

Analysis of the 1961 Constitution in the Pendulum of Democracy and Guardianship in Turkey

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The 1961 Constitution of Turkey, established after the 1960 military coup, represents a pivotal moment in the country's political history, oscillating between democracy and tutelage. While it expanded fundamental rights, strengthened judicial independence, and introduced the concept of a social state, it simultaneously institutionalised military and bureaucratic oversight through mechanisms such as the Senate of the Republic and the National Security Council. This study systematically analyses the 1961 Constitution's dual structure using the PRISMA method for literature review, and AMOS 22 for content analysis of expert opinions from YouTube videos. Findings indicate that the constitution fostered pluralistic democracy while reinforcing military influence, limiting civil authority. The

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research highlights how the balance between democracy and tutelage shaped Turkish governance, and argues for strengthening democratic institutions to eliminate residual tutelary structures.

Keywords: 1961 Constitution, democracy, military tutelage, constitutional law, Turkey, political institutions, governance

1. Introduction

The ten-year period leading up to the 1960 military coup was a period of significant political, economic, and social transformations in Turkey. This period began with the transition from a single-party regime of the Republican People's Party (CHP) to a multi-party system with the election victory of the Democrat Party (DP) on 14 May 1950. With this great victory, the DP demonstrated the people's desire for change by winning 415 out of 487 seats in the Grand National Assembly of Turkey with 85.22% of the votes (Weiker, 1963). The DP, led by Adnan Menderes, managed to gather a wide range of voters around itself, including conservative villagers, small and large business owners, and intellectuals who supported the multi-party system. This broad social support was one of the most important advantages the DP had when it came to power. The DP found supporters in various groups of society by exploiting the growing dissatisfaction with the policies of the CHP during the single-party regime. Rural voters were influenced by promises of increasing agricultural prices and lifting restrictions on religious practices, while middle-class citizens and business owners were influenced by promises of economic freedom and credit opportunities. This situation was also evident in the municipal elections of 3 September 1950, when the DP came to power democratically by winning 560 out of 600 municipalities. Despite these successes, however, the DP government emerged as a political elite different from the previous CHP administration, and this new elite heralded a profound transformation in the social and political structure. DP members were generally younger, less likely to be university graduates, and had a more conservative outlook. After the DP came to power, political tensions were evident, as the influence of the CHP leader İsmet İnönü was accompanied by the loyalty of key state institutions in the army, judiciary, and bureaucracy to the CHP. This perception created a sense of insecurity within the DP government (Heper, 2019). Despite having a majority in parlia-

ment, the DP was concerned that the CHP and its allies might plan a coup and therefore took measures such as the forced retirement of senior military officials. These tensions led to the DP beginning to be shaped by efforts to secure its power despite its claim to be a defender of civil liberties. While liberal economic policies were implemented with foreign investments from the US, the DP also tried to revive some Islamic traditions to please its conservative base, demonstrating its drive to secure its power (Brown, 2019). On the other hand, the CHP, which maintained its power, prepared the ground for accusing the DP of weakening secularism. Initially, the tense political picture did not interest the public, who seemed pleased with the developments in the economy with the support of the USA, the mechanisation in agriculture in rural areas, and infrastructure improvements¹ (Ete, 2019). However, the DP, which partially lost public support with the economic recession that began in 1955, pursued an increasingly oppressive policy as it was exposed to the harsh opposition of the CHP. Steps were taken to suppress the voice of the opposition by seizing the assets of the CHP and passing laws prohibiting university professors from participating in political activities, and the passing of a law in 1956 prohibiting opposition parties from organising public meetings, which was evident in the results of the 1957 general election. With a vote rate of 47.9%, the DP partially lost public support, but despite this, it was still the ruling party, was elected for another term, and did not back down from the CHP's pressures, which on the other hand led to the CHP gaining power, beginning to make a stronger opposition, and using newspapers to show the DP's oppressive policies to the public. The DP clearly demonstrated these oppressive policies with the arrests of journalists and the closure of newspapers in 1959. On the other hand, Menderes, who created effective politics with the promise that unions would grant workers the right to strike, clearly showed his fear of this right being used against him by imprisoning journalists who reminded him of his election promise and closing down newspapers in 1959, using his authority to suppress the opposition. The emergence of the minority problem and his ineffectiveness against it led to the polarisation of the society between conservative and secular segments, between workers and capital, and between ethnic identities. On the other hand, the DP saw

¹ Following incidents such as the DP's request for the veil and fez to be allowed again at the provincial congress of the DP in Konya, the DP government was accused by the CHP of not following Atatürk's reforms and in 1951, the DP government enacted the Atatürk Law, which banned acts such as attacks and insults on Atatürk statues and busts.

no harm in monopolising state institutions with the authority it received from the people and using it for its own purposes. The background of the constitution was shaped by the common view of the CHP and the junta that carried out the coup. As Toplu, a member of the House of Representatives, stated in his memoirs, the assembly resembled a small congress of the CHP. All members of the party assembly from the CHP quota came to the assembly together with their chairmen. What was seen as the Constituent Assembly was by nature the military junta's advisory council (Toplu, 1976, p. 73). According to Toplu, the two most distinctive characteristics of the House of Representatives were that most of its members had world views close to the CHP, and that the pressure of the National Unity Committee, which had seized power through the coup, was clearly felt on its members (Hale, 2013; Erim, 2005). The inclusion of the constitutional reforms (such as a bicameral parliament, proportional representation, and the Constitutional Court) that the CHP accepted at its 14th Congress held on 12–15 January 1959 and announced as the "First Goals Declaration" in the Constitution prepared after the coup, shows that the CHP was active in the constitution preparation process (Ahmad, 1992). Against this background, the DP was subjected to a military coup on 27 May 1960. Defined as a regime model where the real power lies in other power centres, apart from democratic elected governments, tutelage showed its existence for the first time in the political history of the Republic of Turkey with this coup.

In the literature, it is generally accepted as the most democratic constitution of Turkey because it is the first constitution to adopt the principle of separation of powers, draws a soft framework, widely recognises fundamental rights and freedoms, and contributes to the strengthening of democracy. However, as can be seen in the background explained above, due to the fact that the power was not transferred to the civilian structure after the 1960 coup, and that the military structure was included in the legislative and executive bodies and even under its control, it has a different place in terms of the Turkish State and its legal system with its appearance that includes two different views in the academic world. In this study, the aim is to determine the place of the opinions reflected by the experts on the YouTube platform regarding the 1961 Constitution in the democracy and tutelage pendulum, and its reflections on the present day by using AMOS 22 content analysis. In addition, the study aims to include a systematic analysis of the academic studies conducted for the 1961 Constitution and in this context, the PRISMA technique was employed. As a result of the study, discourse analysis with YouTube videos,

which is an online platform, was provided with AMOS 22 and it was used to evaluate the systematic compilation results of the studies published academically with the PRISMA technique. The study will include a section where the method and material of the study, including the PRISMA method and the flow template of the study, are explained. The findings section of the study is based on the findings obtained in the PRISMA scan and content analysis. As a result of the study, the aim is to determine the place of the 1961 Constitution between the pendulum of democracy and guardianship in terms of academic studies.

