

PUBLIC ADMINISTRATION REFORMS AND CORRUPTION IN TURKEY

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Abstract

Although corruption is a very old incident, the first theoretical studies about it began in 1960s and applied ones began after 1990s. Since corruption is an extensive concept, various definitions can be made for it. It is possible to classify the factors triggering corruption as economic, social and administrative. Transparency, accountability and auditing principles are at the forefront more in the fight against corruption.

Legal solutions are searched and various actions are taken in struggling with corruption in Turkish public administration. In this study, we shall put emphasis on three legal arrangements: The Ombudsman Law, The Law on Right to Information and The Law on The Foundation of an Ethical Board for Public Servants.

Keywords: Corruption, Turkish Public Administration, transparency, accountability.

Introduction

The history of corruption is as ancient as the history of state. However the first theoretical arguments on corruption were put forward after the 1960s' and the efforts to reduce corruption increased in the 1990s'. Corruption can be described as the abuse of the public power for special benefits or profit. Nonetheless corruption is not specific only to public sector. It is also one of the major problems in the private sector, especially in contract award and take-on processes.

Corruption is a problem for not only developing countries but also developed countries. However it has been considered to be a widespread problem in developing countries. One of the major reason for this is that governments in such countries attempts to provide economical and social needs by own resources. Yet, the inadequacy of resources prevents providing all the demands and causes corruption in the process of public service supply.

Corruption may also be the source of many other problems such as inequality, poverty, waste, lose of confidence in democratic institutions and the rule of law, among others. Besides, because the lack of confidence in the corrupt state, investments may slow down, income may decrease, social welfare may reduce. In short, corruption brings about economical and social crisis and deprivation for the people in developing countries.

Recently, some changes have taken place in different fields ranging from economy, society, politics and management to more technical fields. These changes resulted in increased attention given to the issue of corruption at international level. Some international organizations like Group of States Against Corruption (Greco), European Anti-Fraud Office (OLAF), Transparency International (TI), began to act as a part in detecting and deterring corruption, setting strategies for better management practices and other action plans. International organizations attempts to deal with corruption by agreements, communiques and publishing strategic plans and constitute organizations.

In Turkey, corruption is common problem in public sector because of deficiencies in public accountability, openness and transparency, unapplied professional ethic rules, the inadequacy of management system and inefficiency of control systems. So governments prepare Urgent Action Plans to fight with corruptions and pass laws against corruption.

In the first section of this study the concept of corruption, its types and the reasons for corruptions will be presented. Then, transparency, accountability, openness and control principles will be discussed. In the last section, public administration reforms in Turkey with a goal to fight against or reduce corruption and to enhance transparency in Turkish public administration will be presented and analyzed. In this context, Ombudsman Law, The Law on the Right of Information and The Law on The Foundation of an Ethical Board for Public Servants will be particularly explored.

1. Definition And Classification Of Corruption

Discriminating humans as the ruling and the ruled has allowed corruption in common sense. Although it is a very old incident, the first theoretical studies about it began in 1960s and applied ones began after 1990s. Since corruption is an extensive concept, various definitions can be made for it. In general, it is possible to define it as “abuse of public force for private interest or profit”, like the definition of World Bank.

Another definition for corruption is that public officials do operations that should not be done or accelerate the tasks that they should do for financial or emotional private purposes. (Çulpan, 1990: 34).

In addition to that, Bayley defines the word “corruption” as follows; “the corruption, which is closely related to bribery in particular, is a term referring to misuse of authority as a result of the effort for acquiring personal benefit. Personal benefit does not mean money absolutely.” (Bayley, 1989: 936). In conclusion, personal benefit-oriented abuse of power is defined as corruption wherever it occurs. Besides, three common factors become prominent in all definitions of corruption. These are; the existence of an authorized person or a public official, abuse of power and taking advantage out of it.

Nevertheless, when we look into the corruptions of today, we observe that the abuse of power now is not important as much as before. Instead, legal deviations, benefit-oriented regulations of the authority holding executive and legislative power, and importance of confidentiality stood out (DDK, 1996: 2). This shows that corruption is becoming more and more dangerous.

