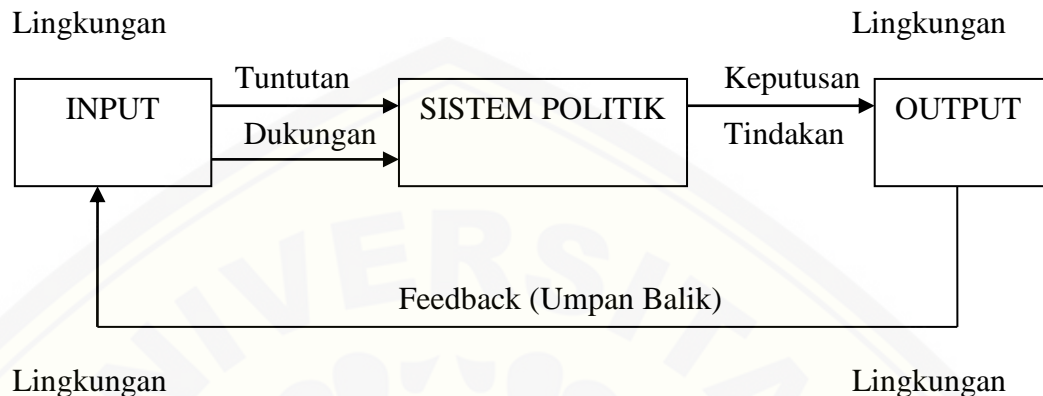
#### 1.5.1 Teori Sistem Politik

Pada dasarnya David Easton mendefinisikan pengertian sistem politik sebagai serangkaian proses yang terdiri dari banyak bagian yang saling berkaitan dan saling mempengaruhi dalam menjalankan alokasi nilai-nilai yang bersifat otoritatif dan mengikat masyarakat.<sup>10</sup> Easton menghendaki adanya suatu teori umum yang dapat menjelaskan tentang keseluruhan tentang sistem politik hingga bagaimana proses politik itu berjalan dari awal hingga akhir.

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<sup>10</sup> Pengertian Otoritatif yaitu dikuatkan oleh kekuasaan yang sah atau terlegitimasi. Diakses dari <http://stia-amuntai.ac.id/kerangka-kerja-sistem-politik> [pada tanggal 20 Mei 2014]

David Easton akhirnya menggambarkan sebuah sistem politik dalam sebuah skema seperti di bawah ini:<sup>11</sup>



**Gambar 1. Skema Sistem Politik David Easton**

Sumber: <http://stia-amuntai.ac.id>

Dari gambar skema sistem politik di atas akan dijelaskan mengenai proses awal yang berupa input sampai menghasilkan sebuah output yang berupa keputusan atau kebijakan.

Input merupakan proses awal dari sistem politik yang terdiri dari tuntutan dan dukungan yang berasal dari pihak eksternal seperti masyarakat, kelompok-kelompok, maupun lembaga sosial masyarakat (LSM) dan juga dari pihak internal sendiri.<sup>12</sup> Tuntutan yang dimaksud dalam permasalahan pencabutan UU larangan hijab Turki adalah banyaknya aksi demonstrasi yang dilakukan oleh masyarakat Turki terutama para perempuan muslim Turki. Perempuan muslim Turki merasa bahwa dengan adanya UU larangan hijab yang diberlakukan di Turki telah merampas dan membatasi hak-hak sipil mereka serta hak mereka untuk mengekspresikan diri. Aksi demonstrasi yang menentang adanya UU larangan hijab Turki ini sebenarnya sudah sering terjadi. Salah satu contohnya adalah aksi demonstrasi yang dilakukan oleh Forum Kebebasan Beragama. Pada tanggal 30

<sup>11</sup> Muhammad Affan. 2009. *Sistem Politik dan Sistem Politik Menurut David Easton*. Diakses dari <http://stia-amuntai.ac.id/kerangka-kerja-sistem-politik> [pada tanggal 20 Mei 2014]

<sup>12</sup> Wahyu Nurina. Tanpa Tahun. *Sistem Politik Gabriel Edmund-David Easton*. Diakses dari <http://id.scribd.com/doc/68751342/sistem-politik-gabriel-edmund-david-easton> [pada tanggal 20 Mei 2014]

Oktober 2010, ribuan massa yang tergabung dalam Forum Kebebasan Beragama melakukan aksi demonstrasi di alun-alun kota Ankara. Mereka menuntut untuk mencabut larangan hijab di lingkup universitas. Aksi demonstrasi ini juga diikuti oleh sejumlah anggota organisasi masyarakat sipil dan organisasi pembela hak asasi manusia di Turki. Kelompok organisasi ini mendukung tuntutan untuk mencabut larangan hijab di Universitas dan Lembaga Negara.<sup>13</sup> Selain itu terdapat sekitar 71 organisasi perempuan di Turki yang menggugat draft UU baru yang akan merevisi UU lama. Organisasi perempuan ini menggugat agar diperbolehkan pelajar maupun mahasiswi untuk menggunakan hijab ketika berada di kampus dan sekolah. Organisasi perempuan ini menginginkan adanya UU yang memuat pasal tentang menjamin persamaan hak antara laki-laki maupun perempuan.<sup>14</sup>

Keberadaan UU larangan hijab di Turki telah mendiskriminasi kaum perempuan muslim. UU tersebut secara langsung telah menjadi penghalang kaum perempuan dalam melakukan pengembangan diri dan telah membatasi hak-hak mereka. Adanya UU larangan hijab tersebut telah membuat perempuan kehilangan hak sipil mereka seperti hak untuk mendapatkan pendidikan dan pekerjaan. Selain itu perempuan Turki berpandangan bahwa keberadaan UU larangan hijab ini juga bertentangan dengan isi dari konvensi CEDAW (*Convention On The Elimination Of All Form Of Discrimination Against Women*) yaitu konferensi Perserikatan Bangsa-Bangsa (PBB) untuk penghapusan segala bentuk diskriminasi terhadap perempuan dan ini diratifikasi oleh Negara Turki pada 14 Oktober 1985. Akan tetapi masih banyak penyimpangan dan diskriminasi yang terjadi dalam implementasi CEDAW di Turki. Implementasi yang terjadi tidaklah sesuai pasal-pasal yang tertulis dalam isi konvensi CEDAW.<sup>15</sup>

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<sup>13</sup> Hizbut Tahrir Indonesia. 2010. *Ribuan Massa Berdemonstrasi Dukung Pencabutan Larangan Hijab Di Turki*. Diakses dari <http://hizbut-tahrir.or.id/2010/10/31/ribuan-massa-berdemonstrasi-dukung-pencabutan-larangan-hijab-di-turki/> [Pada tanggal 19 Mei 2014]

<sup>14</sup> M.Lia Nur aulia. 2008. "*Feminisme Turki Gugat Draf UU Soal Persamaan Hak*". Diakses dari [http://www.eramuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ\\_srs](http://www.eramuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ_srs) [pada tanggal 19 Mei 2014]

<sup>15</sup> Seda, Irem Cakirca, Tanpa Tahun, "Turkish Civil Code and CEDAW: Never Shall the Twain Meet", hal. 155, diakses dari

Selain itu para perempuan juga tidak ingin terjadi kembali seperti kasus Merve Kavakci pada tahun 1991 yang merupakan seorang anggota parlemen Turki yang sengaja memakai jilbab pada saat rapat parlemen. Pada saat itu Kavakci akhirnya dipecat dari jabatan anggota Legislatif serta diusir setelah dihapus kewarganegaraannya karena memakai hijab. Kavakci sengaja memakai hijab untuk menguji kebenaran atas sanksi hukum dari UU pelarangan hijab.<sup>16</sup> Karena inilah perempuan Turki menuntut adanya kesetaraan dan kesamaan antara posisi perempuan dengan laki-laki.

Tuntutan yang berasal dari masyarakat untuk mencabut UU larangan hijab juga mendapatkan dukungan dari pihak intern seperti para partai yang beraliran Islam. Mereka juga menginginkan adanya perubahan konstitusi terkait masalah larangan hijab. Dukungan ini mayoritas berasal dari partai AKP karena AKP merupakan partai yang berbasis Islam. Dengan dukungan dari AKP maka Erdogan pun juga mendukung perubahan UU larangan hijab tersebut karena Erdogan merupakan ketua dari partai AKP.

Tuntutan dan dukungan inilah yang kemudian menjadi pekerjaan yang harus diselesaikan oleh aktor-aktor politik yang berada di dalam sistem politik. Aktor-aktor politik tersebut harus mampu menentukan masalah penting yang perlu untuk dibicarakan dan diselesaikan. Dalam sistem politik Turki terdapat dua kelompok yang memiliki perbedaan pandangan dalam melihat adanya UU larangan hijab di Turki. Kedua kelompok tersebut yaitu kelompok sekuler dan kelompok Islam. Kelompok dari partai sekuler berpandangan bahwa UU larangan hijab merupakan perwujudan dari Republik Turki Modern sehingga pemakaian simbol-simbol agama dianggap dapat menghilangkan ciri dari Sekularisme Republik Turki Modern. Adapun kelompok Islam berpandangan bahwa ciri dari sekuler adalah memberi kebebasan bagi setiap individu untuk melaksanakan ajaran agama

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<http://www.journals.istanbul.edu.tr/iuafdi/article/viewFile/5000121163/5000111727> [pada 5 November 2015]

<sup>16</sup> Loc.cit Maryati. 2013. Turki Akhiri Larangan Berkerudung. Diakses dari <http://www.antaraneews.com/berita/399688/turki-akhiri-larangan-berkerudung> [pada tanggal 27 April 2014]



sesuai keyakinan masing-masing. Perdebatan ini akhirnya dijadikan acuan oleh Erdogan untuk berhati-hati dalam menentukan langkah mencabut UU larangan hijab di Turki. Erdogan juga menggunakan alasan HAM sebagai bentuk dari *soft diplomatic* untuk mengajukan perubahan konstitusi terkait larangan hijab.

Adanya tuntutan dan dukungan yang kemudian di proses dalam sistem politik, akhirnya dihasilkan sebuah *output* yang dapat berupa sebuah keputusan atau kebijakan. Output disini dapat dilihat dari adanya kebijakan yang dikeluarkan oleh Erdogan pada bulan Oktober 2013 yaitu kebijakan pencabutan UU larangan hijab di Turki. Output yang berupa kebijakan yang dikeluarkan oleh Erdogan, pada kondisi selanjutnya akan menimbulkan *feedback* baik dari lingkungan masyarakat maupun pihak internal yang ada di dalam sistem politik. Feedback inilah yang akhirnya akan dijadikan sebagai input yang akan di proses kembali dalam sistem politik dan inilah yang disebut dengan proses politik.

### **1.6 Argumen Utama**

Adapun argumen utama dalam menjawab mengenai bagaimana proses politik dalam upaya pencabutan UU larangan hijab adalah yaitu dimulai dari adanya input yang berupa sebuah tuntutan serta dukungan dari masyarakat, LSM, NGO, Kelompok Kepentingan yang menentang keberadaan UU larangan hijab serta menginginkan penghapusan atau pencabutan UU larangan hijab tersebut. Keberadaan UU larangan hijab di Turki telah membuat masyarakat muslim Turki dan para perempuan kehilangan hak-hak sipil mereka. Hal tersebut yang akhirnya membuat Pemerintah Turki yaitu pihak eksekutif dan legislatif berunding mengenai isu hijab tersebut. Disinilah proses politik itu terjadi dalam pembuatan kebijakan baru mengenai pencabutan UU larangan hijab. Dan pada akhirnya pemerintah Turki yaitu Erdogan mengumumkan kebijakan bahwa Undang-Undang larangan hijab di Turki telah di cabut dan perempuan Turki dapat menggunakan hijabnya di lingkungan sekolah maupun publik.

## 1.7 Metode Penelitian

Metode penelitian merupakan suatu cara yang digunakan oleh penulis untuk meneliti serta memperoleh berbagai informasi yang sesuai dengan tujuan dari penelitian. Metode penelitian juga digunakan untuk menganalisa serta menjawab suatu permasalahan dari rumusan masalah yang telah diambil, sehingga pada akhirnya nanti dapat ditemukan kebenarannya atas permasalahan yang diteliti. Pada karya tulis ilmiah ini, penulis membagi metode penelitian menjadi dua bagian yaitu metode pengumpulan data dan metode analisis data.

### 1.7.1 Metode Pengumpulan Data

Dalam karya tulis ilmiah ini penulis menggunakan metode pengumpulan data dengan cara studi kepustakaan atau biasanya disebut dengan *library research* dari berbagai sumber literatur. Metode pengumpulan data semacam ini membuat si penulis tidak melakukan penelitian secara langsung di lapangan. Adapun data-data yang penulis peroleh adalah berasal dari:

1. Perpustakaan Universitas Jember
2. Buku-buku
3. Artikel ilmiah dan Jurnal ilmiah
4. Internet
5. Ruang baca FISIP Universitas Jember

### 1.7.2 Metode Analisis Data

Metode analisis data yang digunakan oleh penulis adalah metode analisis deskriptif-kualitatif. Metode penelitian deskriptif adalah suatu metode penelitian yang berusaha untuk mendiskripsikan suatu peristiwa atau fenomena yang terjadi dan bersifat praktis.<sup>17</sup> Sedangkan metode penelitian kualitatif adalah metode penelitian tanpa menggunakan data angka statistik. Penelitian kualitatif ini menjadikan penulis sebagai instrumen kunci dan teknik pengumpulan datanya

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<sup>17</sup> "Metode Penelitian Deskriptif" oleh Tjutju Soendari, diakses dari <http://file.upi.edu> [29 April 2014]

dilakukan dengan cara gabungan. Penelitian kualitatif ini biasanya lebih menekankan pada sebuah makna.<sup>18</sup>

### **1.8 Sistematika Penulisan**

Dalam sistematika penulisan karya tulis ilmiah ini, penulis membaginya kedalam lima bab, yaitu:

Bab I, berisi tentang pendahuluan yang meliputi latar belakang, ruang lingkup pembahasan, rumusan masalah, tujuan penelitian, kerangka pemikiran, argumen utama, metode penelitian, serta sistematika penulisan.

Bab II, menjelaskan gambaran umum negara Turki serta sistem politik dan struktur pemerintahannya.

Bab III, menjelaskan dampak dari konstitusi larangan hijab serta munculnya kekuatan politik Islam di Turki yaitu Partai AKP (Adelet ve Kalkinma Partisi)

Bab IV, menjelaskan tentang proses politik Turki dalam mencabut UU larangan hijab serta faktor kegagalan dan kesuksesan pencabutan UU larangan hijab.

Bab V, yaitu penutup yang akan berisi tentang kesimpulan akhir dari penulisan karya tulis ilmiah.

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<sup>18</sup> Prof. Dr. Sugiyono. *“Memahami Penelitian kualitatif”*, CV. Alfabeta, Bandung, 2012, hal.1

## BAB 2

### GAMBARAN UMUM NEGARA TURKI SERTA SISTEM POLITIK DAN STRUKTUR PEMERINTAHANNYA.

#### 2.1 Gambaran Umum Negara Turki

Negara Turki Modern merupakan sebuah Negara yang didirikan pada tahun 1923 oleh Mustafa Kemal Attaturk setelah berhasil mengalahkan kekaisaran Ottoman. Setelah menjadi Negara Turki Modern, Kemal Attaturk banyak melakukan perubahan atau reformasi di bidang politik, hukum, ekonomi dan sosial. Attaturk juga mengumumkan sebuah kebijakan mengenai perubahan sistem kekhalifahan Turki dengan menghapus sistem islam dan menggantinya dengan sistem republik. Hal ini ditandai dengan terpilihnya Mustafa Kemal Attaturk sebagai Presiden pertama Negara Turki pada pemilu tanggal 29 November 1923.<sup>19</sup> Sejak inilah Turki akhirnya menjadi Negara sekuler yang memisahkan permasalahan Negara dengan agama.

##### 2.1.1 Letak Geografis Negara Turki

Turki merupakan Negara yang berada di kawasan Eurasia yaitu berada diantara Benua Eropa dan Asia. Letak wilayah Negara Turki berada disebelah Tenggara Eropa yaitu di daerah Balkan sampai dengan Barat Daya Asia yaitu di Semenanjung Anatolia. Negara Turki memiliki perbatasan wilayah yaitu disebelah utara berbatasan dengan laut hitam, disebelah timur yaitu dengan Negara Armenia, Azerbaijan, dan Iran, kemudian selatan berbatasan dengan Laut Mediterania, disebelah barat yaitu dengan Negara Yunani dan laut Aegea serta di bagian Tenggara berbatasan dengan Negara Irak dan Suriah.<sup>20</sup>

Secara geografis Negara Turki terletak di koordinat 39 00 bagian utara dan 35 00 bagian timur dengan luas wilayah sebesar 783.562 km persegi yang terbagi

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<sup>19</sup> Ullly, Nuzulian. "*Kebijakan Pemerintah Turki Terhadap Etnis Kurdi*". Universitas Indonesia, Jakarta. 2008. Hal:48. Diakses dari <http://lib.ui.ac.id/file?file=digital/117140-T%2024320-kebijakan%20pemerintah-analisis.pdf> [pada tanggal 21 Februari 2016]

<sup>20</sup> Ihsan, Rizaldi. "*Kependudukan Negara Turki*". Universitas Pasundan, Bandung. Diakses dari [https://www.academia.edu/9068347/KEPENDUDUKAN\\_NEGARA\\_TURKI](https://www.academia.edu/9068347/KEPENDUDUKAN_NEGARA_TURKI) [pada 21 Februari 2016]

atas wilayah daratan dengan luas 769.632 km persegi dan luas lautan 13.930 km persegi. Negara Turki memiliki perbatasan wilayah darat sepanjang 2.816 km yaitu berbatasan dengan 8 negara antara lain Negara Armenia sepanjang 311 km, Azerbaijan 17 km, Bulgaria 223 km, Georgia 273 km, Greece 192 km, Iran 534 km, Iraq 367 km dan Syria 899 km.<sup>21</sup>



**Gambar 2. Peta Negara Turki**

Sumber : Turkey map ( [www.countryreports.org](http://www.countryreports.org) )

Turki merupakan sebuah Negara Republik dengan sistem pemerintahan Republik Demokrasi Parlementer dengan ibu kota yang terletak di kota Ankara. Negara Turki juga dibagi kedalam daerah administratif dengan 81 provinsi yaitu Adana, Adiyaman, Afyonkarahisar, Agri, Aksaray, Amasya, Ankara, Antalya, Ardahan, Artvin, Aydin, Balikesir, Bartin, Batman, Bayburt, Bilecik, Bingol, Bitlis, Bolu, Burdur, Bursa, Canakkale, Cankiri, Corum, Denizli, Diyarbakir, Duzce, Edirne, Elazig, Erzincan, Erzurum, Eskisehir, Gaziantep, Giresun, Gumushane, Hakkari, Hatay, Igdirdir, Isparta, Istanbul, Izmir (Smyrna), Kahramanmaras, Karabuk, Karaman, Kars, Kastamonu, Kayseri, Kilis, Kirikkale, Kirklareli, Kirsehir, Kocaeli, Konya, Kutahya, Malatya, Manisa, Mardin, Mersin, Mugla, Mus, Nevsehir, Nigde, Ordu, Osmaniye, Rize, Sakarya, Samsun,

<sup>21</sup> Central Intelligence Agency. "The World Factbook, Middle East: Turkey; Introduction and Geography". Page last updated on February 25, 2016. Diakses dari <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> [pada 2 Maret 2016]

Sanliurfa, Siirt, Sinop, Sirnak, Sivas, Tekirdag, Tokat, Trabzon (Trebizond), Tunceli, Usak, Van, Yalova, Yozgat, Zonguldak.<sup>22</sup>

Turki merupakan Negara dengan jumlah populasi penduduk sebesar 79.414.269 jiwa (data July 2013) yang terdiri dari kelompok etnis Turki dengan prosentase 70%, etnis Kurdi 18% dan 12% etnis minoritas lainnya. Mayoritas penduduk Turki adalah beragama islam dengan prosentase 99,8% dan sisanya 0,2% beragama lain seperti Kristen dan Jews.<sup>23</sup> Meskipun penduduk Negara Turki didominasi oleh masyarakat muslim akan tetapi Turki merupakan Negara sekuler yang memisahkan masalah Negara dengan agama.

## 2.2 Sistem Politik Dan Pemerintahan Turki

Turki merupakan Negara republik demokrasi yang bentuk negaranya adalah kesatuan dengan menganut sistem pemerintahan perlementer. Pada sistem pemerintahan ini Presiden merupakan seorang Kepala Negara dan Perdana Menteri sebagai Kepala Pemerintahan. Sistem ini juga memisahkan pemerintahan kedalam 3 kekuasaan yaitu Eksekutif, Legislatif dan Yudikatif. Lembaga Eksekutif dipegang oleh Presiden dan Perdana Menteri, untuk Legislatif dipegang oleh Majelis Nasional Agung Turki atau *Turkish Grand National Assembly (TGNA)* dan sedangkan di lembaga Yudikatif dipegang oleh peradilan yang independen dan peradilan tinggi atas nama bangsa Turki. Namun di dalam struktur pemerintahan Turki, kekuasaan tertinggi berada pada konstitusi Turki.

### 2.2.1 Konstitusi Turki

Pada awal terbentuknya Negara Turki pada masa kepemimpinan Kemal Attaturk, Turki telah membuat dan menerapkan sebuah konstitusi Turki yang pertama kali yaitu pada tahun 1924. Kemal Attaturk membuat konstitusi ini dengan mempertahankan dari prinsip dasar kedaulatan nasional yang berarti bahwa Majelis Nasional Agung Turki (TGNA) merupakan satu-satunya yang menjadi wakil dari Negara Turki. Namun dengan berjalanya waktu dan

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<sup>22</sup> *Ibid, Turkey; Government*

<sup>23</sup> *Ibid, Turkey; People and Society*

perkembangan zaman, akhirnya Turki mengadopsi konstitusi baru pada tahun 1961. Pada pembuatan konstitusi yang kedua ini Turki memperkenalkan sebuah sistem parlemen bikameral yang memperbarui struktur dari Majelis Nasional Agung Turki. Pada konstitusi 1961 ini menegaskan bahwa Majelis Nasional Agung Turki terdiri dari 450 deputi dan 150 anggota untuk Senat Republik yang dipilih melalui pemilu umum dan 15 anggota dipilih oleh Presiden.<sup>24</sup>

Pada tahun 1982 Turki mengesahkan konstitusi baru yang merupakan konstitusi ketiga setelah pengesahan konstitusi 1924. Pada konstitusi 1982 ini sangat berbeda sekali dengan konstitusi sebelum-sebelumnya dan konstitusi ini juga masih berlaku hingga sekarang ini. Konstitusi 1982 menegaskan bahwa kedaulatan nasional dipegang sepenuhnya oleh bangsa Turki dan untuk masalah kenegaraan, sosial, sekuler, dan demokrasi berada dibawah hukum dan di atur oleh hukum. Konstitusi 1982 ini mengakui semua hak asasi manusia serta kebebasan dasar dari setiap warga negaranya. Dengan adanya konstitusi ini semua individu dianggap sama dihadapan hukum tanpa adanya diskriminasi dan perbedaan sosial seperti ras, bahasa, suku, jenis kelamin, warna kulit, dan agama.<sup>25</sup> Konstitusi 1982 ini dibuat untuk mengarahkan Negara menjadi lebih demokratis yang memperluas hak-hak demokratis dan kebebasan setiap warga negaranya.

### 2.2.2 Lembaga Eksekutif

Lembaga Eksekutif Negara Turki dipegang oleh seorang Presiden dan Perdana Menteri Turki beserta Dewan Menterinya. Mereka mempunyai tugas, wewenang dan fungsi masing-masing yang berbeda.

#### a. Presiden

Presiden adalah seorang Kepala Negara yang mewakili Negara Republik Turki dan kesatuan bangsa Turki. Presiden Turki dipilih langsung oleh parlemen

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<sup>24</sup> Tanpa Nama. "Legal and Political Structure". Invest In Turkey, The Republic Of Turkey Prime Ministry Investment Support And Promotion Agency. Diakses dari <http://www.invest.gov.tr/en-US/turkey/factsandfigures/Pages/LegalAndPoliticalStructure.aspx> [pada tanggal 2 Maret 2016]

<sup>25</sup> *Ibid*

Turki (TGNA) sejak amandemen konstitusi tahun 2007. Presiden Turki dipilih setiap lima tahun sekali dengan dua kali periode menjabat. Setelah Presiden Turki terpilih, kemudian Presiden mempunyai hak untuk memilih dan mengangkat seorang Perdana Menteri dan menyetujui susunan anggota Dewan Menteri yang dibuat oleh Perdana Menteri. Akan tetapi dalam hal ini seorang Presiden Turki tidak dapat memberhentikan seorang Menteri tanpa adanya proposal persetujuan dari Perdana Menteri.<sup>26</sup>

Pada dasarnya Presiden Turki memiliki tugas dan kekuasaan yang berketerkaitan satu sama lain antara lembaga eksekutif, legeslatif dan yudikatif atau lembaga peradilan. Presiden Turki juga bertanggungjawab atas penerapan dan pelaksanaan konstitusi Turki. Adapun kewenangan dan fungsi presiden dibidang legislatif yaitu:<sup>27</sup>

- a. Mengadakan pemilihan TNGA kembali apabila diperlukan.
- b. Menerbitkan undang-undang.
- c. Mengadakan referendum terkait amandemen konstitusi.
- d. Mengeluarkan keputusan dengan kekuatan hukum.
- e. Mengatur kerja internal anggota perlemen.
- f. Memutuskan kapan pemilu TNGA yang baru apabila itu diperlukan.

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<sup>26</sup> Rizatul, Amalia. 2014. "Sistem Pemerintahan di Turki", diakses dari <https://rizatulamalia.wordpress.com/2014/04/29/sistem-pemerintahan-di-turki/> [pada tanggal 5 maret 2016]

<sup>27</sup> "...The President of the Republic has functions and authority related to the legislative, executive and judicial fields. His/her functions in the legislative fields are to convene the TGNA when necessary, to publish laws and when deemed necessary, to send them back to the Parliament for discussion, to hold a referendum in Constitutional amendments when he/she considers it necessary, to file suit with the Constitutional Court claiming a violation of Constitutional law, to issue decrees with the power of law and regulate the internal workings of the Parliament and to decide when new TGNA elections are necessary...."

Noname. tanpa tahun. "Political Structure of Turkey: The Executive Branch in Turkey". Diakses dari [http://www.turkishelections.com/political\\_structure/executive/](http://www.turkishelections.com/political_structure/executive/) [pada 6 Maret 2016]



Sedangkan tugas eksekutif Presiden adalah:<sup>28</sup>

- a. Menunjuk dan menerima pengunduran diri Perdana Menteri.
- b. Menunjuk atau memberhentikan seorang menteri.
- c. Mengadakan pertemuan ketua dewan menteri (kabinet).
- d. Menunjuk utusan untuk mewakili Negara Turki di luar negeri dan menerima perwakilan dari Negara asing.
- e. Meratifikasi dan mempublikasikan perjanjian internasional.
- f. Bertindak sebagai Komandan-in-Chief dari Angkatan Bersenjata Turki.
- g. Menunjuk Kepala Staf Umum dalam mengadakan pertemuan Dewan Keamanan Nasional dan ketua Dewan.
- h. Menyatakan darurat militer sesuai keputusan dalam rapat di bawah kepemimpinan Dewan Menteri (Kabinet).
- i. Mengeluarkan keputusan dengan kekuatan hukum dan menyetujui keputusan sebagai penandatanganan.
- j. Mengampuni hukuman narapidana dengan alasan usia tua, penyakit kronis atau kelemahan.
- k. Menunjuk Presiden Dewan Auditory Negara Turki beserta anggotanya lalu melakukan investigasi maupun bertanya melalui Dewan Auditory Negara.
- l. Memilih anggota Dewan Pendidikan Tinggi untuk menunjuk seorang Kanselir Universitas.

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<sup>28</sup> “.....*The executive duties of the President are: to appoint or accept the resignation of the Prime Minister, to appoint or dismiss Ministers in the event that he deems it necessary, to chair meetings of the Council of Ministers (Cabinet) or summon the Council to meet under his chairmanship, to appoint accredited envoys to represent the Turkish State abroad and receive representatives of foreign states, to ratify and publish international agreements, to act as the Commander-in-Chief of the Turkish Armed Forces, to appoint the Chief of General Staff, to convene the National Security Council and to chair meetings of the Council, to proclaim martial law or impose a state of emergency by a decree to be decided by the Council of Ministers (Cabinet) meeting under his chairmanship, and to issue decrees with the power of law, to approve decrees as signatory, to commute or pardon the sentences of certain convicts on the grounds of old age, chronic illness or infirmity, to appoint the members and President of the State Auditory Council, to conduct investigations, enquires and research through the State Auditory Council, to select the members of the Council of Higher Education, and to appoint University Chancellors...*”

*Ibid*, [http://www.turkiselections.com/political\\_structure/executive/](http://www.turkiselections.com/political_structure/executive/)

Adapun tugas dan wewenang seorang Presiden Turki terkait dengan lembaga peradilan adalah menunjuk anggota Mahkamah Konstitusi, Mahkamah Agung, Mahkamah Pengadilan Militer, anggota Dewan Agung, Hakim dan Jaksa. Selain kewenangan dan fungsi seorang Presiden Turki, seorang presiden juga dapat diberhentikan apabila melakukan kejahatan berupa penghianatan yang tinggi kepada Negara.