2. Method and Material

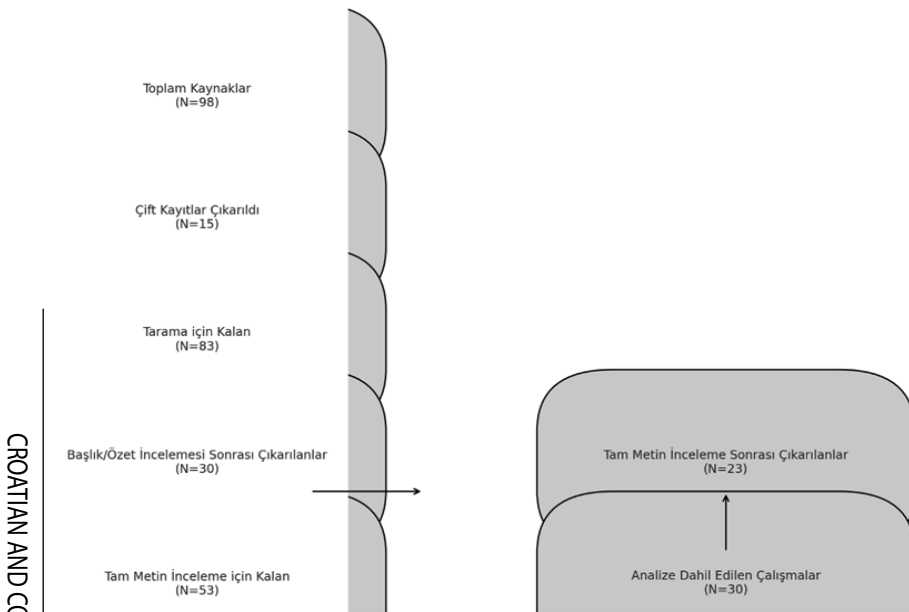
This research aims to examine the position of the 1961 Constitution in the pendulum between democracy and guardianship by examining the 1924 and 1961 Constitutions, together with the amendments made during their periods of validity, within the scope of the Official Gazette and legislation, and then aims to analyse sources related to text and video content, including printed academic publications and digital media content.

The PRISMA method was used for a systematic literature review and selection of academic sources, while AMOS 22 was used to conduct discourse analysis of YouTube video content. This two-stage approach aims to provide a broader perspective by evaluating the social and legal effects of the 1961 Constitution from different perspectives.

The PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) method ensures that the sources used in the literature review of the study are selected systematically. In this context, in order to ensure a structured and transparent selection and synthesis of academic resources on the 1961 Constitution, the literature review was conducted in accordance with the PRISMA guidelines. For the themes of democracy, tutelage, and constitutionalism within the framework of the 1961 Turkish Constitution, JSTOR, ProQuest, Google Scholar, and institutional databases were searched. The keywords “1961 Turkish Constitution”, “democracy and tutelage”, “constitutional development in Turkey”, “military intervention and administration”, “political reforms” were used during the search. Only resources that explicitly addressed the 1961 Constitution or examined its legal and political effects were included, and the resources were limited to works published in English or Turkish. A total of 98 resources were reached in the search. After removing the duplicates

(n=15), 83 resources were screened in terms of relevance based on title and abstract, and those that were not appropriate were removed (n=30). The remaining sources (n=53) were subjected to full text review due to their comprehensive coverage of the 1961 Constitution and its socio-political impact, and sources deemed inappropriate were excluded from the scope of the study (n=23). The study was completed with the sources included in the final selection (n=30). Figure 1 shows the number of qualified articles, book chapters, and theses selected to be examined within the scope of the study in the PRISMA flow diagram.

Figure 1: *PRISMA flow diagram*



Source: Author.

The included sources were categorised according to their thematic focus and then synthesised to identify patterns, legal frameworks, and socio-political interpretations relevant to the study's objectives.

To complement the findings from the systematic review, a qualitative content analysis was conducted on eight selected video recordings of YouTube broadcasts discussing the 1961 Constitution. The videos included discussions by leading experts and commentators and their views on the 1961 law. AMOS 22 software was used to systematically code and analyse

the content, focusing on key themes. The included videos were required to focus on historical and legal interpretations of the 1961 Constitution and to include discussions on democracy, legal reforms, and guardianship dynamics. All videos were publicly available on YouTube and had clear audio and video quality for accurate transcription.

- Transcription: Each video was transcribed verbatim.
- Coding in AMOS 22: Transcripts were imported into AMOS 22 for qualitative coding. The primary codes were identified as core themes of “democracy and tutelage,” “constitutional rights,” “military influence,” and “civilian rule”.
- Thematic Analysis: Coded themes were analysed to identify recurring arguments, expert perspectives, and historical comparisons across the eight videos.

Results from both the systematic literature review (using PRISMA) and video content analysis (using AMOS 22) were integrated to provide a comprehensive view of the legacy of the 1961 Constitution. Findings were assessed in terms of which way the pendulum swung in the binary structure of views between democracy and tutelage.

3. Results

3.1. Results Related to PRISMA Analysis

The relevant articles of the 1961 Constitution and the findings including libertarian and military tutelage based on the PRISMA method are listed in Table 1.

Table 1: *Presentation of the constitutional article of the 1961 Turkish Constitution and libertarian (majoritarian) and tutelage aspects highlighted in the literature review by PRISMA*

Military Guardianship Structures	Aspect of Guardianship	Liberal Structures	Aspect of Freedom
Bicameral Parliamentary System	Establishment of the Senate of the Republic (Art. 70–73): With the 1961 Constitution, a bicameral system was introduced, establishing the Senate of the Republic. Some Senate members were appointed by the president (15 members), and some were <i>ex officio</i> members (former presidents and National Unity Committee members).	Strengthening Fundamental Rights and Freedoms Constitutional Protection of Fundamental Rights and Liberties (Art. 11–34): The 1961 Constitution comprehensively regulated and safeguarded fundamental rights and freedoms, broadly defining individual, social, and economic rights.	The inclusion of appointed and <i>ex officio</i> members creates a guardianship structure in the legislative process, undermining the principle of democratic representation and reducing democratic legitimacy by appointing members outside the public's will (Teziç, 1986; Deniz, 2005; Ete, 2019).
Establishment of the National Security Council	National Security Council (Art. 111): The 1961 Constitution established the National Security Council, institutionalising the influence of military bureaucracy in politics. The Council provides recommendations to the government on national security policies.	Recognition of Social and Economic Rights Principle of the Social State and Social Rights (Art. 41–65): The 1961 Constitution adopted the principle of the social state by expanding social and economic rights, with detailed provisions on rights such as education, work, and social security.	The involvement of military officials in decision-making processes may impose a guardianship mechanism over civilian politics, potentially shaping democratic processes under military influence (Varol, 2012; Özbudun, 2016; Ete, 2019; İnce, 2022; Emekder, 2020).
Executive's Authority to Issue Decrees with the Force of Law	Decree-Law Authority (Art. 64): The Council of Ministers was given the authority to issue decrees with the force of law.	Right to Form Unions and Collective Bargaining (Art. 46–47): Workers and civil servants were granted the right to form unions, join unions, and engage in collective bargaining, which were not regulated in the 1924 Constitution.	Although this authority is exercised with the Parliament's authorisation and within defined limits, the dual decision-making mechanism of the elected (House of Representatives) and appointed (Senate) members involves both popularly elected representatives and appointed senators approved by the president. The sharing of legislative power with the executive may weaken the principle of separation of powers (Özbudun, 1998; Deniz, 2005; Ayhan, 2019; Tunç & Akarçay, 2022; Heper, 1984).

