

Question 1:

Mehmet writing a book about the concept of better justice and better judiciary is a challenge in today's world.

We observe the debates in the U.S. for example.

But especially in Turkey where we have more problems.

Why did you write this book?

- Actually, my life story tells you why. I want to give back to my country. Because this incredible country has made me who I am now, and gave me all I have.
- When I was turning 50 years of age, I began to search for my purpose for the rest of my life. Setting to write my professional biography for the 25th anniversary of my firm helped me to identify it. It took 3 years and many, many pages to write it. While reducing it to around 500 pages I had a chance to reflect in the past and to distil all my experiences.
- As an enthusiastic lawyer I had become very frustrated. Because in all sizeable cases that I took on, despite I put all my efforts courts could not deliver proper justice. However in my international matters judiciaries in other countries were much more efficient and I could see that by their good service they contributed to their societies immensely. On the contrary to me the Turkish judiciary is a burden and an obstacle to the society.
- I realized that the systemic failing of the judiciary was not only frustrating me but deteriorating the society and my beloved country. I could not stop there. Instead of enjoying life and indulging I had to do something to solve this challenging but intellectually stimulating problem.
- Then I found my purpose, charted my way, and moved on.
- I formed the Better Justice NGO as a think tank, and focused on shortages of the judiciary and the areas of failure of rule of law in Turkey.
- I have kept away from politics, because I don't like it. But later I discovered that the failings of the judiciary were also main causes of failings of Turkey's Democracy.
- This is why I decided to write this book.
- I want to see Turkey transform through the rule of law to an advance democracy; I want to help it become one of the most prosperous countries in the world and, set an example for other countries on a similar journey.
- I would also very much want Turkey to contribute to international community with solutions to global issues in these areas. Because they are not unique to Turkey but they are issues for the world searching for better democracy, social progress and sustainable development.

Question 2:

The title of your book, Turkey's Middle democracy, evokes the economical concept of middle-income or rather middle-income trap as they call it.

Is Do you see any correlation in between and is are you talking about a similar trap?

- The term “middle democracy” was introduced by Türkonfed earlier when they identified the connection between Turkey’s the middle income and middle democracy levels.
- In fact the book came about upon a request by Türkonfed; and later they adopted the executive summary as a policy document.
- Türkonfed is the Turkish equivalent of SME Europe. It is the largest voluntary NGO in Turkey. It covers all of Turkey with more than 260 business NGOs and, more than 25,000 SMEs.
- The main message of the book is that **to increase its GDP to higher levels** Turkey needs to improve its middle democracy to advance levels
- To me, **when the basic institutions** of a democracy exist but **do not function properly it is a middle democracy**. When the institutions **function properly or better it is an advanced** democracy.
- Although it has been backsliding last few years, I think Turkish democracy is at middle level. It would be inaccurate to consider it as a hybrid one.
- I agree with The Economist’s description that a hybrid democracy is the one where we *see a combination of autocratic features with democratic ones.*” However, this is not sufficient to reach to concrete conclusions. We need to analyze the sources of autocratic features and determine whether it is sustainable.
- I think what should distinguish middle democracy from hybrid is the answer to these two questions: (1) **Whether the ruler allows the judiciary** (to function in a limited manner especially when it comes to limiting the ruler himself?) and (2) **Whether he failings of the judiciary allows the ruler** (to become autocratic?) If it is the latter, then it should be considered as middle democracy. To me the situation in Turkey is the latter and therefore Turkey is in the middle democracy level.
- However, the line dividing between the two levels is very weak and it can, very easily, develop into either way.
- Every nation must be very wary of this current danger to democracies.
- I have read that Lord Kerr recently said: “UK needs judges to limit the executive.” I believe the UK’s judiciary will never allow the executive to become autocratic. However, Turkish judiciary, currently is unable to do so. Thus, the opinions about Turkey becoming an autocracy.
- Therefore, to me the major determinant of a country’s democracy level is in fact, the degree of independent and efficient functioning of its judiciary.

Question 3

Turkish democracy has had a number of political problems like coups and coup attempt which had consequences in the legal framework.

There were new constitutions written after 1960 and 1980
coups and 2016 defeated coup attempt.

Why couldn't they solve the problems?