#### **b. Perdana Menteri dan Dewan Menteri**

Selain seorang Presiden, lembaga eksekutif Negara Turki juga dipegang seorang Perdana Menteri beserta Dewan menteri. Seorang Perdana Menteri dipilih oleh Presiden dari anggota Majelis Nasional (TNGA). Setelah Presiden mengangkat seorang Perdana Menteri, maka Perdana Menteri dapat mencalonkan beberapa menteri yang nantinya akan diangkat sebagai anggota dewan menteri atau kabinet oleh Presiden. Dalam waktu satu minggu, kabinet baru tersebut harus dipilih dan dibentuk dengan mendapatkan mosi percaya dari Majelis Nasional. Namun apabila mereka mendapatkan mosi tidak percaya, maka harus siap untuk mengundurkan diri. Dalam hal ini para partai juga dapat melakukan koalisi dalam kurun waktu enam minggu untuk membentuk pemerintahan atau kabinet baru. Apabila dalam waktu enam minggu ini tidak terbentuk sebuah kabinet baru, maka Presiden dapat membubarkan Majelis dan mengadakan pemilihan baru.<sup>29</sup>

Pada dasarnya anggota Dewan Menteri mempunyai tanggungjawab terhadap pelaksanaan kebijakan umum dan secara garis besar tanggungjawab itu dibagi kedalam dua jenis. Pertama tanggungjawab dalam hal kebijakan umum

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<sup>29</sup> “...The Council of Ministers, or cabinet, is headed by the prime minister, who is appointed by the president from among the elected deputies of the National Assembly. In practice, the president asks the head of the party with the largest number of deputies to form a government. The prime minister then nominates ministers for appointment by the president. Within one week of being selected, each new cabinet must be presented to the full assembly for a vote of confidence; a simple majority is required. If at any time during the Council of Ministers' tenure an absolute majority of the assembly should support a motion of no confidence, the ministers must resign. In the event that no party obtains a majority in National Assembly elections, a coalition of parties is allowed up to six weeks to form a government. If no new cabinet can be formed within forty-five days, the president may dissolve the assembly and call for new elections...”

Noname. Tanpa Tahun. “President, Council of Ministers, and Prime Minister”. Diakses dari <http://countrystudies.us/turkey/73.htm> [pada tanggal 6 Maret 2016]

pemerintah dan kedua yaitu tanggungjawab untuk pelaksanaan urusan dalam hal yurisdiksi dan atas tindakan bawahannya.<sup>30</sup> Mengacu pada konstitusi Turki 1982, seorang Perdana menteri beserta Dewan Menteri mempunyai kekuasaan yang luas seperti Presiden. Adapun tugas dan tanggungjawab dari seorang Perdana Menteri adalah:<sup>31</sup>

1. Perdana Menteri bertanggungjawab untuk memastikan keharmonisan fungsi dari Dewan Menteri.
2. Mengawasi pelaksanaan kebijakan pemerintah.
3. Perdana Menteri adalah kepala cabang eksekutif sehingga setiap Menteri bertanggungjawab kepada Perdana Menteri.
4. Perdana Menteri memastikan bahwa semua Menteri memenuhi fungsinya sesuai dengan Konstitusi dan hukum.

Adapun tanggungjawab lainnya dari Dewan Menteri yaitu dibidang pertahanan nasional. Dewan Menteri bertanggungjawab kepada majelis mengenai keamanan nasional dan kesiapan angkatan bersenjata. Disini Presiden biasanya berfungsi sebagai panglima tertinggi angkatan bersenjata dan sebagai ketua kabinet untuk menyatakan keadaan darurat militer dan mengeluarkan dekrit.

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<sup>30</sup> “...*The prime minister supervises the implementation of government policy. Members of the Council of Ministers have joint and equal responsibility for the implementation of this policy. In addition, each minister is responsible for the conduct of affairs under his or her jurisdiction and for the actions of subordinates...*”

Ibid, <http://countrystudies.us/turkey/73.htm>

<sup>31</sup> “...*The Prime Minister is responsible for ensuring that the Council functions in a harmonious manner as well as for coordination between the Ministries. The 1982 Constitution has not only strengthened the powers of the President but those of the Prime Minister as well. According to the Constitution, each Minister is accountable to the Prime Minister. The Prime Minister ensures that the Ministers fulfill their functions in accordance with the Constitution and the laws, and he is vested with the obligation to take corrective measures for this very reason. The President may dismiss Ministers upon the proposal of the Prime Minister. Even as the Council of Ministers bear collective responsibility for the implementation of the general policies of the government, they are also individually responsible for action within the domain of their jurisdictions and for the acts and actions of their subordinates. The political responsibilities of the Ministers emerge as the result of parliamentary motion of interpellation or a motion for no-confidence...*”

Noname. Tanpa tahun. “*Consulate General Republic Of Turkey: Executive Branch*”, diakses dari <http://www.turkishconsulategeneral.us/abtturkey/govt/exec.shtml> [pada tanggal 6 Maret 2016]

### 2.2.3 Lembaga Legislatif

Lembaga legislatif Turki disebut dengan *Turkey Grand National Assembly* (TGNA) yang merupakan parlemen Turki. Sejarah tentang perkembangan parlemen Turki ini dimulai sejak pada masa pemerintahan kerajaan Ottoman dimana pada saat itulah pembentukan konstitusi dan parlemen pertama Turki. Pada saat itu Turki yang menganut sistem bikameral. Dalam sistem bikameral ini parlemen Turki dibagi kedalam dua bagian yaitu Majelis Tinggi disebut dengan *Meclis -i Ayan* (senat) dan Majelis Rendah disebut dengan *Meclis-i Mebusan*. Sistem parlemen bikameral di Turki ini bertahan hingga tahun 1923 ketika Turki dipimpin oleh Mustafa Kemal Attaturk dan menjadi Negara Republik Turki.<sup>32</sup>

Pada tahun 1923 sistem Turki menjadi Negara Republik dengan runtuhnya kerajaan Ottoman yang menganut sistem kekhalifahan. Negara Republik Turki akhirnya dipimpin oleh seorang Presiden Pertama yaitu Kemal Attaurk dan Ismet sebagai Perdana Menteri. Setelah Turki memproklamkan dirinya sebagai Negara Republik, Turki akhirnya juga membuat sebuah konstitusi baru yaitu konstitusi 1924. Dalam konstitusi 1924 sistem Negara tetap menganut sistem Parlementer. Kekuasaan legislatif dan eksekutif dipegang oleh Majelis dan Majelis mempunyai hak untuk menghapus pemerintah akan tetapi pemerintah tidak memiliki hak untuk membubarkan Majelis. Dalam konstitusi 1924 Presiden dan Dewan Menteri diberikan kekuasaan eksekutif.

Perkembangan sistem parlemen Turki tidak hanya berhenti pada konstitusi 1924 saja, hal ini terus berlanjut hingga pada saat terjadi pembuatan konstitusi baru yaitu tahun 1961. Dalam konstitusi 1961 Turki tetap menerapkan sistem parlemen bikameral. Yang mana kekuasaan legislatif berada ditangan Dewan

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<sup>32</sup> “...*The first Ottoman parliament (Meclis-i Umumi) was opened by a speech delivered by the Sultan on March 19, 1877. According to the Constitution, the parliament was bicameral. The lower chamber was called Meclis-i Mebusan, and Meclis-i Ayan was the upper chamber (senate). The members of the Meclis-i Ayan were to be appointed by the Sultan on condition that the number of senators was not to exceed one-third of the number of members of the lower house. The members of the Meclis-i Ayan were to serve for life...*”

The Grand National Assembly of Turkey, About Parliament, “*History: The First Ottoman Constitution and the First Parliament (I. Meşrutiyet)*” diakses dari <https://global.tbmm.gov.tr/index.php/EN/yd/icerik/12> [pada tanggal 8 Maret 2016]

Perwakilan Rakyat (DPR) dan Senat sedangkan otoritas eksekutif berada di tangan Presiden dan Dewan Menteri.<sup>33</sup> Setelah konstitusi 1961, kemudian dibentuklah Konstitusi 1982. Konstitusi 1982 ini dibentuk dua tahun setelah adanya kudeta militer tahun 1980. Kudeta ini menyebabkan tidak diberlakukannya konstitusi, partai-partai politik dibubarkan dan banyak politisi yang dilarang memasuki politik lagi. Konstitusi 1982 ini membawa perubahan besar dalam sistem parlemen Turki yang mana Turki mulai menggunakan sistem unikameral didalam parlemennya.

#### a. Sistem Pemilu Parlemen Turki

*Turkey Grand National Assembly* (TNGA) terdiri dari 550 deputi yang dipilih langsung oleh masyarakat Turki. Pemilu parlemen ini diadakan setiap empat tahun sekali. Akan tetapi apabila terjadi sesuatu hal yang menyebabkan pemilu parlemen dipercepat, maka pemilu parlemen dapat dilakukan kembali sebelum masa waktu empat tahun. Namun hal ini juga didasarkan pada persetujuan dan keputusan Presiden dan Majelis. Pemilu parlemen dilakukan sesuai dengan prinsip-prinsip yang mengutamakan kebebasan hak pilih, rahasia, dipilih secara langsung oleh rakyat, dan universal. Pemilih akan memberikan suara mereka secara pribadi kemudian menghitung perolehan suara dan menyampaikan hasilnya di depan umum.

Konstitusi Turki 1982 ini menjelaskan bahwa dalam pemilu parlemen, Turki menerapkan sistem perwakilan proposional dengan catatan bahwa partai politik dapat memenangkan kursi apabila memperoleh suara sah nasional diatas 10% dari semua konstituen. Namun hal ini berbeda dengan kandidat yang berasal dari independen. Syarat perolehan suara nasional diatas 10% ini tidak berlaku untuk kandidat independen. Ini dikarenakan kandidat independen tidak berasal

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<sup>33</sup> "...The 1961 Constitution stipulated a typical parliamentary system. According to the Constitution, Parliament was bicameral. The legislative power was vested in the House of Representatives and the Senate, while the executive authority was vested in the President and the Council of Ministers.."

*Ibid*, <https://global.tbmm.gov.tr/index.php/EN/yd/icerik/12>

dari partai politik sehingga dia hanya akan mendapatkan suara dari masyarakat biasa yang berasal dari daerah pemilihan.<sup>34</sup>

Setiap warga Negara Turki yang berusia diatas 18 tahun dan tercatat di dalam daftar pemilih pemilu parlemen, maka dia berhak memiliki hak suara untuk memilih calon parlemen di dalam pemilu parlemen. Selain itu warga Negara Turki yang berada di luar negeri juga mendapatkan hak suara untuk memilih di kantor kedutaan Turki yang berada dinegara lain. Pemilu ini bersifat wajib sehingga apabila ada warga Turki yang tidak memberikan hak suaranya maka akan dikenakan denda kecil.

Pemilu parlemen Turki yang terdiri dari 550 deputi ini dipilih dari 85 daerah pemilihan yang mewakili 81 provinsi administratif. Sehingga untuk mengitung jumlah calon yang akan didaftarkan dalam pemilu menjadi 469 kursi Deputi ( $550-81=469$ ). Dalam pemilu ini setiap provinsi diberi hak untuk mencalonkan anggotanya minimal satu orang. Mengingat jumlah total kursi deputi yang tersisa adalah sebanyak 469 kursi, maka setiap provinsi dapat mencalonkan lebih dari satu anggota dengan melihat jumlah populasi masyarakat dalam satu provinsi tersebut. Adapun kategori orang yang dapat menjadi kandidat calon parlemen dalam pemilu adalah sebagai berikut:<sup>35</sup>

- Warga Negara asli Turki yang sudah berumur lebih dari 25 tahun.
- Telah menyelesaikan pendidikan dasar.
- Memiliki kapasitas hukum
- Mempunyai akses pelayanan public.
- Menyelesaikan wajib militer.
- Tidak dijatuhi hukuman penjara baik hukuman berat maupun hukuman ringan atas kejahatan.

Di dalam konstitusi Turki 1982 juga disebutkan ada beberapa orang yang dilarang untuk menjadi kandidat dalam pemilu parlemen. Orang itu adalah hakim

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<sup>34</sup> Kasim, ERDEM and Mehmet SOLAK . 2012. “*Grand National Assembly of Turkey: Electoral Election*”. Ankara: Department of Research Services Grand National Assembly of Turkey. Page:8. Diakses dari [https://www.tbmm.gov.tr/yayinlar/arastirma\\_merkezi.pdf](https://www.tbmm.gov.tr/yayinlar/arastirma_merkezi.pdf) [pada 8 Maret 2016]

<sup>35</sup> Ibid, “*Right to be Elected*”, Page:6.

dan jaksa, anggota pengadilan tertinggi, dosen di universitas, anggota Dewan Pendidikan Tinggi, PNS, dan karyawan publik. Untuk seorang anggota angkatan bersenjata dapat mendaftarkan diri sebagai calon kandidat parlemen akan tetapi dengan syarat harus mengundurkan diri dari jabatan mereka sebagai anggota angkatan bersenjata. Proses pengunduran diri ini dilakukan selambat-lambatnya satu bulan sebelum acara pemilu parlemen atau dalam waktu tujuh hari setelah adanya pengumuman keputusan perpanjangan pemilu.<sup>36</sup>

Seorang calon kandidat harus didaftarkan oleh partai politiknya ke Mahkamah Dewan Pemilihan di setiap daerah pemilihan. Kemudian Mahkamah Dewan segera memberikan laporan kepada Dewan Pemilu tingkat provinsi. Sedangkan untuk calon kandidat independen, mereka harus membuat aplikasi mereka ke Dewan Pemilu tingkat provinsi. Setelah itu Dewan Pemilu tingkat provinsi dapat mengumumkan daftar akhir calon parlemen yang akan mengikuti pemilu melalui media berita resmi dan radio. Setelah semua persiapan dan prosedur telah selesai maka tibalah saat pemilu parlemen. Pada saat pemilu berlangsung seorang Dewan Pemilihan Agung bertanggung jawab dalam hal pengawasan pemilu. Dewan Pemilihan Agung ini terdiri dari tujuh anggota biasa dan empat pengganti yang mana enam di antaranya dipilih oleh Pengadilan Tinggi dan yang lima dipilih oleh Dewan Negara di antara para anggotanya sendiri. Dewan Pemilihan Agung ini bertugas untuk memastikan jalannya pelaksanaan pemilu yang adil dan tertib selama pemilu berlangsung. Ini dikarenakan memiliki kekuatan dalam hal pembuat keputusan akhir tentang keluhan, kelayakan calon dan keabsahan pemilu.<sup>37</sup>

#### **b. Tugas dan Wewenang Turkey Grand National Assembly**

Dalam Negara Turki semua kekuasaan Negara selalu berasal dari konstitusi Turki 1982. Lembaga *Turkey Grand National Assembly* (TGNA) yang terdiri dari lima ratus lima puluh (550) wakil yang dipilih secara langsung dari 85 daerah pemilihan yang mewakili 81 provinsi juga harus menjalankan

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<sup>36</sup> Ibid, page: 7

<sup>37</sup> Ibid, "Administration of Elections". page:9

kekuasaannya sesuai konstitusi Turki yang berlaku. Hal ini sesuai dengan konstitusi Turki Pasal 87 yang menjelaskan mengenai tugas dan wewenang dari Majelis Nasional Agung Turki. Tugas pokok dan wewenang dari Majelis Nasional Agung adalah sebagai berikut:<sup>38</sup>

1. Membuat, mengubah dan membatalkan undang-undang. Hal ini seperti tercantum di dalam konstitusi Turki 1982 (Article 7, Constitution) yang menyatakan bahwa”

*“Legislative power is vested in the Turkish Grand National Assembly on behalf of the Turkish Nation. This power cannot be delegated”*<sup>39</sup>

yang artinya bahwa kekuasaan legislatif Turki dipegang oleh Majelis Nasional Agung Turki dengan atas nama bangsa Turki dan kekuatan ini tidak dapat didelegasikan.

2. Mengawasi kerja Para Menteri dan Dewan Menteri.
3. Memberi wewenang kepada Dewan Menteri untuk mengeluarkan keputusan hukum tentang hal-hal tertentu.
4. Mengetahui masalah keuangan dan anggaran pembelanjaan Negara.
5. Memutuskan penerbitan mata uang.
6. Memutuskan deklarasi perang.
7. Menyetujui ratifikasi perjanjian internasional.
8. Memutuskan pemberian amnesti dan pengampunan.

Selain tugas dan wewenang di atas, TNGA juga mempunyai tugas-tugas yang lain seperti:<sup>40</sup>

1. Mengubah Konstitusi
2. Menyetujui rencana pembangunan
3. Mengadopsi aturan prosedur majelis nasional agung Turki

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<sup>38</sup> The Grand National Assembly of Turkey: About Parliament: Duties and Power, diakses dari <https://global.tbmm.gov.tr/index.php/EN/yd/icerik/13> [pada 8 Maret 2016]

<sup>39</sup> THE CONSTITUTION OF THE REPUBLIC OF TURKEY, diakses dari [http://www.essex.ac.uk/armedcon/world/europe/south\\_east\\_europe/turkey/TurkeyConctitution.pdf](http://www.essex.ac.uk/armedcon/world/europe/south_east_europe/turkey/TurkeyConctitution.pdf) [pada 8 Maret 2016]

<sup>40</sup> Lop.cit <https://global.tbmm.gov.tr/index.php/EN/yd/icerik/13>



4. Menyetujui, mengubah dan menolak keputusan yang memiliki kekuatan hukum.
5. Menyetujui keputusan tentang keadaan darurat dalam hal militer maupun non militer.
6. Menyetujui keputusan yang memiliki kekuatan hukum yang dikeluarkan oleh Dewan Menteri yang berada di bawah kepemimpinan Presiden Republik dalam keadaan darurat.
7. Memilih Ketua dan anggota Biro Majelis Nasional Agung Turki.
8. Memilih anggota Mahkamah Konstitusi.
9. Memilih anggota Dewan Tertinggi dari pertelevisian dan radio.
10. Memilih Presiden dan anggota Pengadilan Tinggi.
11. Memutuskan untuk memperbarui pemilihan Majelis Nasional Agung Turki sebelum waktunya.
12. Memberi suara kepada Dewan Menteri dalam sebuah mosi percaya saat dibentuk atau dalam perjalanan kantor menteri.
13. Impeachment Presiden Republik untuk pengkhianatan tingkat tinggi.
14. Mengangkat kekebalan parlemen.
15. Memutuskan hilangnya keanggotaan.
16. Mengizinkan penempatan Angkatan Bersenjata Turki di luar negeri dan mengakui kehadiran angkatan bersenjata asing di Turki
17. Meneliti perusahaan ekonomi publik

### BAB 3

## DAMPAK KONSTITUSI LARANGAN HIJAB SERTA MUNCULNYA KEKUATAN POLITIK ISLAM DI TURKI.

### 3.1 Dampak Konstitusi (UU) Larangan Hijab Turki (Diskriminasi Hak Perempuan)

Undang-Undang larangan hijab yang diberlakukan oleh Negara Turki telah mencerminkan suatu pelanggaran atau pembatasan akan hak asasi manusia bagi masyarakat muslim Turki. Keberadaan UU ini sering kali mendapatkan aksi protes dari kalangan elit politik, LSM, Kelompok Organisasi maupun masyarakat individu. Undang-undang yang melarang penggunaan hijab di lingkungan publik seperti kantor pemerintah, sekolah maupun universitas dirasa telah merampas hak masyarakat terutama para kaum perempuan. Sejak UU itu diberlakukan mereka tidak akan mendapatkan akses pendidikan serta pekerjaan secara bebas apabila mereka masih tetap menggunakan hijabnya. Hal inilah yang pada akhirnya dapat memberikan suatu dampak bagi Negara Turki terutama pada bidang sosial seperti bidang pendidikan, ekonomi, dan HAM.<sup>41</sup>

#### 3.1.1 Dampak di Bidang Pendidikan

Pada bidang pendidikan keberadaan UU larangan hijab ini sangatlah mempunyai dampak yang sangat besar. Hal ini dikarenakan UU tersebut telah melarang semua siswa maupun mahasiswa yang berhijab dilarang untuk bersekolah atau memasuki kelas. Apabila para siswa tersebut ingin tetap dapat melanjutkan pendidikannya maka mereka harus rela melepas hijab mereka sesuai aturan yang telah diberlakukan oleh pemerintah Turki. Keberadaan UU ini secara langsung juga telah memberikan dua pilihan terhadap para perempuan muslim yaitu tetap ingin mempertahankan haknya dalam menggunakan hijab atau

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<sup>41</sup> “...*The implications of banning the Hijab in Turkey generally affect four social issues: education, economy, and human rights...*”

Aydin, Hasan, “*Headscarf (Hijab) Ban in Turkey: Importance of Veiling*”, University of Nevada, Reno. Hal: 15. Diakses dari <http://www.wtamu.edu/webres/file/journals/mcj/aydin.pdf> [pada 4 November 2015]

memilih hak atas pendidikan dengan melepas hijabnya. Kedua pilihan ini sangat memberatkan para perempuan muslim karena kedua pilihan tersebut tetaplah membatasi hak mereka. Mereka merasa bahwa keberadaan UU ini secara langsung telah membatasi hak asasi para perempuan muslim Turki

Keberadaan UU larangan hijab ini juga mempunyai dampak bagi perkembangan kemajuan Negara Turki. Turki yang merupakan Negara sekuler yang berkeinginan menjadi Negara Modern ini tengah berupaya untuk melakukan promosi di bidang pendidikan. Ketika suatu sekolah atau universitas menerapkan larangan hijab tersebut maka semua siswanya harus meninggalkan hijabnya untuk pendidikannya. Akan tetapi tidak semua orang mau mematuhi larangan hijab tersebut dan justru mereka malah memilih untuk berhenti sekolah karena aturan larangan hijab tersebut. Ketika mereka berhenti untuk melanjutkan pendidikannya, maka ini akan berdampak pada rendahnya kualitas Sumber Daya Manusia (SDM) di Negara Turki. Mereka hanya akan tetap pada pemikiran tradisional mereka dan tidak akan dapat untuk berfikir secara modern dengan ilmu pengetahuan yang didapat di sekolah maupun universitas. Sedangkan di mata internasional, ketika UU larangan hijab itu diberlakukan di Universitas yang ada di Turki, maka ini akan dapat mengurangi minat warga Negara lain untuk melanjutkan sekolah atau perguruan tinggi yang ada di Turki. Mereka akan takut jika hak-hak mereka akan terbatas ketika mereka bersekolah di Turki.

Adapun contoh dari bentuk diskriminasi dibidang pendidikan dan HAM akibat dari UU larangan hijab adalah:

- Pada awal tahun 1980, para siswa diharuskan memakai pakaian seragam seperti pakaian pegawai negeri. Peraturan ini didasarkan pada peraturan yang berkaitan dengan pakaian siswa dan staf sekolah yang berada di bawah Departemen Pendidikan dan Departemen lain, No. 8/3349, Art. 6 (22 July 1981, dan diamademen pada 26 November 1982). Aturan ini diterapkan hanya untuk melarang adanya pemakaian kerudung di lingkup sekolah maupun universitas. Peraturan ini juga semakin diperjelas dengan

adanya amandemen undang-undang tahun 1985 yang menyatakan bahwa siswa yang menggunakan pakaian tradisional akan diberikan peringatan keras.<sup>42</sup>

- Tahun 1985 terjadi suatu perubahan yang dipimpin oleh Anavatan Partisi (ANAP) yaitu sebuah partai Tanah Air. Partai ANAP berusaha mengamandemen aturan larangan hijab dan memberikan kesempatan untuk memakai hijab di universitas. Akan tetapi hal ini ditentang oleh Presiden Kenan Evren yang juga merupakan seorang pimpinan kup militer pada tahun 1980. Presiden Kenan memperkarakan masalah ini kepada Pengadilan Konstitusi dengan alasan bahwa amandemen yang dilakukan oleh partai ANAP ini telah bertentangan dengan konstitusi. Pada akhirnya Pengadilan Konstitusi tetap memutuskan bahwa pemakaian hijab yang merupakan simbol agama tetap dilarang penggunaannya di ruang publik seperti sekolah maupun universitas. Keputusan dari Pengadilan Konstitusi inipun akhirnya digunakan oleh para militer untuk melarang siswa menggunakan hijabnya ketika dia memasuki gedung sekolah maupun universitas. Mereka juga melarang orangtua wali murid dari para siswa maupun mahasiswa untuk tidak menggunakan hijabnya ketika menghadiri acara anaknya di gedung sekolah maupun universitas.
- Tahun 1997 seorang mahasiswi jurusan ilmu fisika di Universitas Istanbul yang bernama “Fatma Gocken” terpaksa harus diusir dari Universitas Istanbul dan dilarang untuk mengikuti proses belajar. Hal ini disebabkan karena Gocken ikut dalam aksi demonstrasi damai untuk memprotes sebuah kebijakan larangan hijab yang akan diterapkan di universitasnya. Gocken bukan merupakan pimpinan dari aksi demonstrasi tersebut, akan tetapi Gocken termasuk kedalam daftar nama mahasiswi yang akan diusir oleh pihak Universitas Istanbul. Gocken yang mengetahui hal ini tidak tinggal diam dan langsung membawa kasusnya ini ke Pengadilan Istanbul, akan tetapi hal dilakukan oleh Gocken hanya sia-sia saja. Dia tidak

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<sup>42</sup> Abdullah, Ahmed An-Na'im, *“Dilema Negoisasi sekulerisme : Larangan Menggunakan kerudung”*, diakses dari [http://sharia.law.emory.edu/system/files/sharia/Bahasa\\_Ch6.doc](http://sharia.law.emory.edu/system/files/sharia/Bahasa_Ch6.doc) [pada tanggal 6 November 2015]

mendapatkan pembenaran dan harus menerima bahwa dirinya tidak dapat melanjutkan pendidikannya di Universitas Istanbul.<sup>43</sup>

### 3.1.2 Dampak Bidang Pekerjaan dan Ekonomi

Selain di bidang pendidikan, UU larangan hijab tersebut juga mempunyai dampak terhadap bidang ekonomi dan pekerjaan. UU larangan hijab tersebut telah membatasi hak-hak perempuan muslim Turki terhadap akses pendidikan maupun pekerjaan. Setiap perempuan muslim Turki yang bekerja di lingkungan publik maka dia harus rela untuk membuka hijabnya sesuai aturan. Apabila mereka tidak mau membuka hijab mereka maka mereka akan dikeluarkan dan diberhentikan dari pekerjaannya. Hal ini pada akhirnya membuat para perempuan muslim Turki tersebut merasa telah kehilangan hak atas pekerjaannya. Ini merupakan salah satu bentuk dari diskriminasi yang didapatkan oleh para perempuan karena dengan adanya larangan hijab tersebut dapat dimungkinkan bahwa kuota lapangan pekerjaan akan lebih didominasi oleh para kaum laki-laki. Hal inilah yang pada akhirnya akan membuat para perempuan tersebut mengalami ketertinggalan jauh dan akan tetap dianggap rendah dari kedudukan laki-laki.

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<sup>43</sup> “...The case of twenty-four-year-old Fatma Gokcen is typical. In 1994, she won a place in the physics department of the Istanbul University science faculty. She was admitted to the faculty wearing a headscarf and told Human Rights Watch that her style of dress presented no problem in her studies prior to the military’s February 1997 ultimatum. When the university began immediately to apply the ban, Fatma Gokcen took part in peaceful demonstrations to protest the policy. On June 8, 1997, Fatma Gokcen was shocked to learn from an announcement on a notice board in the science faculty that she and eleven other students had been expelled from the university for participating in the demonstrations. She told Human Rights Watch, “I still do not understand why they chose me in particular. I was not a ringleader but a rather quiet student and not really politically active.” She suspects that she may have been singled out for exemplary punishment because she was in the last month of her degree course. Gokcen challenged the decision, and after a two-year battle in the courts won a decision of the Istanbul Administrative Court No. 4, dated June 28, 1999, that her expulsion had been unlawful on the grounds of lack of evidence and her constitutional right to public protest. Unfortunately, vindication in the courts did not restore Gokcen’s access to education. Since October 1998, no students wearing the headscarf have been permitted into any Istanbul University faculty, and she was unable to complete her degree....”

Noname, “Memorandum to the Turkish Government on Human Rights Watch’s Concerns with Regard to Academic Freedom in Higher Education, and Access to Higher Education for Women who Wear the Headscarf : Human Rights Watch Briefing Paper” June 29, 2004, pages: 29-30. Dikases dari [https://www.hrw.org/legacy/backgrounder/eca/turkey/2004/headscarf\\_memo.pdf](https://www.hrw.org/legacy/backgrounder/eca/turkey/2004/headscarf_memo.pdf) [pada tanggal 6 November 2015].

