

The New Public Administration Concept in Turkey and It's Reflections on Local Administrations

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ABSTRACT

The new public administration concept has affected many areas in the public sphere. This paper will focus on its effects on the local administration in Turkey. Throughout the 20th century the balance between central and local administration in Turkey has been more in favour of centralisation. This has resulted in the central administration getting involved in more detailed matters with considerable red-tape and losing sight of its role of policy making and strategic leadership. So we often find many public bodies in different sizes with overlapping duties to provide public services, resulting in divided authority, conflicts and confusion.

In the 21st century the public administration has a new meaning. The administration has to be more transparent, participatory and efficient and must respect human rights. The change in the public administration concept has forced a radical restructuring of the local administration in Turkey. Many new laws have passed bringing new problems and debates. Our paper will try to give a brief outline of these new statutes on local administration and consider its effects on the integrity of administration and the balance between central and local administration in Turkey.

Keywords: Administrative Law, Local Administration, Central Administration, Public Administration, Public Services.

The New Public Administration Concept

New liberal approaches have affected political and administrative institutions throughout Europe. Studies on administration following this liberal way of thinking have given a negative meaning to public administration. They regard the old concept of public administration as a limitation on effective organisational performance¹. The new public administration concept has been the result of the search for a better way to provide more effective, productive and high quality public services to the community.

The fundamental objectives of the new public administration concept can be summarised as follows: transparency and efficiency in public administration, the focus of services on the customer, the participation of citizens, the spreading of reliability towards the administration throughout the community.

¹ See, ERENÇİL, Arif. "Yerel Yönetimler ve Yeni Kamu Yönetimi Tartışmaları (Discussions of New Public Administration and Local Administrations)", *Çağdaş Yerel Yönetimler Dergisi (Journal of Contemporary Local Administrations)*, Number:11, Ankara, 2002. p.25-30.

The new public administration concept aims to provide more efficient public services by minimising the functions of the central administration. According to this approach, public services of a local nature should be transferred from central administration to local administration, resulting in public services that are more economical and of higher quality².

The acceptance of efficient service, high quality, low cost and speed as performance indicators in the public sector, the institutionalisation of the philosophy of constant development and the application of new administration techniques have become important characteristics of the new administration concept³. The search for restructuring of the public administration involves the practice of contemporary management techniques and also opens channels for cooperation between the local administration, the private sector and civil society organisations. This three tiered cooperation model has been proposed as a new governance model for local administration⁴.

This movement has played a role in the government programs in most countries, as it has in Turkey. The restructuring of public administration has constantly been on the public agenda in Turkey. Especially since 1963 when the period of planned development began, "public administration" has been under a separate title in the five year development plans⁵.

Local Administration in Turkey

According to Article 127 of the Turkish Constitution local administrative bodies are public corporate entities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose decision-making organs are elected by the electorate and whose principles of structure are determined by law.

The Turkish Constitution limits the local administration to three types of public bodies:

- (Special) Provincial Administrations
- Municipal Corporations
- Village Administrations

Provincial Administrations are stated both as a part of the central administration and the local administration. Article 126 states that in terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation, economic conditions, and public service requirements. Article 127 also states that provincial administrations are local administrations that have separate legal personalities. The formation, duties and powers of the local administration are

² See, POLATOĞLU, Aykut. "Türk Kamu Yönetim Sisteminin Yeniden Örgütlenmesi Üzerine Düşünceler (Reflections on Reorganisation of the Turkish Public Administration System)", *Amme İdaresi Dergisi (Journal of Public Administration)*, Number:36/4, Ankara, 2003. p.1-16.

³ See, AKTAN, Coşkun. "Yeni Yönetim Tekniklerinin Kamu Sektöründe Uygulanması (The Implementation of New Administration Techniques in the Public Sector)", *Türk İdare Dergisi (Journal of Turkish Administrative)*, Number:425/71, Ankara, 1999. p.1-14.

⁴ See, KARAMAN, Zerrin. "Yönetim Stratejilerindeki Gelişmeler (Advances in Administration Strategies)", *Türk İdare Dergisi (Journal of Turkish Administrative)*, Number:426/72, Ankara, 2000. p.37-53. ;Also see, YAYLA, Yıldızhan. "Türkiye İdaresinin Yeniden Yapılanması Üzerine Bazı Gözlemler (Some Observations on the Turkey Administration Restructuring)", *Yeni Türkiye (Journal of New Turkey)*, *Yönetimde Yeniden Yapılanma Özel Sayısı*, Year:1, Number:4, Ankara, 1995. p.120-126.