- Please can my team share the diagram (X)
- Turkey has come a long way to develop a Western style democracy with many ups and downs. I find it natural in developing a homegrown democracy.
- It is true that Turkey's trajectory of democratization begun to decline in recent years. However, we should remember that in 2004, the European Commission had qualified Turkey as "sufficiently meeting the Kopenhagen democratic criteria of the European Union".
- Despite ups and downs Turkey's democratization journey cannot be reversed. Because Turkish state has strongly accepted democratic governance; and people strongly desire to be ruled by democracy with justice and under the rule of law.
- Turkey's current democracy issues emanate from the 1982 constitution imposed by the Military rule. The Military rule; suppressed the anarchy, but with the 1982 Constitution created more problems.
- They designed the executive of the state powers as the strongest, and the judiciary as the weakest.
- Aiming to end coalitions the military rule gave to the political parties who can garner 35% of the voters the 2/3 majority of seats in the legislator.
- The 1982 constitution separated the judicial council from the Ministry of Justice on the paper but in reality, made it more dependent on the ministry justice, in a manner that it is unable to function in absence of the minister. The council was designed to control judges and prosecutors and not to limit the executive from influencing their independence.
- In the past it was the military who had tutelage and control over the council; nowadays it is the ruling politicians.
- Politicians benefit from a faulty system that gives them control over the judiciary. Why should they correct it?
- In summary, I think the answer is this: It is not that they could not solve the problems; they did not want to...



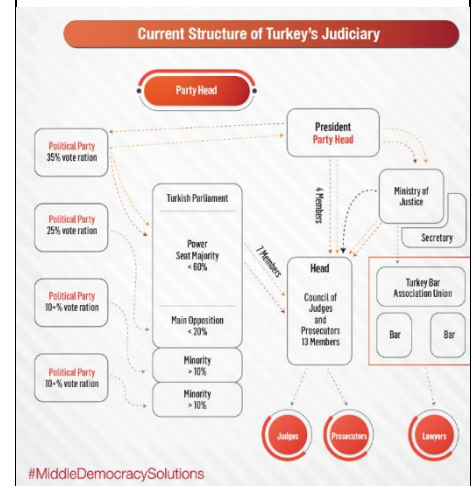
Question 4

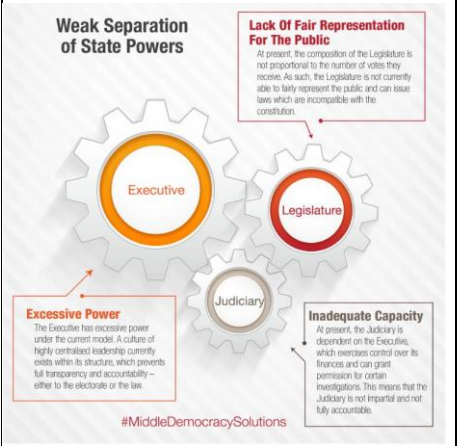
So, if we keep focused on the judicial branch of state –reform to the judiciary is key to strengthening Turkey’s democracy...

...you mentioned the Council of Judges and Prosecutors, earlier, and the tutelage, as well as attempts to control them.

Can you expand on who the Council are, and what role they play?

- The Council of Judges and Prosecutors is the body that governs the judiciary and the courts in Turkey. It promotes, discipline and assign judges and prosecutors. Admissions are done by the Ministry of Justice.
- **No judicial remedy is available** against any of its decisions.
- The Council is **not transparent** either.
- The council appoints members of **the Court of Cassation and the State Council** and **influence the formation of the Supreme Election Council**. Because representatives of these two high courts make up the Supreme Election Council.
- **Supreme Election Council has absolute power on to decide on elections**. It is this council that cancelled the mayoral elections in İstanbul a couple of years ago. There is no judicial remedy against their decisions, either.
- **The Council is at the heart of Turkey’s judicial and election system. Therefore, it is no surprise that politicians interfere with the composition and control of its members.**
- Please may we show diagram (x)?
- The Council for Judges and Prosecutors **exist in many countries** though with diverse authorities. The **common characteristic** of all of them is that they function **to limit the executive’s role and influence on judges** and prosecutors so that their independence can be protected. Accordingly, majority or all members of the councils are appointed by professionals.
- The purpose and the composition of **Turkish Council is totally contrary** to the original idea. **Judges and prosecutors do not appoint members** of the Council. And the Council is not there But rather to manage and to control judges and prosecutors. Independence is left to the professionals’ integrity.
- It is currently a 13-member body for the judges and prosecutors.
- 7 of its members are appointed by the parliament. And the President appoints (6) of them; 2 of them being the minister of Justice and ministers’ undersecretary.