Pada konsep sekuler yang diterapkan oleh Turki demi menciptakan Negara Turki Modern, disitu terdapat suatu penjelasan bahwa mereka juga akan mempromosikan masalah kesetaraan gender. Ketika berbicara mengenai UU larangan hijab Turki maka dapat dikatakan bahwa keberadaan UU tersebut sama sekali tidak mencerminkan adanya kesetaraan gender. Ini justru menimbulkan ketimpangan atau kesenjangan sosial antara pihak perempuan dan laki-laki. Kesenjangan inilah yang pada akhirnya membuat para kaum perempuan itu selalu mengalami tindakan diskriminatif dari para kaum laki-laki.

Dampak pada bidang pekerjaan ini sebenarnya juga berkaitan dengan bidang pendidikan. Ketika seseorang mengalami ketertinggalan dalam hal dunia pendidikan dimana dia tidak mempunyai banyak ilmu pengetahuan yang baik maka ini dapat menyebabkan kualitas SDM yang rendah. Hal ini pada akhirnya juga akan berdampak pada bidang pekerjaan. Rendahnya kualitas SDM suatu perusahaan maka perusahaan itu tidak akan dapat menghasilkan suatu produk yang berkualitas. Ini akan menyebabkan hilangnya rasa kepercayaan para konsumen akan produk yang dihasilkan. Ketika konsumen tidak lagi percaya akan kualitas suatu perusahaan, maka perusahaan tersebut akan mengalami kemunduran yang akhirnya dapat menyebabkan kebangkrutan suatu perusahaan. Hal inilah yang akan membuat perekonomian Turki akan mengalami kemunduran dan ini sama sekali tidak mencerminkan konsep Turki Modern. UU larangan hijab tersebut hanya menimbulkan berbagai dampak negatif bagi Negara Turki.

Adapun contoh dari bentuk diskriminasi dibidang pekerjaan dan ekonomi yang diakibatkan dari UU larangan hijab adalah:

- Pada tahun 1999 seorang anggota parlemen yang bernama Merve Kavakci datang ke Gedung Parlemen Turki untuk acara pengambilan sumpah para anggota Parlemen Turki. Dia datang dengan menggunakan hijab di kepalanya. Tindakan Merve Kavakci ini dianggap sebagai suatu kesalahan besar dimana dia telah melanggar aturan dari kebijakan yang sudah ditetapkan oleh pemerintah Turki. Akhirnya Merve Kavakci harus

menerima pemecatan dirinya dari jabatan sebagai anggota parlemen Turki. Dia dipaksa untuk keluar dari gedung parlemen tempat acara itu berlangsung.<sup>44</sup>

- Seorang perempuan bernama Fethiye Attlee yang bekerja di instansi pemerintahan selama sekita 10 tahun juga dipecat dari pekerjaannya. Fethiye dipecat setelah adanya kudeta terhadap pemerintahan Necmettin Erbakan pada tahun 1997. Para pengkudeta ini juga melakukan pembatalan kontrak kerja terhadap para perempuan berhijab yang bekerja di instansi pemerintahan. Salah satu perempuan itu termasuk Fethiye. Selama bekerja Fethiye telah mendapatkan berkali-kali teguran untuk tidak menggunkan hijabnya, akan tetapi Fethiye tidak menghiraukan teguran tersebut. Merasa Fethiye tidak menghiraukan tegurannya dan dianggap telah melanggar UU larangan hijab maka akhirnya Fethiye dipecat dari pekerjaannya serta dia juga dikenai denda yang cukup besar.<sup>45</sup>
- Pada tahun 1998 Profesor di sebuah Fakultas Ekonomi Tenaga Kerja di Universitas Istanbul yang bernama Dr. Sevgi Kurtulmus diberhentikan dari jabatannya. Hal ini dikarenakan adanya penyidikan dan pemberhentian staf universitas yang memakai hijab dan Dr. Sevgi merupakan salah satu orang yang tidak akan membuka hijabnya.<sup>46</sup>
- Profesor Dursun Odabas yang merupakan seorang Dekan Fakultas Kedokteran dari Universitas Yuzyil yang juga dipecat pada Oktober 1998.

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<sup>44</sup> Noname, 1999, "Sekulerisme di Turki", diakses dari <http://www.library.ohiou.edu/indopubs/1999/05/15/0061.html> [pada tanggal 7 November 2015]

<sup>45</sup> Annonim, 2014, "Dulu Dipecat Karena Jilbabnya, Kini Wanita Ini Memimpin Distrik di Turki", diakses dari <http://www.pkspiyungan.org/2014/04/dulu-dipecat-karena-jilbabnya-kini.html> [pada tanggal 7 November 2015]

<sup>46</sup> "...Academic authorities have taken great pains to weed out university staff who wear the headscarf. Dr Sevgi Kurtulmus was dismissed from her post as associate professor at the Faculty of Labor Economics, University of Istanbul, because she would not remove her turban..." Noname, "Memorandum to the Turkish Government on Human Rights Watch's Concerns with Regard to Academic Freedom in Higher Education, and Access to Higher Education for Women who Wear the Headscarf : Human Rights Watch Briefing Paper" June 29, 2004, pages: 30. Dikases dari [https://www.hrw.org/legacy/backgrounder/eca/turkey/2004/headscarf\\_memo.pdf](https://www.hrw.org/legacy/backgrounder/eca/turkey/2004/headscarf_memo.pdf) [pada tanggal 7 November 2015]

Beliau dipecat karena telah menunjukkan dukungan dalam gerakan demonstrasi damai dalam menentang larangan hijab.<sup>47</sup>

### 3.1.3 Tindakan Pelanggaran Konvensi CEDAW Yang Terkait Dengan Undang-Undang Larangan Hijab Turki.

Keberadaan konvensi CEDAW yang telah di ratifikasi oleh pemerintah Turki untuk melindungi kaum perempuan ternyata tidak memberikan dampak kemajuan yang baik terhadap perempuan Turki. Mereka tetap mendapatkan tindakan diskriminasi, kekerasan dan pembatasan hak-hak perempuan. Hal ini dapat kita lihat dari table berikut yang akan menyebutkan contoh kasus dalam pelanggaran konvensi CEDAW yang dicatat oleh pihak *The Islamic Human Rights Commission (IHRC)*:

**Tabel Kasus Pelanggaran Konvensi CEDAW di Turki**

No.	Waktu Kejadian	Diskriminasi	Pelanggaran CEDAW
1.	April 2006	Nuran Yigit pergi ke Dewan Kadikoy untuk membayar pajak, namun dia tidak diijinkan untuk masuk ke gedung dewan karena menggunakan baju keagamaan.	Pelanggaran CEDAW pasal 7: Bidang Politik dan Sosial
2.	November 2006	Sekelompok perempuan diminta untuk meninggalkan Pusat komunitas Malatya atau melepaskan hijab mereka.	
3.	Mei 2007	Wartawan bernama Fatma Akin dihina oleh Saadet Balci yang merupakan Anggota Dewan Kota dari Partai Republik Rakyat di kota Kirsehir. Akin	

<sup>47</sup> “...Professor Dursun Odabas, dean of the medical faculty of the Yuzyil University in Van, Eastern Turkey, was dismissed in October 1998 for showing support for a nationwide peaceful demonstration against the headscarf ban. The previous month, on September 20, the university rector had called a meeting of all heads of department and instructed them that this particular item of the dress code must be applied zealously...”  
Ibid, page:31.



		dihina ketika mengikuti pertemuan di Gedung Dewan karena hijabnya.	
4.	Juli 2007	Kepala daerah dari Partai Republik Rakyat di Distrik Avcilar mengeluh kepada Panitia Pemilihan Distrik bahwa ada tiga pengamat dari kotak suara memakai hijab. Mereka kemudian dihapus dari tugas mereka.	
5.	September 2006	Seyma Turkan tidak diizinkan untuk mendaftar di Sutcu Imam University karena menggunakan wig-nya.	Pelanggaran CEDAW pasal 10: Bidang Pendidikan
6.	September 2007	Sekelompok siswa perempuan tidak diizinkan untuk mendaftar ke Cukurova University karena hijab mereka	
7.	Oktober 2007	Sekelompok siswa SMA perempuan tidak diizinkan untuk menghadiri acara sekolah dalam memperingati hari guru di kota Kecuali. Lembaga Pendidikan Lokal menghalangi mereka karena hijab mereka.	
8.	Februari 2008	Sekelompok siswa perempuan tidak diizinkan untuk memasuki kampus karena menggunakan hijab mereka.	
9.	Februari 2008	Ayah dari seorang mahasiswi dipukuli oleh penjaga keamanan Samsun Ondokuz Mayis University, karena beliau meminta agar putrinya harus diizinkan untuk masuk ke universitas tersebut.	
10.	Juni 2007	Seseorang yang bernama Aynur Goktas	Pelanggaran

		mengirinkan berkas surat ijin pendirian toko souvenir, namun hal ini ditolak oleh Walikota Kusadasi. Hal ini dikarenakan dokumen foto yang digunakan oleh Aynun menggunakan hijab.	CEDAW Pasal 11: Mengenai Kepegawaian.
11.	November 2007	Tim Otoritas kesehatan melakukan penyelidikan terhadap asisten medis yang mengenakan hijab pada kesempatan tertentu.	
12.	Februari 2008	Walikota Edirne melakukan penyelidikan kepada Dr. Zeynep Mahmut yang dalam filmnya mengenakan hijab ketika dia berlatih dalam operasi dirinya.	
13.	Maret 2006	Kepala Departemen Pediatrics di Rumah Sakit Kamil Zeynep menolak untuk mengobati anak 5 tahun karena nya Ibu mengenakan niqab ( cadar ).	Pelanggaran CEDAW pasal 12: Kesehatan
14.	Desember 2007	Seorang ibu terpaksa meninggalkan bayinya sendirian ketika menjalani operasi dan setelah itu di Cerrahpasa Fakultas Kedokteran . Para dokter mengatakan bahwa dia tidak diizinkan untuk melihat bayinya karena dia mengenakan hijab.	
15.	Maret 2008	Pasien S.A. dan S.K. dihina oleh Prof. Dr. Ahmet Erdogan , sebuah ahli saraf senior, di Rumah Sakit Ibni Sina kota Ankara karena hijab mereka.	

16.	Desember 2008	Saziye Gerede menanggapi banding transfusi darah oleh Rumah Sakit Hacettepe di Ankara . Ketika ia tiba di rumah sakit, seorang perawat perawat Zubeyde menghina hijabnya.	
17.	Oktober 2009	Sebuah Rumah Sakit Umum di provinsi Eskisehir menolak untuk memeriksa tua wanita, karena pasien memakai hijab. Pasien berniat untuk berobat karena menderita sakit perut, akan tetapi sesampai rumah sakit justru pasien tersebut ditanya kenapa berpakaian tertutup.	
18.	Februari 2007	Seorang yang bernama Nese Gundogar , tidak diizinkan untuk mengambil ujian mengemudi karena dia mengenakan hijab.	Pelanggaran CEDAW Pasal 13: Tentang Ekonomi dan Sosial.
19.	November 2007	Pada upacara memperingati hari Atatürk yang dilakukan oleh Osmaniye di kota Kadirli, terdapat dua anggota dari organisasi perempuan solidaritas janda ( Bir Adim Daha Ileri ) ingin memberikan karangan bunga di patung Attaturk. Mereka dicegah oleh petugas karena mereka menggunakan hijab.	
20.	April 2007	Sekelompok siswa tidak diizinkan masuk dalam simposium publik yang diselenggarakan oleh Asosiasi Pendidikan Turki dan Departemen Pendidikan di Hotel Dedeman, Istanbul	

		dengan alasan karena mereka menggunakan hijab.
21.	Februari 2008	Pepsi meluncurkan kampanye promosi untuk meminta pelanggan untuk mengirim foto-foto mereka kepada perusahaan sehingga mereka bisa memilih foto terbaik untuk menjadi pemenang. Namun, mereka secara khusus meminta peserta untuk tidak mengirim foto dengan menggunakan hijab, karena akan didiskualifikasi .
22.	Desember 2008	Sekelompok orang tua yang ingin mendampingi anaknya untuk mengambil ujian sekolah swasta tidak diizinkan masuk Kampus Universitas Dokuz Eylul karena orang tua menggunakan hijab.
Sumber: Survey of The Islamic Human Rights Commission (IHRC) <a href="http://www.ihrc.org.uk">http://www.ihrc.org.uk</a>		

Gambar 3.1 Tabel Kasus Pelanggaran Konvensi CEDAW di Turki

### 3.2 Munculnya Kekuatan Politik Islam Di Turki

Turki merupakan Negara yang mendeklarasikan diri sebagai Negara sekuler dibawah kepemimpinan Kemal Attaturk. Atturk berpandangan bahwa sekulerisme akan membawa Turki pada kemajuan pembangunan menjadi Negara yang modern sedangkan konsep Islam akan menghambat kemajuan Turki. Hal inilah yang menyebabkan pemerintah Attaturk membatasi apapun yang berkaitan dengan agama Islam seperti larangan hijab bagi semua masyarakat Turki. Kekuatan sekulerisme di negeri Turki ini telah bertahan hingga beberapa tahun karena hal ini tertuang di dalam konstitusi Turki dan harus dijaga oleh militer Turki.

Kekuatan militer yang selama ini menjaga sekularisasi Turki pada akhirnya menjadi lemah karena adanya isu gelombang demokratisasi. Momentum demokratisasi ini menjadikan kekuatan militer mengalami perubahan dengan menyesuaikan perkembangan yang terjadi. Turki yang juga menginginkan untuk menjadi anggota dari Uni Eropa (UE) maka harus menjadi Negara yang benar-benar menjalankan konsep demokrasi. Dengan menjadi Negara yang demokrasi maka masyarakat akan menjadi sadar politik dan mulai mendirikan partai-partai baru untuk mengikuti pemilu di Turki. Disinilah para tokoh yang beraliran Islam mulai berani menunjukkan diri dengan membentuk partai-partai baru. Hal inilah yang menjadikan momentum dari kebangkitan kekuatan politik Islam di Turki.

Kebangkitan politik Islam di Turki ini dibuktikan dengan adanya partai baru yaitu Partai Keadilan dan Pembangunan (AKP) yang didirikan oleh Recep Tayyip Erdogan dan Abdullah Gul pada tahun 2001. Partai AKP ini memang merupakan partai yang beraliran Islam namun bersifat moderat dan demokratis. Hal ini ditunjukkan oleh AKP dengan mendukung Turki menjadi Negara yang modern yang pro dengan Negara Barat karena AKP mendukung Turki untuk menjadi anggota UE. Kesuksesan AKP ditunjukkan sejak kemenangannya di pemilu pada tahun 2002.<sup>48</sup>

### 3.2.1 Partai AKP (*Adalet ve Kalkinma Partisi*)

Partai AKP merupakan partai yang beraliran Islam moderat yang didirikan oleh Erdogan dan Abdullah Gul pada tanggal 14 Agustus 2001. Di dalam partai AKP, Erdogan terpilih sebagai ketua umum partai. Erdogan mengatakan bahwa partai AKP bukanlah partai Islam yang Ekstrimis melainkan partai moderat yang

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<sup>48</sup> “...Established in 2001, the Justice and Development Party (AKP) in Turkey is arguably the most successful Islamic-inspired democratic party in the world. Strongly pro-Western, the AKP advocates Turkish membership in the EU..”

Berkley Center for Religion, Peace, and World Affairs, “Justice and Development Party (Turkey)”, diakses dari <https://berkeleycenter.georgetown.edu/organizations/justice-and-development-party-turkey> [pada 16 Juli 2017].

bersifat demokratis.<sup>49</sup> Adapun tokoh-tokoh utama yang memiliki peran penting di dalam partai AKP adalah Recep Tayyip Erdogan, Abdullah Gul dan Bulen Arinc. Mereka bertigalah yang telah berperan penting dalam menjadikan AKP sebagai partai aliran Islam yang moderat, demokratis dan sangat liberal.

AKP tidak mau disebut sebagai partai yang Islamis, mereka lebih suka disebut dengan partai muslim moderat yang menganut ideologi konservatif demokrat. AKP berusaha untuk menghargai universalisme dengan tidak melupakan warisan budaya bangsa Turki dari kerajaan Otoman. AKP akan menjadi Partai yang terbuka tidak hanya dari kalangan elit politik Islam tetapi juga dari kelompok sekuler. AKP selalu bergerak dengan mengutamakan HAM secara universal, masyarakat sipil dan demokrasi. Karena hal inilah AKP berusaha untuk mendukung hak perempuan muslim dalam masalah UU larangan hijab.<sup>50</sup> Erdogan selalu mengatakan bahwa AKP merupakan partai yang akan selalu memperjuangkan nilai-nilai keadilan dan kesetaraan bagi masyarakat Turki.

Partai AKP berusaha untuk menyesuaikan partainya di dalam masyarakat Turki mengingat selama ini masyarakat Turki telah terbiasa dengan sekulerisme. Karena hal inilah meskipun partai AKP beraliran Islam tetapi Islam yang moderat. AKP menggunakan prinsip dari nilai-nilai Islam dan dikombinasikan dengan nilai-nilai sekulerisme yang telah berjalan di Turki. Adapun nilai-nilai yang dipegang oleh partai AKP adalah:<sup>51</sup>

1. Menghargai perubahan yang terjadi didalam organisasi partai.
2. Mengambil satu model organisasi dengan model partai yang membuka diri dalam hal pengetahuan dan teknologi.
3. Menjadi partai yang terbuka dan selalu berkomunikasi dengan masyarakat dan para tokoh intelektual.
4. Partai dengan konsep kepemimpinan yang melibatkan semua anggota.

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<sup>49</sup> M. Sya'Roni Rofiq, 2008, "*Partai AKP dan Ideologi Islam Di Turki Modern 2001-2007*", Yogyakarta, hal. 58, diakses dari <http://www.digilib.uin-suka.ac.id/2543/1/BAB%20I%2CV%2C%20DAFTAR%20PUSTAKA.pdf> [pada 16 Juli 2017]

<sup>50</sup> *Ibid*, hal. 69-70

<sup>51</sup> *Ibid*, hal. 74-76

5. Partai yang selalu menghargai kebebasan individu .
6. Partai yang selalu mengedepankan hak asasi manusia.
7. Partai yang akan selalu melindungi kebebasan beragama dan berekspresi.
8. Menjadi partai yang selalu bersikap netral dan mandiri
9. Partai yang mendukung masyarakat yang demokratis.
10. Partai yang selalu menjunjung tinggi nilai keadilan dan menolak ketidakadilan dan diskriminasi.
11. Menjadi partai yang selalu bersifat jujur, beretika dan bermoral.
12. Menjadi partai yang mendukung kebenaran hukum dengan mengutamakan keadilan, hak dan kebebasan bagi masyarakat Turki.
13. Partai yang menghargai kemandirian Negara dan integritas bangsa.

Prinsip-prinsip yang digunakan oleh partai AKP dengan didorong adanya kemajuan perekonomian di Turki inilah yang menciptakan kepercayaan masyarakat terhadap partai AKP. Karena hal inilah partai AKP akhirnya mendapatkan perolehan suara terbanyak pada pemilu 2002.

### **3.2.2 Partai AKP Dalam Perpolitikan Turki**

AKP adalah partai baru yang beraliran Islam yang didirikan tahun 2001 dan pada tahun 2002 telah sukses mendapatkan kursi parlemen sebanyak 363 kursi dari total 550 kursi. Kemenangan AKP ini merupakan sebuah pencapaian kekuatan politik Islam baru yang belum pernah dicapai oleh partai-partai Islam sebelumnya.<sup>52</sup> Masyarakat Turki berharap bahwa AKP akan membawa perubahan baru dalam Negara Turki dan menyelesaikan persoalan krisis politik, ekonomi dan kepercayaan yang terjadi di Turki.

Pasca kemenangannya, AKP segera mempersiapkan agenda revormasi Turki baru dengan memikirkan berbagai kebijakan yang akan dilaksanakan untuk membawa kemajuan Turki dalam bidang politik, ekonomi, sosial-masyarakat baik

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<sup>52</sup> Syarif, Taghian, 2012, "*Erdogan: Muadzin Istanbul Penakhluk Sekulerisme Turki*", Jakarta: Pustaka Al-kautsar, hal. 59

dilingkup nasional maupun internasional. Pada awal kemenangan AKP, Erdogan sebagai Ketua Umum Partai AKP tidak bisa mendapatkan jabatan politik karena Erdogan pernah dipenjara selama 10 bulan pada tahun 1998 dan pengadilan intelijen negara memutuskan untuk melarang Erdogan melakukan aktifitas politik. Akan tetapi pada Desember 2002, Erdogan mendapatkan undangan dari Presiden Amerika untuk menjalin kerjasama. Tidak hanya itu saja, Erdogan juga mendapatkan berita baik dari Uni Eropa bahwa UE menjamin akan melakukan negosiasi dengan negara Turki pada Desember 2004 dengan syarat apabila Turki melakukan upaya reformasi politik dan ekonomi yang baik. Karena hal inilah pada akhirnya militer Turki menerima amandemen UU yang baru untuk mencabut aturan yang melarang aktivitas politik Erdogan.<sup>53</sup> Pasca dicabutnya larangan aktivitas politiknya, kini Erdogan dapat masuk ke dalam parlemen dan setelah itu Erdogan dapat dipilih oleh Presiden sebagai seorang Perdana Menteri. Erdogan resmi menjabat sebagai Perdana Menteri Turki pada tahun 2003.

Pasca kemenangannya AKP telah memperkenalkan serangkaian reformasi dibidang politik, ekonomi, hukum dan sosial. Reformasi yang diperkenalkan oleh AKP mendapat harapan dari kelompok sekuler agar reformasi yang dilakukan oleh AKP tetap mematuhi dan menghormati kaum sekuler. Menanggapi hal itu Erdogan sebagai ketua umum partai AKP mengatakan bahwa setiap kebijakan dari program kerja AKP akan tetap menghargai sekulerisme di Turki.

Di dalam bidang politik, AKP mempunyai program kerja dengan memprioritaskan masalah keanggotaan Turki di dalam Uni Eropa. Partai AKP

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<sup>53</sup> "Because Erdogan had been banned from political office in 1998, his deputy, Abdullah Gul, initially assumed the premiership. But it was clear from the beginning that Erdogan was calling the shots. In December 2002, US President George W. Bush stunned the Turkish political establishment in Ankara by inviting Erdogan to the White House. "You believe in the Almighty, and I believe in the Almighty. That's why we'll be great partners," the American president is said to have told his counterpart.[6] Proceeding on to Europe, Erdogan received assurances that the EU would commence accession negotiations with Ankara in December 2004 if Turkey undertook sufficient political and economic reforms. In part because of American and European de facto recognition of Erdogan's authority, the Turkish military accepted the new administration's amendment of the constitution to lift the ban on Erdogan's political activity.."  
Thomas, Patrick Carroll, 2004, "Turkey's Justice and Development Party: A Model for Democratic Islam?", Middle East Intelligence Bulletin, diakses dari [https://www.meforum.org/meib/articles/0407\\_t1.htm](https://www.meforum.org/meib/articles/0407_t1.htm) [pada 18 Juli 2017]



berpandangan bahwa dengan menjadi salah satu anggota UE akan membawa Turki kedalam kemajuan yang lebih baik dalam hal kesejahteraan di aspek ekonomi maupun kebebasan dalam berpolitik. Dengan menjadi anggota UE maka ini dapat menjadi kesempatan bagi AKP untuk menunjukkan eksistensinya di dalam pemerintahan. Akan tetapi untuk menjadi anggota UE maka Turki harus memenuhi syarat dari “*Copenhagen Criteria*”. Adapun kriteria yang ditetapkan untuk mengajukan menjadi anggota UE adalah:

- *Stabilitas institusi yang menjamin demokrasi, supremasi hukum, hak asasi manusia dan penghormatan dan perlindungan kaum minoritas;*
- *Adanya ekonomi pasar yang berfungsi dan juga kapasitas untuk mengatasi tekanan persaingan dan kekuatan pasar di dalam Perhimpunan;*
- *Kemampuan untuk mengambil kewajiban keanggotaan termasuk kepatuhan terhadap tujuan serikat politik, ekonomi & moneter.*<sup>54</sup>

Kriteria tersebut dapat membantu AKP dalam melakukan reformasi terhadap kekuatan militer dimana militer harus dijauhkan dan dibatasi dari aktifitas politik agar militer tidak lagi mengintervensi politik di negara Turki demi mewujudkan demokratisasi di Turki. Negara yang demokrasi merupakan salah satu syarat untuk menjadi anggota UE. Selain itu AKP juga ingin memperbaiki krisis yang terjadi pada tahun 2000-2001 yaitu dengan memperbaiki hubungan kerjasama dengan para negara tetangga (negara Timur Tengah).<sup>55</sup>

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<sup>54</sup> “*The EU Summit in Copenhagen in June 1993 decided to open EU membership to the Central and East European countries. The then established criteria are those to be followed by all countries applying for membership of the EU. The conditions are:*

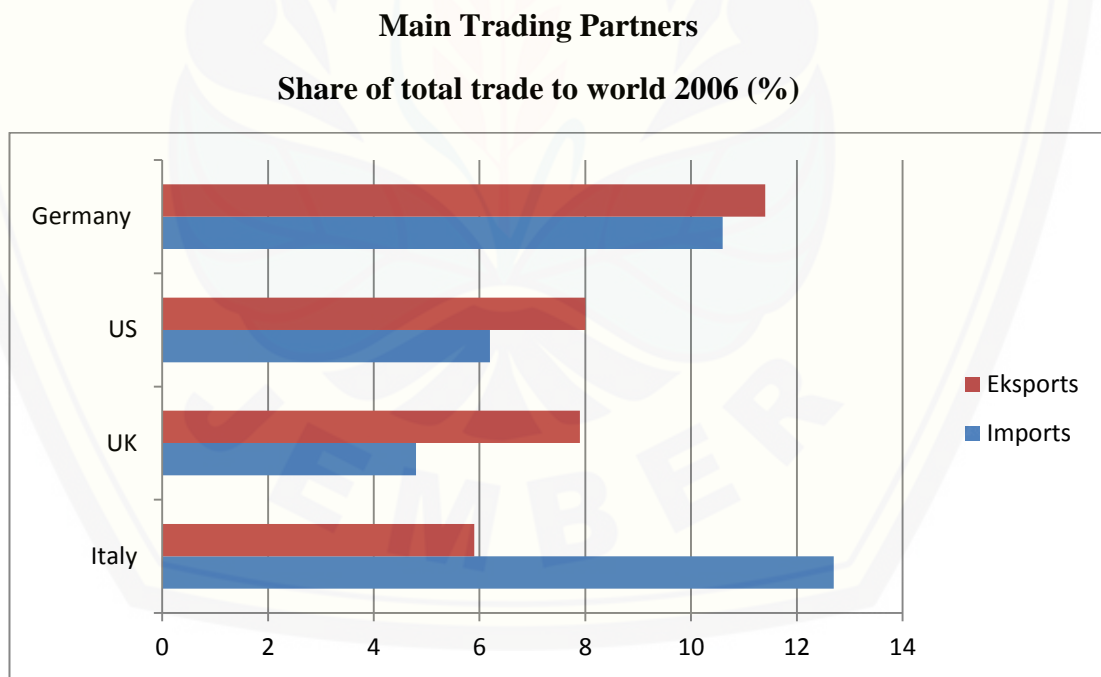
- *Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;*
- *The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;*
- *The ability to take on the obligations of membership including adherence to the aims of political, economic & monetary union.*”

Anonim, Tanpa Tahun, “*Copenhagen Criteria*”, diakses dari <http://en.euabc.com/word/230> [pada 18 Juli 2017]

<sup>55</sup> *Lop.cit, M. Sya'Roni Rofiq, hal. 82*

Selain Reformasi yang dilakukan oleh AKP dibidang politik, AKP juga melakukan reformasi di bidang ekonomi sesuai janji AKP yang akan mensejahterahkan dan menjadikan ekonomi Turki menjadi kuat. Rencana AKP dengan menjadikan Turki sebagai anggota UE tidak lain salah satunya adalah untuk memajukan perekonomian Turki yang mana kekuatan ekonomi UE adalah salah satu kekuatan besar ekonomi dunia.

Partai AKP berusaha untuk membuka jalan bagi para investor asing yang ingin membeli saham ataupun menanamkan modal di ekonomi Turki. Selain itu Erdogan juga selalu berusaha untuk melakukan promosi pada saat menghadiri konferensi-konferensi dengan tujuan untuk mengundang para investor untuk menanamkan modal pada semua bidang ekonomi yang telah direncanakan oleh pemerintah Turki. Adapun kemajuan ekonomi yang diperlihatkan oleh negara Turki berdasarkan data pada tahun 2006:



Grafik 3.2 Kerjasama Turki dengan Luar Negeri  
Sumber: Financial Times, 2007

Selain dibidang Ekonomi, AKP juga melakukan Reformasi dibidang sosial terutama masalah keagamaan. Dalam hal ini isu larangan pemakaian hijab yang

ingin diperbaiki oleh Erdogan bersama dengan partai AKP. Larangan penggunaan hijab ini telah diberlakukan sejak pemerintahan Attaturk bagi semua masyarakat Turki. Bagi siapapun yang melanggar aturan ini, maka mereka akan bisa dikeluarkan dari sekolah dan kehilangan pekerjaan serta dicabutnya status kewarganegaraannya. Karena hal inilah isu hijab menjadi sangat sensitif di negara Turki.