Corruption can be encountered in various ways. Some of them are crimes and require punishment but some do not. From this point of view, it is possible to classify corruption as follows (TEPAV, 2006: 26):

- a. Criminal activities requiring penal sanction directly
- b. Corruption activities requiring penal sanction indirectly or not regarded as crime.

Although corruption has not been subjected to any definite separation in literature, in the studies done so far, executive, political plus economic corruptions have been mentioned in general rather than the classification stated above. Public official's misuse of his authority against rules and laws to provide financial or emotional benefit is called executive corruption. Executive corruptions emerge during implementation of laws and policies by public bureaucrats (Berkman, 1993: 9-15).

Such kinds of corruptions are observed more in underdeveloped countries particularly. The reason behind this is that non-governmental organizations are not developed enough to influence legislative power, and instead family, relative, ethnic, religious or local dependencies, which are capable of influencing public administration process, are more and more powerful (Özsemerci, 2003: 19).

It is possible to compile executive corruption types requiring direct penal sanction as bribery, embezzlement, extortion, benefit and trade in government purchasing, money laundering, fraud, and retreating from tender against self-interest. Except for these, there are some other executive corruption types, which do not require penal sanction since they are not financial, such as bureaucratic favoritism, favoritism, influence exertion and commitment for career.

Political corruptions, as another type of corruption, do not have direct penal sanction. In this type of corruption, public authority relevant to political functions is used against legal regulations in the process of political management or policy making through looking after one's interest. In countries, where the state is more dominant and the market economy is less effective, the ratio of the actors in political process, who get involved in corruption, is on rise (Aktan, 1997: 15).

Rent-seeking, vote purchasing, patronage, favoritism, lobbying and populism behavior can be indicated as examples of political corruption. As it could be understood from all these concepts easily that, political corruptions are performed by deputies who are responsible of legislative activities. Limitless political power and authority are usually the source of political degeneracy. Political degeneracy is a broader concept including corruption as well (Aktan; 2001: 2).

Public power and authority, besides its efficiency in political and administrative system, display itself also in the fields of arranging and managing economic life. Regarding this, economic corruptions, such as privatization, tax evasion, banks' acquiring of dead loan or cheap loan, may exist, too.

2. Reasons For Corruption

There are plenty of factors leading to corruption which is a particularly important problem in developing countries. First of all, economic systems and democratization level of the countries play an important role at this point. In countries, where there is a powerful market economy and a well-developed democratization, corruption level seems to be much lower. (Aktan, 1997: 17). Nevertheless, it is possible to classify the factors triggering corruption as economic, social and administrative.

When we analyze in general, structure of the political system, the relation between political culture and social culture, governmental structure, bureaucratic structure, rapid changes, modernization, underdevelopment, maladministration, closed governmental structure and culture, lack of accountability, size of the sources under state's control, lack of judicial independence, insufficient separation of powers and imperfect competition, are the main factors deepening corruptions (Quinn, 2004; Eryılmaz, 2004: 156).

There are a number of economic reasons behind corruption in this country (Tanzi, 2001: 7-10). Inflation rise, inequalities in income distribution, unregistered economy, tax implementations, public expenditures and low wages of public officials lead people to illegal ways decreasing their purchasing power (Tosun, 2003:125). In addition to these, a closed economic system also boosts corruptions in that country (Mauro, 1998).

The reasons behind corruption not only have economic dimension but also social, ethical and cultural dimensions (Yıldız Tokathoğlu, 2003). Low educational level, immature democratic culture (Kongar, 2005), insufficient number of non-governmental organizations and their inefficiency, unawareness of public, traditional social structure, and "taking advantage of opportunities" idea, which becomes widespread among people, are some of the social factors creating corruption.