Autonomy of Universities and Broadcasting	Control Over Radio and Television (Art. 121b): Universities were regulated as autonomous institutions, but the establishment of Turkish Radio and Television Corporation (TRT) and inclusion of news agencies meant that the State retained control over radio and television. This limited autonomy, creating a guardianship structure that could restrict freedom of expression.	Strengthening Judicial Independence Judicial Independence (Art. 132; 135; 143): Independence of judges and prosecutors and autonomy of judicial bodies were constitutionally guaranteed.	The 1961 Constitution did not initially establish radio and television as guardianship tools; however, amendments in 1971 imposed restrictions. Unlike the 1924 Constitution, which had left the press free within legal boundaries, the 1961 Constitution initially provided autonomy for radio and television, which later shifted with state-controlled restrictions in 1971. (Temizgüney, 2023; Özbudun, 2012; Koçak, n.d.; İnce, 2022).
Martial Law and State of Emergency Regulations	Declaration of Martial Law and Powers (Art. 124): In states of martial law or emergency, fundamental rights and freedoms may be restricted, granting extensive powers to the executive.	Freedom of Association and Right to Assembly Freedom of Association (Art. 28) and Right to Assembly (Art. 29): Citizens were granted the right to form associations and assemble without prior permission.	The ability to restrict rights and freedoms by law could allow legislative majorities to limit fundamental rights arbitrarily, leading to a guardianship structure (Teziç, 1986; Deniz, 2005; Kuru, 2011; Ete, 2019).
Protection of the Revolutionary Laws	Art. 153: This article stipulates that the Revolutionary Laws, aimed at elevating Turkish society to a contemporary level and preserving the secular nature of the Republic, cannot be understood or interpreted as contrary to the Constitution. This immutability restricts democratic processes and legislative authority, creating a guardianship structure.	Transparency in Public Budget Audits Final Accounts Law Art. 98: This article presents the actualised revenues and expenditures during the budget period to the Grand National Assembly of Turkey, increasing financial transparency and accountability, supporting a democratic structure.	The Revolutionary Laws, which include laws such as the Unity of Education Law, the Hat Law, and the Law on the Closure of Dervish Lodges and Tombs, limit certain personal freedoms and impose certain dress regulations on society (Temizgüney, 2023; Varol, 2012; Tunç, 2020).
Establishment of the State Planning Organisation	State Planning Organisation (Art. 129): The article arranges for economic, social, and cultural development to be planned and for the establishment of the State Planning Organisation.	Autonomy of Universities and Broadcasting Art. 120a: Universities were defined as autonomous public entities with scientific and administrative autonomy. The 1924 Constitution did not contain specific provisions regarding universities.	The state's broad authority for economic planning and intervention over economic life may limit free-market economy and individual entrepreneurial freedom, creating a guardianship structure (Deniz, 2005; İşbir, 2009; Özdemir, 2018).

Protection of Forests and Forest Villagers	Art. 131: The state enacts laws and takes necessary measures to protect forests and expand forest areas, promoting collaboration with forest villagers in forest management. This arrangement promotes environmental protection and social justice, supporting a structure of freedom.	Development of Co-operatives Art. 51: The state takes measures to support the development of co-operatives, encouraging citizens' participation in economic activities and promoting solidarity, strengthening economic democracy and a liberal structure.	The promotion of cooperative development encourages collective action and economic inclusion, supporting an economically democratic and liberal structure (Karademir & Tok, 2023).
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Source: Author.

As can be seen in Table 1, the 1961 Constitution has been evaluated in terms of military tutelage and libertarian structures in Turkey. It has been stated that the establishment of the Senate of the Republic in the bicameral parliamentary system of the Constitution, some of which are composed of appointed members, is contrary to the principle of democratic representation and creates a tutelary structure. The institutionalisation of the influence of the National Security Council in politics as a constitutional institution allows the military bureaucracy to create a tutelary mechanism over civil politics. Similarly, granting the executive the authority to issue decrees with the force of law is interpreted as interference in legislative authority and weakens the principle of separation of powers. In addition, state control over radio and television is seen as a tutelary structure by limiting freedom of the press. On the other hand, libertarian structures also have an important place in the 1961 Constitution. The constitutional guarantee of fundamental rights and freedoms supports a libertarian society by ensuring the protection of individuals' rights. The recognition of social and economic rights within the framework of the principle of the social state offers an understanding of freedom that strengthens social justice by ensuring the welfare of individuals and social justice. Regulations regarding the autonomy of universities and the independence of the judiciary contribute to a liberal structure as a guarantee of scientific freedom, the independence of academic studies, and the rule of law. Recognising the rights to establish unions, establish associations and hold meetings strengthens democratic participation by supporting the freedom of individuals to organise and act collectively. While the Constitution encourages a liberal structure with articles that strengthen economic democracy and social rights, it is seen that some tutelary structures include regulations

that can limit democratic processes and narrow the areas of freedom of individuals. Military and judicial tutelage stand out in the extensions of this tutelary structure. The aspects of military tutelage are given in Table 1. The examination of the judicial instrument with traces of jurocracy is given in Table 2.

Table 2: *PRISMA results showing signs of bureaucracy in the 1961 Constitution in Turkey's quest for democracy*

Military Guardian-ship Structures	Aspect of Freedom
Judicial Review of Administrative Ac-tions, Art. 114	Judicial review is open for all actions and decisions by the admin-istration. This article strengthens the principle of the rule of law by ensuring individuals' freedom to seek legal redress against the administration, embodying a liberal structure (Özbudun, 2016).
Independence of the Courts, Art. 132	Judges are independent in their duties and rule based on the Constitution, laws, and their judicial discretion. This provision establishes judicial independence, ensuring the right to a fair trial and reflecting a liberal structure (Özgürsoy et al., 2020).
Independence of Judges, Art. 133	Judges cannot be dismissed; they cannot be retired before the age stipulated in the Constitution without their consent. This article, by guaranteeing judicial tenure, allows the judiciary to function impartially and independently, highlighting a liberal structure. However, the lack of judicial oversight can sometimes result in the presence of judges associated with criminal actions (Teziç, 1986; Deniz, 2005; Özbudun, 2016).
Powers and Duties of the Constitutional Court, Art. 147	The Constitutional Court reviews the constitutionality of laws and the Rules of Procedure of the Grand National Assembly of Turkey. This article strengthens the rule of law by subjecting leg-islative actions to judicial review, supporting a liberal structure.
Raising Claims of Unconstitutionality, Art. 151	If a court finds a law provision to be unconstitutional, or if one party in a case asserts a serious unconstitutionality claim, the court may suspend the case until the Constitutional Court rules. This article expands individuals' freedom to challenge consti-tutionality in court, reflecting a liberal structure. However, the Constitutional Court may sometimes require individuals to ap-peal first to local or regional courts, potentially creating proce-dural delays, unlike the 1924 Constitution (Deniz, 2005; Kuru, 2011; Özbudun, 2012).
Powers and Duties of the Court of Cassa-tion, Art. 139	The Court of Cassation is the final authority to review decisions and judgments of lower courts. Its members are elected by the Supreme Council of Judges. This provision supports the right to a fair trial by enhancing the judiciary's independence and effec-tiveness, embodying a liberal structure (Teziç, 1986; Özbudun, 2016).