Partai AKP melakukan berbagai upaya untuk menyelesaikan masalah larangan hijab di Turki. Akan tetapi berbagai usulannya selalu tidak mendapatkan respon dari kelompok sekuler. AKP sangat berhati-hati dalam menyelesaikan masalah larangan hijab di Turki karena AKP tidak ingin membahayakan partainya di dalam Mahkamah Konstitusi karena Mahkamah Konstitusi selalu membekukan partai-partai islam karena masalah isu hijab. Karena hal inilah AKP mencoba menggunakan cara pendekatan yang lebih logis dan moderat dengan menggunakan jalur legislasi di parlemen.<sup>56</sup>

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<sup>56</sup> *Lop.cit, M. Sya'Roni Rofiq, hal. 92*

## BAB 5

### PENUTUP

#### 5.1 KESIMPULAN

Berdasarkan uraian dari bab 1 sampai dengan bab 4, maka dapat disimpulkan bahwa proses politik dalam pencabut UU larangan hijab Turki dimulai dari fungsi input yang meliputi komunitas politik, artikulasi politik, agregasi politik, komunikasi politik hingga terciptanya suatu output yang berupa kebijakan yang mengikat masyarakat Turki. Adapun input tersebut adalah sebuah tuntutan serta dukungan dari masyarakat, LSM, Organisasi maupun Kelompok Masyarakat yang menentang keberadaan UU larangan hijab tersebut. Mereka menginginkan adanya penghapusan dan pencabutan UU larangan hijab yang diberlakukan di Turki. Keberadaan UU larangan hijab di Turki telah membuat masyarakat muslim Turki dan para perempuan kehilangan hak-hak sipil mereka. Hal tersebut di atas yang akhirnya membuat Pemerintah Turki yaitu antara pihak eksekutif dan legislatif berunding mengenai isu hijab tersebut. Maka disinilah terjadi proses konversi dari fungsi agregasi kepentingan yang didapat dari input hingga menjadi sebuah output.

Pada tahun 2013 Erdogan berhasil mencabut UU larangan hijab bagi semua masyarakat Turki terkecuali orang yang berprofesi sebagai polisi, militer, hakim dan jaksa. Erdogan menggunakan alasan HAM dan konsep demokrasi dalam mengajukan perubahan UU larangan hijab tersebut. Alasan-alasan Erdogan inipun akhirnya diterima oleh sebagian besar anggota parlemen Turki, yang mana lebih dari 50% menerima alasan Erdogan dan menyetujui perubahan UU larangan Hijab. Keberhasilan ini juga disebabkan oleh penguasaan partai AKP yang pada saat itu masih mendominasi kursi parlemen. Akhirnya pada bulan Oktober 2013, Erdogan mengumumkan kebijakan bahwa Undang-Undang larangan hijab di Turki telah di cabut dan kini perempuan Turki telah bebas menggunakan hijabnya di lingkungan sekolah maupun publik.

**DAFTAR PUSTAKA****Buku**

- Budiardjo, Meriam. 2008. "Dasar-Dasar Ilmu Politik". Jakarta: PT. Gramedia Pustaka Utama, Kompas Gramedia,
- Dasha Afanasieva and Jonny Hogg. April 2015. The Fight is still on For Women's Right in Turkey. Additional reporting by Ayla Jean Yackley in Istanbul and Orhan Coskun in Ankara; Editing by Mark Trevelyan and Gareth Jones
- Gunarto, 2014. "Pengaruh AKP (Adalet Ve Kalkinma Partisi) Terhadap Lembaga Legislatif Turki (The Grand National Assembly) Tahun 2007-20011. Yogyakarta: Universitas Islam Negeri Sunan Kalijaga,
- Gunduz, Zuhul Yesilyurt. Autumn: 2004, "The Women's Movement in Turkey: From Tanzimat towards European Union Membership". (in pdf)
- Hasan, Aydin. "Headscarf (Hijab) Ban in Turkey: Importance of Veiling", University of Nevada, Reno. (an article in pdf)
- Kasım, ERDEM and Mehmet SOLAK . 2012. "Grand National Assembly of Turkey: Electoral Election". Ankara: Department of Research Services Grand National Assembly of Turkey. Page:8 (in pdf)
- Lydia Smith. 2015. "Turkey: Womens Rights are Bleeding wound under Erdogans Legacy"
- Magriasti, Lince. 2005. "Arti Penting Partisipasi Masyarakat Dalam Kebijakan Publik Di Daerah: Analisis Dengan Teori Sistem David Easton". LAB-ANE FISIP Untirta.
- Noname, June 29, 2004. "Memorandum to the Turkish Government on Human Rights Watch's Concerns with Regard to Academic Freedom in Higher Education, and Access to Higher Education for Women who Wear the Headscarf : Human Rights Watch Briefing Paper". pages: 29-30
- Nuzulian, Uilly. Kebijakan Pemerintah Turki Terhadap Etnis Kurdi. Universitas Indonesia, Jakarta. 2008. (pdf)
- Prof. Dr. Sugiyono. 2012. "Memahami Penelitian kualitatif". Bandung : CV. Alfabeta.

- Roff, Smith, 2013, “Why Turkey Lifted Its Ban on the Islamic Headscarf: Women who work in civil service or government can now wear a hijab”, National Geographic.
- Seda, Irem Cakirca. Tanpa Tahun. Turkish Civil Code and CEDAW: Never Shall the Twain Meet”. (an article in pdf)
- Taghian. Syarif. 2012. “Erdogan: Muadzin Istambul Penakhluk Sekulerisme Turki”. Jakarta: Pustaka Al-kautsar.
- William, Chislett, 2008, “Documento The Trabajo Working Paper, Turkey’s Conundrum: Are The Country’s Versions Of Secularism And Political Islam Compatible”

### Internet

- “Metode Penelitian Deskriptif” oleh Tjutju Soendari, diakses dari <http://file.upi.edu> [29 April 2014]
- Abdullah, Ahmed An-Na`im, “Dilema Negoisasi sekulerisme : Larangan Menggunakan kerudung”. diakses dari [http://sharia.law.emory.edu/system/files/sharia/Bahasa\\_Ch6.doc](http://sharia.law.emory.edu/system/files/sharia/Bahasa_Ch6.doc) [pada tanggal 6 November 2015]
- Agency France-Presse. 2013. Turki cabut Larangan Berhijab. Diakses dari <http://plasa.msn.aquila-style.com/fokus-wacana/turki-cabut-larangan-berhijab> [pada tanggal 20 April 2014]
- Akhbar, Dauliyah, 2015, “Menimbang Prospek Islam Politik di Turki Menjelang Pemilu Ulang 1 November 2015”, diakses dari <http://www.al-intima.com/akhbar-dauliyah/menimbang-prospek-islam-politik-di-turki-menjelang-pemilu-ulang-1-november-2015> [pada 10 Desember 2015]
- Amalia, Rizatul. 2014. “Sistem Pemerintahan di Turki”, diakses dari <https://rizatulamalia.wordpress.com/2014/04/29/sistem-pemerintahan-di-turki/> [pada tanggal 5 maret 2016]
- Annonim, 2013, “Turki Cabut Undang-Undang Larangan Jilbab”, diakses dari <http://www.voa-islam.com/read/world-world/2013/10/09/27116/turki->

[cabut-undangundang-larangan-jilbab/#sthash.aOPqynPS.dpbs](#) [pada 2 Desember 2015]

Anonim, 2014, “Dulu Dipecat Karena Jilbabnya, Kini Wanita Ini Memimpin Distrik di Turki”, diakses dari <http://www.pkspiyungan.org/2014/04/dulu-dipecat-karena-jilbabnya-kini.html> [pada tanggal 7 November 2015]

Anonim, Tanpa Tahun. “Landasan Teori: Feminisme”. diakses dari [http://elib.unikom.ac.id/files/disk1/543/jbptunikompp-gdl-eighwikaku-27140-6-unikom\\_e-i.pdf](http://elib.unikom.ac.id/files/disk1/543/jbptunikompp-gdl-eighwikaku-27140-6-unikom_e-i.pdf) [pada tanggal 19 November 2014]

Anonim. Tanpa Tahun. “Mahkamah Konstitusi Berlakukan Kembali Larangan Berjilbab”. diakses dari <http://www.eramuslim.com/berita/dunia-islam/mahkamah-konstitusi-turki-berlakukan-kembali-larangan-berjilbab.htm#.VqMGEJp97IU> [pada 2 Desember 2015]

Anonim, Tanpa Tahun, “Liberal Feminism-form of The Equality Type of Feminism”. diakses dari [http://vashonsd.org/teacherweb/powell/docs/Womens\\_history\\_Feminism\\_Slides\\_March\\_19.pdf](http://vashonsd.org/teacherweb/powell/docs/Womens_history_Feminism_Slides_March_19.pdf) [pada tanggal 12 November 2014]

Anonim. Tanpa Tahun. “Copenhagen Criteria”, diakses dari <http://en.euabc.com/word/230> [pada 18 Juli 2017]

Anonim. Tanpa Tahun. Landasan Teori feminisme. Hal: 13. Diakses dari <http://elib.unikom.ac.id/download.phd?id=147529> [pada tanggal 19 Mei 2014]

Anonim. Tanpa Tahun. Recep Tayyip Erdogan. Diakses dari <http://merdeka.com/profil/mancanegara/r/recep-tayyip-erdogan/> [pada tanggal 18 April 2014]

Anonim. Tanpa tahun. The Islamic veil across Europe. diakses dari <http://www.bbc.com/news/world-europe-13038095> [pada tanggal 18 Mei 2014]

Arti kata “Tuntutan” dalam Kamus Besar Bahasa Indonesia. Diakses dari <http://kbbi.web.id/> [pada 17 Oktober 2015]

- Berkley Center for Religion, Peace, and World Affairs. "Justice and Development Party (Turkey)", diakses dari <https://berkeleycenter.georgetown.edu/organizations/justice-and-development-party-turkey> [pada 16 Juli 2017]
- Bohn, Lauren. Juni 2015. "In Turkey womens issues gain visibility". diakses dari <http://america.aljazeera.com/articles/2015/6/30/in-turkey-womens-issues-gain-visibility.html> [pada 20 Oktober 2015]
- Central Intelligence Agency. "The World Factbook, Middle East: Turkey; Introduction and Geography". Page last updated on February 25, 2016. Diakses dari <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> [pada 2 Maret 2016]
- Central Intelligence Agency. The Work Of A Nation. The Center Of Intelligence, "The World Factbook. diakses dari <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> [pada 3 November 2015]
- Dyah Pradnya, dkk. Tanpa Tahun. "Teori Feminisme: Sejarah Perkembangan dan Implementasinya". di akses dari <http://trisakti.staff.umm.ac.id/files/2010/03/Teori-Feminisme.pps> [pada tanggal 12 November 2014]
- Freedom House, 2005, "Countries At The Crossroad: Turkey", diakses dari <https://freedomhouse.org/report/countries-crossroads/2005/turkey> [pada 3 November 2015)
- Fulya, Ozerkan, Agence France-Presse, 2013, Ankara, "Turki Cabut Larangan Berhijab". diakses dari <http://bahasa.aquila-style.com/fokus-wacana/turki-cabut-larangan-berhijab/38009/> [pada 25 November 2015]
- Hizbut Tahrir Indonesia. 2010. Ribuan Massa Berdemonstrasi Dukung Pencabutan Larangan Hijab Di Turki. Diakses dari <http://hizbut-tahrir.or.id/2010/10/31/ribuan-massa-berdemonstrasi-dukung-pencabutan-larangan-hijab-di-turki/> [Pada tanggal 19 Mei 2014]
- Hizbut Tahrir Indonesia. 2010. Ribuan Massa Berdemonstrasi Dukung Pencabutan Larangan Hijab Di Turki. Diakses dari



- [tahrir.or.id/2010/10/31/ribuan-massa-berdemonstrasi-dukung-pencabutan-larangan-hijab-di-turki/](http://tahrir.or.id/2010/10/31/ribuan-massa-berdemonstrasi-dukung-pencabutan-larangan-hijab-di-turki/) [Pada tanggal 20 Oktober 2015]
- Kiram Mashuri, Ikhwanul. 2013. Trik Erdogan Memperjuangkan Jilbab di Turki. Diakses dari <http://www.republika.co.id/berita/kolom/resonansi/13/11/11/mw2lel-trik-erdogan-memperjuangkan-jilbab-di-turki> [pada tanggal 27 April 2014]
- M. Lili Nur Aulia, 2008. Ketakutan Kaum Sekuler Turki, Pasca Dicaputnya Larangan Jilbab. diakses dari <https://www.erasuslim.com/berita/dunia-islam/ketakutan-kaum-sekuler-turki-pasca-dicaputnya-larangan-jilbab.htm#.WS0VZV73Qks> [pada 3 Januari 2017]
- M.Lia Nur aulia. 2008. “Feminisme Turki Gugat Draf UU Soal Persamaan Hak”. Diakses dari [http://www.erasuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ\\_srs](http://www.erasuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ_srs) [pada tanggal 20 Oktober 2015]
- M.Lia Nur aulia. 2008. Feminisme Turki Gugat Draf UU Soal Persamaan Hak. Diakses dari [http://www.erasuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ\\_srs](http://www.erasuslim.com/berita/dunia-islam/feminisme-turki-gugat-draft-uu-soal-persamaan-hak.htm#.U3xKANJ_srs) [pada tanggal 19 Mei 2014]
- Maryati. 2013. Turki Akhiri Larangan Berkerudung. Diakses dari <http://www.antaraneews.com/berita/399688/turki-akhiri-larangan-berkerudung> [pada tanggal 27 April 2014]
- Muhammad Affan. 2009. Sistem Politik dan Sistem Politik Menurut David Easton. Diakses dari <http://stia-amuntai.ac.id/kerangka-kerja-sistem-politik> [pada tanggal 20 Mei 2014]
- Noname, 1999. “Sekulerisme di Turki”. diakses dari <http://www.library.ohiou.edu/indopubs/1999/05/15/0061.html> [pada tanggal 7 November 2015]
- Noname. Tanpa tahun. “Consulate General Republic Of Turkey: Executive Branch”. diakses dari <http://www.turkishconsulategeneral.us/abtturkey/govt/exec.shtml> [pada tanggal 6 Maret 2016]

- Noname. tanpa tahun. "Political Structure of Turkey: The Executive Branch in Turkey". Diakses dari [http://www.turkishelections.com/political\\_structure/executive/](http://www.turkishelections.com/political_structure/executive/) [pada 6 Maret 2016]
- Noname. Tanpa Tahun. "President, Council of Ministers, and Prime Minister". Diakses dari <http://countrystudies.us/turkey/73.htm> [pada tanggal 6 Maret 2016]
- Patrick Carroll, Thomas. 2004. "Turkey's Justice and Development Party: A Model for Democratic Islam?". Middle East Intelligence Bulletin. diakses dari [https://www.meforum.org/meib/articles/0407\\_t1.htm](https://www.meforum.org/meib/articles/0407_t1.htm) [pada 18 Juli 2017]
- Pengertian Otoritatif yaitu dikuatkan oleh kekuasaan yang sah atau terlegitimasi. Diakses dari <http://stia-amuntai.ac.id/kerangka-kerja-sistem-politik> [pada tanggal 20 Mei 2014]
- Pengertian Reformasi Agama Modern adalah konsep reformasi agama yang menolak adanya kesultanan dan kekholifahan yang kemudian diganti dengan nasionalis Turki. Diakses dari <http://www.rokhim.net/2012/04/sekularisme-kemal-al-turk.html> [pada tanggal 27 April 2014]
- Perez, Ricard. "A History of the Headscarf Ban in Turkey". diakses dari [http://www.turkishreview.org/newsDetail\\_getNewsById.action?newsId=223231](http://www.turkishreview.org/newsDetail_getNewsById.action?newsId=223231) [pada tanggal 15 oktober 2015]
- Pribadi, Toto dan Ali Muhyidin, S.IP. Tanpa Tahun. "Pendekatan Dalam Analisis Sistem Politi". diakses dari <http://www.repository.ut.ac.id/4306/1/ISIP4213-M1.pdf> [pada 20 Juli 2017]
- Rizaldi, Ikhsan. Kependudukan Negara Turki. Universitas Pasundan, Bandung. Diakses dari [https://www.academia.edu/9068347/KEPENDUDUKAN\\_NEGARA\\_TU\\_RKI](https://www.academia.edu/9068347/KEPENDUDUKAN_NEGARA_TU_RKI) [pada 21 Februari 2016]

- Rofiq, M. Sya'Roni. 2008, "Partai AKP dan Ideologi Islam Di Turki Modern 2001-2007". Yogyakarta. diakses dari <http://www.digilib.uin-suka.ac.id/2543/1/BAB%20I%2CV%2C%20DAFTAR%20PUSTAKA.pdf> [pada 16 Juli 2017]
- Sekjen MPM Fakultas Teknik periode 2009-2010, Tanpa Tahun, "Teori Gender atau Feminisme". Diakses dari [http://pmiunira.weebly.com/uploads/5/4/0/5/.../teori\\_gender\\_feminisme.doc](http://pmiunira.weebly.com/uploads/5/4/0/5/.../teori_gender_feminisme.doc) [pada 15 November 2014]
- Tanpa Nama. "Legal and Political Structure". Invest In Turkey, The Republic Of Turkey Prime Ministry Investment Support And Promotion Agency. Diakses dari <http://www.invest.gov.tr/en-US/turkey/factsandfigures/Pages/LegalAndPoliticalStructure.aspx> [pada tanggal 2 Maret 2016]
- THE CONSTITUTION OF THE REPUBLIC OF TURKEY, diakses dari [http://www.essex.ac.uk/armedcon/world/europe/south\\_east\\_europe/turkey/TurkeyConctitution.pdf](http://www.essex.ac.uk/armedcon/world/europe/south_east_europe/turkey/TurkeyConctitution.pdf) [pada 8 Maret 2016]
- The Grand National Assembly of Turkey, About Parliament. "History: The First Ottoman Constitution and the First Parliament (I. Meşrutiyet)". diakses dari <https://global.tbmm.gov.tr/index.php/EN/yd/icerik/12> [pada tanggal 8 Maret 2016]
- Voula Papas. 2015. "Islam and Women's Rights". diakses dari <http://atheistfoundation.org.au/article/islam-and-womens-rights/> [pada 20 Oktober 2015]
- Wahyu Nurina. Tanpa Tahun. Sistem Politik Gabriel Edmund-David Easton. Diakses dari <http://id.scribd.com/doc/68751342/sistem-politik-gabriel-edmund-david-easton> [pada tanggal 20 Mei 2014]
- Zulqa'dah. 2013. Alhamdulillah, Erdogan Berhasil Cabut Aturan Pelarangan jilbab di Lembaga Negara dan Sekolah. Diakses dari <http://www.erasuslim.com/berita/dunia-islam/alhamdulillah-erdogan-berhasil-cabut-aturan-pelarangan-jilbab-di-lembaga-negara-dan-sekolah.htm> [pada tanggal 20 April 2014]

**Lampiran 1. List of women’s associations, law associations, trade unions, human’s rights associations and platforms.**

List of women’s associations, law associations, trade unions, human’s rights associations and platforms from Provinces of Ankara, İstanbul, Bursa, Afyon, Antalya, Adıyaman, Batman, Çorum, Diyarbakır, Gaziantep, Kırıkkale, İzmir, Kocaeli, Konya, Samsun confirmed their support to the report by joining workshops and/ or making written contributions.<sup>87</sup>

1. AKDER Ayrımcılığa Karşı Kadın Hakları Derneği (Women Rights Association against Discrimination) /İstanbul.
2. Antalya İnanc Özgürlüğü Platformu (Platform of Antalya for Freedom of Belief) /Antalya.
3. Gökkuşagi İstanbul Kadın Kuruluşları Platformu (Women Associations Platform of Gökkuşagi İstanbul) / İstanbul
4. Kocaeli İnanc Özgürlüğü Platformu (Platform of Kocaeli for Freedom of Belief)/ İstanbul.
5. Temel Hak ve Hürriyetleri Platformu (Basic Rights and Freedoms Platform) / İstanbul.
6. İnsan ve Medeniyet Hareketi (Human and Civilisation Movement)/ İstanbul.
7. Uluslararası Hukukcular Birliği (The Unity of International Lawyers)/ İstanbul.
8. ICANO Vakıf ve Sivil Toplum Kuruluşları Uluslararası Konseyi (The International Council of Awqaf and Non-governmental Organizations) /Ankara.
9. MAZLUMDER İnsan Hakları ve Mazlumlar için Dayanışma Derneği Genel Merkez (Organization of Human Rights & Solidarity for oppressed people-Head Office)/ Ankara-İstanbul-Kocaeli.

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<sup>87</sup> Anonim, 2010, “*CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 46th CEDAW SESSION: Turkey’s Sixth Report on its Compliance with the Convention on the Elimination of All Forms of Discrimination against Women*”, hal. 28-30, diakses dari [http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CPRER\\_Turkey46.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CPRER_Turkey46.pdf) [pada 20 Oktober 2015]

10. BEM-BIR SEN Belediye ve Özel Idare Calisanlari Birliđi Sendikasi (Trade Union of workers of Municipal governing and Special Adminstrative bodies) Ankara.
11. DIYANET-SEN (Trade Union for workers of Directorate of Religious Affairs- Branches of Antalya and Konya) / Antalya /Konya.
12. EGITIM-BIR SEN /Antalya /Izmir / Istanbul.
13. MEMUR-SEN Sendikasi (Trade Union of Civil Servants) / Samsun / Adiyaman.
14. SAGLIK SEN Saglik ve Sosyal Hizmet Calisanlari Sendikasi (Trade Union of Workers in Health Service and Social Services) Sendikasi /Ankara / Kirikkale.
15. TOC\_BIR\_SEN Tarim Orman Calisanlari Birliđi Sendikasi (Trade Union of Workers in Agriculture and Forestry) / Ankara.
16. AGUYAD Afyon Guzel Yarinlar Dernegi (Beatiful Tomorrows' Association of Afyon)/ Afyon.
17. AKAD/Antalya.
18. AKODER Aileyi Koruma Dernegi (Association of Protection of Family) Istanbul.
19. ANCED Anadolu Cevre Egitim ve Yardimlasma Kultur Dernegi (Anadolu Environment, Education, Solidarity and Culture Association) /Antalya.
20. ASDER (Asir Egitim Kultur Dayanisma Dernegi) (Asir Association of Education, Culture and Solidarity) / Antalya.
21. ASITANE Kultur Sanat Egitim ve Dayanisma Derneii (ASITANE Culture, Art, Education and Solidarity Foundation)/ Istanbul.
22. BESDAV Bulbulzade Egitim Saglik ve Dayanisma Vakfi (Bulbulzade Foundation of Education, Health and Solidarity)/ Gaziantep.
23. BILKAD Bilgi Iletisim Kultur Arastirma Dernegi (Association of Information, Communication and Culture) / Konya.
24. OZGUR-DER Ozgur Dusunce ve Egitim Haklari Dernegi (Association for Free Thought and Right to Education) Antalya.

25. Bir Umut Kultur ve Dayanisma Grubu (One Hope Culture and Solidarity Group) / Istanbul.
26. Cagri Kultur Dayanisma Dernegi (Cagri Culture and Solidarity Associations) Izmir.
27. Dayanisma Vakfi (Solidarity Foundation) / Istanbul.
28. Demokrat Hanimlar Dernegi (Association of Democrat Women)/ Istanbul / Bursa.
29. Demokrat Hukukcular Dernegi (Association of Democrat Lawyers) / Istanbul.
30. Diyalog Grubu (Group of Dialog) / Istanbul.
31. DOST Egitim Kultur ve Sosyal Yardimlasma Dernegi (Dost Association of Education, Culture and Social Solidarity) / Samsun.
32. ECZADER Dayanisma Dostluk ve Kalkindirma Dernegi.
33. ENSAR Vakfi (ENSAR Foundation)/ Corum / Antalya.
34. ERDEMDER Erdem Kultur Ahlak ve Dayanisma Dernegi (Erdem Moral Values, Culture and Solidarity Association) / Istanbul.
35. EVKAD Ey Kadnlari Dernegi (Association of Housewives) / Istanbul.
36. FLAG Floryalilar Grubu (Group of People of Florya) / Istanbul.
37. Gonullu Hanimlar Dernegi (Volunteer Women Association) / Istanbul.
38. GULDILI Hanimlar Ilim Kultur Sanat ve Dayanisma Dernegi (GULDILI Enlightenment, Culture, Art and Solidarity Association) / Bursa.
39. Gunisigi Dernegi (Association of Gunisigi) / Istanbul.
40. Gunisigi Dernegi (Association of Gunisigi) / Batman.
41. Hanimlar Yardimlasma ve Kultur Dernegi (Women association of Culture and Solidarity) /Samsun.
42. Hanimlar Kultur Yardimlasma ve Dayanisma Vakfi (Women's Culture, Mutual-aid and Solidarity Foundation) / Diyarbakir.
43. HAYAT Saglik ve Sosyal Hizmetler Vakfi (HAYAT Foundation for Health and Social Services) / Istanbul.
44. HAZAR Egitim Kultur ve Dayanisma Dernegi (Caspian Association of Education, Culture and Solidarity) / Istanbul.

45. Hukukcu Hanımlar Derneği (Association of Jurist Women)/ Istanbul.
46. Hukukcular Birliği Vakfı (Jurists Association Foundation) / Ankara.
47. Hukukcular Derneği Vakfı (Jurists' Association Foundation) / Istanbul.
48. Hukukcular Derneği (Lawyers Association) / Istanbul.
49. HUKUKDER Hukukcular Derneği (Association of Jurists)/Ankara.
50. Hukuki Araştırmalar Derneği (Association of Juristic Research)/Ankara
51. IHAD İnsan Hakları Araştırmaları Derneği (Associations for Human Rights' Research) Ankara.
52. IHMED Inegöl İHL Mezunları ve Mensupları Derneği (Association of Graduates and Students of Imam-Hatip High School of Inegöl) / Bursa.
53. İLKDER İlke Kültür Derneği (Ilke Association of Enlightenment and Culture) /Ankara.
54. İMHAD İHL Mezunları Derneği (Association of Graduates of Imam-Hatip High School) / İzmir.
55. İnsan Hak ve Hürriyetleri İnsani Yardım Vakfı (The Foundation for Human Rights and Freedom and Humanitarian Relief) / Istanbul.
56. KAD-BİR Türkiye Kadınlar Kültür Dayanışma Birliği (Turkey Women Association of Culture and Solidarity) / Ankara.
57. Kadından Toplum Eğitim Grubu (Group for Education from women to society) / Istanbul.
58. KARDELENDER Eğitim, Kültür ve Çevre Derneği (KARDELENDER Education, Culture and Environment Association) / Istanbul.
59. KASAD Kadın Sağlıkçılar Dayanışma Derneği (Women Health Workers Solidarity Association) / Istanbul.
60. Mesale Eğitim, Kültür, Bilim, Sanat, Çevre, Ahlak ve Yardımlaşma Derneği (Mesale Environment, Education, Solidarity, Culture, Art, Moral Values and Enlightenment Association) / Istanbul.
61. Nisan Grubu (Nisan Group) / Istanbul.
62. Özlenen Çocuk Derneği (Association for Longed Children) / Istanbul.
63. RADYO MERCAN / Antalya.

64. SANKA Sanatçı Kadınlar Grubu (Group of Women working on Art) / Istanbul.
65. SEBILAY Sağlık, Eğitim, Bilgi, İletişim, Ahlakî, Yardımlaşma ve Dayanışma Derneği (SEBILAY Health, Education, Solidarity, Communication, Moral Values and Enlightenment Association) /Antalya.
66. Sonbahar Girişim Grubu (Sonbahar Group of Promoters) / Istanbul
67. Sureyya Eğitim Kültür ve Dayanışma Derneği (Sureyya Culture, Education and Solidarity Foundation)/ Istanbul.
68. Turuncu Aylık Kadın Dergisi (Turuncu Monthly Women Magazine) / Ankara.
69. ULAK Uluslararası İletişimde Kadın Grubu (Group for Women in International Communication)/ Istanbul.
70. Umutlar Sonmesin Derneği (Association of Hope Against Hope) /Istanbul.
71. YSG Yaşam Sevinci (Happiness of Life) / Istanbul



**Lampiran 2. THE CONSTITUTION OF THE REPUBLIC OF TURKEY****PREAMBLE (As amended on October 17, 2001)**

In line with the concept of nationalism and the reforms and principles introduced by the founder of the Republic of Turkey, Atatürk, the immortal leader and the unrivalled hero, this Constitution, which affirms the eternal existence of the Turkish nation and motherland and the indivisible unity of the Turkish state, embodies.

