

**The UK Parliament, the House of Lords**  
**Roundtable Discussion on the Future of the Rule of Law in Türkiye**  
**on 23 May 2023, Tuesday**

**Opening Remarks by Mr. Mehmet Gün**  
**Chairman of the Better Justice Association**

Good morning! I would like start by thanking Lord Iain McNicol for his support. And thank you all for coming to our event this morning.

**Who am I?**

My name is Mehmet Gün. I am one of Türkiye's many truly self-made people – known colloquially in Türkiye as the Children of Anatolia. I was born in a remote village in central Anatolia. I had to overcome many difficulties to continue education after primary school. By pure chance I got to study law instead of becoming a primary school teacher. I learnt English at the age of 25, and from scratch I developed one of the largest law firms in Türkiye. My eponymous law firm and I have earned a global reputation, especially in Intellectual Property law.

Back in the 1990's when I represented the administrators of the collapsed Polly Peck International business, I was exposed to the British legal system.

I learnt a lot from the British lawyers I worked with and will forever be grateful for that.

Having developed my law firm into a fine institution allowed me to set out on another journey. In 2010, consulting with colleagues in the legal industry, communication experts, some trusted journalists and some confidants in the business world I charted my course, launching the Better Justice Initiative. I am thankful to Professor Ali Murat Vural, who has travelled to London with our delegation, for his uninterrupted company on this almost 13 year-long journey.

The Better Justice Initiative became an NGO in 2014 – the Better Justice Association (BJA). The founders of BJA are jurists, retired judges, businesspersons and lay people. At the outset we agreed that BJA would be an independent and no-partisan think-tank.

The BJA's mission is to identify problems with Türkiye's judicial system, the root causes for these issues, and developing universally acceptable and innovative solutions to improve the judiciary.

We identified that the BJA's key stakeholders would be the lawyers' bars and business world NGOs notably TÜSİAD, the Turkish Industrialists and Entrepreneurs Association. TÜSİAD is an NGO with an immense accumulation of knowledge and resources. It is probably the most influential business interest group - come think tank in Türkiye. TÜSİAD members represent almost 80% of the industrial output in Türkiye. It is almost considered a political party and at times has been targeted as if they are the Opposition to the government.

### **Involving business world and bars:**

I immediately applied to become a member to TÜSİAD and was admitted immediately. At my request TÜSİAD formed a judicial reform working group

which I chaired for more than 3 years. During this term I developed a policy paper for TÜSİAD named the "Call for Quality Judicial Services and Elements of Quality". Following its adoption as a policy document for TÜSİAD, I toured Anatolian cities with recognisable economic activity 3 times: First with the BJA, TÜSİAD and Türkonfed (the Turkish Business and Enterprise Confederation), advocating for quality in judicial services. The second time I toured Türkiye was with the BJA and Türkonfed together discussing structural reforms focusing on Türkiye's middle-democracy issues and the solutions on judiciary, rule of law, accountability, and fair representation. The main message of that tour was that Türkiye's middle-income status was the result of a "middle-democracy trap" the country was in, and the solution lay in fixing Türkiye's judiciary and strengthening the rule of law. More recently, the BJA and the Dünya newspaper (Türkiye's FT) have organised dozens of gatherings discussing the Economy & Rule of Law, connecting with local businesspeople and jurists to discuss the BJA's reform solutions.

In 2016, in the southeast of Türkiye, during the BJA's first tour of Anatolia a local entrepreneur from Şanlıurfa said: "our fundamental problem is our flawed democracy. The main cause of this are flaws in the judiciary. Do not tiptoe around this fact. Tackle the main problem first and then we can talk about the quality of judicial services." It was this statement that led me to research for and author the book "Turkey's Middle Democracy Issues and How to Solve Them". Türkonfed adopted this book as one of its policy papers. That's how we began to tour Anatolia the second time.

### **A to Z reform proposals:**

Throughout the pandemic restrictions BJA's young and enthusiastic team worked very hard and developed 9 innovative solutions aiming to address all the fundamental issues of the Turkish judiciary. Our objective was to redesign the judiciary in such a manner that it would be able to efficiently provide

quality judicial services, be fully transparent and accountable, truly independent and capable of preserving its independence.

**Judiciaries' common problem: lack of quality and accountability leading to loss of independence**

As the developments in Poland and Hungary demonstrate, popular leaders are mandated to bring judiciaries to their knees when they fail to serve their people properly. It is when the judiciary becomes or is perceived as an unaccountable and privileged group, arbitrarily intervening in political debates that popular leaders gain the upper hand and restrict the independence of the judiciary. When the judiciary is not truly independent it cannot be impartial, and the quality of the judicial service deteriorates almost immediately.

Demonstrations by the people in Israel against Netanyahu's proposed judicial reform package shows that when their interests are protected with quality judicial service the people will stand by the judiciary. Therefore, to us, the most vital requirement for the preservation of the judiciary's independence is a combination of providing quality services and being fully accountable.

In our view the independence of the judiciary from other powers is the first and foremost condition for quality judicial services. We believe that the separation of powers should be sought with the aim of maximising the quality of public service, rather than looking at it as a matter of distributing powers to different stakeholders. As a matter of fact, public service is the principal foundation of the legitimacy of all public institutions.