Although there are various kinds and reasons for corruption, in this study, we shall consider administrative type of corruption and the reasons behind it more, and put emphasis on the measures taken against them. Administrative corruption arises mostly from bureaucratic structure of administration, insufficient level of ethical principles and values in administrative culture, lack of impartiality, clarity, merit, compliance with laws, transparency, accountability and public auditing. Among these, transparency, accountability and auditing principles are at the forefront more in the fight against corruption and in prevention of it. For this reason, they are discussed separately.

2.1. Transparency

One of the most significant mechanisms making the state to be accountable is transparency. Transparency is the state's presentation of its aims, policies it has applied to achieve these aims, and of the information necessary to see the results of these policies in a well-arranged, clear, coherent and reliable way (ISO, 2001: 11).

There appears confidentiality in public procedures and operation, assignments and investment decisions when “information presentation task” of public administration and “freedom of information” of the ruled people are not arranged clearly. And corruption occurs much more intensively under these dark and secret conditions (Akçay, 2002: 205-208). In such a case, it causes to confidence loss in government through decreasing efficient use of public sources and productivity. As a result, non-transparent administrations and implementations may pave way to corruptions.

2.2. Accountability

Accountability means that an authority in public administration is obliged to explain his/her actions mainly to executive, legislative and judicial authorities and is supposed to perform his/her actions, and that any authority can not be exempt from investigation and audit (TEPAV, 2006: 55). Main accountability reports including plans, budgets, financial tables and annual reports should be publicized.

Accountability lies in the core of administration incident and it is the principal liability of any person or organizational unit responsible of managing sources. How much principles of rule of law, clarity, transparency, impartiality and equality before law are observed can be detected by accountability only (TÜSİAD, 2002).

Accountability is a multi-dimensional concept including political, administrative and financial ones. Political accountability is political leaders’ being responsible and informative against voters. Who is responsible of what in administration is represented by administrative accountability. And, the explanation about the public sources, by whom, how and what purpose they are used, is named as financial accountability (Güner ve Yılmaz, 2001: 2). Emerging as a result of transparency, accountability is one of the key concepts in preventing corruption. To ensure transparency, well-operating accountability process is required and vice versa.

2.3. Auditing

Auditing diversifies according to by whom it is carried out. The kind of audit, established by an institution to investigate and evaluate its own activities, is called internal auditing. Auditing of an institution by another person or institution except for itself is called external auditing. Performed on behalf of the parliament, supreme audit is an entirely independent format of auditing in planning, implementing and conveying its results to the parliament (DPT, 2002).

Auditing function becomes prominent as a preventive component against corruption in terms of maintaining a healthy financial structure and establishing transparency and accountability. In order to provide inter-institutional auditing and thus to avoid

corruption, it is necessary for auditing units to describe clearly the scope of authority, ensure independence, share financial source, personnel accumulation and information sufficiently.

3. Turkish Public Administration And Corruption

Turkish public administration has been on a process of change and transformation with the effect of globalization on one hand, and with the adaptation policies implemented in the process of EU candidationship on the other hand. In line with this process, new perspectives for public administration and new governance principles have become prominent; new principles such as participation, transparency, accountability, result-orientedness, and respect to human rights have been included in understanding and structure of the administration (Al, 2002).

With the governance approach, it has been targeted to transform Turkish public administration into a format capable of meeting today's and public needs, and it has been aimed to find solutions to the problems of administrative system. As a problem or an issue, waiting to be solved, of the administration system, corruption meets us.

In Turkish public administration, there is a common belief that some corruption types such as politization of the administration, relative or friend favoritism, political favoritism, bribery and protection are widespread whether in central administration or in local administrations (Aktan, 2001: 58). Public monopolies, widespread authority monopolies in official operations, insufficient accountability, clarity and transparency, non-implementation of state of law principle, violation of professional ethics, insufficient executive systems and inefficient auditing systems increase the level of corruption in Turkey (Özsemerci, 2003: 49).