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

The understanding of the absolute supremacy of the will of the nation and of 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 liberal democracy and the legal system instituted according to its requirements;

The principle of the separation of powers, which does not imply an order of precedence among the organs of state, but refers solely to the exercising of certain state powers and discharging of duties which are limited to cooperation and division of functions, and which accepts the supremacy of the Constitution and the law;

The recognition that no protection shall be accorded to an activity contrary to Turkish national interests, the principle of the indivisibility of the existence of Turkey with its state and territory, Turkish historical and moral values or the nationalism, principles, reforms and modernism of Atatürk and that, as required by the principle of secularism, there shall be no interference whatsoever by sacred religious feelings in state affairs and politics; the acknowledgment that it is the birthright of every Turkish citizen to lead an honourable life and to develop his or her material and spiritual assets 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;

The recognition 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".

This Constitution, which is to be embraced with the ideas, beliefs, and resolutions it embodies below should be interpreted and implemented accordingly, thus commanding respect for, and absolute loyalty to, its letter and spirit. Is entrusted by the Turkish nation to the patriotism and nationalism of its democracy-loving sons and daughters.

## **PART ONE**

### **GENERAL PRINCIPLES**

#### **I. Form of the State**

**ARTICLE 1.** The Turkish state is a Republic.

#### **II. Characteristics of the Republic**

**ARTICLE 2.** The Republic of Turkey is a democratic, secular and social state governed by the rule of law; bearing in mind the concepts 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 of the State, Official Language, Flag, National Anthem, and Capital**

**ARTICLE 3.** The Turkish state, 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 of the Constitution establishing the form of the state as a Republic, the provisions in Article 2 on the characteristics of the Republic, and the provision of Article 3 shall not be amended, nor shall their amendment be proposed.

#### **V. Fundamental Aims and Duties of the State**

**ARTICLE 5.** The fundamental aims and duties of the state are; to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy; to ensure the welfare, peace, and happiness of the individual and society; to strive for the removal of political, social and economic obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social state governed by the rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.

#### **VI. Sovereignty**

**ARTICLE 6.** Sovereignty is vested fully and unconditionally in the nation. The Turkish Nation shall exercise its sovereignty through the authorised organs as prescribed by the principles laid down in the Constitution. The right to exercise sovereignty shall not be delegated to any individual, group or class. No person or agency shall exercise any state authority which does not emanate from the Constitution.

#### **VII. Legislative Power**

**ARTICLE 7.** Legislative power is vested in the Turkish Grand National Assembly on behalf of the Turkish Nation. This power cannot 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 and the Council of Ministers in conformity with the Constitution and the law.

#### **IX. Judicial Power**

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

#### **X. Equality before the Law (As amended on May 22, 2004)**

**ARTICLE 10.** All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

## **XI. Supremacy and Binding Force of the Constitution**

**ARTICLE 11.** The provisions of the Constitution are fundamental legal rules binding upon legislative, executive and judicial organs, and administrative authorities and other institutions and individuals. Laws shall not be in conflict with the Constitution.

## **PART TWO**

### **FUNDAMENTAL RIGHTS AND DUTIES**

#### **CHAPTER ONE**

#### **GENERAL PROVISIONS**

##### **I. Nature of Fundamental Rights and Freedoms**

**ARTICLE 12.** Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable. The fundamental rights and freedoms also comprise the duties and responsibilities of the individual to the society, his or her family, and other individuals.

##### **II. Restriction of Fundamental Rights and Freedoms**

###### **ARTICLE 13. (As amended on October 17, 2001)**

Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be in conflict with the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular Republic and the principle of proportionality.

##### **III. Prohibition of Abuse of Fundamental Rights and Freedoms**

###### **ARTICLE 14. (As amended on October 17, 2001)**

None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the state with its territory and nation, and endangering the existence of the democratic and secular order of the Turkish Republic based upon human rights.

No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms embodied in the Constitution or to stage an activity with the aim of restricting them more extensively than stated in the Constitution. The sanctions to be applied against those who perpetrate these activities in conflict with these provisions shall be determined by law.

#### **IV. Suspension of the Exercise of Fundamental Rights and Freedoms (As amended on May 22, 2004)**

**ARTICLE 15.** In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated.

Even under the circumstances indicated in the first paragraph, the individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act of warfare; no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment.

#### **V. Status of Aliens**

**ARTICLE 16.** The fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law.

### **CHAPTER TWO**

#### **RIGHTS AND DUTIES OF THE INDIVIDUAL**

##### **I. Personal Inviolability, Material and Spiritual Entity of the Individual (As amended on May 22, 2004)**

**ARTICLE 17.** Everyone has the right to life and the right to protect and develop his material and spiritual entity. The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his or her consent. No one shall be subjected to torture or ill-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity. Cases such as the act of killing in self-defence, occurrences of death as a result of the use of a weapon permitted by law as a necessary measure during apprehension, the execution of warrants of arrest, the prevention of the escape of lawfully arrested or convicted persons, the quelling of riot or insurrection, or carrying out the orders of authorized bodies during martial law or state of emergency, are outside of the scope of the provision of paragraph 1.

## **II. Prohibition of Forced Labour**

**ARTICLE 18.** No one shall be forced to work. Forced labour is prohibited. Work required of an individual while serving a prison sentence or under detention, services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation do not come under the description of forced labour, provided that the form and conditions of such labour are prescribed by law.

## **III. Personal Liberty and Security**

**ARTICLE 19. (As amended on October 17, 2001)**

Everyone has the right to liberty and security of person.

No one shall be deprived of his or her liberty except in the following cases where procedure and conditions are prescribed by law: Execution of sentences restricting liberty and the implementation of security measures decided by court order; apprehension or detention of an individual in line with a court ruling or an obligation upon him designated by law; execution of an order for the purpose of the educational supervision of a minor or for bringing him or her before the competent authority; execution of measures taken in conformity with the relevant legal provision for the treatment, education or correction in institutions of a person of unsound mind, an alcoholic or drug addict or vagrant or a person

spreading contagious diseases, when such persons constitute a danger to the public, apprehension or detention of a person who enters or attempts to enter illegally into the country or for whom a deportation or extradition order has been issued.

Individuals against whom there is strong evidence of having committed an offence can be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence as well as in similar other circumstances which necessitate detention and are prescribed by law. Apprehension of a person without a decision by a judge shall be resorted to only in cases when a person is caught in the act of committing an offence or in cases where delay is likely to thwart the course of justice; the conditions for such acts shall be defined by law.

Individuals arrested or detained shall be promptly notified, and in all cases in writing, or orally, when the former is not possible, of the grounds for their arrest or detention and the charges against them; in cases of offences committed collectively this notification shall be made, at the latest, before the individual is brought before a judge. The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in the case of offences committed collectively within at most four days, excluding the time taken to send the individual to the court nearest to the place of arrest. No one can be deprived of his or her liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, under martial law or in time of war.

The arrest or detention of a person shall be notified to next of kin immediately.

Persons under detention shall have the right to request trial within a reasonable time or to be released during investigation or prosecution. Release may be made conditional to the presentation of an appropriate guarantee with a view to securing the presence of the person at the trial proceedings and the execution of the court sentence.

Persons deprived of their liberty under any circumstances are entitled to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding

their situation and for their release if the restriction placed upon them is not lawful. Damage suffered by persons subjected to treatment contrary to the above provisions shall be compensated by the State with respect to the general principles of the law on compensation.

#### **IV. Privacy and Protection of Private Life**

##### **A. Privacy of Individual Life**

###### **ARTICLE 20. (As amended on October 17, 2001)**

Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated. Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person nor the private papers, nor belongings, of an individual shall be searched nor shall they be seized. The decision of the authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.

##### **B. Inviolability of the Domicile**

###### **ARTICLE 21. (As amended on October 17, 2001)**

The domicile of an individual shall not be violated.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, no domicile may be entered or searched or the property therein seized. The decision of the authorised agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.



### **C. Freedom of Communication**

#### **ARTICLE 22. (As amended on October 17, 2001)**

Everyone has the right to freedom of communication. Secrecy of communication is fundamental. Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, communication shall not be impeded nor its secrecy be violated. The decision of the authorised agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted. Public establishments or institutions where exceptions to the above may be applied are defined by law.

### **V. Freedom of Residence and Movement**

#### **ARTICLE 23. (As amended on October 17, 2001)**

Everyone has the right to freedom of residence and movement. Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences. A citizen's freedom to leave the country may be restricted on account of civic obligations, or criminal investigation or prosecution. Citizens may not be deported, or deprived of their right of entry to their homeland.

### **VI. Freedom of Religion and Conscience**

**ARTICLE 24.** Everyone has the right to freedom of conscience, religious belief and conviction. Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious ceremonies and rites, to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions. Education and instruction in

religion and ethics shall be conducted under state supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives. No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental, social, economic, political, and legal order of the state on religious tenets.

#### **VII. Freedom of Thought and Opinion**

**ARTICLE 25.** Everyone has the right to freedom of thought and opinion. No one shall be compelled to reveal his thoughts and opinions for any reason or purpose, nor shall anyone be blamed or accused on account of his thoughts and opinions.

#### **VIII. Freedom of Expression and Dissemination of Thought**

##### **ARTICLE 26. (As amended on October 17, 2001)**

Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing. The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary. The formalities, conditions and procedures to be applied in exercising the right to expression and dissemination of thought shall be prescribed by law.

#### **IX. Freedom of Science and the Arts**

**ARTICLE 27.** Everyone has the right to study and teach freely, explain, and disseminate science and arts and to carry out research in these fields. The right to disseminate shall not be exercised for the purpose of changing the provisions of Articles 1, 2 and 3 of this Constitution. The provisions of this article shall not preclude regulation by law of the entry and distribution of foreign publications in the country.

## **X. Provisions Relating to the Press and Publication**

### **A. Freedom of the Press**

#### **ARTICLE 28. (As amended on October 17, 2001)**

The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee.

The state shall take the necessary measures to ensure freedom of the press and freedom of information. In the limitation of freedom of the press, Articles 26 and 27 of the Constitution are applicable. Anyone who writes or prints any news or articles which threaten the internal or external security of the state or the indivisible integrity of the state with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets and anyone who prints or transmits such news or articles to others for the above purposes, shall be held responsible under the law relevant to these offences. Distribution may be suspended as a preventive measure by the decision of a judge, or in the event delay is deemed prejudicial, by the competent authority designated by law. The authority suspending distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order suspending distribution shall become null and void unless upheld by a competent judge within forty-eight hours at the latest.

No ban shall be placed on the reporting of events, except by the decision of judge issued to ensure proper functioning of the judiciary, within the limits specified by law. Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of offences prescribed by law, and, in situations where delay could endanger the indivisible integrity of the state with its territory and nation, national security, public order or public morals

and for the prevention of offence by order of the competent authority designated by law. The authority issuing the order to confiscate shall notify a competent judge of its decision within twenty-four hours at the latest. The order to confiscate shall become null and void unless upheld by the competent court within forty-eight hours at the latest.

The general common provisions shall apply when seizure and confiscation of periodicals and non-periodicals for reasons of criminal investigation and prosecution takes place. Periodicals published in Turkey may be temporarily suspended by court sentence if found to contain material which contravenes the indivisible integrity of the state with its territory and nation, the fundamental principles of the Republic, national security and public morals. Any publication which clearly bears the characteristics of being a continuation of a suspended periodical is prohibited; and shall be seized following a decision by a competent judge.

#### **B. Right to Publish Periodicals and Non-periodicals**

**ARTICLE 29.** Publication of periodicals or non-periodicals shall not be subject to prior authorisation or the deposit of a financial guarantee. To publish a periodical it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If the information and documents submitted are found to be in contravention of law, the competent authority shall apply to the appropriate court for suspension of publication. The publication of periodicals, the conditions of publication, the financial resources and the rules relevant to the profession of journalism shall be regulated by law. The law shall not impose any political, economic, financial, and technical conditions, thus obstructing or making difficult the free dissemination of news, thought, or beliefs. Periodicals shall have equal access to the means and facilities of the state, other public corporate bodies, and their agencies.

#### **C. Protection of Printing Facilities (As amended on May 22, 2004)**

**ARTICLE 30.** Neither a printing house and its annexes duly established as a press enterprise under law nor press equipment shall be seized, confiscated, or barred from operation on the grounds of having been used in a crime.

**D. Right to Use Media Other Than the Press Owned by Public Corporations****ARTICLE 31. (As amended on October 17, 2001)**

Individuals and political parties have the right to use mass media and means of communication other than the press owned by public corporations. The conditions and procedures for such use shall be regulated by law. The law shall not impose restrictions preventing the public from receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than national security, public order, public morals, or the protection of public health.

**E. Right of Rectification and Reply**

**ARTICLE 32.** The right of rectification and reply shall be accorded only in cases where personal reputation and honour is attacked or in cases of unfounded allegation and shall be regulated by law. If a rectification or reply is not published, the judge will decide, within seven days of appeal by the individual involved, whether or not this publication is required.

**XI. Rights and Freedoms of Assembly****A. Freedom of Association****ARTICLE 33. (As amended on October 17, 2001)**

Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association. Freedom of association may only be restricted by law on the grounds of protecting national security and public order, or prevention of crime commitment, or protecting public morals, public health. The formalities, conditions, and procedures governing the exercise of freedom of association shall be prescribed by law. Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. In cases where delay endangers national security or public order and in cases where it is necessary to prevent the perpetration or the continuation of a crime or to effect apprehension, an authority designated by law may be vested with power to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge in charge within

twenty-four hours. The judge shall announce his decision within forty-eight hours, otherwise this administrative decision shall be annulled automatically. Provisions of the first paragraph shall not prevent imposition of restrictions on the rights of armed forces and security forces officials and civil servants to the extent that the duties of civil servants so require. The provisions of this article are also applicable to foundations.

### **B. Right to Hold Meetings and Demonstration Marches**

#### **ARTICLE 34. (As amended on October 17, 2001)**

Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The right to hold meetings and demonstration marches shall only be restricted by law on the grounds of national security, and public order, or prevention of crime commitment, public health and public morals or for the protection of the rights and freedoms of others. The formalities, conditions, and procedures governing the exercise of the right to hold meetings and demonstration marches shall be prescribed by law.

### **XII. Property Rights**

**ARTICLE 35.** Everyone has the right to own and inherit property. These rights may be limited by law only in view of public interest. The exercise of the right to own property shall not be in contravention of the public interest.

### **XIII. Provisions Relating to the Protection of Rights**

#### **A. Freedom to Claim Rights**

#### **ARTICLE 36. (As amended on October 17, 2001)**

Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through lawful means and procedures. No court shall refuse to hear a case within its jurisdiction.

#### **B. Guarantee of Lawful Judgement**

**ARTICLE 37.** No one may be tried by any judicial authority other than the legally designated court. Extraordinary tribunals with jurisdiction that would in effect remove a person from the jurisdiction of his legally designated court shall not be established.

#### **C. Principles Relating to Offences and Penalties**

**ARTICLE 38. (As amended on May 22, 2004)**

No one shall be punished for any act which does not constitute a criminal offence under the law in force at the time committed; no one shall be given a heavier penalty for an offence other than the penalty applicable at the time when the offence was committed. The provisions of the above paragraph shall also apply to the statute of limitations on offences and penalties and on the results of conviction. Penalties, and security measures in lieu of penalties, shall be prescribed only by law. No one shall be considered guilty until proven guilty in a court of law. No one shall be compelled to make a statement that would incriminate himself/herself or his/her legal next of kin, or to present such incriminating evidence. Findings obtained through illegal methods shall not be considered evidence. Criminal responsibility shall be personal.

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation. Neither death penalty nor general confiscation shall be imposed as punishment. The Administration shall not impose any sanction resulting in restriction of personal liberty. Exceptions to this provision may be introduced by law regarding the internal order of the Armed Forces. No citizen shall be extradited to a foreign country on account of an offence except under obligations resulting from being a party to the International Criminal Court.

**XIV. Right to Prove an Allegation**

**ARTICLE 39.** In libel and defamation suits involving allegations against persons in the public service in connection with their functions or services, the defendant has the right to prove the allegations. A plea for presenting proof shall not be granted in any other case unless proof would serve the public interest or unless the plaintiff consents.

**XV. Protection of Fundamental Rights and Freedoms****ARTICLE 40. (As amended on October 17, 2001)**

Everyone whose constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities. The State, is obliged to indicate in its transactions, the legal remedies and authorities the persons concerned should apply and their time limits.

Damages incurred by any person through unlawful treatment by holders of public office shall be compensated for by the state. The state reserves the right of recourse to the official responsible.

### **CHAPTER THREE**

#### **SOCIAL AND ECONOMIC RIGHTS AND DUTIES**

##### **1. Protection of the Family**

###### **ARTICLE 41. (As amended on October 17, 2001)**

The family is the foundation of the Turkish society and based on the equality between the spouses. The state shall take the necessary measures and establish the necessary organisation to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.

##### **II. Right and Duty of Training and Education**

**ARTICLE 42.** No one shall be deprived of the right of learning and education.

The scope of the right to education shall be defined and regulated by law.

Training and education shall be conducted along the lines of the principles and reforms of Atatürk, on the basis of contemporary science and educational methods, under the supervision and control of the state. Institutions of training and education contravening these provisions shall not be established. The freedom of training and education does not relieve the individual from loyalty to the Constitution. Primary education is compulsory for all citizens of both sexes and is free of charge in state schools. The principles governing the functioning of private primary and secondary schools shall be regulated by law in keeping with the standards set for state schools.

The state shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education. The state shall take necessary measures to rehabilitate those in need of special training so as to render such people useful to society. Training, education, research, and study are the only activities that shall be pursued at institutions of training and education. These activities shall not be obstructed in any way. No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any



institutions of training or education. Foreign languages to be taught in institutions of training and education and the rules to be followed by schools conducting training and education in a foreign language shall be determined by law. The provisions of international treaties are reserved.

### **III. Public Interest**

#### **A. Utilisation of the Coasts**

**ARTICLE 43.** The coasts are under the sovereignty and disposal of the state.

In the utilisation of sea coasts, lake shores or river banks, and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority. The width of coasts, and coastal strips according to the purpose of utilization and the conditions of utilization by individuals shall be determined by law.

#### **B. Land Ownership**

**ARTICLE 44.** The state shall take the necessary measures to maintain and develop efficient land cultivation, to prevent its loss through erosion, and to provide land to farmers with insufficient land of their own, or no land. For this purpose, the law may define the size of appropriate land units, according to different agricultural regions and types of farming. Providing of land to farmers with no or insufficient land shall not lead to a fall in production, or to the depletion of forests and other land and underground resources. Lands distributed for this purpose shall neither be divided nor be transferred to others, except through inheritance, and shall be cultivated only by the farmers to whom the lands have been distributed, and their heirs. The principles relating to the recovery by the state of the land thus distributed in the event of loss of these conditions shall be prescribed by law.

#### **C. Protection of Agriculture, Animal Husbandry, and of Persons Engaged in These Activities**

**ARTICLE 45.** The state facilitates farmers and livestock breeders in acquiring machinery, equipment and other inputs in order to prevent improper use and destruction of agricultural land, meadows and pastures and to increase crop and livestock production in accordance with the principles of agricultural planning.

The state shall take necessary measures to promote the values of crop and livestock products, and to enable growers and producers to be paid the real value of their products.

#### **D. Expropriation**

**ARTICLE 46.** (As amended on October 17, 2001)

The State and public corporations shall be entitled, where the public interest requires it, to expropriate privately owned real estate wholly or in part and impose administrative servitude on it, in accordance with the principles and procedures prescribed by law, provided that the actual compensation is paid in advance.

The compensation for expropriation and the amount regarding its increase rendered by a final judgement shall be paid in cash and in advance. However, the procedure to be applied for compensation for expropriated land in order to carry out land reform, major energy and irrigation projects, and housing and resettlement schemes and afforestation, and to protect the coasts and to build tourist facilities shall be regulated by law. In the cases where the law may allow payment in instalments, the payment period shall not exceed five years, whence payments shall be made in equal instalments. Compensation for the land expropriated from the small farmer who cultivates his own land shall in all cases be paid in advance. An interest equivalent to the highest interest paid on public claims shall be implemented in the instalments envisaged in the second paragraph.

#### **E. Nationalization and Privatisation**

**ARTICLE 47.** (As amended on August 13, 1999)

Private enterprises performing public services may be nationalized when this is required by the exigencies of public interest. Nationalization shall be carried out on the basis of real value. The methods and procedures for calculating real value shall be prescribed by law. Principles and rules concerning the privatisation of enterprises and assets owned by the State, State Economic Enterprises and other public corporate bodies shall be prescribed by law. Those investments and services carried out by the State, State Economic Enterprises and other public corporate bodies which could be performed by or delegated to real or corporate bodies through private law contracts shall be determined by law.

#### **IV. Freedom to Work and Conclude Contracts**

**ARTICLE 48.** Everyone has the freedom to work and conclude contracts in the field of his/her choice. Establishment of private enterprises is free. The state shall take measures to ensure that private enterprises operate in accordance with national economic requirements and social objectives and in conditions of security and stability.

#### **V. Provisions Relating to Labour**

##### **A. Right and Duty to Work**

###### **ARTICLE 49. (As amended on October 17, 2001)**

Everyone has the right and duty to work. The State shall take the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote labour, to create suitable economic conditions for prevention of unemployment and to secure labour peace.

##### **B. Working Conditions and Right to Rest and Leisure**

**ARTICLE 50.** No one shall be required to perform work unsuited to his age, sex, and capacity. Minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions. All workers have the right to rest and leisure. Rights and conditions relating to paid weekends and holidays, together with paid annual leave, shall be regulated by law.

##### **C. Right to Organize Labour Unions**

###### **ARTICLE 51. (As amended on October 17, 2001)**

Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership. The right to form a union shall be solely be restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and the rights and

freedoms of others. The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law. Membership in more than one labour union cannot be obtained at the same time and in the same work branch. The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with the characteristics of their job. The regulations, administration and functioning of labour unions and their higher bodies should not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.

#### **D. Activities of Labour Unions**

##### **ARTICLE 52. (Repealed on July 2,1995)**

#### **VI. Collective Bargaining, Right to Strike and Lockout**

##### **A. Right of Collective Bargaining**

##### **ARTICLE 53. (As amended on July 23, 1995)**

Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work. The procedure to be followed in concluding collective bargaining agreements shall be regulated by law. The unions and their higher organizations, which are to be established by the public employees mentioned in the first paragraph of Article 128 and which do not fall under the scope of the first and second paragraphs of the same article and also Article 54, may appeal to judicial authorities on behalf of their members and may hold collective bargaining meetings with the administration in accordance with their aims. If an agreement is reached as a result of collective bargaining, a text of the agreement will be signed by the parties. Such text shall be presented to the Council of Ministers so that administrative or judicial arrangements can be made. If such a text cannot be concluded by collective bargaining, the agreed and disagreed points will also be submitted for the consideration of the Council of Ministers by the relevant parties. The regulations for the execution of this article are stipulated by law. More than one collective bargaining agreement at the same place of work for the same period shall not be concluded or put into effect.

##### **B. Right to Strike and Lockout**

**ARTICLE 54.** Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.

The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth. During a strike, the labour union is liable for any material damage caused in a work-place where the strike is being held, as a result of deliberately negligent behaviour by the workers and the labour union. The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law. In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective bargaining agreement. The organisation and functions of the Supreme Arbitration Board shall be regulated by law. Politically motivated strikes and lockouts, solidarity strikes and lockouts, occupation of work premises, labour go- slows, and other forms of obstruction are prohibited. Those who refuse to go on strike, shall in no way be barred from working at their work-place by strikers.

#### **VII. Guarantee of Fair Wage**

##### **ARTICLE 55. (As amended on October 17, 2001)**

Wages shall be paid in return for work. The state shall take the necessary measures to ensure that workers earn a fair wage commensurate with the work they perform and that they enjoy other social benefits. In determining the minimum wage, the living conditions of the workers and the economic situation of the country shall be taken into account.

#### **VIII. Health, the Environment and Housing**

##### **A. Health Services and Conservation of the Environment**

**ARTICLE 56.** Everyone has the right to live in a healthy, balanced environment.

It is the duty of the state and citizens to improve the natural environment, and to prevent environmental pollution. To ensure that everyone leads their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the state shall regulate central planning and functioning of the health services. The state shall fulfil this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors. In order to establish widespread health services general health insurance may be introduced by law.

#### **B. Right to Housing**

**ARTICLE 57.** The state shall take measures to meet the need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.

#### **IX. Youth and Sports**

##### **A. Protection of the Youth**

**ARTICLE 58.** The state shall take measures to ensure the training and development of the youth into whose keeping our state, independence, and our Republic are entrusted, in the light of contemporary science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the state with its territory and nation. The state shall take necessary measures to protect the youth from addiction to alcohol, drug addiction, crime, gambling, and similar vices, and ignorance.

##### **B. Development of Sports**

**ARTICLE 59.** The state shall take measures to develop the physical and mental health of Turkish citizens of all ages, and encourage the spread of sports among the masses. The state shall protect successful athletes.

#### **X. Social Security Rights**

##### **A. Right to Social Security**

**ARTICLE 60.** Everyone has the right to social security. The state shall take the necessary measures and establish the organisation for the provision of social security.

##### **B. Persons Requiring Special Protection in the Field of Social Security**

**ARTICLE 61.** The state shall protect the widows and orphans of those killed in war and in the line of duty, together with the disabled and war veterans, and ensure that they enjoy a decent standard of living. The state shall take measures to protect the disabled and secure their integration into community life. The aged shall be protected by the state. State assistance to the aged, and other rights and benefits shall be regulated by law. The state shall take all kinds of measures for social resettlement of children in need of protection. To achieve these aims the state shall establish the necessary organisations or facilities, or arrange for their establishment by other bodies.

#### **C. Turkish Nationals Working Abroad**

**ARTICLE 62.** The state shall take the necessary measures to ensure family unity, the education of the children, the cultural needs, and the social security of Turkish nationals working abroad, and shall take the necessary measures to safeguard their ties with the home country and to help them on their return home.

#### **XI. Conservation of Historical, Cultural and Natural Wealth**

**ARTICLE 63.** The state shall ensure the conservation of the historical, cultural and natural assets and wealth, and shall take supportive and promotive measures towards that end. Any limitations to be imposed on such privately owned assets and wealth and the compensation and exemptions to be accorded to the owners of such, as a result of these limitations, shall be regulated by law.

#### **XII. Protection of Arts and Artists**

**ARTICLE 64.** The state shall protect artistic activities and artists. The state shall take the necessary measures to protect, promote and support works of art and artists, and encourage the growth of appreciation for the arts.

#### **XIII. The Extent of Social and Economic Duties of the State**

**ARTICLE 65.** (As amended on October 17, 2001)

The State shall fulfil its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties.

### **CHAPTER FOUR**

### **POLITICAL RIGHTS AND DUTIES**

## **I. Turkish Citizenship**

**ARTICLE 66.** (As amended on October 17, 2001)

Everyone bound to the Turkish state through the bond of citizenship is a Turk.

The child of a Turkish father or a Turkish mother is a Turk. Citizenship can be acquired under the conditions stipulated by law, and shall be forfeited only in cases determined by law. No Turk shall be deprived of citizenship, unless he commits an act incompatible with loyalty to the motherland. Recourse to the courts in appeal against the decisions and proceedings related to the deprivation of citizenship, shall not be denied.

## **II. Right to Vote, to be Elected and to Engage in Political Activity**

**ARTICLE 67.** (As amended on October 17, 2001)

In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, and to engage in political activities independently or in a political party, and to take part in a referendum. Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, and direct, universal suffrage, and public counting of the votes. However, the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law. All Turkish citizens over 18 years of age shall have the right to vote in elections and to take part in referenda. The exercise of these rights shall be regulated by law.

Privates and corporals serving in the armed services, students in military schools, and convicts in penal execution excluding those convicted of negligent offences cannot vote. The Supreme Election Council shall determine the measures to be taken to ensure the safety of the counting of votes when detainees in penal institutions or prisons vote; such voting is done under the on-site direction and supervision of authorized judge. The electoral laws shall be drawn up in such a way as to reconcile the principles of fair representation and consistency in administration. The amendments made in the electoral laws shall not be applied to the elections to be held within the year from when the amendments go into force.

## **III. Provisions Relating to Political Parties**



### **A. Forming Parties, Membership and Withdrawal From Membership in a Party**

**ARTICLE 68.** (As amended on July 23, 1995: 4121/6 Article)

Citizens have the right to form political parties and in accordance with the established procedure to join and withdraw from them. One must be over 18 years of age to become a member of a party. Political parties are indispensable elements of democratic political life. Political parties can be formed without prior permission and shall pursue their activities in accordance with the provisions set forth in the Constitution and law. The statutes and programmes, as well as the activities of political parties shall not be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic; they shall not aim to protect or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime. Judges and prosecutors, members of higher judicial organs including those of the Court of Accounts, civil servants in public institutions and organizations, other public servants who are not considered to be labourers by virtue of the services they perform, members of the armed forces and students who are not yet in higher education institutions, shall not become members of political parties.

