Ethics Board: Panacea or Fashion—The Turkish Case

Umit Berkman*

Introduction

In the last decade the discussion on corruption and unethical practices¹ has become more intense, both at the national level and the international level. Government officials are expected to be the guardians of public interest and public resources; but recently, politicized, corrupt, unethical, and unprofessional behavior and practices in public administration have captured world attention. Regaining the legitimacy of the state through good governance and ethical public administration has become the top issue on the agendas of several governments and the most influential of the international organizations: the United Nations (UN), the World Bank (WB), and the Organization for Economic Cooperation and Development (OECD).

In this article, first the role of these international organizations in the rise of ethics will be briefly overviewed by looking into some of their related activities and then the emerging discourse on governance and public administration reform. Then, the Ethics Board for Public Officials established recently in Turkey will be examined as a case of the rise of ethical discourse with explicit support of international agencies and domestic reformist groups. Finally, an assessment will be made as to whether this attempt will lead to significant results or remain as a fashion.

* Umit Berkman is a Professor in the Department of Management, Bilkent University, Ankara, Turkey. He received his masters and Ph.D. degrees in public administration from Syracuse University. Some of the journals that Dr. Berkman's articles have been published are: International Social Science Journal, Journal of South Asian and Middle Eastern Studies, Res Publica, Canadian Journal of Development Studies, International Journal of Public Administration, and Organization Studies. Chapters in books in the last three years (Praeger and Marcel-Dekker) involve articles on administrative reform and bureaucracy in Turkey. Professor Berkman has also served as Vice Rector of Bilkent University from 1988-2004.

¹Typical examples are taking bribes, kickbacks; misuse of public facilities, properties, funds; the removal of documents from files; conflict of interest; favoritism, political clientilism, nepotism, and cronyism, in providing services and/or in hiring and promotions; acceptance of gifts and favors. It should be noted that the above is not a comprehensive list.
Rise of Ethics

The shifting balance and the changing nature of the interaction between and among the institutions of the state-the market (the business world)-the civil society have led to developments such as the reexamination of what the state should do, decentralization of authority within governmental units, emergence of customer orientation and greater citizen participation both in the developed and developing countries. Parallel to these changes integrity, impartiality, accountability, and transparency have become key values of public service in addition to the more traditional values such as neutrality and effectiveness.

The spread of democratization and human rights, rapid advances in communications technology, better informed citizens, increasing reliance on the market mechanism, expectations for lean and clean government structures and agencies, and globalization which requires economic and administrative systems that safeguard private property, enterprise and capital, have all brought new challenges to public administration. This is especially true in developing countries where corruption and unethical behavior are now no longer tolerated by the majority of the stakeholders from such diverse groups as businessmen, professionals, "new" politicians, reformist bureaucrats, intellectuals, NGOs, media and press. Increasingly,

---


such people believe that these behaviors and practices could be reduced drastically if not eradicated totally.

The rise of the conscious and "real" citizen, forcing public authorities to exhibit high standards of professionalism and ethics and to take effective action against corrupt and unethical practices has been accomplished with the active help of some of the influential international agencies. Now there are anti-corruption programs in over 40 countries. One can even talk about the emergence of an "anti-corruption industry."

Within this context, the UN has vigorously promoted ethics in public service; it has done this through resolutions and declarations, through publications, and through conferences organized by its Department of Economics and Social Affairs (DESA), Division for Public Economics and Public Administration. For example in 1997, a colloquium on "Promoting Ethics in the Public Service" was organized by the UN and UNDP-Brazil within the context of modernizing the civil service and the bureaucracy as managerial instruments serving citizens and taxpayers.

Again in 1997, the Division organized a conference titled "Public Service in Transition: Enhancing Its Role, Professionalism, and Ethical Values and Standards"; this conference discussed the role of the public service in the transformations experienced in Central and Eastern European countries. Public officials were expected to become more outward looking and responsive to the needs of the business and other community groups.