Besides, the studies have shown that perception of corruption in Turkey is much more than realized corruptions. Some of the citizens think that corruption is absolutely widespread in some service areas such as security and land registry despite the fact that they have not encountered any corruption so far. At the same time, there is a feeling of distrust in the state and public officials. The citizens do not believe that public officials are working for public benefit and they do not trust in the state. It can be claimed that Turkish public administration has been facing a trust and ethics crisis. However it is possible say that this situation arises from insufficient ethics culture in public administration and from lack of such mentality in public officials' minds, rather than lack of legal arrangements (DPT, 2007: 22).

Also, legal solutions are searched and various actions are taken in fighting against corruption. Governments regard fight against corruption as one of their primary problem areas and take measures against it. Thus, they include the issue of corruption in their Emergency Action Plans and develop policies towards fighting against corruption. Also in the Emergency Action Plan of the 58th Government, this issue has been dealt with under the title of Fighting against Corruption, and some arrangements have been proposed such as making finance of politics transparent, making punishments for

corruption and irregularity deterrent, developing government-public administration-jurisdiction-media-civil society dialogue on this issue and redefining the concept of “secret” in legislation.

It is possible to regard these legal arrangements as public administration reforms. In this study, we shall put emphasis on three legal arrangements which are believed to serve for realizing good governance in Turkish administration and preventing corruption. These are; The Ombudsman Law, The Law on Right to Information and The Law on The Foundation of an Ethical Board for Public Servants. These laws have been handled since they allow greater access to administration, improve the principle of clarity in administration through exempting principles of confidentiality/secretcy and determine professional and ethical principles and rules to be followed by public officials.

3.1. The Ombudsman Law

The ombudsman is an institution which helps to establish the principle of state of law and to protect individual rights. Therefore, it aims to form a transparent, just, responsible and accountable public administration. In general, it allows citizens to protect their rights against administration and to seek their rights with easier ways. As a result of the irregularities originating from maladministration, the citizens may be stuck in difficult situations, thus corruptions such as jobbery, bribery, rent-acquiring, stealing arise. The ombudsman is considered as an efficient means for fighting against corruption, a product of maladministration (Abdioğlu, 2007: 80,82).

The main duty of the ombudsman is to defend fundamental rights and freedoms of people, protect them against government, and ensure elimination of mistakes arising from maladministration and to make suggestions in order to improve administration (DPT, 2007: 12). With this institution, coordination is achieved in public administration through bringing certain principles and standards for it, individual rights are protected and access facilities to authorities are indicated (Abdioğlu, 2007: 83). On the other hand, it plays a significant role in implementing principles of transparency, accountability, justice, responsibility and auditing mechanisms.

In parallel with the developments in the World and Turkey, a need was emerged for reforming Turkish public administration and for creating a new administrative understanding which is to minimize public’s problems arising from administration. So, the Ombudsman Law No of 5548 dated 28.09.2006 was enacted in order to solve disputes faced in the relations between public administration and citizens efficiently and rapidly.

Through this Law, a post of Ombudsman was established to investigate, search and make suggestions to the administration for real and legal person’s complaints about the operation of administration, in the framework of principles stated in Turkish Republic Constitution, and for attitudes, behaviors, actions and operations of the administration; in terms of justice, respect to human rights, conformity with law and equity.

The Ombudsman, a public corporation with private budget under Presidency of The Grand National Assembly of Turkey and, is located in Ankara. In the institute, made up of the post of Ombudsman and the Board, an Ombudsman, ten auditors at most, Secretary General, experts, assistant experts and other staff have been working. It can also open offices wherever it considers necessary.

No body, authority, department or person can not order, instruct, circularize, advise and indoctrinate the Ombudsman or auditors about their duties.

However, the Constitutional Court has decided unanimously on stay of execution of the Ombudsman Law No of 5548 until it has decided on the judgment considering that 1st provisional clause of that law “involves some indications against the Constitution and may lead to situations and damages which are difficult or impossible to remove later if it is implemented.”

3.2. The Law on Right to Information

In general this means the right of accessing to information and documents held by the administration in public management. Right to information allows better, simpler and more secure communication among the ruling and the ruled, decrease disputes among them and increase efficiency and productivity in administration (Eken, 1996: 61–63). It is based on the idea of sharing great information/document accumulation held by public institutions with the citizens through not regarding them as secret anymore (TESEV, 2004: 3).