The membership of the teaching staff at higher education institutions in political parties is regulated by law. This law cannot allow those members to assume responsibilities outside the central organs of the political parties. It also sets forth the regulations which the teaching staff at higher education institutions shall observe as members of political parties. The principles concerning the membership of students at higher education institutions to political parties are regulated by law. The state shall provide the political parties with adequate financial means in an equitable manner. The financial assistance to be extended to political parties, as well as procedures related to collection of membership dues and donations are regulated by law.

### **B. Principles to be Observed by Political Parties**

**ARTICLE 69.** (As amended on July 23, 1995 and October 17, 2001)

The activities, internal regulations and operation of political parties shall be in line with democratic principles. The application of these principles is regulated by law. Political parties shall not engage in commercial activities. The income and expenditure of political parties shall be consistent with their objectives. The application of this rule is regulated by law. The auditing of the income, expenditure and acquisitions of political parties by the Constitutional Court as well as the establishment of the conformity to law of their revenue and expenses, methods of auditing and sanctions to be applied in the event of unconformity shall also be regulated by law. The Constitutional Court shall be assisted in performing its task of auditing by the Court of Accounts. The judgments rendered by the Constitutional Court as a result of the auditing shall be final. The dissolution of political parties shall be decided finally by the Constitutional Court after the filing of a suit by the office of the Chief Public Prosecutor of the Republic. The permanent dissolution of a political party shall be decided when it is established that the statute and programme of the political party violate the provisions of the fourth paragraph of Article 68. The decision to dissolve a political party permanently owing to activities violating the provisions of the fourth paragraph of Article 68 may be rendered only when the Constitutional Court determines that the party in question has become a centre for the execution of such activities. A political party shall be deemed to become the centre of such actions only when such actions are carried out intensively by the members of that party or the situation is shared implicitly or explicitly by the grand congress, general chairmanship or the central decision-making or administrative organs of that party or by the group's general meeting or group executive board at the Turkish Grand National Assembly or when these activities are carried out in determination by the above-mentioned party organs directly. Instead of dissolving them 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. A party which has been dissolved permanently cannot be founded under another name. The members, including the founders of a political party whose acts or statements have caused

the party to be dissolved permanently cannot be founders, members, directors or supervisors in any other party for a period of five years from the date of publication in the official gazette of the Constitutional Court's final decision and its justification for permanently dissolving the party. Political parties which accept financial assistance from foreign states, international institutions and persons and corporate bodies shall be dissolved permanently. The foundation and activities of political parties, their supervision and dissolution, or their deprivation of State aid wholly or in part as well as the election expenditures and procedures of the political parties and candidates, are regulated by law in accordance with the above-mentioned principles.

#### **IV. Right to Enter Public Service**

##### **A. Entry into Public Service**

**ARTICLE 70.** Every Turk has the right to enter public service. No criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service.

##### **B. Declaration of Assets**

**ARTICLE 71.** Declaration of assets by persons entering public service and the frequency of such declaration, shall be determined by law. Those serving in the legislative and executive organs shall not be exempted from this requirement.

#### **V. National Service**

**ARTICLE 72.** National service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the Armed Forces or in public service shall be regulated by law.

#### **VI. Obligation to Pay Taxes**

**ARTICLE 73.** Everyone is under obligation to pay taxes according to his financial resources, in order to meet public expenditure. An equitable and balanced distribution of the tax burden is the social objective of fiscal policy.

Taxes, fees, duties, and other such financial impositions shall be imposed, amended, or revoked by law. The Council of Ministers may be empowered to amend the percentages of exemption, exceptions and reductions in taxes, fees,

duties and other such financial impositions, within the minimum and maximum limits prescribed by law.

## **VII. Right of Petition**

### **ARTICLE 74. (As amended on October 17, 2001)**

Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public. The result of the application concerning himself shall be made known to the petitioner in writing without delay. The way of exercising this right shall be determined by law.

## **PART THREE**

### **FUNDAMENTAL ORGANS OF THE REPUBLIC**

#### **CHAPTER ONE**

#### **LEGISLATIVE POWER**

##### **I. The Turkish Grand National Assembly**

###### **A. Composition**

### **ARTICLE 75. (As amended on July 23, 1995)**

The Turkish Grand National Assembly shall be composed of five hundred and fifty deputies elected by universal suffrage.

###### **B. Eligibility to be a Deputy**

**ARTICLE 76.** Every Turk over the age of 30 is eligible to be a deputy. Persons who have not completed their primary education, who have been deprived of legal capacity, who have failed to perform compulsory military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or incitement and encouragement of such activities, shall not be elected

deputies, even if they have been pardoned. Judges and prosecutors, members of the higher judicial organs, members of the teaching staff at institutions of higher education, members of the Higher Education Council, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as labourers on account of the duties they perform, and members of the Armed Forces shall not stand for election or be eligible to be a deputy unless they resign from office.

#### **C. Election Term of the Turkish Grand National Assembly**

**ARTICLE 77.** Elections for the Turkish Grand National Assembly shall be held every five years. The Assembly may decide to hold a new election before the termination of this period, and new elections may also be decided upon according to a decision, taken in accordance with the conditions set forth in the Constitution, by the President of the Republic. A deputy whose term of office expires may be eligible for re-election. In the event of a decision to hold new elections, the powers of the Assembly shall continue until the election of a new Assembly.

#### **D. Deferment of Elections to the Turkish Grand National Assembly, and By-elections**

##### **ARTICLE 78. (As amended on December 12, 2002 – Article 4777/2)**

If the holding of new elections is found impossible because of war, the Turkish Grand National Assembly may decide to defer elections for a year. If the grounds for deferment do not disappear this measure may be repeated under the procedure for deferment. By-elections shall be held when vacancies arise in the membership of the Turkish Grand National Assembly. By-elections shall be held once in every election term and cannot be held until 30 months have elapsed from the date of the previous general elections. However, in cases where the number of vacant seats reaches five percent of the total number of seats, by-elections shall be held within three months. By-elections shall not be held within one year before general elections. Apart from the above-specified situations, if a city or district lacks representation in Parliament, a by-election shall be held on the first Sunday, 90 days following creation of the vacancy. In elections held per this paragraph, paragraph 3 of Article 127 of the Constitution shall not apply.

### **E. General Administration and Supervision of Elections**

**ARTICLE 79.** Elections shall be held under the general administration and supervision of the judicial organs. The Supreme Election Council shall execute all the functions to ensure the fair and orderly conduct of the elections from the beginning to the end of polling, carry out investigations and take final decisions on all irregularities, complaints and objections concerning the elections during and after the polling, and verify the election returns of the members of the Turkish Grand National Assembly. No appeal shall be made to any authority against the decisions of the Supreme Election Council. The functions and powers of the Supreme Election Council and other election councils shall be determined by law.

The Supreme Election Council shall be composed of seven regular members and four substitutes. Six of the members shall be elected by the Plenary Assembly of the High Court of Appeals, and five members shall be elected by the Plenary Assembly of the Council of State from amongst its own members, by secret ballot and by an absolute majority of the total number of members. These members shall elect a Chairman and a Vice-Chairman from amongst themselves, by absolute majority and secret ballot. Amongst the members elected to the Supreme Election Council by the High Court of Appeals and by the Council of State, two members from each group shall be designated, by lot, as substitute members. The Chairman and Vice-Chairman of the Supreme Election Council shall not take part in this procedure. The general conduct and supervision of a referendum on legislation amending the Constitution shall be subject to the same provisions as those relating to the election of deputies.

### **F. Provisions Relating to Membership**

#### **1. Representing the Nation**

**ARTICLE 80.** Members of the Turkish Grand National Assembly represent, not merely their own constituencies or constituents, but the Nation as a whole.

#### **2. Oath-Taking**

**ARTICLE 81.** Members of the Turkish Grand National Assembly, on assuming office, shall take the following oath: "I swear upon my honour and integrity, before the great Turkish Nation, to safeguard the existence and independence of

the state, the indivisible integrity of the Country and the Nation, and the absolute sovereignty of the Nation; to remain loyal to the supremacy of law, to the democratic and secular Republic, and to Atatürk's principles and reforms; not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under peace and prosperity in society, national solidarity and justice, and loyalty to the Constitution.”

### **3. Activities Incompatible with Membership**

**ARTICLE 82.** Members of the Turkish Grand National Assembly shall not hold office in state departments and other public corporate bodies and their subsidiaries; in corporations and enterprises affiliated with the state and other public corporate bodies; in the executive or supervisory organs of enterprises and corporations where there is direct or indirect participation of the state and public corporate bodies, in the executive and supervisory organs of public benefit associations, whose special resources of revenue and privileges are provided by law; in the executive and supervisory organs of foundations which enjoy tax exemption and receive financial subsidies from the state; and in the executive and supervisory organs of labour unions and public professional organisations, and in the enterprises and corporations in which the above-mentioned unions and associations or their higher bodies have a share; nor can they be appointed as representatives of the above-mentioned bodies or be party to a business contract, directly or indirectly, and be arbitrators of representatives in their business transactions.

Members of the Turkish Grand National Assembly shall not be entrusted with any official or private duties involving recommendation, appointment, or approval by the executive organ. Acceptance by a deputy of a temporary assignment given by the Council of Ministers on a specific matter, and not exceeding a period of six months, is subject to the approval of the Assembly. Other functions and activities incompatible with membership in the Turkish Grand National Assembly shall be regulated by law.

### **4. Parliamentary Immunity**

**ARTICLE 83.** Members of the Turkish Grand National Assembly shall not be liable for their votes and statements concerning parliamentary functions, for the views they express before the Assembly, or unless the Assembly decides otherwise on the proposal of the Bureau for that sitting, for repeating or revealing these outside the Assembly. A deputy who is alleged to have committed an offence before or after election, shall not be arrested, interrogated, detained or tried unless the Assembly decides otherwise. This provision shall not apply in cases where a member is caught in the act of committing a crime punishable by a heavy penalty and in cases subject to Article 14 of the Constitution if an investigation has been initiated before the election. However, in such situations the competent authority shall notify the Turkish Grand National Assembly immediately and directly. The execution of a criminal sentence imposed on a member of the Turkish Grand National Assembly either before or after his election shall be suspended until he ceases to be a member; the statute of limitations does not apply during the term of membership. Investigation and prosecution of a re-elected deputy shall be subject to whether or not the Assembly lifts immunity in the case of the individual involved. Political party groups in the Turkish Grand National Assembly shall not hold discussions or take decisions regarding parliamentary immunity.

### **5. Loss of Membership**

#### **ARTICLE 84. (As amended on July 23, 1995)**

The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly after the Bureau of the Turkish Grand National Assembly attests to the validity of the resignation. The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the Turkish Grand National Assembly. The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.



Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the Turkish Grand National Assembly determines the situation. The membership of a deputy whose statements and acts are cited in a final judgment by the Constitutional Court as having caused the permanent dissolution of his party shall terminate on the date when the decision in question and its justifications are published in the Official Gazette. The speaker of the Turkish Grand National Assembly shall immediately take the necessary action concerning such decision and shall inform the plenary of the Turkish Grand National Assembly accordingly.

#### **6. Application for Annulment**

##### **ARTICLE 85. (As amended on July 23, 1995)**

If the parliamentary immunity of a deputy has been waived or if the loss of membership has been decided according to the first, third or fourth paragraphs of Article 84, the deputy in question or another deputy may, within seven days from the day of the decision of the Grand National Assembly of Turkey, appeal to the Constitutional Court, for the decision to be annulled on the grounds that it is contrary to the Constitution, law or the rules or procedure of the Turkish Grand National Assembly. The Constitutional Court shall decide on the appeal within fifteen days.

#### **7. Salaries and Allowances**

##### **Article 86. (As amended on November 30, 2001)**

The salaries, allowances and retirement arrangements of the members of the Turkish Grand National Assembly shall be regulated by law. The monthly amount of the salary shall not exceed the salary of the most senior civil servant; the travel allowance shall not exceed half of that salary. The members of the Turkish Grand National Assembly and its retirees are affiliated with the Pension Fund of the Turkish Republic, and the affiliation of those continue upon their will in case of their membership expires.

The salaries and allowances paid to the members of the Turkish Grand National Assembly shall not necessitate the suspension of payments of pensions and

similar benefits by the Pension Fund of the Turkish Republic. A maximum of three months' salaries and allowances may be paid in advance.

## **II. Functions and Powers of the Turkish Grand National Assembly**

### **A. General Provisions**

#### **ARTICLE 87. (As amended on May 22, 2004)**

The functions and powers of the Turkish Grand National Assembly comprise the enactment, amendment, and repeal of laws; the supervision of the Council of Ministers and the Ministers; authorisation of the Council of Ministers to issue governmental decrees having the force of law on certain matters; debating and approval of the budget draft and the draft law of final accounts, making decisions on the printing of currency and the declaration of war; ratifying international agreements, making decisions with 3/5 of the Turkish Grand National Assembly on the proclamation of amnesties and pardons according to the Constitution; and exercising the powers and executing the functions envisaged in the other articles of the Constitution.

### **B. Proposal and Debate of Laws**

**ARTICLE 88.** The Council of Ministers and deputies are empowered to introduce laws. The procedure and principles relating to the debating of draft bills and proposals of law in the Turkish Grand National Assembly shall be regulated by the Rules of Procedure.

### **C. Promulgation of Laws by the President of the Republic**

#### **ARTICLE 89. (As amended on October 17, 2001)**

The President of the Republic shall promulgate the laws adopted by the Turkish Grand National Assembly within fifteen days. He shall, within the same period, refer to the Turkish Grand National Assembly for further consideration, laws which he deems wholly or in part or unsuitable for promulgation, together with a statement of his reasons. In the event of being deemed unsuitable by the President, the Turkish Grand National Assembly may only discuss those articles deemed to be unsuitable. Budget laws shall not be subjected to this provision. Provisions relating to Constitutional amendments are reserved.

### **D. Ratification of International Treaties (As amended on May 22, 2004)**

**ARTICLE 90.** The ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkey, shall be subject to adoption by the Turkish Grand National Assembly by a law approving the ratification. Agreements regulating economic, commercial and technical relations, and covering a period of no more than one year, may be put into effect through promulgation, provided they do not entail any financial commitment by the state, and provided they do not infringe upon the status of individuals or upon the property rights of Turkish citizens abroad. In such cases, these agreements must be brought to the knowledge of the Turkish Grand National Assembly within two months of their promulgation. Agreements in connection with the implementation of an international treaty, and economic, commercial, technical, or administrative agreements which are concluded depending on the authorisation as stated in the law shall not require approval of the Turkish Grand National Assembly. However, agreements concluded under the provision of this paragraph and affecting economic, or commercial relations and the private rights of individuals shall not be put into effect unless promulgated. Agreements resulting in amendments to Turkish laws shall be subject to the provisions of the first paragraph. International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

**E. Authorisation to Enact Decrees Having the Force of Law**

**ARTICLE 91.** The Turkish Grand National Assembly may empower the Council of Ministers to issue decrees having the force of law. However, the fundamental rights, individual rights and duties included in the First and Second Chapter of the Second Part of the Constitution and the political rights and duties listed in the Fourth Chapter, cannot be regulated by decrees having the force of law except during periods of martial law and states of emergency.

The empowering law shall define the purpose, scope, principles, and operative period of the decree having the force of law, and whether more than one decree will be issued within the same period. Resignation or fall of the Council of Ministers, or expiration of the legislative term shall not cause the termination of the power conferred for the given period. When approving a decree having the force of law before the end of the prescribed period, the Turkish Grand National Assembly shall also state whether the power has terminated or will continue until the expiry of the said period. Provisions relating to the decrees having the force of law issued by the Council of Ministers meeting under the chairmanship of the President of the Republic in time of martial law or states of emergency, are reserved. Decrees having the force of law shall come into force on the day of their publication in the Official Gazette. However, a later date may be indicated in the decree as the date of entry into force. Decrees are submitted to the Turkish Grand National Assembly on the day of their publication in the Official Gazette. Laws of empowering and decrees having the force of law which are based on these, shall be discussed in the committees and in the plenary sessions of the Turkish Grand National Assembly with priority and urgency. Decrees not submitted to the Turkish Grand National Assembly on the day of their publication shall cease to have effect on that day and decrees rejected by the Turkish Grand National Assembly shall cease to have effect on the day of publication of the decision in the Official Gazette. The amended provisions of the decrees which are approved as amended shall go into force on the day of their publication in the Official Gazette.

#### **F. Declaration of State of War and Authorisation to Deploy the Armed Forces**

**ARTICLE 92.** The Power to authorise the declaration of a state of war in cases deemed legitimate by international law and except where required by international treaties to which Turkey is a party or by the rules of international courtesy to send Turkish Armed Forces to foreign countries and to allow foreign armed forces to be stationed in Turkey, is vested in the Turkish Grand National Assembly.

If the country is subjected, while the Turkish Grand National Assembly is adjourned or in recess, to sudden armed aggression and it thus becomes imperative to decide immediately on the deployment of the armed forces, the President of the Republic can decide on the mobilization of the Turkish Armed Forces.

### **III. Provisions Relating to the Activities of the Turkish Grand National Assembly**

#### **A. Convening and Adjournment**

##### **ARTICLE 93. (As amended on July 23, 1995)**

The Turkish Grand National Assembly shall convene of its own accord on the first day of October each year. The Assembly may be in recess for a maximum of three months in the course of a legislative year. During adjournment or recess it may be summoned by the President of the Republic either on his own initiative or at the request of the Council of Ministers. The Speaker of the Assembly may also summon the Assembly either on his own initiative or at the written request of one fifth of the members. If the Turkish Grand National Assembly is convened during an adjournment or recess, it shall not adjourn or go into recess again before having given priority consideration to the matter requiring the summons.

#### **B. Bureau of the Assembly**

##### **ARTICLE 94. (As amended on October 17, 2001)**

The Bureau of the Assembly of the Turkish Grand National Assembly shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members. The Bureau of the Assembly shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker. Two elections to the Bureau of the Turkish Grand National Assembly shall be held in the course of one legislative term. The term of office of those elected in the first round is two years and the term of office of those elected in the second round is three years.

The candidates from among the members of the Assembly for the Office of the Speaker of the Turkish Grand National Assembly shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected Speaker. The election of the Speaker shall be completed within five days of the expiry of the period for the nomination of candidates.

The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure. The Speaker and Deputy Speaker of the Turkish Grand National Assembly cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.

### **C. Rules of Procedure, Political Party Groups and Security Affairs**

**ARTICLE 95.** The Grand National Assembly of Turkey shall carry out its activities in accordance with the provisions of the Rules of Procedure drawn up by itself. The provisions of the Rules of Procedure shall be drawn up in such a way as to ensure the participation of each political party group in all the activities of the Assembly in proportion to its number of members, political party groups shall be constituted only if they have at least twenty members. All security and administrative services of the Turkish Grand National Assembly regarding all buildings, installations, annexes and grounds shall be organised and directed by the Office of the Speaker of the Assembly. Sufficient forces to ensure security and other such services shall be allocated to the Office of the Speaker of the Assembly by the relevant authorities.

#### **D. Quorums Required for Sessions and Decisions**

**ARTICLE 96.** Unless otherwise stipulated in the Constitution, the Turkish Grand National Assembly shall convene with at least, one-third of the total number of members and shall take decisions by an absolute majority of those present; however, the quorum for decisions can, under no circumstances, be less than a quarter plus one of the total number of members. Members of the Council of Ministers may delegate a minister to vote on their behalf in sessions of the Turkish Grand National Assembly which they are unable to attend. However, a minister shall not cast more than two votes including his or her own.

#### **E. Publicity and Publication of Debates**

**ARTICLE 97.** Debates held in the plenary session of the Turkish Grand National Assembly shall be public and shall be published verbatim in the Journal of Records. The Turkish Grand National Assembly may hold closed sessions in accordance with the provisions of its Rules of Procedure; the publication of debates of such sessions shall be subject to the decision of the Turkish Grand National Assembly. Public proceedings of the Assembly may be freely published through all means, unless a decision to the contrary is adopted by the Assembly upon a proposal of the Bureau of the Assembly.

### **IV. Ways of Collecting Information and Supervision by the Turkish Grand National Assembly**

#### **A. General Provisions**

**ARTICLE 98.** The Turkish Grand National Assembly shall exercise its supervisory power by means of questions, parliamentary inquiries, general debates, motions of censure and parliamentary investigations. A question is a request for information addressed to the Prime Minister or ministers to be answered orally or in writing on behalf of the Council of Ministers. A parliamentary inquiry is an examination conducted to obtain information on a specific subject. A general debate is the consideration of a specific subject relating to the community and the activities of the state at the plenary sessions of the Turkish Grand National Assembly.

The form of presentation, content, and scope of the motions concerning questions, parliamentary inquiries and general debates, and the procedures for answering, debating and investigating them, shall be regulated by the Rules of Procedure.

### **B. Motions of Censure**

**ARTICLE 99.** A motion of censure may be tabled either on behalf of a political party group, or by the signature of at least twenty deputies. A motion of censure shall be circulated in printed form to members within three days of its being tabled; inclusion of a motion of censure on the agenda shall be debated within ten days of its circulation. In this debate, only one of the signatories to the motion, one deputy from each political party group, and the Prime Minister or one minister on behalf of the Council of Ministers, may take the floor. Together with the decision to include the motion of censure on the agenda, the date for debating it will also be decided; however, the debate shall not take place less than two days after the decision to place it on the agenda and shall not be deferred more than seven days. In the course of the debate on the motion of censure, a motion of no-confidence with a statement of reasons tabled by deputies or party groups, or the request for a vote of confidence by the Council of Ministers, shall be put to the vote only after a full day has elapsed. In order to unseat the Council of Ministers or a minister, an absolute majority of the total number of members shall be required in the voting, in which only the votes of no-confidence shall be counted. Other provisions concerning motions of censure, provided that they are consistent with the smooth functioning of the Assembly, and do not conflict with the above-mentioned principles are detailed in the Rules of Procedure.

### **C. Parliamentary Investigation**

#### **ARTICLE 100. (As amended on October 17, 2001)**

Parliamentary investigation concerning the Prime Minister or other ministers may be requested through a motion tabled by at least one-tenth of the total number of members of the Turkish Grand National Assembly. The Assembly shall consider and decide on this request with a secret ballot within one month at the latest. In the event of a decision to initiate an investigation, this investigation shall be conducted by a commission of fifteen members chosen by lot on behalf of each



party from among three times the number of members the party is entitled to have on the commission, representation being proportional to the parliamentary membership of the party. The commission shall submit its report on the result of the investigation to the Assembly within two months. If the investigation is not completed within the time allotted, the commission shall be granted a further and final period of two months. At the end of this period, the report shall be submitted to the Office of the Speaker of the Turkish Grand National Assembly.

Following its submission to the Office of the Speaker of the Turkish Grand National Assembly, the report shall be distributed to the members within ten days and debated within ten days after its distribution and if necessary, a decision may be taken to bring the person involved before the Supreme Court. The decision to bring a person before the Supreme Court shall be taken by a secret ballot only by an absolute majority of the total number of members. Political party groups in the Assembly shall not hold discussions or take decisions regarding parliamentary investigations.

## **CHAPTER TWO**

### **THE EXECUTIVE**

#### **I. President of the Republic**

##### **A. Qualifications and Impartiality**

**ARTICLE 101.** The President of the Republic shall be elected for a term of office of seven years by the Turkish Grand National Assembly from among its own members who are over 40 years of age and who have completed their higher education or from among Turkish citizens who fulfil these requirements and are eligible to be deputies. The nomination of a candidate for the Presidency of the Republic from outside the Turkish Grand National Assembly shall require a written proposal by at least one-fifth of the total number of members of the Assembly. The President of the Republic cannot be elected for a second time.

The President-elect, if a member of a party, shall sever his relations with his party and his status as a member of the Turkish Grand National Assembly shall cease.

##### **B. Election**

**ARTICLE 102.** The President of the Republic shall be elected by a two-thirds majority of the total number of members of the Turkish Grand National Assembly and by secret ballot. If the Turkish Grand National Assembly is not in session, it shall be summoned immediately to meet. The election of the President of the Republic shall begin thirty days before the term of office of the incumbent President of the Republic expires or ten days after the Presidency falls vacant, and shall be completed within thirty days of the beginning of the election. Candidates shall be declared to the Bureau of the Assembly within the first ten days of this period and elections shall be completed within the remaining twenty days. If a two-thirds majority of the total number of members cannot be obtained in the first two ballots, between which there shall be at least a three-day interval, a third ballot shall be held and the candidate who receives the absolute majority of votes of the total number of members shall be elected President of the Republic. If an absolute majority of votes of the total number of members is not obtained in the third ballot, a fourth ballot will be held between the two candidates who receive the greatest number of votes in the third ballot; if the President of the Republic cannot be elected by an absolute majority of the total number of members in this ballot, new general elections for the Turkish Grand National Assembly shall be held immediately. The term of office of the incumbent President of the Republic shall continue until the President-elect takes office.

### **C. Taking the Oath**

**ARTICLE 103.** On assuming office, the President of the Republic shall take the following oath before the Turkish Grand National Assembly: “In my capacity as President of the Republic I swear upon my honour and integrity before the Turkish Grand National Assembly and before history to safeguard the existence and independence of the state, the indivisible integrity of the Country and the Nation and the absolute sovereignty of the Nation, to abide by the Constitution, the rule of law, democracy, the principles of the secular Republic, not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under conditions of national peace and prosperity and in a spirit of national solidarity and justice, and do my utmost to preserve and exalt the

glory and honour of the Republic of Turkey and perform without bias the functions that I have assumed.”

#### **D. Duties and Powers**

**ARTICLE 104.** The President of the Republic is the Head of the state. In this capacity he or she shall represent the Republic of Turkey and the unity of the Turkish Nation; he or she shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of state.

To this end, the duties he or she shall perform, and the powers he or she shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

- a) Those relating to legislation: to deliver, if he or she deems it necessary, the opening address of the Turkish Grand National Assembly on the first day of the legislative year, to summon the Turkish Grand National Assembly to meet, when necessary, to promulgate laws, to return laws to the Turkish Grand National Assembly to be reconsidered, to submit to referendum, if he or she deems it necessary, legislation regarding amendment of the Constitution. to appeal to the Constitutional Court for the annulment in part or entirety of certain provisions of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly on the grounds that they are unconstitutional in form or in content, to call new elections for the Turkish Grand National Assembly.
- b) Those relating to executive functions: to appoint the Prime Minister and to accept his or her resignation, to appoint and dismiss Ministers on the proposal of the Prime Minister, to preside over the Council of Ministers or to call the Council of Ministers to meet under his or her chairmanship whenever he or she deems it necessary, to accredit representatives of the Turkish state to foreign states and to receive the representatives of foreign states appointed to the Republic of Turkey, to ratify and promulgate international treaties, to represent the Supreme Military Command of the Turkish Armed Forces on behalf of the Turkish Grand National Assembly, to decide on the mobilization of the Turkish Armed Forces, to appoint the Chief of the General Staff, to call the National Security Council to meet, to preside over the National Security Council,

to proclaim martial law or state of emergency, and to issue decrees having the force of law, in accordance with the decisions of the Council of Ministers under his or her chairmanship, to sign decrees, to remit, on grounds of chronic illness, disability, or old age, all or part of the sentences imposed on certain individuals, to appoint the members and the chairman of the state Supervisory Council, to instruct the State Supervisory Council to carry out inquiries, investigations and inspections, to appoint the members of the Higher Education Council, to appoint rectors of universities.

c) Those relating to the judiciary: to appoint the members of the Constitutional Court, one-fourth of the members of the Council of State, the Chief Public Prosecutor and the Deputy Chief Public Prosecutor of the High Court of Appeals, the members of the Military High Court of Appeals, the members of the Supreme Military Administrative Court and the members of the Supreme Council of Judges and Public Prosecutors. The President of the Republic shall also exercise powers of election and appointment, and perform the other duties conferred on him or her by the Constitution and laws.

#### **E. Presidential Accountability and Non-accountability**

**ARTICLE 105.** All Presidential decrees except those which the President of the Republic is empowered to enact by himself without the signatures of the Prime Minister and the minister concerned, in accordance with the provisions of the Constitution and other laws, shall be signed by the Prime Minister, and the ministers concerned. The Prime Minister and the ministers concerned shall be accountable for these decrees. No appeal shall be made to any legal authority, including the Constitutional Court, against the decisions and orders signed by the President of the Republic on his or her own initiative. The President of the Republic may be impeached for high treason on the proposal of at least one-third of the total number of members of the Turkish Grand National Assembly, and by the decision of at least three-fourths of the total number of members.

#### **F. Acting for the President of the Republic**

**ARTICLE 106.** In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, the

Speaker of the Turkish Grand National Assembly shall serve as Acting President of the Republic and exercise the powers of the President of the Republic until the President of the Republic resumes his or her functions, and in the event that the Presidency falls vacant as a result of death or resignation or for any other reason, until the election of a new President of the Republic.