⁵ See, GÜLÖKSÜZ, Yiğit. "Kamu Yönetiminin Yeniden Yapılanması ve Yerel Yönetimler (Restructuring of Public Administration and Local Administrations)", *Yeni Türkiye (Journal of New Turkey)*, *Yönetimde Yeniden Yapılanma Özel Sayısı*, Year:1, Number:4, Ankara, 1995. p.131.

regulated by law in accordance with the principle of local administration. The control of local administration is carried out by a mechanism known as “administrative trusteeship”, which can be described as the power of supervision of the central administration upon local administration. This power is considered as an exception and can only be used when this power is stated in a statute and only within the limits provided in the statute⁶. Administrative trusteeship has been provided in order to ensure the functioning of local services in conformity with the principle of the integral unity of the administration stated in article 123 of the Constitution, securing uniform public service throughout the nation, safeguarding the public interest and meeting local needs, in an appropriate manner.

The elections for local administrations are held every five years in accordance with the principles set forth in Article 67 of the Constitution. The procedures dealing with objections to the acquisition by elected organs of local administration or their status as an organ, and their loss of such status, are resolved by the judiciary.

The constitution also states that these local administrative bodies shall be allocated financial resources in proportion to their functions, which has been a constant problem in Turkey.

The Need for Change

As mentioned above, the need for reform of the public administration in Turkey has been apparent in the government programs since 1963. Our statutes governing local administration were very old and were insufficient, taking into account the new public administration approach and the peoples confidence in the administration needed to be restored.

Debates concerning the change of the public administration approach in Turkey have mainly focused on excessive centralisation and bureaucratic structure⁷. The effects of the new liberal approach and the idea of local democracy are inherent within these debates.

It can be said that the excessive centralisation and the strict supervision on the local administration are the legacy of the Ottoman Empire⁸ and even in the Republican period traces of this legacy could still be seen in our public administration system.

One of the most important problems was that of the local administration not having sufficient budget to cover all the expenses for the public services it was supposed to provide. This resulted in the central administration, which had sufficient financial resources, taking over these public services⁹, hence the delays in the provision of services and heavy red-tape. The new public administration concept required the heavy burden of many public services to be transferred to the local administration to be provided locally. The aim was to provide public services of high quality at a lower cost.

⁶ See, YILDIRIM, Turan. *Türkiye'nin İdarî Teşkilâtı (Turkey's Administrative Organisation)*, Alkim Yayınevi (Published by Alkim), İstanbul, 2005. p.30-35. ;Also see, ÖZAY, İlhan. *Güneşinde Yönetim (Administration under Sunlight)*, Alfa Yayıncılık (Published by Alfa), İstanbul, 1996. p.130 et seq.

⁷ See, GÜRAN, Sait. “İktidar ve Kamu Yönetimi Bağlamında İdarede Merkezleşme Olgusu (A Case of Public Administration in the Context of Centralization in the Administration and Rulership)”, *Amme İdaresi Dergisi* (Journal of Public Administration), Number:22/4, Ankara, 1989. p.15-19.

⁸ See, ORTAYLI, İlber. *Tanzimattan Cumhuriyete Yerel Yönetim Geleneği (A Tradition of Local Administration Reforms to Republic)*, Hil Yayınları (Published by Hil), İstanbul, 1985. p.27-28.

⁹ See, Türkiye ve Ortadoğu Amme İdaresi Enstitüsü (Public Administration Institute for Turkey and Middle East) (TODAİE). *Kamu Yönetimi Araştırması: Yerel Yönetimler Çalışma Grubu Raporu (Public Administration Research: Local Administration Working Group Report)*, TODAİE Yayınları (Published by TODAİE), Ankara, 1992. p.49-50.

Recent Reforms concerning the Local Administration in Turkey

The new public administration concept has forced a radical restructuring of the administration in Turkey. We have witnessed the establishment of many regulatory and supervisory authorities within sensitive areas such as the capital market, communication, competition and banking. There is a new bill on Regulatory and Supervisory Authorities aiming to establish general principles and procedures applicable to all such authorities. The shift in the notion of the state from being the service provider to being the regulator and supervisor can be seen in these reforms.