	<ul style="list-style-type: none"> • Also the Minister of Justice is the president of the council and his undersecretary takes vice president position. The council cannot convene or resolve in their absence. • It is really important to remember that a political party determining all 13 members to the Council, needs only get 35% of the votes. 	
<p>Question 5</p> <p><i>The political influence on the judiciary has always been a problem in Turkey.</i></p> <p><i>The practice of filling positions with politically affiliated judges and prosecutors, as we have seen in the Gülen case before the 2016 coup attempt and nowadays continue in different forms.</i></p> <p><i>Doesn't it boil down to weak separation of powers?</i></p>	<ul style="list-style-type: none"> • In my view, actually, it boils down to the poor design of the judiciary. • Misalignment of the weak judiciary and strong executive weakens the separation of powers, and causes Turkey to be a Middle Democracy. • Infiltrations into the judiciary were due to deficits in the Council's weak design. In fact weakness in design is what is needed for the tutelage that the military rule had established. • Both military and civil governments either directly placed their trusted people in the judiciary or their oversight allowed people with allegiances either as trojan horses for religious sects or trusted agents to infiltrate. • It was impossible for society and the Judicial Council to interrupt infiltrations simply because it lacked transparency and accountability. These two concrete deficits made it impossible to intervene to preserve independence of the Council. • (First:) Lack of transparency meant that the Council could decide arbitrarily and according to the desires of their true rulers; and (Second:) Lack of accountability meant that the Council could get away with arbitrary acts and decisions as it was not legally challenge before any court of law. • Therefore, I strongly believe that the solution of Turkey's Middle Democracy issues lies with the solution of the judiciary's weaknesses; i.e. transparency and accountability. 	 <p>Weak Separation of State Powers</p> <p>Lack Of Fair Representation For The Public At present, the composition of the Legislature is not proportional to the number of votes they receive. As such, the Legislature is not currently able to fairly represent the public and can issue laws which are incompatible with the constitution.</p> <p>Excessive Power The Executive has excessive power under the current model. A culture of highly centralized leadership currently exists within its structure, which prevents full transparency and accountability – either to the electorate or the law.</p> <p>Inadequate Capacity At present, the Judiciary is dependent on the Executive, which exercises control over its finances and can grant permission for certain investigations. This means that the Judiciary is not impartial and not fully accountable.</p> <p>#MiddleDemocracySolutions</p>
<p>Question 6</p> <p><i>And you claim that an independent judiciary could tackle the issue of human rights and freedom of expressions.</i></p>	<ul style="list-style-type: none"> • I believe that the substantive laws in Turkey for protection of human rights and freedoms are well developed and sufficient. But these fine laws are not properly implemented, and freedoms are compromised. 	

How will that work and will political forces let it happen?

- The judiciary fails to protect freedoms. Not only because of its poor design but also because its inefficiency, arbitrary customs, and incapacity to deliver proper service to society **judiciary itself also, restrict freedoms.**
- For example, **the criminal judges of peace** were introduced to safeguard freedoms but flawed design, inefficiency, unaccountability, and the political influence **turned them against freedoms.**
- The good news is that, I observed during my conferences throughout Turkey that, **people from all sectors of public, business world - small, medium or large businesses have been craving for reform** and are asking for justice, an independent judiciary, and advanced democracy; irrespective of political party they support.
- However, politicians have not met this desire. Instead with inaccurate and inappropriate changes they made they helped themselves.
- Obviously, in a democracy NGOs are natural civil organizations to volunteer and lead the change in the way the public desires. As two respected civil NGOs Better Justice Association and Türkonfed has developed a comprehensive solution to fully address what public really need and desire.
- We have already received very strong approval of our proposal. Our joint structural reform conferences throughout Anatolia were well attended. And in an interval survey of Türkonfed it was voted the top approved activity.
- When we **demonstrate to ordinary people the link between finding a good paying job, flourishing enterprises and efficient judiciary, advance democracy** and the rule of law I am sure public will support and will ask politicians to realise it. At the end politicians will also agree to realise.