This was followed in 1998 by a conference, titled "The Civil Service in Africa: New Challenges, Professionalism and Ethics," that focused on globalization, structural adjustment policies and equitable distribution of wealth. The above conference activities were later published.

There have also been a number of recent UN declarations and resolutions: Action Against Corruption (1996); Declaration annexed to International Code of Conduct for Public Officials Against Corruption and Bribery in International Commercial Transactions (1996); and International Cooperation Against Corruption and Bribery (1992).

In addition to the UN, other international agencies have shown great concern for the above mentioned issues. The World Bank (WB), the

---

7B. Michael, "Explaining Organizational Change in International Development," 1067.
9Turkish senior officials attended the conference along with 120 participants from 21 different countries. It can be argued that Turkey is also in transition since the reliance on market mechanism and the privatization policies have been intensified in the last decade.
International Monetary Fund (IMF), the European Bank for Reconstruction and Development (EBRD), the Organization for Economic Cooperation and Development (OECD), the International Institute of Administrative Sciences (IIAS), Transparency International (TI) have all been very active in promoting measures against corruption and unethical practices.\textsuperscript{11} The Council of Europe's "Groupe Multidisciplinaire contre la Corruption" is another example of the global fight against these problems.

The OECD's Report of the Working Group on Participatory Development and Good Governance (of the Development Assistance Committee-DAC) highlights open administration, transparency, citizen participation,\textsuperscript{12} and access to information as basic instruments for fighting corruption and unethical acts. OECD also established the Public Management Committee (PUMA) in 1990. In its publications, the OECD draws attention to concepts such as "ethics infrastructure" and "national integrity system."\textsuperscript{13} The OECD Council of Ministers has also approved an ethics checklist for guidance in ethical management in the public service.\textsuperscript{14} The IIAS organized a conference in 1993 where the "new role" of the state and the administrative system was discussed.\textsuperscript{15}

The World Bank has conducted studies, which show a clear negative correlation between the degree of corruption and the level of foreign invest-


\textsuperscript{12} With respect to citizen participation, Vermeulen raises interesting questions: Will the civil servant be "submitted to servitude and patronizing, no longer or lesser by the politicians, but this time by the citizen?" And, does the state exist exclusively to please the citizens? P. Vermeulen, "Ethics as a Tool to Fight Corruption," in \textit{Political and Administrative Corruption}, eds. O. Bozkurt and I.V. Moniz (Brussels: International Institute of Administrative Sciences, 1999), 199-223.


\textsuperscript{15} International Institute of Administrative Sciences, \textit{Redesigning the State Profile for Social and Economic Development}, (Brussels, 1994).
ment and economic growth. The WB prefers to talk about "governance" which seems to cover reforms not just in the administrative apparatus, but also in the political sphere. It was within this framework that in September 2001, the World Bank together with the Turkish Government held an international conference in Ankara titled "Promoting Good Governance and Anti-Corruption in Turkey."

The abovementioned international attempts coupled with the increasing demands of the different stakeholders in the national systems (such as business associations, professional associations, NGO’s, media and in certain cases opposition political parties) for "clean" government, "transparent" public systems, "professional-impartial" bureaucracy,—all the demands for an ethical public service—have led many governments to take steps to reform their political and administrative systems and to redefine the role of the state.

Hence, some countries have established an Office of the Ombudsman (e.g., Sudan); some have adopted a Code of Ethics (e.g., Brazil, Italy); some have appointed an Ethics Counselor (e.g., Canada); some have created commissions (e.g., South Korea; or Hong Kong’s well known Independent Commission Against Corruption [ICAC]); some have established ministries (e.g., the Ministry of Ethics and Integrity in Uganda) or offices (e.g.,

---


19It should be noted that the sweeping powers given to the ICAC would be politically infeasible or impossible in other countries.
the Office of Government Ethics in the US). These attempts have resulted in varying degrees of success.²⁰

Turkey Follows the Trend: The Ethics Board for Public Officials

It is within this context that we will examine the Ethics Board for Public Officials in Turkey which was recently established. In May 2004, the law creating the Board was enacted; in August 2004, board members were appointed by the Council of Ministers.