Right to information, one of the requirements of democracy and rule of law, has functions such as ensuring closer administration, openness to public auditing, transparency and accountability for the citizens. Also, it plays a great role in increasing public’s trust in the state (Yücel, 137). At the same time, it is an efficient medium in fighting against corruption. Citizens’ greater access to official information and documents makes it easier to reveal and remove corruptions (DPT, 2007: 8).

In Turkish public administration, the Right to Information Act dated 9.10.2003, No of 4982, was enacted in order to allow citizens access to public information in accordance with the principles of equality, impartiality and clarity in administration. With this law, it is aimed to let people use their rights to information in comply with the principles of equality, impartiality and clarity, which are requirements of democratic and transparent administration. The activities of public institutions and occupational establishments, which are qualified as public institution, are considered under scope of this Law.

According to the law, everyone has right to information. Therefore, the foreigners residing in Turkey and foreign corporate bodies operating here can also benefit from its provisions. However, the information they ask for must be relevant to themselves or to their area of activity. Agencies and institutions, except for derogations in the Law, are obliged to present all kinds of information and document to applicants, and to take necessary administrative and technical measures in order to complete applications efficiently, rapidly and correctly. The information out of the Law’s scope is; operations

out of judicial auditing, information concerning secrets of the state, information concerning economic interest of the country, intelligence information, information concerning confidentiality of private life and communication.

In addition to these, Right to Information Assessment Board was established by this Law, which is to decide which information will be given to applicants and to evaluate the objections made about right to information.

3.3. The Law on the Foundation of an Ethical Board for Public Servant

It is necessary to establish an ethical base in the state in order to create an administrative structure, which is fair, transparent, just, impartial, efficient, accountable, democratic and respectful to human rights, and to strengthen public's trust in the state (Baydar, 2005: 69).

It is also necessary to ensure transparency in run of the state first and to implement ethics in whole sphere of the public service while struggling against corruption since a strong ethical base in the public administration is one of the most efficient means in the fighting corruption. This strong ethical base controls unethical behavior leading to corruption and set up mechanisms for accountability. On the other hand such kind of base also anticipates raising awareness among public officials and all of the people about ethical values on public administration. Therefore, it is important to provide special training to those staff who are going to fight with corruption and to enlighten public opinion about this issue (TÜSİAD, 2005: 165–166).

It is possible to compile commonly approved ethical behavior principles of today as impartiality, legality, honesty, collectivity, merit, objectivity, transparency, leadership, accountability, professionalism, equality, continuity, respectability and trust (Baykaler, 2006: 36).

In order to ensure transparency and decrease corruptions in Turkish public administration, a Law with No of 5176 was enacted on Ethics Board for Public Officials and on Amendments to Some Laws, which was dated to 25.5.2004, as a legal arrangement concerning determination of professional rules and ethics to be followed by public officials.

By this Law No of 5176 and Implementation Regulation, the ethical behavior rules, which had been in the legislation disorderly, were systemized and written down. In this Law, it is anticipated to establish the Ethics Board for Public Officials which is to determine and observe ethical behavior principles to be followed by them primarily such as transparency, impartiality, honesty, accountability, and public-mindedness. Established under the body of prime ministry, the Board is responsible of and authorized to define these ethical principles with its regulations, perform activities to establish ethical culture in public and to support such kind of activities.

Under scope of the Board, there are administrations with general and annexed budget, state economic enterprises, corporations with circulating capital and private budget, supreme boards and funds. The President, members of Turkish Grand National Assembly,

members of Council of Ministers, Turkish Armed Forces, judicial members and universities are out of scope. However, this limited scope of the Board and not determining what is ethical in the political authorities, where corruptions are common, are criticized since they may interrupt struggle with corruption (Baydar, 2005: 71).

The regulation prepared in accordance with the Law has defined ethical behaviour principles of public officials as public service consciousness, comply with service standards, honesty, impartiality, non-use of duty and authorizations for self benefit, prevention of gift or advantage taking, information supply, transparency, participation, accountability of managers, declaration of property.