**The 9 point solutions in essence:**

Therefore, the main pillar of the BJA's 9-point solutions - the Supreme Authority of Justice (SAoJ) - is based on these main premises: a regulatory authority securing production of quality services. It is truly independent, and its strong and diverse membership composition makes it waterproof against

influence by any group, sect or a coalition while it is fully inclusive, all sections of society being fairly represented.

We propose to transform the Council of Judges and Prosecutors into the SAoJ also transferring the related authorities currently entrusted to Ministry of Justice. The SAoJ, through dedicated sub councils, will determine the policies and principles of quality service, admit and expel judicial service providers and adjudicate and enforce professional disciplinary measures. The sub councils will consist of a council for admissions, a council for discipline, and another for judicial service outlets. It will have budgetary and financial autonomy as the minimal level of its budget will be set and allocated with priority. The SAoJ would be supported by a Permanent Council of Justice, consisting of the providers and recipients of judicial services.

Lawyers, judges, prosecutors, notaries, and other judicial service providers all have their own fully independent professional associations free from the interference of third parties, the executive and or legislative powers. Their main duty is to defend the judiciary's independence and to improve their profession.

All decisions and transactions in relation to the administration of the judiciary will be open to judicial review upon application of any member of the public without cost or risks. For this purpose, the BJA proposes the formation of a new specialised court – the Supreme Court of Justice (SCoJ) with expedited procedures allowing it to resolve such review cases in a couple of months.

We have developed a uniform career plan for all legal professionals, performance-based promotion system and a procedure of appointment to vacant positions based on open competition.

We also propose the adaptation of a dispute management – instead of resolution - mentality by tracking disputes from the early stages, forcing

parties to communicate and disclose responsibly, and incentivising compromises aimed to enhance solidarity in society.

Only with these reforms will it be possible to effectively combat corruption, to cultivate an ethical political culture, and to realise the proper separation of powers; in other words, to advance democracy and enable the rule of law to prevail.

### **On intersections of politics and judiciary**

We propose that all votes and decisions relating to putting forward candidacies for, elections, and appointments of judges to appeal courts, the Court of Cassation, Council of State and Constitutional Court be made through open, transparent, and reasoned processes involving public debate and subject to challenges before the SCoJ.

We propose the removal of all preconditions for prosecution of offences committed by civil servants and members of the judiciary. We propose an advanced parliamentary and executive immunity protection system. We propose to make them subject to the exclusive jurisdiction of the SCoJ which assures greater judicial security compared to politically motivated waivers in the parliament while ensuring utmost accountability of all politicians.

### **Turkish politics:**

Turkish politics is like a roller-coaster ride. As the roller-coaster drops, the Turkish people swing constantly between West and East, liberal democracy and autocracy. We saw with 2017 referendum vote, and in the 2018 and 2023 presidential elections that on major issues opponents and proponents garner virtually equal shares of the vote. If the incumbency advantage is eliminated the opposition in Türkiye would be much stronger at the polls.

The recent parliamentary elections indicate a substantial rise in nationalist sentiment, with parties campaigning on such a platform securing more than 25% of the vote in aggregate. Erdoğan's primarily religious supporters amount to 15% to 20% while the rest tend to come from less wealthy corners of society who identify with a Turco-Islamic synthesis and are content with pragmatic solutions to their daily issues. Secularists, including far leftists and the pro-Kurdish form around 40% to 45% of the electorate. At least 50% to 60% of religious and nationalist electorate are secular thinkers. This section's perceptions and preferences determine direction of politics.

### **Public thirst for justice**

There is a deep desire for a just society felt in all sections of the public. Also a sense of deep injustice is felt very strongly in all sections of Turkish society. However, at present Turkish society is unable to identify and address the sources of injustice. For example, they are unable to make the connection between failures of rule of law and decline in economic success and in general welfare.

All sections of society agree that the first condition of realising Justice in the country is an independent and efficient judiciary capable of delivering quality judicial services. However, none of Türkiye's political denominations know how to set up a state-of-the-art judicial system. They tend to trust popular politicians to make one while the politicians always betray them by turning the judiciary into a political instrument. You will find it interesting and perhaps encouraging to hear that opinion leaders within the incumbent AK Party's circles as well as the leaders of the Table of Six have encouraged me to continue with my efforts to reform the judiciary.

### **Would politicians agree to BJA's proposals**

And yet, ruling and opposition politicians compete to regress the judiciary. The ruling AK Party may have purged Gülenists from the judiciary, but they have also politicised the courts in their favour. The Table of Six falsely promise that they will improve the independence of the judiciary, as the measures they propose would actually make the judiciary even more partisan. They propose that parliament elect the members of the Council of Judges and directly appoint a quarter of the judges in the Council of State. One glance at Türkiye's history is enough to learn that politics should not be allowed to interfere in judicial administration.

Improving the rule of law is therefore dependant on new political leaders emerging. Promising candidates are Mr. Ekrem İmamoğlu, the mayor of İstanbul. Mr. Sinan Oğan, presidential candidate of ATA Alliance and perhaps Mrs. Meral Akşener of İYİ Party, although she represents an older generation of political leaders. It is uncertain if Mr. Erdoğan will be able find a successor to lead the AK Party forward.

Thank you again for taking the time to come and listen to me and my colleagues and hear about our innovative proposals. We look forward to an open and frank discussion about the future of the rule of law in our country and how our proposed solutions might not just help Türkiye, but many other countries who face democratic challenges in the months and years ahead.

Mehmet Gün