Powers and Duties of the Council of State, Art. 140	The Council of State is responsible for reviewing administrative disputes and performing other duties defined by law. This article reinforces individuals' rights against administrative bodies, supporting a liberal structure. (Teziç, 1986; Özbudun, 2016; Ayhan, 2019).
Discussion and Approval of the Budget, Art. 94–95	Budget proposals are reviewed and approved by the Grand National Assembly of Turkey. This regulation, by affirming the legislative body's financial oversight authority, supports democratic processes, embodying a liberal structure.
Military Jurisdiction, Art. 138	Military justice is administered by military and disciplinary courts. Military courts may try civilians under certain conditions, which restricts the jurisdiction of civil courts and reinforces military guardianship. (Heper, 1984; Varol, 2012; Temizgüney, 2023).
Structure of the Supreme Council of Judges, Art. 143	Members of the Supreme Council of Judges are elected by the General Assembly of the Court of Cassation; however, the Minister of Justice may participate in Council meetings and vote when deemed necessary. This arrangement suggests executive influence over the judiciary, establishing a guardianship structure (Heper, 1984; Teziç, 1986; Özbudun, 2016).
Establishment of the Constitutional Court, Art. 145–152	For the first time, the 1961 Constitution established the Constitutional Court, with the authority to review the constitutionality of laws. In some respects, the Constitutional Court can be considered a guardianship structure; however, it is also viewed as a tool for freedom by citizens, providing recourse against the Parliament's erroneous decisions. From a freedom perspective, the existence of the Constitutional Court ensures the protection of the rule of law and the constitutional order. It offers a mechanism for reviewing actions and decisions of the legislative and executive branches, thereby supporting fundamental rights and freedoms, strengthening the principle of separation of powers. However, the Constitutional Court sometimes rejects individual applications, revealing a preferential stance. (Karal Akgün, 2010; Kuru, 2011; Özbudun, 2012; Tunç, 2020).

Source: Author.

As can be seen in Table 2, various articles of the 1961 Constitution exhibit a complex structure in which liberal and tutelary elements coexist. Articles such as judicial control of the administration (Art. 114), independence of the courts (Art. 132), and security of judges (Art. 133) provide a liberal framework that strengthens the rule of law and supports the freedom of individuals to seek their rights. The regulations on the duties and powers of the Constitutional Court (Art. 147), and the assertion of unconstitutionality in the courts (Art. 151) reinforce the principle of separation of powers by ensuring that legislative acts are subject to judicial control. However, the authority of the military judiciary to try civilians (Art. 138), and the influence of the executive in the structure of the Supreme

Council of Judges (Art. 143) undermine judicial independence, create a tutelary structure, and narrow the area of civilian jurisdiction. The establishment of the Constitutional Court (Art. 145–152) both protects the rule of law as a libertarian mechanism and can take on a tutelary character by exhibiting a preferential attitude in cases where personal applications are not accepted. Therefore, when the constitutional regulations are examined, it is observed that the balance and conflict between the libertarian structures and the signs of tutelage institutions are clearly revealed.

PRISMA findings regarding the tutelage institutions established by the 1961 Constitution and the role of these institutions in the tutelage system are given in Table 3.

Table 3: *Institutions established by the 1961 Constitution and their roles in the state structure*

Institution Name	Role of the Institution according to the 1961 Constitution	Necessity of the Institution and Presentation of Previous Structures
Senate of the Republic	Senate of the Republic (Art. 70–73): Established as the upper house of the legislative body with a bicameral parliamentary system, where some members are appointed by the president, and others are <i>ex officio</i> members.	However, this system constituted a higher body of representatives approved by the public through elections (Heper, 1984; Teziç, 1986; Deniz, 2005; Kuru, 2011; Özbudun, 2016; Tunç, 2020).
State Planning Organisation (SPO)	State Planning Organisation (Art. 129): An organisation established to plan economic, social, and cultural development.	Specifies areas to allocate state budget shares and exerts pressure on the economy (Teziç, 1986; Erdoğan, 2003; Özbudun, 2016; Tunç, 2020).
Supreme Council of Judges and Prosecutors (HSYK)	Supreme Council of Judges (Art. 143): A council regulating the appointment, promotion, discipline, and personal matters of judges.	Shows bureaucratic elements. While it offers freedom regarding the rule of law, its unchecked role in state administration transforms it into a guardianship structure. A dual interaction to convert the judiciary into a democracy is necessary (Teziç, 1986; Heper, 1984; Deniz, 2005; Özbudun, 2016; Tunç, 2020).
Constitutional Court	Constitutional Court (Art. 145–152): A high court that oversees the constitutionality of laws and the Rules of Procedure of the Grand National Assembly of Turkey.	Previously known as the <i>Shura-yı State</i> , reorganised as the Council of State. The 1961 Constitution redefined the duties and structure of the Council of State and established additional institutions like the Constitutional Court and State Supervisory

		<p>Council. The presence of three main institutions with similar roles and one overseeing body supports the bicameral system. The Court of Accounts, known as <i>Divan-ı Muhasebat</i>, records state expenditures financially. However, with the 1961 Constitution, the SPO, which indicates the areas of expenditure, was also established (Özbudun, 2012; Kuru, 2011; Karal Akgün, 2010; Özbudun, 2016; Tunç, 2020).</p>
State Supervisory Council	State Supervisory Council (Art. 108): A council overseeing the legality and efficiency of the administration.	Associations, such as the Bakers' Association, influence prices, which are sometimes controlled without considering inflation. Professional bodies, such as Medical Associations and the Chambers of Architects and Engineers, regulate relations between workers and the state. However, they lack grievance mechanisms and do not collaborate with the state to correct unethical practices. These structures are seen as indirect guardianship tools regulating professions economically (Teziç, 1986; İşbir, 2009; Özbudun, 2016; Tunç, 2020).
Professional Organisations with Public Institution Status	Professional Organisations with Public Institution Status (Art. 122): Established to meet the common needs of professionals. and to promote the development of the profession.	
State Control over Radio and Television	State Control over Radio and Television (Art. 121/b): Article regulating that radio and television broadcasting should be conducted by the state, preventing private enterprise in this field.	Based on this article, TRT was established. Limitations are restricted to being in accordance with public morality, national security, and the principles of the Republic (Teziç, 1986; Özbudun, 2016; Tunç, 2020).
Autonomy of the Turkish Armed Forces (TAF)	Turkish Armed Forces (Art. 110–111): Art. 110 states that the president is the commander-in-chief of the TAF, using this authority through the Council of Ministers. Article 111 regulates the establishment and duties of the National Security Council, with senior commanders of the TAF as natural members.	The TAF gained autonomy with its unique judicial system. While TAF's autonomy does not alone indicate guardianship, its participation in the National Security Council (NSC) reveals a guardianship aspect. The Ergenekon and Balyoz operations and the 2016 coup attempt underscored the necessity of TAF's separate structure and the need for a guardian role in the NSC (Heper, 1984; Kuru, 2011; Varol, 2012; Tunç, 2020; Temizgüney, 2023).
Military Court of Appeals	Military Court of Appeals (Art. 139): The high court of last resort for judgments and decisions rendered by military courts.	

High Military Administrative Court	High Military Administrative Court (Art. 140): A high court that reviews administrative disputes involving military personnel.
National Security Council	National Security Council (Art. 111): A council consisting of military and civilian members that advises the government on national security policies.

Source: Author.

As can be seen in Table 3, the institutions and regulations established by the 1961 Constitution exhibit a complex structure where tutelary structures and democratic mechanisms coexist. While the fact that the Senate of the Republic consists of representatives elected by the people within the bicameral parliamentary system creates a democratic supreme council, the influence of the State Planning Organisation on the economy and its role in the state budget strengthens central planning and state intervention. Although judicial bodies such as the Supreme Council of Judges and the Constitutional Court aim to ensure the rule of law and judicial independence, the lack of control of these institutions and their authority in state administration pose the risk of turning into a tutelary structure, bearing signs of jurocracy. Public institutions and state control over professional organisations and radio and television limit the autonomy of civil society by increasing state control over professional groups and the media, and serve as indirect tools of tutelage. The autonomy of the Turkish Armed Forces and the structure of the National Security Council, on the other hand, reinforce the influence of military tutelage on civilian administration, deepening the tension between democracy and tutelage.

3.2. Content Analysis Results of YouTube Videos Related to the 1961 Constitution

Within the scope of this study, AMOS content analysis was conducted using eight videos on the YouTube platform. Coding was done with the initials of the speakers of the selected video, and since it was open access, the statements were not hidden. Word frequency test was used to determine the main themes related to the content. The flow chart of the word frequency test and frequency analysis is given in Figure 2.