#### **G. General Secretariat of the President of the Republic**

**ARTICLE 107.** The establishment, the principles of organisation and functioning, and the appointment of General Secretariat of the Presidency of the Republic personnel shall be regulated by Presidential decrees.

#### **H. State Supervisory Council**

**ARTICLE 108.** The State Supervisory Council which shall be attached to the Office of the Presidency of the Republic with the purpose of performing and furthering the regular and efficient functioning of the administration and its observance of law, will be empowered to conduct upon the request of the President of the Republic all inquiries, investigations and inspections of all public bodies and organisations, all enterprises in which those public bodies and organisations share more than half of the capital, public professional organisations, employers' associations and labour unions at all levels, and public welfare associations and foundations.

The Armed Forces and all judicial organs are outside the jurisdiction of the State Supervisory Council.

The Members and the Chairman to be designated from among the members of the State Supervisory Council shall be appointed by the President of the Republic from among those with the qualifications set forth in the law.

The functioning of the State Supervisory Council, the term of office of its members, and other matters relating to their status shall be regulated by law.

### **II. Council of Ministers**

#### **A. Formation**

**ARTICLE 109.** The Council of Ministers shall consist of the Prime Minister and the ministers.

The Prime Minister shall be appointed by the President of the Republic from among the members of the Turkish Grand National Assembly. The ministers shall be nominated by the Prime Minister and appointed by the Turkish Grand National Assembly, or from among those eligible for election as deputies; and they can be dismissed by the President of the Republic, upon the proposal of the Prime Minister when deemed necessary.

#### **B. Taking Office and Vote of Confidence**

**ARTICLE 110.** The complete list of members of the Council of Ministers shall be submitted to the Turkish Grand National Assembly. If the Turkish Grand National Assembly is in recess, it shall be summoned to meet. The Government Programme of the Council of Ministers shall be read by the Prime Minister or by one of the ministers before the Turkish Grand National Assembly within a week of the formation of the Council of Ministers following which there shall be a vote of confidence. Debate on the vote of confidence shall begin two full days after the reading of the programme and the vote shall be taken one full day after the end of debate.

#### **C. Vote of Confidence While in Office**

**ARTICLE 111.** If the Prime Minister deems it necessary, and after discussing the matter in the Council of Ministers, he or she may ask for a vote of confidence in the Turkish Grand National Assembly. The request for a vote of confidence shall not be debated before one full day has elapsed from the time it was submitted to the Turkish Grand National Assembly and shall not be put to the vote until one full day has passed after debate. A request for a vote of confidence shall be rejected only by an absolute majority of the total number of members.

#### **D. Functions and Political Responsibilities**

**ARTICLE 112.** The Prime Minister, as Chairman of the Council of Ministers, shall ensure cooperation among the ministers, and supervise the implementation of the government's general policy. The members of the Council of Ministers are jointly responsible for the implementation of this policy.

Each minister shall be responsible to the Prime Minister and shall also be responsible for the conduct of affairs under his or her jurisdiction and for the acts

and activities of his or her subordinates. The Prime Minister shall ensure that the ministers exercise their functions in accordance with the Constitution and the laws and shall take corrective measures to this end. The members of the Council of Ministers who are not deputies shall take their oath before the Turkish Grand National Assembly as written in Article 81, and during their term of office as ministers they shall abide by the rules and conditions to which deputies are subject and shall enjoy parliamentary immunity. They receive the same salaries and allowances as members of the Turkish Grand National Assembly.

#### **E. Ministers, and the Formation of Ministries**

**ARTICLE 113.** The formation, abolition, functions, powers and organisation of the ministries shall be regulated by law. A minister may act for another if a ministry becomes vacant or if the minister is on leave or absent for a valid reason. However, a minister shall not act for more than one other minister. A minister who is brought before the Supreme Court by decision of the Turkish Grand National Assembly, shall lose his or her ministerial status. If the Prime Minister is brought before the Supreme Court, the Government shall be considered to have resigned. If a Ministerial position becomes vacant for any reason, a new appointment shall be made to it within fifteen days.

#### **F. Provisional Council of Ministers During Elections**

**ARTICLE 114.** The Ministers of Justice, Internal Affairs and Communications shall resign prior to general elections from the Turkish Grand National Assembly. Three days before elections begin or in the event of a decision to hold new elections before the end of the election term, within five days of this decision, the Prime Minister shall appoint independent persons from within or outside the Turkish Grand National Assembly to these Ministries. In the event of a decision to hold new elections under Article 116, the Council of Ministers shall resign and the President of the Republic shall appoint a Prime Minister to form a Provisional Council of Ministers. The Provisional Council of Ministers shall be composed of members of the political party groups in proportion to their parliamentary membership with the exception of the ministers of Justice, Internal Affairs, and Communications, who shall be independent persons appointed from within or

outside the Turkish Grand National Assembly. The number of members to be taken from political party groups shall be determined by the President of the Turkish Grand National Assembly, and shall be communicated to the Prime Minister. Party members who do not accept the ministerial posts offered to them, or who subsequently, resign shall be replaced by independent persons from within or outside the Grand National Assembly of Turkey. The Provisional Council of Ministers shall be formed within five days of publication in the Official Gazette of the decision to hold new elections. The Provisional Council of Ministers shall not be subject to a vote of confidence. The Provisional Council of Ministers shall remain in office for the duration of the elections, and until the new Assembly convenes.

#### **G. Regulations**

**ARTICLE 115.** The Council of Ministers may issue regulations governing the mode of implementation of laws or designating matters ordered by law, provided that they do not conflict with existing laws and are examined by the Council of State. Regulations shall be signed by the President of the Republic and promulgated in the same manner as laws.

#### **H. Calling for Elections for the Turkish Grand National Assembly by the President of the Republic**

**ARTICLE 116.** In cases where the Council of Ministers fails to receive a vote of confidence under Article 110 or is compelled to resign by a vote of no-confidence under Article 99 or 111, and if a new Council of Ministers cannot be formed within forty-five days or the new Council of Ministers fails to receive a vote of confidence, the President of the Republic, in consultation with the President of the Turkish Grand National Assembly, may call for new elections. If a new Council of Ministers cannot be formed within forty-five days of the resignation of the Prime Minister without being defeated by a vote of confidence or also within forty-five days of elections for the Bureau of the President of the Turkish Grand National Assembly of the newly elected Turkish Grand National Assembly, the President of the Republic may likewise, in consultation with the President of the Turkish Grand National Assembly, call for new elections. The decision to call for



new elections shall be published in the Official Gazette and the election shall be held thereafter.

## **I. National Defence**

### **A. Offices of Commander-in-Chief and Chief of the General Staff**

**ARTICLE 117.** The Office of Commander-in-Chief is inseparable from the spiritual existence of the Turkish Grand National Assembly and is represented by the President of the Republic. The Council of Ministers shall be responsible to the Turkish Grand National Assembly for national security and for the preparation of the Armed Forces for the defence of the country. The Chief of the General Staff is the commander of the Armed Forces, and, in time of war exercises the duties of Commander-in-Chief on behalf of the President of the Republic. The Chief of the General Staff shall be appointed by the President of the Republic following the proposal of the Council of Ministers; his duties and powers shall be regulated by law. The Chief of the General Staff shall be responsible to the Prime Minister in the exercise of his duties and powers. The functional relations and scope of jurisdiction of the Ministry of National Defence with regard to the Chief of the General Staff and the Commanders of the Armed Forces shall be regulated by law.

### **B. National Security Council**

#### **ARTICLE 118. (As amended on October 17, 2001)**

The National Security Council shall be composed of the Prime Minister, the Chief of the General Staff, Deputy Prime Ministers, Ministers of Justice, National Defence, Internal Affairs, and Foreign Affairs, the Commanders of the Army, Navy and Air Forces and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic. Depending on the particulars of the agenda, Ministers and other persons concerned may be invited to meetings of the Council and their views heard. The National Security Council shall submit to the Council of the Ministers its views on the advisory decisions that are taken and ensuring the necessary condition with regard to the formulation, establishment, and implementation of the national security policy of the state. The Council of Ministers shall evaluate decisions of the National Security Council concerning the

measures that it deems necessary for the preservation of the existence and independence of the state, the integrity and indivisibility of the country and the peace and security of society. The agenda of the National Security Council shall be drawn up by the President of the Republic taking into account the proposals of the Prime Minister and the Chief of the General Staff. In the absence of the President of the Republic, the National Security Council shall meet under the chairmanship of the Prime Minister. The organisation and duties of the General Secretariat of the National Security Council shall be regulated by law.

### **III. Procedure Governing Emergency Rule**

#### **A. States of Emergency**

##### **1. Declaration of State of Emergency on Account of Natural Disaster or Serious Economic Crisis**

**ARTICLE 119.** In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers, meeting under the chairmanship of the President of the Republic may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

##### **2. Declaration of State of Emergency on Account of Widespread Acts of Violence and Serious Deterioration of Public Order**

**ARTICLE 120.** In the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

##### **3. Rules Relating to the State of Emergency**

**ARTICLE 121.** In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution, this decision shall be published in the Official Gazette and shall be submitted immediately to the Turkish Grand National Assembly for approval. If the Turkish Grand National

Assembly is in recess, it shall be assembled immediately. The Assembly may alter the duration of the state of emergency, extend the period, for a maximum of four months only, each time at the request of the Council of Ministers, or may lift the state of emergency. The financial, material and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency under Article 119 and, applicable according to the nature of each kind of state of emergency, the procedure as to how fundamental rights and freedoms shall be restricted or suspended in line with the principles of Article 15, how and by what means the measures necessitated by the situation shall be taken, what sort of powers shall be conferred on public servants, what kind of changes shall be made in the status of officials, and the procedure governing emergency rule, shall be regulated by the Law on State of Emergency.

During the state of emergency, the Council of Ministers meeting under the chairmanship of the President of the Republic, may issue decrees having the force of law on matters necessitated by the state of emergency. These decrees shall be published in the Official Gazette, and shall be submitted to the Turkish Grand National Assembly on the same day for approval; the time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.

#### **B. Martial Law, Mobilization and State of War**

**ARTICLE 122.** The Council of Ministers, under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare martial law in one or more regions or throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and the nation. This decision shall be published immediately in the Official Gazette, and shall be submitted for approval

to the Turkish Grand National Assembly, on the same day. If the Turkish Grand National Assembly is in recess, it shall be assembled immediately. The Turkish Grand National Assembly may, when it deems necessary, reduce or extend the period of martial law or lift it.

During the period of martial law, the Council of Ministers meeting under the chairmanship of the President of the Republic may issue decrees having the force of law on matters necessitated by the state of martial law.

These decrees shall be published in the Official Gazette and shall be submitted for approval to the Turkish Grand National Assembly on the same day. The time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure. Extension of the period of martial law for a maximum of four months each time, shall require a decision by the Turkish Grand National Assembly. In the event of state of war, the limit of four months does not apply.

In the event of martial law, mobilization and state of war, the provisions to be applied and conduct of affairs, relations with the administration, the manner in which freedoms are to be restricted or suspended and the obligations to be imposed on citizens in a state of war or in the event of emergence of a situation necessitating war, shall be regulated by law. The Martial Law Commanders shall exercise their duties under the authority of the Chief of the General Staff.

#### **IV. Administration**

##### **A. Fundamentals of the Administration**

###### **1. Integral Unity and Public Legal Personality of the Administration**

**ARTICLE 123.** The administration forms a whole with regard to its structure and functions, and shall be regulated by law. The organisation and functions of the administration are based on the principles of centralization and local administration. Public corporate bodies shall be established only by law, or by the authority expressly granted by law.

###### **2. By-laws**

**ARTICLE 124.** The Prime Ministry, the ministries, and public corporate bodies may issue by-laws in order to ensure the application of laws and regulations relating to their particular fields of operation, provided that they are not contrary

to these laws and regulations. The law shall designate which by-laws are to be published in the Official Gazette.

## **B. Recourse to Judicial Review**

### **ARTICLE 125. (As amended on August 13, 1999)**

Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration. The acts of the President of the Republic on his or her own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review. In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification. Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law. No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers. If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.

The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilisation and state of war, and for reasons of national security, public order and public health. The administration shall be liable to compensate for damages resulting from its actions and acts.

## **C. Organisation of the Administration**

### **1. Central Administration**

**ARTICLE 126.** In terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation and economic conditions, and public service requirements; provinces are further divided into lower levels of administrative districts.

The administration of the provinces is based on the principle of devolution of wider powers. Central administrative organisations comprising several provinces may be established to ensure efficiency and coordination of public services. The functions and powers of these organisations shall be regulated by law.

## **2. Local Administrations**

### **ARTICLE 127. (As amended on July 23, 1995)**

Local administrative bodies are public corporate entities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose decision-making organs are elected by the electorate as described in law, and whose principles of structure are also determined by law. The formation, duties and powers of the local administration shall be regulated by law in accordance with the principle of local administration. The elections for local administrations shall be held every five years in accordance with the principles set forth in Article 67. However, general or by-elections for local administrative bodies or for members thereof, which are to be held within a year before or after the general or by-elections for deputies, shall be held simultaneously with the general or by-elections for deputies. Special administrative arrangements may be introduced by law for larger urban centres.

The procedures dealing with objections to the acquisition by elected organs of local government or their status as an organ, and their loss of such status, shall be resolved by the judiciary. However, as a provisional measure, the Minister of Internal Affairs may remove from office those organs of local administration or their members against whom investigation or prosecution has been initiated on grounds of offences related to their duties, pending judgement. The central administration has the power of administrative trusteeship over the local governments in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integral unity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs, in an appropriate manner. The formation of local administrative bodies into a union with the permission of the Council of Ministers for the purpose of performing specific

public services; and the functions, powers, financial and security arrangements of these unions, and their reciprocal ties and relations with the central administration, shall be regulated by law. These administrative bodies shall be allocated financial resources in proportion to their functions.

#### **D. Provisions Relating to Public Servants**

##### **1. General Principles**

**ARTICLE 128.** The fundamental and permanent functions required by the public services that the state, state economic enterprises and other public corporate bodies are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees. The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status shall be regulated by law. The procedure and principles governing the training of senior administrators shall be specially regulated by law.

##### **2. Duties and Responsibilities, and Guarantees During Disciplinary Proceedings**

**ARTICLE 129.** Public servants and other public employees are obliged to carry out their duties with loyalty to the Constitution and the laws. Public servants, other public employees and members of public professional organisations or their higher bodies shall not be subjected to disciplinary penalties without being granted the right of defence. Disciplinary decisions shall be subject to judicial review, with the exception of warnings and reprimands. Provisions concerning the members of the Armed Forces, judges and prosecutors are reserved. Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought against the administration only in accordance with the procedure and conditions prescribed by law, and subject to recourse to them. Prosecution of public servants and other public employees for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.

#### **E. Institutions of Higher Education and Their Higher Bodies**

## **1. Institutions of Higher Education**

**ARTICLE 130.** For the purpose of training manpower under a system of contemporary education and training principles and meeting the needs of the nation and the country, universities comprising several units will be established by the state and by law as public corporations having autonomy in teaching, assigned to educate, train at different levels after secondary education, and conduct research, to act as consultants, to issue publications and to serve the country and humanity. Institutions of higher education, under the supervision and control of the state, can be established by foundations in accordance with the procedures and principles set forth in the law provided that they do not pursue lucrative aims.

The law shall provide for a balanced geographical distribution of universities throughout the country. Universities, members of the teaching staff and their assistants may freely engage in all kinds of scientific research and publication. However, this shall not include the liberty to engage in activities directed against the existence and independence of the state, and against the integrity and indivisibility of the Nation and the Country. Universities and units attached to them are under the control and supervision of the state and their security is ensured by the state. University rectors shall be appointed by the President of the Republic, and faculty deans by the Higher Education Council, in accordance with the procedures and provisions of the law. The administrative and supervisory organs of the universities and the teaching staff may not for any reason whatsoever be removed from their office by authorities other than those of the competent organs of the university or by the Higher Education Council. The budgets drawn up by universities, after being examined and approved by the Higher Education Council shall be presented to the Ministry of National Education, and shall be put into effect and supervised in conformity with the principles applied to general and subsidiary budgets. The establishment of institutions of higher education and their organs, their functioning and elections, their duties, authorities and responsibilities, the procedures to be followed by the state in the exercise of the right to supervise and inspect the universities, the duties of the teaching staff, their titles, appointments, promotions and retirement,



the training of the teaching staff, the relations of the universities and the teaching staff with public institutions and other organisations, the level and duration of education, admission of students into institutions of higher education, attendance requirements and fees, principles relating to assistance to be provided by the state, disciplinary and penalty matters, financial affairs, personnel rights, conditions to be conformed with by the teaching staff, the assignment of the teaching staff in accordance with inter-university requirements, the pursuance of training and education in freedom and under guarantee and in accordance with the requirements of contemporary science and technology, and the use of financial resources provided by the state to the Higher Education Council and the universities, shall be regulated by law. Institutions of higher education established by foundations shall be subject to the provisions set forth in the Constitution for state institutions of higher education, as regards the academic activities, recruitment of teaching staff and security, except for financial and administrative matters.

## **2. Superior Bodies of Higher Education (As amended on May 22, 2004)**

**ARTICLE 131.** The Higher Education Council shall be established to plan, organise, administer, and supervise education provided by institutions of higher education, to orient teaching activities, education and scientific research, to ensure the establishment and development of these institutions in conformity with the objectives and principles set forth by law, to ensure the effective use of the resources allotted to the universities, and to plan the training of the teaching staff.

The Higher Education Council is composed of members appointed by the President of the Republic from among candidates who are nominated by the Council of Ministers and universities, and in accordance with the numbers, qualifications and procedures prescribed by law, priority being given to those who have served successfully as faculty members or rectors, and of members directly appointed by the President of the Republic. The organisation, functions, authority, responsibilities and operating principles of the Council shall be regulated by law.

## **3. Institutions of Higher Education Subject to Special Provisions**

**ARTICLE 132.** Institutions of Higher Education attached to the Turkish Armed Forces and to security organisations are subject to the provisions of their respective special laws.

#### **F. Radio and Television Administrations and State-Financed News Agencies**

**ARTICLE 133.** Radio and television stations shall be established and administered freely in conformity with rules to be regulated by law. The unique radio and television administration established by the state as a public corporate body and the news agencies which receive aid from public corporate bodies shall be autonomous and their broadcasts shall be impartial.

#### **G. The Atatürk High Institution of Culture, Language and History**

**ARTICLE 134.** The “Atatürk High Institution of Culture, Language and History” shall be established as a public corporate body, under the moral aegis of Atatürk, under the supervision of and with the support of the President of the Republic, attached to the Office of the Prime Minister, and composed of the Atatürk Centre of Research, the Turkish Language Society, the Turkish Historical Society and the Atatürk Cultural Centre, in order to conduct scientific research, to produce publications and to disseminate information on the thought, principles and reforms of Atatürk, Turkish culture, Turkish history and the Turkish language. The financial income of the Turkish Language Society and Turkish Historical Society, bequeathed to them by Atatürk in his will are reserved and shall be allocated to them accordingly. The establishment, organs, operating procedures and personnel matters of the Atatürk High Institution of Culture, Language and History, and its authority over the institutions within it, shall be regulated by law.

#### **H. Public Professional Organisations**

##### **ARTICLE 135. (As amended on July 23, 1995)**

Public professional organisations and their higher organisations are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and with the public; their

organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision. Persons regularly employed in public institutions, or in state economic enterprises shall not be required to become members of public professional organisations. These professional organizations shall not engage in activities outside the aims for which they are established. Political parties shall not nominate candidates in elections for the organs of these professional organizations or their higher bodies. The rules concerning the administrative and financial supervision of these professional organizations by the state shall be prescribed by law. The responsible organs of professional organizations which engage in activities beyond their objectives shall be dissolved by court decision at the request of the authority designated by law or the public prosecutor, and new organs shall be elected in their place. However, in cases where delay endangers national security, public order and in cases where it is necessary to prevent the perpetration or the continuation of a crime or to effect an arrest, an authority designated by law may be vested with power to suspend professional organizations from activity. The decision of the said authority shall be submitted for approval to the responsible judge within twenty-four hours. Unless the judge declares a decision within forty-eight hours, this administrative decision is annulled automatically.

#### **I. Department of Religious Affairs**

**ARTICLE 136.** The Department of Religious Affairs, which is within the general administration, shall exercise its duties prescribed in its particular law, in accordance with the principles of secularism, removed from all political views and ideas, and aiming at national solidarity and integrity.

#### **J. Unlawful Orders**

**ARTICLE 137.** A person employed in public services, irrespective of his position or status, when he finds an order given by his superiors to be contrary to the provisions of by-laws, regulations, laws, or the Constitution shall not carry it out, and shall inform the person giving the order of this inconsistency. However, if his superior insists on the order and renews it in writing, his order shall be executed; in this case the person executing the order shall not be held responsible. An order

which in itself constitutes an offence shall under no circumstances be executed; the person who executes such an order shall not evade responsibility. Exceptions designated by law relating to the execution of military duties and the protection of public order or public security in urgent situations are reserved.

## **PART 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, law, and their personal conviction conforming with 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.

##### **B. Security of Tenure of Judges and Public Prosecutors**

**ARTICLE 139.** Judges and public prosecutors shall not be dismissed, or retired before the age prescribed by the Constitution; nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of court or post. Exceptions indicated in law relating to those convicted for an offence requiring dismissal from the profession, those who are definitely established as unable to perform their duties on account of ill-health, and those determined as unsuitable to remain in the profession, are reserved.

##### **C. Judges and Public Prosecutors**

**ARTICLE 140.** Judges and public prosecutors shall serve as judges and public prosecutors of courts of justice and of administrative courts. These duties shall be

carried out by professional judges and public prosecutors. Judges shall discharge their duties in accordance with the principles of the independence of the courts and the security of tenure of judges. The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change in their duties or posts, the initiation of disciplinary proceedings against them and the subsequent imposition of disciplinary penalties, the conduct of investigation concerning them and the subsequent decision to prosecute them on account of offences committed in connection with, or in the course of, their duties, the conviction for offences or instances of incompetence requiring their dismissal from the profession, their in-service training and other matters relating to their personnel status shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges. Judges and public prosecutors shall exercise their duties until they reach the age of sixty-five; promotion according to age and the retirement of military judges shall be prescribed by law. Judges and public prosecutors shall not assume official or public functions other than those prescribed by law. Judges and public prosecutors shall be attached to the Ministry of Justice where their administrative functions are concerned. Those judges and public prosecutors working in administrative posts within the system of legal services shall be subject to the same provisions as other judges and public prosecutors. Their categories and grades shall be determined according to the principles applying to judges and public prosecutors and they shall enjoy all the rights accorded to judges and public prosecutors.

#### **D. Publicity of Hearings and Verdict Justification**

**ARTICLE 141.** Court hearings shall be open to the public. It may be decided to conduct all or part of the hearings in closed session only in cases where absolutely required for reasons of public morality or public security. Special provisions shall be provided in the law with respect to the trial of minors. The decisions of all courts shall be made in writing with a statement of justification. It is the duty of the judiciary to conclude trials as quickly as possible and at minimum cost.

#### **E. Organisation of Courts**

**ARTICLE 142.** The organisation, functions and jurisdiction of the courts, their functioning and trial procedures shall be regulated by law.

#### **F. State Security Courts**

##### **ARTICLE 143. (Annulled)**

State Security Courts shall be established to deal with offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State. However, provisions concerning state of martial law and state of war are reserved. State Security Courts shall consist of a president, two regular members and one substitute, one chief public prosecutor and a sufficient number of public prosecutors. The president, two regular and one substitute members and the chief public prosecutor from among the first category judges and public prosecutors, the public prosecutors from the other public prosecutors of the Republic shall be appointed by the Supreme Council of Judges and Public Prosecutors in accordance with the procedures prescribed by special law for a four-year term; those whose term of office has expired may be reappointed. The High Court of Appeals is the competent authority to examine appeals against the judgements of the State Security Court. Other provisions relating to the functioning, the duties and jurisdiction and the trial procedures of the State Security Court shall be prescribed by law.

#### **G. Supervision of Judges and Public Prosecutors**

**ARTICLE 144.** Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by-laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and attitude are in conformity with their status and duties and if necessary, inquiry and investigations concerning them shall be made by judiciary inspectors with the permission of the Ministry of Justice. The Minister of Justice may request the investigation or inquiry to be conducted by a

judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

## **H. Military Justice**

**ARTICLE 145.** Military justice shall be exercised by military courts and military disciplinary courts. These courts shall have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties. Military courts also have jurisdiction to try non-military persons for military offences specified in the special law; and for offences committed while performing their duties specified by law, or against military personnel on military places specified by law. The offences and persons falling within the jurisdiction of military courts in time of war or under martial law, their organisation and the appointment, where necessary, of judges and public prosecutors from courts of justice to military courts shall be regulated by law. The organisation of military judicial organs, their functions, matters relating to the status of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges and with the requirements of military service. Relations between military judges and the office of commander under which they serve, regarding the requirements of military service apart from judicial functions, shall also be prescribed by law.

## **II. Higher Courts**

### **A. The Constitutional Court**

#### **1. Organisation**

**ARTICLE 146.** The Constitutional Court shall be composed of eleven regular and four substitute members. The President of the Republic shall appoint two regular and two substitute members from the High Court of Appeals, two regular and one substitute member from the Council of State, and one member each from the Military High Court of Appeals, the High Military Administrative Court and the Audit Court, three candidates being nominated for each vacant office by the Plenary Assemblies of each court from among their respective presidents and

members, by an absolute majority of the total number of members; the President of the Republic shall also appoint one member from a list of three candidates nominated by the Higher Education Council from among members of the teaching staff of institutions of higher education who are not members of the Council, and three members and one substitute member from among senior administrative officers and lawyers. To qualify for appointments as regular or substitute members of the Constitutional Court, members of the teaching staff of institutions of higher education, senior administrative officers and lawyers shall be required to be over the age of forty and to have completed their higher education, or to have served at least fifteen years as a member of the teaching staff of institutions of higher education or to have actually worked at least fifteen years in public service or to have practiced as a lawyer for at least fifteen years. The Constitutional Court shall elect a president and Deputy president from among its regular members for a term of four years by secret ballot and by an absolute majority of the total number of members. They may be re-elected at the end of their term of office. The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.

## **2. Termination of Membership**

**ARTICLE 147.** The members of the Constitutional Court shall retire on reaching the age of sixty-five. Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his dismissal from the judicial profession, it shall terminate by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill-health.

## **3. Functions and Powers**

**ARTICLE 148.** The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law



issued during a state of emergency, martial law or in time of war. The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Turkish Grand National Assembly. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date on which the law was promulgated; nor shall objection be raised. The President of the Republic, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Public Prosecutors of the Republic, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Audit Court shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.

The Chief Public Prosecutor of the Republic or Deputy Chief Public Prosecutor of the Republic shall act as public prosecutor in the Supreme Court. The judgements of the Supreme Court shall be final. The Constitutional Court shall also perform the other functions given to it by the Constitution.

#### **4. Functioning and Trial Procedure**

##### **ARTICLE 149. (As amended on October 17, 2001)**

The Constitutional Court shall convene with its president and ten members, and shall take decisions by absolute majority. Decision of annulment of Constitutional amendments and closure in the cases of the political parties shall be taken by three-fifths majority. The Constitutional Court shall give priority to the consideration of, and to decisions on, applications for annulment on the grounds of defect in form.

The organisation and trial procedures of the Constitutional Court shall be determined by law; its method of work and the division of labour among its

members shall be regulated by the Rules of Procedure made by the Court. The Constitutional Court shall examine cases on the basis of documents in the case file, except where it acts as the Supreme Court. However, when it deems necessary, it may call on those concerned and those having knowledge relevant to the case, to present oral explanations (Annexed sentence: 23.7.1995 - 4121/14 Article) and in lawsuits on whether to permanently dissolve a political party or not, the Constitutional Court shall hear the defence of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the Republic.

#### **5. Annulment Action**

**ARTICLE 150.** The President of the Republic, parliamentary groups of the party in power and of the main opposition party and a minimum of one-fifth of the total number of members of the Turkish Grand National Assembly shall have the right to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of decrees having the force of law, of Rules of Procedure of the Turkish Grand National Assembly or of specific articles or provisions thereof. If more than one political party is in power, the right of the parties in power to apply for annulment action shall be exercised by the party having the greatest number of members.

#### **6. Time Limit for Annulment Action**

**ARTICLE 151.** The right to apply for annulment directly to the Constitutional Court shall lapse sixty days after publication in the Official Gazette of the contested law, the decree having the force of law, or the Rules of Procedure.

#### **7. Contention of Unconstitutionality Before Other Courts**

**ARTICLE 152.** If a court which is trying a case, finds that the law or the decree having the force of law to be applied is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall postpone the consideration of the case until the Constitutional Court decides on the issue. If the court is not convinced of the seriousness of the claim of unconstitutionality, such a claim together with the main judgment shall be decided upon by the competent authority of appeal. The Constitutional Court shall decide

on the matter and make public its judgment within five months of receiving the contention. If no decision is reached within this period, the trial court shall conclude the case under existing legal provisions. However, if the decision on the merits of the case becomes final, the trial court is obliged to comply with it. No allegation of unconstitutionality shall be made with regard to the same legal provision until ten years elapse after publication in the Official Gazette of the decision of the Constitutional Court dismissing the application on its merits.