The Prime Minister’s decree (December 2004) explains the necessity and lays the foundation for the establishment of the Board. The decree points to the emergence of a new understanding and concept of public service characterized as being impartial, objective, honest, open, transparent, accountable, and sensitive to the community demands. According to the decree, this new understanding has been the result of social-economic and cultural developments in Turkey and abroad, rapid communication advances, and the demands of a growing civil society. This new public service concept relies on ethical values and principles aimed at preventing corruption, upgrading quality in the public service, and recapturing trust in public administration and public organizations.

The decree also notes that international and national organizations have undertaken studies on public service ethics, and many countries have established boards, to this effect.

Therefore, the decree states, time was due for establishing the Ethics Board for Public Officials which was charged with the following:

- Preparing code of ethics
- Enforcing code of ethics
- In cases of violation of the code, carrying out disciplinary investigation and reporting the results to the Office of the Prime Minister
- Undertaking or supporting research and training for building an ethical culture in the public service
- Investigating financial disclosures if deemed necessary
- Determining the limits of the “gifts” (i.e., what is acceptable?) and demanding annually a list of gifts received by high level bureaucrats.

The eleven members of the Board are appointed by the Council of Ministers. According to law, the composition of the board is as follows:

- One former minister
- One former mayor
- A retired member of the High Court of Appeals
- A retired member of the Council of State
- A retired member of the High Court of Accounts
- Three members from a group composed of former undersecretaries, ambassadors, governors, and heads of regulatory agencies
- Two former rectors or deans
- One former administrator of a professional association

One of the members is appointed as the chairman of the board. Members are appointed for four years and their membership cannot be terminated before the end of their term; they can be reappointed by the Council of Ministers. The Board convenes four times a month. Turkish citizens and foreigners residing in Turkey can submit a petition about the wrongdoing and/or unethical behavior of public employees. Complaints and accusations related to violations of ethical codes by public officials who are at the rank of general director or higher are processed by the Board within three months. However, disputes and/or accusations pending in the courts can not be processed by the Board.

**Now What?**

The establishment of the Board can be seen as an indication of the government’s commitment to ethical public administration. Thus it can be said that there is political backing and support, a pre-condition for any possibility for success.

On the other hand, one could argue that the existing laws and administrative mechanisms, such as the ones listed below, could and should be sufficient:

- Public Personal Law (1965) (has several articles on the loyalty, impartiality, and responsibility of civil servants, and prohibits them from engaging in trade activities, and from accepting gifts and benefits.)
- Financial Disclosure and Anti-corruption Act (1990)
- Inspection Boards in every ministry and public agency
- The High Inspection Board of the Prime Minister’s Office
- The Office of Administrative Development attached to the Prime Minister’s Office

56
• The High Court of Accounts
• The State Inspection Board of the President’s Office

Some have argued that it is paradoxical to end up with such a problematic public administration when there is a “control” bureaucracy of this magnitude. Some have even proposed that since their existence does not seem to make much difference, why not get rid of this bureaucracy. In a sense, a high level of institutionalized control brings with it the risk that the tool becomes the end.

Will the Board become another “control bureaucracy” of the above sort? It will depend on several factors, particularly the government’s tenacity on the matter. Another critical factor will be the Board’s performance. In fact regulatory and independent “boards” have become the “new institutions” in Turkish public administration since the mid 1980’s with the implementation of liberalization, and privatization policies. Some of these boards are: The Competition Board, The Capital Markets Board, The Banking Regulatory Board, The Telecommunications Board, The Energy Market Board, The Radio and Television Board, The Public Bidding Board.

These boards are seen as a means of increasing professionalism and rationality in public policy processes, thereby reducing interest-based political interface in public administration. In this regard, the Ethics Board has sufficient autonomy to be both proactive and an effective watch-dog agency. Furthermore, the Board will surely get the support of the influential international agencies whose activities were summarized in an earlier section.