Figure 2 shows the keywords gathered around certain themes in Turkey's political structure, and the frequency of use of these words. The highest frequency is seen for the word "military" (67), and it has been found to be especially prominent under headings such as "Military Influence", "Trusteeship Structure", and "Post-1971 Changes and Discussions". This shows that discussions of military tutelage and security-centred structures are mentioned. In the heading "Democratic Reforms and Civil Rights", the words "democratic" and "social" indicate an emphasis on expanding civil rights. While the concepts of "powers" and "control" draw attention in the theme of "Separation of Powers and Institutional Control", the high frequencies of words such as "social" and "state" in the heading "Social State and Economic Planning" indicate that there are aspects reflected in the social state structure. The distribution in Figure 2 shows the prominent topics among the themes and which titles are discussed more according to the intensity of use. Figure 2 also shows that the theme with the lowest frequency is "Democratic Reforms and Civil Rights", and the word "freedom" is mentioned with only two frequencies.

Opinions on the themes in YouTube broadcasts are given in Table 4.

Table 4: Themes of video content in YouTube broadcasts

Theme	Partici- pant	Opinion
Democrat- ic Reforms and Civil Rights	Güzel & Özipek (2013)	The 1961 Constitution was created by coup leaders through a process that excluded the will of the people, establishing a framework to keep society under control." Güzel and Özipek argue that the Constitutional Court provided oversight over the legislative and executive branches but protected bureaucratic guardianship rather than the popular will. They believe the court was perceived as an obstacle to the people's will, sparking debates on the judiciary turning into a guardianship body.
	Sahar (2022)	For the first time in Turkey, a constitution was put to a referendum and was accepted with around 60% support.
	Yayla & Yılmaz (2021)	The 1961 Constitution, created as a result of a military coup, does not fully reflect the popular will. This is a critique viewing the constitution as limiting public participation.
	Actors of History	The 1961 Constitution developed as a reaction to the repressive legacy of the Democrat Party.
	Köker (2022)	The existence of the Constitutional Court has played an essential role in upholding the rule of law in Turkey.
Separation of Powers and Insti- tutional Oversight	Koçak & Erdem (2014)	Koçak argues that the bicameral system (House of Representatives and Senate of the Republic) and the Constitutional Court aimed to provide oversight over the legislative and executive branches. However, he notes that the bicameral structure sometimes led to political deadlock, particularly in resolving political disputes. Erdem believes that the bicameral structure slowed down the legislative process and did not contribute to stability in governance.
	Actors of History	The Senate of the Republic aimed to contribute to the limitation of power, but the bicameral system led to gridlock.
	Güzel & Özipek (2013)	The National Security Council, as guaranteed by the constitution, serves as a structure that perpetuates military guardianship over the executive and other state organs.
Military Influ- ence and Guard- ianship Structure	Yayla & Yılmaz (2021)	The 1961 Constitution institutionalised military guardianship; the National Security Council (NSC) symbolised the foundations of the military's enduring influence in state governance.
	Köker (2022)	The establishment of the MGK institutionalised military guardianship by intervening in political decision-making processes.
	Yanardağ & Kongar (2023)	The establishment of the State Planning Organisation allowed the state to assume a role in ensuring social justice, and the principle of the social state gained constitutional protection.

Social State and Economic Planning	Köker (2022)	By constitutionally guaranteeing social rights, political participation of social classes was enabled.
	Birand, Dündar & Çaplı (2008)	The social state principle, despite being guaranteed by the constitution, was not successfully implemented due to restrictions.
	Actors of History	The principle of the social state and economic planning was constitutionally safeguarded, but limited resources restricted its applicability.
	Koçak (2022)	The 1971 amendments increased executive power, thereby limiting individual freedoms.
Post-1971 Amendments and Debates	Birand, Dündar & Çaplı (2008)	The 1971 memorandum strengthened military and bureaucratic guardianship, weakening democratic oversight mechanisms.
	Yayla & Yılmaz (2021)	The 1971 amendments expanded executive powers, restricted judicial and press freedom, thereby conflicting with the liberal spirit of the constitution.

Source: Author.

As can be seen in Table 4, in the evaluations made on the 1961 Constitution, the criticisms that the Constitution did not fully reflect the will of the people and preserved bureaucratic tutelage due to its formation as a result of a military coup are prominent. While Güzel and Özipek argue that the Constitutional Court protected bureaucratic tutelage instead of the will of the people, Yayla and Yılmaz (2021) found the participation of the people in the Constitution to be limited. The bicameral system (National Assembly and Senate of the Republic) and the Constitutional Court are said to have aimed to provide control over the legislature and the executive, but occasionally caused political deadlocks. It is emphasised that with the establishment of the National Security Council, military tutelage was institutionalised and the foundations of a permanent military influence in state administration were laid. Although the principles of the social state and economic planning were constitutionally guaranteed, they are deemed not to have been sufficiently successful due to insufficient resources and restrictions in practice. The changes made after the 1971 memorandum have been criticised for increasing the executive power, limiting individual freedoms, and weakening democratic control mechanisms.

4. Discussion

As seen from the PRISMA and content analyses, the Republic of Turkey began to prepare a Constitution in 1961 under the shadow of the existence of the tutelage system. The laws that were continuously enacted during the Menderes period, which were aimed at shaping the people and the opposition and putting pressure on them, were not accepted by the coup government, which was an element of the tutelage system.

The 1961 Constitution, which was accepted after the coup of 27 May 1960, included the following statement in the Constitution: “Nothing in this Constitution should be understood or interpreted as the provisions of the Revolutionary Laws in force on the date this Constitution was accepted by referendum being contrary to the Constitution.”² The text of the Constitution continues with the emphasis that Atatürk’s revolutions are unchangeable principles.³ After the intervention of 27 May, the military government used its *de facto* powers to direct the election process and, after the preparation of a new constitution and election law, handed over power to civilians under the shadow of the Çankaya Protocol (Yıldırım, 2017, p. 171). However, in the 1961 Constitution prepared by the Constituent Assembly (Özbudun, 2016), which included members of the National Unity Committee, in return for withdrawing from power and transferring the country’s administration to civilians, the military put into effect some tutelage institutions, including the guarantee of Cemal Gürse’s election as president.⁴ While these institutions are included in the

² The Revolutionary Laws in question are as follows: 1. Law No. 430 on the Unification of Education, dated 3 March 1340; 2. Law No. 671 on Hats, dated 25 November 1341; 3. Law No. 677 on the Restriction of Dervish Lodges, Zawiyas and Tombs and the Prohibition and Abolition of Turbans and Certain Titles, dated 30 November 1341; 4. The Civil Marriage Law No. 743, dated 17 February 1926, which stipulates that the marriage contract be made by a marriage officer, and Art. 110 of the same law; 5. Law No. 1288 on the Acceptance of International Customs and Traditions, dated 20 May 1928; 6. Law No. 1353 on the Acceptance and Application of the Turkish Alphabet, dated 1 October 1928; 7. Law No. 2590 dated 26/12/1934 on the abolition of titles and nicknames such as Efendi, Bey, Pasha; 8. Law No. 2596 dated 3/12/1934 on the Prohibition of Wearing Certain Attires, see <http://www.anayasa.gen.tr/1961ay.htm>

³ <https://www.tbmm.gov.tr/files/anayasa/docs/1961/1961-ilkhali/1961-ilkhali.pdf>

⁴ The Constituent Assembly, which convened in accordance with the Law on the Organisation of the Constituent Assembly and prepared the 1961 Constitution, had two wings. The first wing of the Constituent Assembly was the National Unity Committee, also known as the military wing. Fourteen members of the National Unity Committee were purged on 13 November 1960, and one member resigned, leaving a total of 23 members. The second wing of the Constituent Assembly was the House of Representatives, also known as the

constitutional provisions and temporary articles regulating the legislative and executive bodies, the army actually carried out a so-called transfer of power and took serious steps towards the institutionalisation of an elitist, bureaucratic, tutelary regime together with the jurists who pioneered this mentality, and thus gained a place for itself in the future of the country. Therefore, it is not possible to say that the 1961 Constitution was prepared democratically with social consensus (Tanör, 2017).