Another innovation concerning ethical behavior rules in Turkish public administration is agreement on ethics. The public officials assigned recently are supposed to sign ethics agreement. Thus, conveying ethical principles to public officials and informing them about these became a must for beginning public service. This is similar to a commitment rather than an agreement. It is thought that this agreement will also be efficient in conveying ethical behavior principles to public officials.

4. Conclusion

Especially after 1980s' it has seen that corruption has become widespread in Turkish public administration. There are several reasons such as social, political and economical of this prevalence. The reasons which cause corruption are the results of corruption at the same time. In another words corruption goes on in a vicious circle.

According to the Corruption Perception Index (CPI) which Transparency International announces, Turkey takes part in line 77 (with 3,1 points) in 2003, in line 77 (with 3,2 points) in 2004, in line 65 (with 3,5 points) in 2005 and in line 60 (with 3,8 points) in 2006. At last in 2007 Turkey takes part in line 64 (with 4,1 points) (Transparency International). In 2007 Turkey has regressed in ordering but it has raised its points. So it is possible to say that corruption perception has been reduced to minimum ratio since 2003. However corruption perception is still serious in sizes and it is necessary to take precautions against corruption.

Immorality which occurs by corruption discredits economy, social organism and democracy and law system of countries. Besides corruption can be cause complications in fiscal policy because corruption increases public expenditure and decreases public revenue. Also corruption reduces economic growth by contributing waste of source and imbalances in income distribution. On the other hand fighting corruption gets easier in the countries which accountability, transparency, rule of law/constitutional state, freedom of speech, independent of judicial system and effective control exist.

Several legal arrangements have been legislated against corruption in Turkish public administration. These legal arrangements have been implemented especially after 2000s' in accordance with good governance. So such principles like participation, transparency, openness, accountability, efficiency, effectiveness have come into prominence and directed legal arrangements. Recent laws which include transparency and accountability

have been legislated so both good governance and fighting corruption have been purposed. The Ombudsman Law, The Law on the Right to Information, The Law on the Foundation of Ethical Board for Public Servants, The Public Procurement Law, Public Fiscal Management and Control Law are amongst some. It is important that legislating is not enough and enforcing the laws is as important as legislating. Therefore citizens and public servants should be educated and should be conscious about corruption.

An independent, impartial and informed judicial system holds a central place in the realization of a just, honest, open and accountable government and takes a part in fighting corruption. Adding a third dimension to the traditional public-private axis, civil society (i.e. non-governmental) organizations have effectively backed popular demands for greater accountability and responsiveness and helped to initiate important anti-corruption efforts. The institutionalization of civil society participation is thus a major challenge and can add an important bottom-up dimension to conventional anti-corruption strategies. Local governments have increasingly come into the focus of anti-corruption strategists as it is on the local level that the direct effects of corruption impact most visibly on the ordinary citizen. Corruption should not only be fought from the top; an important bottom-up dimension is added by targeting the municipal level. As corrupt practices become ever more sophisticated, conventional law enforcement agencies are less well placed to detect and prosecute corruption cases. Specialized and independent anti-corruption agencies can present the advantage of being exclusively devoted to fighting corruption. The Ombudsman constitutes an office which, independently of the executive, receives and investigates complaints about maladministration. It gives individuals the opportunity to have decisions which affect them reviewed by an independent and expert body, without the expenses and delays of court proceedings (TI Source Book, 2000).

Besides infrastructure should be built to fight all kinds of corruption and dissuasive punishments should be given. Electronic state applications should be generalized to fighting corruption efficiently. Politics should be kept away from corruption to prevent corruption in public administration. Wages injustice should be eliminated between public sector and private sector. Review committee should be more efficient and politic effects should be blocked. Favouritism (such as nepotism, cronyism and patronage) should be prevented while employing on the public service and promotion in public sector. Ethical rules should be accepted by all society while public service is implementing. Ethical Board for Public Servants should practice (DPT, 2007: 38-39).

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