In the framework of studies aiming to restructure public administration, several bills were prepared and some enacted to enable the effective and productive performance of public services. The trend to minimize the functions of the central administration and to strengthen the position of the local administration is readily apparent within these bills and acts. Among these bills the most important ones for our work here are the General Public Administration Bill, Municipal Corporations Bill and Provincial Administration Bill¹⁰.

The General Public Administration Bill aimed to set up general principles and methods concerning the organisation, powers, duties and distribution of sources of central and local administration and to regulate the relations between these administrations¹¹. This Bill received consent from the Parliament, but was vetoed by the President of the Republic and was withdrawn by the government.

Municipal Corporations Bill and Provincial Administration Bill both received consent from the Parliament and are in force at the moment. These new statutes provide clauses which affect the balance between central and local administration.

The Governor of the provincial administration previously had overlapping duties within both central administration and local administration, thus giving the central administration more say in the activities of local provincial administration. The new Provincial Administration Act has taken away many of the Governor's existing powers. The Provincial Council will now be able to elect its own president from among its members. Furthermore, the Governor will be unable to stop the decisions of the Council from coming into force.

The Municipal Corporations Act provides similar provisions. According to this statute, the central administration does not possess administrative trusteeship on the decisions of the Municipal Council. The decisions need to be sent to the highest central administration official of the district to come into force. If the highest central administration official finds the decision of the council unlawful, he does not have the right to send the decision back to be reconsidered, but can take the decision to the Administrative Court. The act has also given the Municipal Corporation the ability to increase its revenue by giving the option of taking out loans and to issue bonds in order to provide high quality services. Both acts observe the autonomy of the local administration and have ended many administrative trusteeship practices. Instead of these practices, the act provides alternative means of administrative trusteeship through the judiciary.

¹⁰ See, ULUĞ, Feyzi. "Yönetimde Yeniden Yapılanma ve Kamu Yönetimi Temel Kanunu Tasarısı Üzerine Eleştirel Bir Bakış (A Critical Perspective on the Administration Restructuring and the Draft of the Basic Law of Public Administration)", *Amme İdaresi Dergisi (Journal of Public Administration)*, Number:1/37, Ankara, 2004. p.1-28. ;Also see, ALTINTAŞ, Hakan. "Yerel Yönetimlerin Modernizasyon Süreci ve Yeni Kamu Yönetimi Anlayışı (Local Administrations in the Process of Modernization and New Public Administration Approach)", *Çağdaş Yerel Yönetimler Dergisi (Journal of Contemporary Local Administrations)*, Number:1/12, Ankara, 2003. p.6-22.

¹¹ See, POLATOĞLU, Op.cit, p.1-16.

We can see through these developments and other reforms, such as the Public Audit Corporation (Ombudsman) Act, Freedom of Information Act and Universal Public Service Act, that the face of the administration and public service provision are changing very rapidly in Turkey. The new public administration concept has changed radically the balance between central and local administration, strengthening the latter with more power and budget to provide services which are local in nature and leaving the central administration more time to perform its role of policy making and strategic leadership.

Conclusion

The reasons that force public administration to change may be social, economic and political. The modernization process of public administration involves extensive similarities in terms of inner dynamics without any distinction between central and local administrations. The aims of modernization are defined as bringing clarity and transparency to public administration, assuring client-centeredness in services, enabling citizen participation and increasing reliability. The most significant reason that triggered the search for a new public administration has been reported to be the weakening of trust in public administration and public administrators.

The amendments on local administration legislation have enabled the central administration to use its administrative tutelage (administrative audit) authority on local administrations by means of judicial organs. Furthermore, the summary of ideas that lay the groundwork for the new approach, which the Turkish local administration laws are expected to bring, is as follows: The central administration should delegate certain authorities to the local administrations that offer services directly, according to the quality of the service, and there should be a distinction between the duty of policy-making and the duty of providing and planning direct services. Moreover, in the cases where the central administration is vested with the authorities related to public services, profitable services as well as non-profitable services risk to be privatized, when the central administration undertakes a privatization initiative. However, when the provision of any service is transferred to the private sector by local administrations, the risk is less likely to occur.

The aim of the new public administration approach is to offer the services more effectively by minimizing the state. That is why authorities are delegated to local administrations in order to restructure the services. Thus, it will be possible to provide services in a more economical and qualified way by narrowing the authority limits of the central administration to the extent possible and transferring many functions, excluding some basic ones, to local authorities.