The ideological preferences of the 1961 Constitution were determined by the civil and military bureaucracy (Waldner, 2003) or, in Tanör's words, by the "powers in power" (Tanör, 2017, p. 370) that lost credibility as a result of the DP coming to power repeatedly with the support of the people. The main purpose of the founding power under the control of this government while the draft constitution was being prepared was to prevent a party similar to the DP from coming to power again and gaining sole power over all state authorities. The 1961 Constitution was prepared as a reaction to the Democrat Party government, and made special arrangements on issues that the CHP generated opposition. *Kemalism*, which is described as the official ideology, was included in the 1924 Constitution in 1937 with the addition of the six principles of the CHP to the Constitution (Ortaylı, 2021). In the 1961 Constitution, unlike the 1924 Constitution, *Kemalism* was included in the Constitution from the moment it was prepared and repeated more frequently. In particular, in the introduction section of the Constitution, the ideal of a society devoted to Atatürk's revolutions was expressed, and the Turkish nation was stated to be a society oriented towards the ideal of being an honourable member of the family of world nations with equal rights, thus giving place to the Westernisation element of *Kemalism*. This situation stemmed from the fact that the basic philosophy of the 1961 Constitution was accepted to be the guarantee of fundamental rights and freedoms within the boundaries of Atatürk's revolutions (Aldıkaçtı, 1982). While the Constitution defined the legislature and the judiciary as powers, it defined the executive as a task force, and the fact that the executive was not defined as an authority stemmed from the desire to narrow its area of control. In addition, it demonstrated its distrust of the social majority and its representative elected governments by adding new bodies such as the Senate of the Republic (Art. 70), the National Security Council (Art. 111), and the Constitutional Court (Art. 145–152) to limit its powers (Erdoğan, 2003).

civilian wing. The composition of the House of Representatives was regulated by Law No. 158 on the Election of the House of Representatives.

The 1961 Constitution is widely accepted in its doctrine of bringing fundamental rights and pluralistic democracy. Indeed, it includes fundamental rights and freedoms in a broad and guaranteed manner. Art. 2 of the 1961 Constitution, which specifies the characteristics of the Republic of Turkey, emphasises its feature of “being a state based on human rights” (Nutuk, 2017, pp. 231–232). Again, unlike the 1924 Constitution, the 1961 Constitution grants the legislative body a limited discretion in its regulations regarding freedoms. For example, according to Art. 28 of the Constitution, everyone has the right to hold unarmed and peaceful meetings and demonstrations without prior permission. In the face of this provision, the legislative body and the administration cannot bind the right to hold meetings and demonstrations to prior permission. One of the most important provisions in the 1961 Constitution regarding fundamental rights and freedoms is Art. 11. According to the article, fundamental rights and freedoms can only be limited by law and in accordance with the letter and spirit of the Constitution. This provision brings two elements to the limitation of freedoms: first, that the limitation of freedoms must be made by law, and second, that the limitation can only be made in accordance with the letter and spirit of the Constitution. According to paragraph 2 of the same article, the essence of a right or freedom cannot be violated by law, even for reasons of public interest, general morality, public order, social justice, and national security. The paragraph in question provides the guarantee of the “essence of the right” for fundamental rights and freedoms. Therefore, legal regulations regarding fundamental rights and freedoms cannot include regulations that will harm or hinder the essence of these rights or freedoms (Özbudun, 2019).

One of the most effective innovations brought by the 1961 Constitution in the protection of fundamental rights and freedoms is undoubtedly the adoption of constitutional judiciary. With this, the constitutionality of the laws made by the legislative power was monitored, thus preventing all provisions regarding the rights and freedoms of individuals or the road-map drawn by the Constitution from becoming dysfunctional (Andrews, 1976). The most important element that guarantees the fundamental rights and freedoms mentioned in modern constitutions in the democratic sense is the limitation of state power. The most effective way to limit state power is to provide balance and control by adopting the separation of powers that guarantees the independence of the legislative, executive, and judicial powers from each other (Soysal, 2011). The 1961 Constitution adopted a soft separation of powers (Yıldırım, 2009). Over time, as political parties gained importance and influence, and especially in government

regimes that adopted systems based on the trust of the legislature, there was naturally a harmony, identity, or unity between the parliament and the executive; the real actor of the principle of separation of powers is the judiciary, which is independent of both the legislature and the executive and can monitor them (Murphy, 2009).

In the 1961 Constitution, while legislative power belonged to the National Assembly and the Senate, executive power was divided between the president and the Council of Ministers. The president was given more representative authority in accordance with the parliamentary government system, and efforts were made to ensure that the judiciary was fully independent (Heper, 1984). As there was no constitutional judiciary in the 1924 Constitution, the constitutionality of laws could not be truly monitored. Since the independence of the judiciary with all its institutions was recognised in the 1961 Constitution, the separation of powers was moved from theory to practice (Gözler, 2019). State authority can be shared not only horizontally, that is, within the institutions themselves, but also vertically, that is, between the central government and local government units. In this context, the 1961 Constitution also brought innovations in terms of the principle of decentralisation (Gözler, 2018). Art. 116 of the 1961 Constitution made it a constitutional principle that the decision-making bodies of local governments be elected by the people. In addition, it was accepted that these decision-making bodies elected by the people cannot be dismissed by the central government without a judicial decision, and the autonomy of local governments was constitutionally guaranteed.

The 1961 Constitution also introduced important regulations regarding the judiciary and judicial independence. The independence of the courts and the recognition of the security of tenure are the first striking elements. In addition, a higher council called the Supreme Board of Judges was established to guarantee the independence of judges. The 1961 Constitution also regulated courts such as the Court of Cassation, the Council of State, the Military Court of Cassation, and the Court of Jurisdictional Disputes one by one. However, the greatest and most important innovation that the Constitution brought to the judiciary is undoubtedly the establishment of a Constitutional Court, which is responsible for reviewing the constitutionality of laws.

The 1961 Constitution introduced another important understanding of pluralistic democracy, which rejects the absolute sovereignty of the majority, argues that the political and cultural rights of the minority should be recognised and that the minority should be given the right to become

the majority one day, and takes the necessary measures to achieve this. However, while the authority to represent sovereignty in the 1924 Constitution belongs only to the legislative body, the 1961 Constitution did not adopt this understanding alone. While the Constitution points to pluralism by emphasising that sovereignty belongs to the Turkish nation without any reservation or condition, Art. 4 states that sovereignty “will be exercised by authorised bodies in accordance with the principles set forth in the Constitution” and, in this context, state bodies other than the Turkish Grand National Assembly are also included in the exercise of sovereignty (Gözler, 2022). This attitude reveals that a tutelary attitude has been adopted by creating common institutions for the sovereignty of the people. In other words, other state organs will also be able to use sovereignty in a limited manner within the framework of the rules set forth in the Constitution.