The Ethics Board has prepared a code of ethics for public officials which has been published in the Official Gazette as a “by-law” (13 April 2005, 3-15).

The code uses terms and foresees procedures which are rather new (or “fresh”) for Turkish public administration:
• Easing the daily life of citizens (Article 6);
• Serving the stakeholders (Article 6, 7);
• Increasing customer/citizen satisfaction (Article 6);

---

21 In the initial draft of the civil service law (which is still pending) some of these positions and titles in the ministries were eliminated; but with growing opposition from the bureaucracy, the government did not insist on these changes.

• Total quality management (Article 5, 6);
• Citizen participation (Article 5, 19);
• Trust in the citizen (Article 5);
• Focus on citizen needs (Article 6, 19);
• Option of sending complaints through e-mail (Article 31, 39);
• Focus on results (and not on formalities) (Article 6);
• Accountability (Article 5, 20);
• Informing citizens of the standards of every public service (Article 7, 19);
• Protection of whistle-blowers (Article 12);
• Civil servants’ responsibility in using “time” efficiently as a valuable resource (Article 17);
• Gift receiving and gift giving restrictions (Article 15);
• Conflict of interest (Article 13);
• No special or favorable treatment for ex-civil servants (Article 21);
• “Ethics training” for civil servants (Article 20, 25);
• Performance evaluations to include ethical behavior (Article 23);
• Appointment of an “ethics committee” in each agency (Article 29);
• Signing of an “ethics contract” by civil servants (Article 23);
• Strengthening “ethical culture” (Article 1, 25);
• Making public through the Official Gazette–cases of unethical conducts including the names of the officials involved (Article 39).

So What?
“So far so good”? The government, with the explicit support of influential international institutions and domestic reformist groups, has initiated an important attempt at good governance by establishing the Ethics Board for Public Officials. The Information Act was also enacted (October 2003) in line with the accession program to the European Union. This law, aiming to foster transparency and accountability, required public organizations to provide information to citizens on any public matter - process or decision within 15 days of application. All these changes are signs of political commitment and their symbolic impact should not be undervalued. Furthermore, the Board does have the legal autonomy to take crucial steps and measures. Public organizations can also draw additional code of ethics specific to their services. Whether the Board will be able to secure the sin-
cere cooperation of related public agencies remains to be seen.\textsuperscript{23} In this regard, the support of the "non-governmental" organizations and civil society associations may be crucial in overcoming the ever present bureaucratic reluctance and resistance. It would have been better if members of civil service associations were appointed to the Board, the composition of which is now highly "bureaucratic."

Another difficulty could be the implementation of "ethics training" as officials may find it unnecessary or "even insulting to be told that they need to learn more about it."\textsuperscript{24} Above all, the size and complexity of the Turkish public sector indeed make things rather difficult. And of course there is always the potential danger that the Board turns into another bureaucratic empire of "roving commissars."\textsuperscript{25}

So far the main activity of the Board has been the publication of the code of ethics which includes rather fresh terms and a new discourse for Turkish Public Administration. Yet, the Board has not shown that it can "bite" offenders; e.g., no officials have been named for unethical conduct in the Official Gazette as foreseen in the Article 39 of the Code of Ethics; no special measures have been announced to protect whistle-blowers as foreseen in Article 12 of the code.

The Board has also organized or sponsored a couple of conferences of rather "academic nature" whereas more vigorous training programs in administrative departments would have been more effective and relevant.

To conclude, virtue is better practiced than talked about, and this is what the Board is expected to do.

\textsuperscript{23}For a brief historical account of administrative reforms in Turkey see, U. Berkman and M. Heper, "Political Dynamics and Administrative Reform in Turkey" in Administrative Reform in Developing Countries, ed. A. Farazmand (New York: Praeger, 2002), 151-62.


\textsuperscript{25}Ibid. During the debates on the Ethics in Government Act of 1978 in the US Congress, several members voiced their fear that the ethics officers would become the "mullahs of the US Government," "a priesthood of ethics counselors," "band of roving commissars."