### **8. Decisions of the Constitutional Court**

**ARTICLE 153.** The decisions of the Constitutional Court are final. Decisions of annulment cannot be made public without a written statement of reasons. In the course of annulling the whole, or a provision, of laws or decrees having the force of law, the Constitutional Court shall not act as a law-maker and pass judgment leading to new implementation. Laws, decrees having the force of law, or the Rules of Procedure of the Turkish Grand National Assembly or provisions thereof, shall cease to have effect from the date of publication in the Official Gazette of the annulment decision. Where necessary, the Constitutional Court may also decide on the date on which the annulment decision shall come into effect. That date shall not be more than one year from the date of publication of the decision in the Official Gazette. In the event of the postponement of the date on which an annulment decision is to come into effect, the Turkish Grand National Assembly shall debate and decide with priority on the draft bill or law proposal, designed to fill the legal void arising from the annulment decision.

Annulment decisions cannot be applied retroactively. Decisions of the Constitutional Court shall be published immediately in the Official Gazette, and shall be binding on the legislative, executive, and judicial organs, on the administrative authorities, and on persons and corporate bodies.

### **B. The High Court of Appeals**

**ARTICLE 154.** The High Court of Appeals is the last instance for reviewing decisions and judgements given by courts of justice and which are not referred by law to other judicial authority. It shall also be the first and last instance court for dealing with specific cases prescribed by law.

Members of the High Court of Appeals shall be appointed by the Supreme Council of Judges and Public Prosecutors from among firstcategory judges and public prosecutors of the Republic, of the courts of justice, or those considered to be members of this profession, by secret ballot and by an absolute majority of the total number of members. The first president, first deputy presidents and heads of division shall be elected by the Plenary Assembly of the High Court of Appeals from among its own members, for a term of four years, by secret ballot and by an absolute majority of the total number of members; they may be re-elected at the end of their term of office. The Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals shall be appointed by the President of the Republic for a term of four years from among five candidates nominated for each office by the Plenary Assembly of the High Court of Appeals from among its own members by secret ballot. They may be re-elected at the end of their term of office. The organisation, the function, the qualifications and procedures of election of the president, deputy presidents, the heads of division and members and the Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

### **C. Council of State**

#### **ARTICLE 155. (As amended on August 13, 1999)**

The Council of State is the last instance for reviewing decisions and judgements given by administrative courts and which are not referred by law to other administrative courts. It shall also be the first and last instance for dealing with specific cases prescribed by law. The Council of State shall try administrative cases, give its opinion within two months of time on draft legislation, the conditions and the contracts under which concessions are granted concerning public services which are submitted by the Prime Minister and the Council of Ministers, examine draft regulations, settle administrative disputes and discharge other duties as prescribed by law. Three-fourths of the members of the Council of State shall be appointed by the Supreme Council of Judges and Public Prosecutors

from among the first category administrative judges and public prosecutors, or those considered to be of this profession; and the remaining quarter by the President of the Republic from among officials meeting the requirements designated by law. The president, chief public prosecutor, deputy president, and heads of division of the Council of State shall be elected by the Plenary Assembly of the Council of State from among its own members for a term of four years by secret ballot and by an absolute majority of the total number of members. They may be re-elected at the end of their term of office. The organization, the functioning, the qualifications and procedures of election of the president, the chief public prosecutor, the deputy presidents and the heads of division and the members of the Council of State, shall be regulated by law in accordance with the principles of specific nature of the administrative jurisdiction, and of the independence of the Courts and the security of tenure of judges.

#### **D. Military High Court of Appeals**

**ARTICLE 156.** The Military High Court of Appeals is the last instance for reviewing decisions and judgements given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel. Members of the Military High Court of Appeals shall be appointed by the President of the Republic from among three candidates nominated for each vacant office by the Plenary Assembly of the Military High Court of Appeals from among military judges of the first category, by secret ballot and by an absolute majority of the total number of members. The president, chief public prosecutor, second presidents and heads of division of the Military High Court of Appeals shall be appointed according to rank and seniority from among the members of the Military High Court of Appeals. The organisation, the functioning of the Military High Court of Appeals, and disciplinary and personnel matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges and with the requirements of military service.

#### **E. High Military Administrative Court of Appeals**

**ARTICLE 157.** The High Military Administrative Court of Appeals shall be the first and last instance court for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body. Members of the High Military Administrative Court of Appeals who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the president and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law. The term of office of members who are not military judges shall not exceed four years. The president, chief public prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority. The organisation and functioning of the High Military Administrative Court, its procedure, disciplinary affairs and other matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges within the requirements of military service.

#### **F. Court of Jurisdictional Disputes**

**ARTICLE 158.** The Jurisdictional Court of Disputes shall be empowered to deliver final judgements in disputes between courts of justice, and administrative and military courts concerning their jurisdiction and decisions. The organisation of the Jurisdictional Court of Disputes the qualifications of its members and the procedure for their election, and its functioning shall be regulated by law. The office of president of this Court shall be held by a member delegated by the Constitutional Court from among its own members. Decisions of the

Constitutional Court shall take precedence in jurisdictional disputes between the Constitutional Court and other courts.

### **III. Supreme Council of Judges and Public Prosecutors**

**ARTICLE 159.** The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of tenure of judges. The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an ex-officio member of the Council. Three regular and three substitute members of the Council shall be appointed by the President of the Republic for a term of four years from a list of three candidates nominated for each vacant office by the Plenary Assembly of the High Court of Appeals from among its own members and two regular and two substitute members shall be similarly appointed from a list of three candidates nominated for each vacant office by the Plenary Assembly of the Council of State. They may be re-elected at the end of their term of office. The Council shall elect a deputy president from among its elected regular members. The Supreme Council of Judges and Public Prosecutors shall deal with the admission of judges and public prosecutors of courts of justice and of administrative courts into the profession, appointments, transfers to other posts, the delegation of temporary powers, promotion, and promotion to the first category, the allocation of posts, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It shall also exercise the other functions given to it by the Constitution and laws.

There shall be no appeal to any judicial instance against the decisions of the Council. The functioning of the Council and methods of performing its duties, the procedure governing election and working methods, the principles relating to the examination of objections within the Council shall be regulated by law.

The Minister of Justice is empowered to appoint judges and public prosecutors with their consent, to temporary or permanent functions in the central offices of

the Ministry of Justice. The Minister of Justice may, in cases where delay is deemed prejudicial, confer temporary powers on judges or public prosecutors to prevent the disruption of services, subject to the approval of the Supreme Council of Judges and Public Prosecutors at its first meeting thereafter.

#### **IV. Audit Court (As amended on May 22, 2004)**

**ARTICLE 160.** The Audit Court shall be charged with auditing, on behalf of the Turkish Grand National Assembly, all accounts related to revenues, expenditures and properties of the government departments financed by general and subsidiary budgets, with taking final decisions on the acts and accounts of the responsible officials, and with exercising the functions required of it by law in matters of inquiry, auditing and judgment. Parties concerned may file a single request for reconsideration of a final decision of the Audit Court within fifteen days of the date of written notification of the decision. No applications for judicial review of such decisions shall be filed in administrative courts. The establishment, functioning, supervisory procedures, qualifications, appointments, tasks and duties, rights and obligations and other matters concerning the status of its members and guarantees of the President and the members of the Court shall be regulated by law.

### **PART FOUR**

#### **FINANCIAL AND ECONOMIC PROVISIONS**

##### **CHAPTER ONE**

##### **FINANCIAL PROVISIONS**

###### **I. Budget**

###### **A. Preparation and Implementation of the Budget**

**ARTICLE 161.** The expenditure of the state and those of public corporations other than state economic enterprises shall be determined by annual budgets. The beginning of the fiscal year and the preparation and implementation of the general and subsidiary budgets shall be defined by law. The law may prescribe special periods and procedures for investments relating to development plans, or for



business and services expected to last more than one year. No provisions other than those pertaining to the budget shall be included in the Budget Act.

### **B. Debate on the Budget**

**ARTICLE 162.** The Council of Ministers shall submit the draft of general and subsidiary budgets and the report containing the national budgetary estimates to the Turkish Grand National Assembly at least seventy-five days before the beginning of the fiscal year. The draft budgets and the reports shall be considered by the Budget Committee, which shall be composed of forty members. In the composition of this Committee, the proportional representation of the various political party groups and independent members in the Assembly, shall be taken into consideration subject to the allocation of at least twenty-five seats to members of the party or parties in power. Draft budget, which shall be adopted by the Budget Committee within fifty-five days shall thereafter be considered by the Assembly and shall be decided on before the beginning of the fiscal year. Members of the Turkish Grand National Assembly shall express their opinions on ministerial, departmental and subsidiary budgets during the debates held in Plenary Session on each budget as a whole; the various headings and motions for amendments shall be read out and put to the vote without separate debate. During debates in the plenary session on the draft Budget Act, members of the Turkish Grand National Assembly shall not make proposals which entail an increase in expenditure or a decrease in revenue.

### **C. Principles Governing Budgetary Amendments**

**ARTICLE 163.** The appropriations granted under the general and subsidiary budgets shall indicate the limit of expenditure allowed. No provisions shall be included in the budget to the effect that the limit of expenditure may be exceeded in pursuance of a decision of the Council of Ministers. The Council of Ministers shall not be empowered to amend the budget by a decree having the force of law. In draft amendments entailing an increase in appropriations under the budget for the current fiscal year and, in draft laws and law proposals providing for additional financial commitments in the budgets for the current or following year,

the financial resources which would meet the stated expenditure shall be indicated.

#### **D. Final Account**

**ARTICLE 164.** Draft final accounts shall be submitted to the Turkish Grand National Assembly by the Council of Ministers within seven months of the end of the relevant fiscal year, unless a shorter period is prescribed by law. The Audit Court shall submit its notice of conformity to the Turkish Grand National Assembly within seventy-five days of the submission of the draft final accounts in question. The draft final accounts shall be placed on the agenda of the Budget Committee together with the Draft Budget Act for the new fiscal year. The Budget Committee shall submit the draft Budget Act to the Plenary Assembly in conjunction with the draft final accounts; the Plenary Assembly shall consider, and decide on the draft final accounts in conjunction with the draft Budget Act for the new fiscal year. The submission of the draft final accounts and the notice of conformity to the Turkish Grand National Assembly shall not preclude the auditing of accounts for the relevant year which have not already been dealt with by the Audit Court and shall not indicate that a final decision has been taken on these accounts.

#### **E. Auditing of State Economic Enterprises**

**ARTICLE 165.** The principles governing the auditing, by the Turkish Grand National Assembly of the accounts of public establishments and partnerships in which more than half of the capital directly or indirectly belongs to the state, shall be regulated by law.

### **CHAPTER TWO**

#### **ECONOMIC PROVISIONS**

##### **I. Planning**

**ARTICLE 166.** The planning of economic, social and cultural development, in particular the speedy, balanced and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis

and assessment and the establishment of the necessary organisation for this purpose are the duties of the state. Measures to increase national efficiency and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan. The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly, their implementation and their revision, and the prevention of amendments liable to affect the unity of the plan shall be regulated by law.

## **II. Supervision of Markets and Regulation of Foreign Trade**

**ARTICLE 167.** The state shall take measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets; and shall prevent the formation, in practice or by agreement, of monopolies and cartels in the markets. In order to regulate foreign trade for the benefit of the economy of the country, the Council of Ministers may be empowered by law to introduce or lift additional financial impositions on imports, exports and other foreign transactions in addition to tax and similar impositions.

## **III. Exploration and Exploitation of Natural Resources**

**ARTICLE 168.** Natural wealth and resources shall be placed under the control of, and put at the disposal of the state. The right to explore and exploit resources belongs to the state. The state may delegate this right to individuals or public corporations for specific periods. Of the natural wealth and resources, those to be explored and exploited by the state in partnership with individuals or public corporations, and those to be directly explored and exploited by individuals or public corporations shall be subject to the explicit permission of the law. The conditions to be observed in such cases by individuals and public corporations, the procedure and principles governing supervision and control by the state, and the sanctions to be applied shall be prescribed by law.

## **IV. Forests and the Inhabitants of Forest Villages**

### **A. Protection and Development of Forests**

**ARTICLE 169.** The state shall enact the necessary legislation and take the measures necessary for the protection of forests and the extension of their areas. Forest areas destroyed by fire shall be reforested; other agricultural and stock-breeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the state. The ownership of state forests shall not be transferred to others. state forests shall be managed and exploited by the state in accordance with the law. Ownership of these forests cannot be acquired through prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests. Acts and actions which might damage forests shall not be permitted. No political propaganda which might lead to the destruction of forests shall be made; no amnesties or pardons specifically granted for offences against forests shall be legislated. Offences committed with the intention of burning or destroying forests or reducing forest areas shall not be included within the scope of amnesties or pardons applicable on other occasions. The limiting of forest boundaries shall be prohibited, except in respect of areas whose preservation as forests is considered technically and scientifically useless, but whose conversion into agricultural land has been found to be definitely advantageous, and in respect of fields, vineyards, orchards, olive groves or similar areas which technically and scientifically ceased to be forest before 31 December 1981 and whose use for agricultural or stock-breeding purposes has been found advantageous, and in respect of built-up areas in the vicinity of cities, towns or villages.

**B. Protection of the Inhabitants of Forest Villages**

**ARTICLE 170.** Measures shall be introduced by law to secure co-operation between the state and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the purpose of ensuring their conservation and improving the living conditions of their inhabitants; the law shall also regulate the development of areas which technically and scientifically ceased to be forests before 31 December 1981, the identification of areas whose preservation as forest is considered technically and scientifically useless, their exclusion from forest boundaries, their improvement by the state for the purpose of settling all or some of the inhabitants of forest villages in them, and their

allocation to these villages. The state shall take measures to facilitate the acquisition, by these inhabitants, of farming equipment and other inputs.

The land owned by villagers resettled outside a forest shall immediately be reafforested as a state forest.

#### **V. Promotion of Cooperatives**

##### **ARTICLE 171. (As amended on July 23, 1995)**

The state shall take measures in keeping with national and economic interests, to promote the development of cooperatives, which shall be primarily designed to increase production and protect consumers.

#### **VI. Protection of Consumers, Small Traders and Craftsmen**

##### **A. Protection of Consumers**

**ARTICLE 172.** The state shall take measures to protect and inform consumers; shall encourage their initiatives to protect themselves.

##### **B. Protection of Small Traders and Craftsmen**

**ARTICLE 173.** The state shall take measures to protect and support small traders and craftsmen.

### **PART FIVE**

#### **MISCELLANEOUS PROVISIONS**

##### **I. Preservation of Reform Laws**

**ARTICLE 174.** No provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilisation and to safeguard the secular character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey.

1. Act No. 430 of 3 March 1340 (1924) on the Unification of the Educational System;
2. Act No. 671 of 25 November 1341 (1925) on the Wearing of Hats;
3. Act No. 677 of 30 November 1341 (1925) on the Closure of Dervish Monasteries and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles;

4. The principle of civil marriage according to which the marriage act shall be concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of 17 February 1926, and Article 110 of the Code;
5. Act No. 1288 of 20 May 1928 on the Adoption of International Numerals;
6. Act No. 1353 of 1 November 1928 on the Adoption and Application of the Turkish Alphabet;
7. Act No 2590 of 26 November 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasa;
8. Act No. 2596 of 3 December 1934 on the Prohibition of the Wearing of Certain Garments.

## **PART SIX**

### **PROVISIONAL ARTICLES**

**PROVISIONAL ARTICLE 1.** On the proclamation, under lawful procedure, of the adoption by referendum of the Constitution as the Constitution of the Republic of Turkey, the Chairman of the Council of National Security and Head of State at the time of the referendum, shall assume the title of President of the Republic and shall exercise the Constitutional functions and powers of the President of the Republic for a period of seven years. The oath taken as Head of State on 18 September 1980, shall remain valid. At the end of the period of seven years the election for the Presidency of the Republic shall be held in accordance with the provisions set forth in the Constitution. The President of the Republic shall also hold the chairmanship of the Council of National Security formed on 12 December 1980, under Act No. 2356, until the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections. If the Presidency of the Republic falls vacant for any reason before the Turkish Grand National Assembly convenes and assumes its functions at the end of the first general elections, the most senior member of the National Security Council shall act as President of the Republic and shall exercise all his constitutional functions and powers until the convening of the Turkish

Grand National Assembly and its election of a new President of the Republic in accordance with the provisions of the Constitution.

**PROVISIONAL ARTICLE 2.** The Council of National Security formed on 12 December 1980 under Act No. 2356 shall continue to exercise its functions under Act No. 2324 on the Constitutional Order and Act No. 2485 on the Constituent Assembly until the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections held under the Political Parties Act and the Elections Act prepared in accordance with the Constitution. After the adoption of the Constitution, Article 3 of Act No. 2356 relating to the procedure for winning a seat on the Council of National Security which falls vacant for any reason, shall cease to apply. After the Turkish Grand National Assembly has convened and assumed its functions, the Council of National Security shall become the Presidential Council for a period of six years, and the members of the Council of National Security shall acquire the title of members of the Presidential Council. The oath they took on 18 September 1980, as members of the Council of National Security shall remain valid. Members of the Presidential Council shall enjoy the rights and immunities conferred by the Constitution on members of the Turkish Grand National Assembly. The legal existence of the Presidential Council shall terminate on the expiry of the period of six years. The functions of the Presidential Council shall be as follows:

- a. to examine laws adopted by the Turkish Grand National Assembly and submitted to the President of the Republic concerning: the fundamental rights and freedoms and duties, the principle of secularism, the preservation of the reforms of Atatürk, national security and public order set forth in the Constitution, the Turkish Radio and Television Corporation, international treaties, the sending of Armed Forces to foreign countries and the stationing of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;

- b. on the request of the President of the Republic and within the period specified by him: to consider and give an opinion on matters relating to the holding of new general elections, the exercise of emergency powers and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of the youth and the conduct of religious affairs;
- c. According to the request of the President of the Republic, to consider and investigate matters relating to internal or external security and such other matters as are deemed necessary, and to submit its findings to the President of the Republic.

**PROVISIONAL ARTICLE 3.** With the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections held in accordance with the Constitution:

- a. Act No. 2324 of 27 October 1980 on the Constitutional Order;
- b. Act No. 2356 of 12 December 1980 on the Council of National Security;
- c. Act No. 2485 of 29 June 1981 on the Constituent Assembly, shall cease to have effect and the legal existence of the Council of National Security and the Consultative Assembly shall terminate.

**PROVISIONAL ARTICLE 4. (Repealed on May 17, 1987)**

**PROVISIONAL ARTICLE 5.** On the tenth day following proclamation by the Supreme Election Council of the results of the first general elections, the Turkish Grand National Assembly shall convene of its own accord at the premises of the Turkish Grand National Assembly in Ankara at 15.00 hours. The eldest deputy shall take the chair for this session. At this session the deputies shall take their oaths.

**PROVISIONAL ARTICLE 6.** Until the Turkish Grand National Assembly, formed in accordance with the Constitution, adopts the Rules of Procedure which shall govern its sessions and proceedings, those provisions of the Rules of Procedure of the National Assembly which were in force before 12 September, 1980, and which are not contrary to the Constitution shall apply.



**PROVISIONAL ARTICLE 7.** The present Council of Ministers shall continue in office until the convening of the Turkish Grand National Assembly and the formation of the new Council of Ministers following the first general elections.

**PROVISIONAL ARTICLE 8.** Legislation relating to the organisation, duties, powers and functioning of the new organs, institutions and agencies established under the Constitution and other legislation whose introduction or amendment is provided for in the Constitution, shall be enacted during the period of Constituent Assembly, starting from the date of the adoption of the Constitution; legislation which cannot be dealt with during this period shall be enacted within the year following the first session of the newly elected Turkish Grand National Assembly.

**PROVISIONAL ARTICLE 9.** Within a period of six years following the formation of the Bureau of the Turkish Grand National Assembly which is to convene after the first general elections, the President of the Republic may refer to the Turkish Grand National Assembly for further consideration of any Constitutional amendments adopted by the Assembly. In this case the re-submission of the Constitutional amendment draft in its unchanged form to the President of the Republic by the Turkish Grand National Assembly, is only possible with a three-fourths majority of the votes of the total number of members.

**PROVISIONAL ARTICLE 10.** Local elections shall be held within a year of the first session of the Turkish Grand National Assembly.

**PROVISIONAL ARTICLE 11.** Regular and substitute members of the Constitutional Court who were in office on the date of the adoption by referendum of the Constitution shall continue to hold office and exercise their functions. Those previously elected by the Constitutional Court to specific offices shall retain the status thus acquired.

No election shall be held to fill the vacant seats of the regular members of the Constitutional Court until the number of these members falls to eleven, nor shall an election be held to fill the vacant seats of substitute members until the total number of regular and substitute members falls to fifteen. Until the Constitutional Court adapts to the new system, the principles and order of precedence set forth in

the Constitution shall be observed in the elections which are to be held because the number of regular members has fallen below eleven, or because the total number of regular and substitute members has fallen below fifteen. Until the number of regular members of the Constitutional Court falls to eleven, the quorum prescribed by Act No. 44 of 22 April 1962, shall be observed in all cases and proceedings.

**PROVISIONAL ARTICLE 12.** Persons appointed by the Head of State as regular and substitute members of the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals and the Council of State under Provisional Article 1 of Act No. 2461 of 13 May 1981, on the Supreme Council of Judges and Public Prosecutors; as chief public prosecutor and deputy chief public prosecutor in accordance with the Provisional Article appended to Act No. 1730 on the High Court of Appeals under Act No. 2483 of 25 June 1981; and as president, chief public prosecutor, deputy presidents and heads of division of the Council of State under Provisional Article 14, paragraph 2 of Act No. 2576 of 6 January 1982 on the Council of State shall continue to exercise their functions until the end of the term of office for which they were elected. The Provisions of the Provisional Articles of Act No. 2576 of 6 January 1982, which concern the appointment of the presidents and members of Administrative Courts shall also remain in force.

**PROVISIONAL ARTICLE 13.** The elections of one regular and one substitute member to be elected to the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals shall take place within twenty days of the entry into force of the Constitution.

Until the assumption of office by the elected members, the quorum for meetings of the Council shall be met with the participation of substitute members.

**PROVISIONAL ARTICLE 14.** The obligation of the labour unions to deposit their revenues in the state banks shall be fulfilled within two years of the entry into force of the Constitution, at the latest.

**PROVISIONAL ARTICLE 15.** No allegation of criminal, financial or legal responsibility shall be made, nor shall an application be filed with a court for this

purpose in respect of any decisions or measures whatsoever taken by: the Council of National Security formed under Act No. 2356 which will have exercised legislative and executive power on behalf of the Turkish Nation from 12 September 1980 to the date of the formation of the Bureau of the Turkish Grand National Assembly which is to convene following the first general elections; the governments formed during the term of office of the Council, or the Consultative Assembly which has exercised its functions under Act No. 2485 on the Constituent Assembly. The provisions of the above paragraphs shall also apply in respect of persons who have taken decisions and adopted or implemented measures as part of the implementation of such decisions and measures by the administration or by the competent organs, authorities and officials.

**PROVISIONAL ARTICLE 16.** Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included in the register of electors and the polling station register compiled for the referendum, shall neither participate nor stand for election in general elections, by-elections, local elections or referendums for a period of five years following the referendum on the Constitution.

**PROVISIONAL ARTICLE OF THE LAW NO.4709**

**(The Law No.4709 amends some of the articles of the Constitution)**

- a. The last paragraph added to the Article 67 of the Constitution by Article 24 of this Law No.4709 shall not be implemented at the first general election to be held after this Law No.4709 goes into effect.
- b. The amendments made by Article 28 of this Law No.4709 to Article 87 of the Constitution shall not be implemented on those who perpetrate the acts described in Article 14 of the Constitution, before this Law No.4709 goes into effect. This Law No.4709 goes into effect at the date of its issue and in case of submission to referendum, it shall be voted on as a whole.

**PART SEVEN**

**FINAL PROVISIONS**

**I. Amendment of the Constitution, Participation in Elections and Referenda**

**ARTICLE 175. (As amended on May 17, 1987)**

The constitutional amendment shall be proposed in writing by at least one-third of the total number of members of the Turkish Grand National Assembly. Proposals to amend the Constitution shall be debated twice in the Plenary Session. The adoption of a proposal for an amendment shall require a three-fifths majority of the total number of members of the Assembly by secret ballot.

The consideration and adopting of proposals for the amendment of the Constitution shall be subject to the provisions governing the consideration and adoption of legislation, with the exception of the conditions set forth in this article. The President of the Republic may refer the laws related to the Constitutional amendments for further consideration. If the Assembly adopts the draft law referred by the President by a two-thirds majority, the President may submit the law to referendum. If a law is adopted by a three-fifths or less than two-thirds majority of the total number of votes of the Assembly and is not referred by the President for further consideration, it shall be published in the Official Gazette and shall be submitted to referendum. A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Turkish Grand National Assembly directly or if referred back by the President for further consideration, or its articles as considered necessary may be submitted to a referendum by the President. Laws or related articles of the Constitutional amendment not submitted to referendum shall be published in the Official Gazette. Laws related to Constitutional amendment which are submitted to referendum, shall require the approval of more than half of the valid votes cast. The Turkish Grand National Assembly, in adopting the laws related to the Constitutional amendment, shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually. Every measure including fines shall be taken to secure participation in referenda, general elections, by-elections and local elections.

**II. Preamble and Headings of Articles**

**ARTICLE 176.** The Preamble, which states the basic views and principles underlying the Constitution, shall form an integral part of the Constitution.

The headings of articles merely indicate the subject matter of the articles, their order, and the connections between them. These headings shall not be regarded as a part of the text of the Constitution.

### **III. Entry into Force of the Constitution**

**ARTICLE 177.** On its adoption by referendum and its publication in the Official Gazette, this Constitution shall become the Constitution of the Republic of Turkey and shall come into force in its entirety, subject to the following exceptions and the provisions relating to their entry into force:

- a. The provisions of Part II, Chapter II relating to personal liberty, to security, the press, publication and the media, and the right to freedom of assembly. The provisions of Chapter III, relating to labour, collective agreements, the right to strike, and lockout. These provisions shall come into force when the relevant legislation is promulgated, or when the existing legislation is amended, and at the latest, when the Turkish Grand National Assembly assumes its functions. However until their entry into force, existing legislation and the decrees and decisions of the Council of National Security shall apply.
- b. The provisions of Part II relating to political parties and the right to engage in political activities, shall come into force on the promulgation of the new Political Parties Act, which is to be prepared in accordance with these provisions. The right to vote and stand for election shall come into force on the promulgation of the Elections Act, also to be prepared in accordance with these provisions.
- c. The provisions of part III, relating to legislative power. These provisions shall come into force on the proclamation of the results of the first general elections. However, the provisions relating to the functions and powers of the Turkish Grand National Assembly which take place in this section shall be exercised by the Council of National Security until the Turkish Grand National Assembly assumes its functions, the provisions of Act No. 2485 of 29 June 1981 on the Constituent Assembly being reserved.

- d. The provisions of Part III relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading “President of the Republic”; to regulations, National Defence, procedures governing emergency rule under the heading “Council of Ministers”; to all other provisions under the heading “Administration”, except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary, except the Courts of the Security of the State, shall come into force on publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions relating to local administrations and to the Courts for State Security shall come into force on the promulgation of the relevant legislation.
- e. If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future institutions, organisations and agencies, the procedure to be followed shall be subject to those provisions of existing laws which are not unconstitutional, or to the provisions of the Constitution, in accordance with Article 11 of the Constitution.
- f. The second paragraph of Article 164 regulating the procedure for the consideration of draft final accounts shall come into force in 1984.

#### **PROVISIONAL ARTICLES NOT INCLUDED IN THE CONSTITUTION OF THE REPUBLIC OF TURKEY**

Provisional article of Law No. 4709 dated October 3, 2001

#### **PROVISIONAL ARTICLE:**

- A) The sentence added to Article 67 of the Constitution as the last paragraph of Article 24 of this Law shall not be implemented during the first general elections to be held following the enactment of this Law.
- B) The amendment made to Article 87 of the Constitution through Article 28 of this Law shall not be implemented for those who committed activities

covered under Article 14 of the Constitution prior to the enactment of this Law. Provisional article of Law No. 4777 dated December 27, 2002

**PROVISIONAL ARTICLE 1.** The last paragraph of Article 67 of the Constitution of the Republic of Turkey shall not be implemented in the first by-elections to be held during the 22nd Term of the Turkish Grand National Assembly. (After being drafted by the Consultative Assembly, the Constitution of the Republic of Turkey was accepted by 92% of the Turkish public in a referendum on November 7, 1982, and published in Official Gazette no. 17863, dated November 9, 1982.) (We thank the Ministry of Justice for their valuable contribution