While the 1961 Constitution defines the legislative and executive powers as powers, the definition of the executive power as a duty in Art. 6 of the Constitution gains importance in this context. On the other hand, the first thing that needs to be said about the 1961 Constitution is that it is a text that has made significant progress towards democracy, is pluralistic, based on fundamental rights and freedoms, liberal, and based on the rule of law. However, while accepting this view, there are also many who express negative views about the Constitution. Indeed, advocates of this view have claimed that the 1961 Constitution has led to weak governments and criticised it for not being integrated with the sociological elements of the country. Again, while the effectiveness of the military and civil bureaucracy was increased with the 1961 Constitution, the effectiveness of political power was sought to be limited. For this reason, the 1961 Constitution included institutions that strengthened the military and civilian bureaucracy, which are described as tutelage elements in the doctrine, and that limited the representatives of the political majority (Özbudun, 1998).

After the intervention on 27 May, the military administration transferred power to civilians under the shadow of the “Çankaya Protocol”. However, in the 1961 Constitution, prepared by the Constituent Assembly that also included members of the National Unity Committee, the military administration obtained various tutelage powers in return for transferring power and transferring the country’s administration to civilians. The first and perhaps most important of these institutions is the presidency. The 1961 Constitution envisioned the presidency as an impartial and supra-partisan institution, and the relationship between the presidency and the

democratic majority was severed with the claim that the president must be impartial for the parliamentary system to be effective (Öztürk, 2016). While the president was elected by the majority of the Assembly for a legislative term in the 1924 Constitution, the 1961 Constitution determined this to be a single term of seven years, thus aiming to ensure the impartiality and non-partisanship of the office (Öztürk, 2016). In addition, the elected president separated from his party and the Grand National Assembly of Turkey, thus becoming independent of the legislative majority. In both constitutional periods, the president's power to veto laws was of a suspensive veto nature. In the 1961 Constitution period, the first president of the Republic was elected under open pressure from the military and through undemocratic methods, while Cemal Gürsel was elected president with the authority granted by his political mission as the representative of the military coup plotters. Thus, the tradition of the military-based presidency that began with the 1921 and 1924 Constitutions was continued with the 1961 Constitution, completely severing its connection with the democratically constituted parliament (Tanör, 2017). Cemal Gürsel, Cevdet Sunay, and Fahri Korutürk, who were elected as presidents under the 1961 Constitution, were both military and non-political party members (Gönenç, 2017).

The presidential mission of the 1961 Constitution was clearly revealed in the Memorandum of 12 March. This process exemplifies the tutelage function of the presidency. During the Memorandum of 12 March, President Cevdet Sunay, elected by the majority of the Parliament, sided with the military against the majority of the Parliament and did not take the initiative to block the memorandum (Birand, Dündar & Çaplı, 2008). In other words, the president, who received authority from civilian politics, left the side of democracy and joined the side of tutelage. This situation shows the military tutelage effect of the presidency institution envisaged in the 1961 Constitution on civilian politics.

Another important institution is the organisation of the Senate of the Republic. The 1961 Constitution envisioned the Parliament as a bicameral structure consisting of the National Assembly and the Senate of the Republic. While the National Assembly consists of 450 members elected by universal suffrage, the Senate of the Republic consists of three different groups of members. The first group consists of 150 members elected by the people, while the second group consists of 15 members appointed by the president. The term of office of members elected by the people and appointed by the president is six years. The third group consists of members of the National Unity Committee and former presidents, who will serve for life and are considered natural members. Since the 1961 Consti-

tution was prepared with a mental infrastructure that did not trust the will of the people, it organised the Senate of the Republic as the second part of the legislative authority to monitor/balance the National Assembly. Thus, it designed the Senate of the Republic as a kind of insurance against the possibility of the majority in parliament making laws that would pose a threat to the official ideology. The basic expectation from the Senate of the Republic is to protect the principles of the Second Republic and Atatürk's principles and reforms against the representatives of the social majority. When the implementation process is examined, the Senate of the Republic did not adopt a protective attitude against the freedoms envisaged in the 1961 Constitution regarding the declaration of martial law and the implementation of martial law, and did not thoroughly examine the decisions of the Assembly (Eroğul, 1977). Both in the process leading up to the Memorandum of 12 March and on the eve of the coup of 12 September, the Senate of the Republic did not reflect the demands of different segments of society to the parliament, and did not mediate a compromise between the political power and the social demands (Ağır, 2013). According to the analysis, 90% of the texts adopted between 1961 and 1977 were enacted without any changes as they came from the Assembly to the Senate of the Republic. During this period, the Senate of the Republic used the authority to change or reject only 7% of the legal texts that had come before it. For this reason, the two-month period required for negotiations in the Senate of the Republic during the legislative process was described as lost time (Eroğul, 1977). In this respect, it is difficult to say that the Senate of the Republic served the purpose of preparing more qualified laws in practice. In the period between 1961 and 1980, the Senate of the Republic became an intermediary institution used especially in the presidential election process. Indeed, during this period, two out of three elected presidents, five out of 14 prime ministers, and a total of 65 ministers in the formed governments became members of the Senate of the Republic (Eroğul, 1977, p. 86). This situation shows that in practice, the Senate of the Republic fulfilled the function of establishing political connections that would be effective in the executive branch rather than fulfilling the basic functions clearly stated in the law (Eroğul, 1977). In other words, it can be seen that the Senate of the Republic fulfilled its function of protecting the official ideology not by supervising the laws but by acting as an institution that would design civil politics and select political figures who would manage the political power.

Another important institution in the context of tutelage was the establishment of the National Security Council. While the Supreme National

Defence Council Law was in effect after 1960, the most important reason for the establishment of such an institution in the 1961 Constitution was that the military authority wanted to maintain its strong position against the civil authority after the coup of 27 May (Özbudun, 2016). In this way, it was aimed for the military to control and direct civil politics through the National Security Council without having to seize political power directly, and for the military's senior executives to be effective in national security policies (Tachau, 1984). However, due to both the broad interpretation of the concept of national security in practice and the political conjuncture of the period, the institution had much more influence than the authority granted to it by the Constitution (Özbudun, 2016). The Council obtained this effective authority with the National Security Law No. 129, which was enacted in 1962 and repealed Law No. 5399. In fact, according to Law No. 129, the Council was responsible for presenting basic opinions to the Council of Ministers on issues such as determining and adopting national security policies and taking necessary measures regarding national mobilisation services (Arslan, 2005). However, although there is no clear provision in the law on what the Council of Ministers will do regarding these opinions conveyed to it, the expression "to follow up on the implementation of the decisions, principles and plans proposed by the National Security Council and approved by the Council of Ministers ... " in Art. 3 regarding the duties of the General Secretariat of the National Security Council shows that the Council has a broader authority extending from national defence to national security. Another important regulation in the 1961 Constitution that brought military-civilian relations to a different position and made the military stronger against civilians is that it made the Chief of the General Staff directly responsible to the prime minister. In the 1924 Constitution, the Chief of the General Staff was made responsible to the minister of national defence (Özbudun, 2016). Thus, the Chief of the General Staff, who was placed in the ministerial status at least formally, became politically more effective than the ministers, and even more effective than the prime minister at times, owing to his psychological superiority in the actual situation after the coup of 27 May.

Although it may not seem appropriate at first glance, another important institution is the establishment of the Constitutional Court, which legally supervises the political body (Gönenç, 2010). The drafters of the 1961 Constitution were influenced by the rising understanding of freedom in the world and aimed to establish a state based on human rights by expanding the category of fundamental rights and freedoms. However, this aim, as can be seen in Table 1, turned the military forces into a closed autonomous

structure and left the tutelage institutions developed with the jurocracy as partners and controllers of power, as can be seen in Table 2. In addition, the existence of the NSC and the 1961 Constitution seem to have created a tutelage system that put pressure on the government, first leading to the memorandum of 12 March 1971 and then the coup of 12 September 1980, and also paved the way for the popular vote by putting pressure on the people through the constitutional amendments that were made.