References

- AKTAN, Coşkun. "Yeni Yönetim Tekniklerinin Kamu Sektöründe Uygulanması (The Implementation of New Administration Techniques in the Public Sector)", *Türk İdare Dergisi (Journal of Turkish Administrative)*, Number:425/71, Ankara, 1999.
- ALTINTAŞ, Hakan. "Yerel Yönetimlerin Modernizasyon Süreci ve Yeni Kamu Yönetimi Anlayışı (Local Administrations in the Process of Modernization and New Public Administration Approach)" *Çağdaş Yerel Yönetimler Dergisi (Journal of Contemporary Local Administrations)*, Number:1/12, Ankara, 2003.
- ARSLAN, Süleyman/AKYILMAZ, Bahtiyar/SEZGİNER, Murat/KAYA, Cemil. *İdare Hukuku Mevzuatı (Administrative Law Legislation)*, Seçkin Yayınevi (Published by Seçkin), Ankara, 2011.

- ERENÇİL, Arif. "Yerel Yönetimler ve Yeni Kamu Yönetimi Tartışmaları (Discussions of New Public Administration and Local Administrations)", *Çağdaş Yerel Yönetimler Dergisi (Journal of Contemporary Local Administrations)*, Number:11, Ankara, 2002.
- GÜLÖKSÜZ, Yiğit. "Kamu Yönetiminin Yeniden Yapılanması ve Yerel Yönetimler (Restructuring of Public Administration and Local Administrations)", *Yeni Türkiye (Journal of New Turkey), Yönetimde Yeniden Yapılanma Özel Sayısı*, Year:1, Number:4, Ankara, 1995.
- GÜNDAY, Metin. *İl Özel İdareleri ve Belediyeler (Provincial Administrations and Municipalities)*, İmaj Yayınevi (Published by İmaj), Ankara, 2007.
- GÜRAN, Sait. "İktidar ve Kamu Yönetimi Bağlamında İdarede Merkezileşme Olgusu (A Case of Public Administration in the Context of Centralization in the Administration and Rulership)", *Amme İdaresi Dergisi (Journal of Public Administration)*, Number:22/4, Ankara, 1989.
- KARAMAN, Zerrin. "Yönetim Stratejilerindeki Gelişmeler (Advances in Administration Strategies)", *Türk İdare Dergisi (Journal of Turkish Administrative)*, Number:426/72, Ankara, 2000.
- ORTAYLI, İlber. *Tanzimattan Cumhuriyete Yerel Yönetim Geleneği (A Tradition of Local Administration Reforms to Republic)*, Hil Yayınları (Published by Hil), İstanbul, 1985.
- ÖZAY, İlhan. *Günışığında Yönetim (Administration under Sunlight)*, Alfa Yayıncılık (Published by Alfa), İstanbul, 1996.
- POLATOĞLU, Aykut. "Türk Kamu Yönetim Sisteminin Yeniden Örgütlenmesi Üzerine Düşünceler (Reflections on Reorganisation of the Turkish Public Administration System)", *Amme İdaresi Dergisi (Journal of Public Administration)*, Number:36/4, Ankara, 2003.
- Türkiye ve Ortadoğu Amme İdaresi Enstitüsü (Public Administration Institute for Turkey and Middle East) (TODAİE). *Kamu Yönetimi Araştırması: Yerel Yönetimler Çalışma Grubu Raporu (Public Administration Research: Local Administration Working Group Report)*, TODAİE Yayınları (Published by TODAİE), Ankara, 1992.
- ULUĞ, Feyzi. "Yönetimde Yeniden Yapılanma ve Kamu Yönetimi Temel Kanunu Tasarısı Üzerine Eleştirel Bir Bakış (A Critical Perspective on the Administration Restructuring and the Draft of the Basic Law of Public Administration)", *Amme İdaresi Dergisi (Journal of Public Administration)*, Number:1/37, Ankara, 2004.
- YAYLA, Yıldızhan. "Türkiye İdaresinin Yeniden Yapılanması Üzerine Bazı Gözlemler (Some Observations on the Turkey Administration Restructuring)", *Yeni Türkiye (Journal of New Turkey), Yönetimde Yeniden Yapılanma Özel Sayısı*, Year:1, Number:4, Ankara, 1995.
- YILDIRIM, Turan. *Türkiye'nin İdarî Teşkilâtı (Turkey's Administrative Organisation)*, Alkım Yayınevi (Published by Alkım), İstanbul, 2005.