5. Conclusion

This study aims to analyse the place of the 1961 Constitution in the pendulum of democracy and tutelage in Turkey. The historical background, political tensions during the DP government, and the political and legal environment following the military coup of 27 May 1960 were examined by taking into account the systematic literature review conducted with the PRISMA method and YouTube video content analysis performed using AMOS 22, which revealed both libertarian and tutelary elements of the 1961 Constitution.

The findings of the study show that the 1961 Constitution adopted the principle of the social state by expanding fundamental rights and freedoms, and strengthened the independence of the judiciary. The Constitution includes libertarian structures such as the right to establish unions, the autonomy of universities, and the recognition of social and economic rights. However, at the same time, tutelary structures such as the formation of the Senate of the Republic with appointed members, the establishment of the National Security Council, and the authority of the military judiciary to try civilians were also included in the Constitution. In the PRISMA analysis, the tutelary aspects and libertarian structures of the Constitution were examined item by item, and the balance between these structures was seen to emerge in a complex way. It was seen that the preparation process and content of the 1961 Constitution were in a pendulum between democracy and tutelage. While the Constitution aimed to create a democratic social structure by expanding fundamental rights and freedoms, on the other hand, it narrowed the area of civil politics by institutionalising military and bureaucratic tutelage. The limited participation of the people in the preparation of the Constitution, and the impact of military intervention made its democratic legitimacy questionable.

In the discourse analysis conducted with AMOS 22, in line with the opinions of experts, criticisms that the 1961 Constitution institutionalised

military tutelage and did not fully reflect the will of the people came to the fore. It was concluded that institutions such as the National Security Council and the Constitutional Court in particular functioned as mechanisms that monitored and directed civil politics.

As a result of the study, the 1961 Constitution was found to be have been an important turning point in Turkey's quest for democracy, but it could not establish a balance between democracy and tutelage due to the existence of tutelary institutions. Although the Constitution contributed to democratic developments with its libertarian provisions, it has a feature that restricts civil politics and prepares the ground for military interventions with its tutelary structures. In this context, the dual structure seen in the analysis of the 1961 Constitution reflects the fundamental problems Turkey has encountered in the democratisation process. Strengthening democratic institutions and eliminating tutelary structures are of critical importance for Turkey's democratic development. It has become clear that approaches that fully reflect the will of the people, secure fundamental rights and freedoms, and expand the scope of civil politics should be adopted in future constitutional arrangements. The analysis of the 1961 Constitution in the pendulum of democracy and tutelage provides an important framework for understanding the complex relations and balances of power in Turkey's political history. This study highlights both the liberal and tutelary aspects of the Constitution, and highlights the difficulties Turkey has encountered in the democratisation process as well as the steps necessary to overcome these difficulties.

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ANALYSIS OF THE 1961 CONSTITUTION IN THE PENDULUM OF DEMOCRACY AND GUARDIANSHIP IN TURKEY

Summary

This study systematically analyses the 1961 Turkish Constitution, which was established after the 1960 military coup, by examining its dual structure within the framework of democracy and military tutelage. Using the PRISMA method for systematic literature review and AMOS 22 for qualitative content analysis of expert opinions from YouTube videos, it investigates how this Constitution balances democratic freedoms with institutionalised tutelage. The 1961 Constitution is recognised for expanding fundamental rights, establishing judicial independence, and introducing the concept of a social state, significantly advancing democratic standards in Turkey. It comprehensively guaranteed individual, social, and economic rights, ensured judicial autonomy, and supported freedoms such as unionisation and collective bargaining. However, the same Constitution institutionalised military control and embedded military influence in civilian politics through the establishment of tutelage bodies such as the Senate of the Republic and the National Security Council, which were composed of partially appointed and ex officio members. Measures such as executive decrees and state control over broadcasting further reflected elements of tutelage. The tutelary structures constrained democratic governance by establishing checks on elected civilian authorities. Content analysis of expert discussions revealed critical perspectives that emphasised that the Constitution did not sufficiently reflect the will of the people due to its formation process under military influence. Experts emphasised the role of institutions such as the Constitutional Court and the National Security Council as entities that perpetuated bureaucratic and military tutelage rather than fully protecting democratic principles. The study highlights the internal contradictions in the 1961 Constitution, showing how it oscillates between strengthening democracy and strengthening tutelage. This dichotomy reflects Turkey's broader political tension between civilian democratic aspirations and persistent bureaucratic-military influence. The study argues that for a strong democratic evolution, future constitutional reforms must eliminate the remaining tutelary structures, ensure a clear alignment with democratic governance, and reflect popular sovereignty.

Keywords: 1961 Constitution, democracy, military tutelage, constitutional law, Turkey, political institutions, governance

ANALIZA USTAVA IZ 1961. NA KLATNU IZMEĐU DEMOKRACIJE I VOJNOG SKRBNIŠTVA U TURSKOJ

Sažetak

Ova studija sustavno analizira turski Ustav iz 1961. godine, koji je uspostavljen nakon vojnog udara 1960. godine, ispitujući njegovu dualnu strukturu u okviru demokracije i vojnog skrbništva. Koristeći PRISMA metodu za sustavan pregled literature i AMOS 22 za kvalitativnu analizu sadržaja stručnih mišljenja iz YouTube videa, rad istražuje kako Ustav iz 1961. uravnotežuje demokratske slobode s institucionaliziranim tutorstvom. Ustav iz 1961. poznat je po proširenju temeljnih prava, uspostavljanju neovisnosti pravosuđa i uvođenju koncepta socijalne države, čime su znatno unaprijeđeni demokratski standardi u Turskoj. Sveobuhvatno je zajamčio individualna, socijalna i ekonomska prava, osigurao autonomiju pravosuđa i podupro slobode kao što su sindikalno udruživanje i kolektivno pregovaranje. Međutim, isti je ustav institucionalizirao vojnu kontrolu i ugrađeni vojni utjecaj u građanske politike uspostavom tutorskih tijela poput Senata Republike i Vijeća za nacionalnu sigurnost, koji su bili sastavljeni i od imenovanih članova i od članova različitih institucija po službenoj dužnosti. Mjere poput izvršnih dekreta i državne kontrole nad emitiranjem dodatno su odražavale elemente tutorstva. Skrbničke strukture ograničavale su demokratsko upravljanje uspostavljanjem kontrole nad izabranim civilnim vlastima. Sadržajna analiza stručnih rasprava otkrila je kritičke perspektive koje su naglašavale da Ustav nije u dovoljnoj mjeri odražavao volju naroda jer je nastao pod vojnim utjecajem. Stručnjaci su naglasili ulogu institucija kao što su Ustavni sud i Vijeće za nacionalnu sigurnost kao tijela koja održavaju birokratsko i vojno tutorstvo umjesto da potpuno štite demokratska načela. Studija naglašava unutarne proturječnosti u Ustavu iz 1961., pokazujući kako je on oscilirao između jačanja demokracije i jačanja tutorstva. Ta dihotomija odražava širu tursku političku napetost između civilnih demokratskih težnji i stalnog birokratsko-vojnog utjecaja. Studija tvrdi da buduće ustavne reforme moraju eliminirati preostale strukture skrbništva, osigurati jasno usklađivanje s demokratskim upravljanjem i odražavati narodnu suverenost.

Ključne riječi: Ustav iz 1961., demokracija, vojno skrbništvo, ustavno pravo, Turska, političke institucije, upravljanje