

GOVERNANCE IMPLICATIONS IN TURKISH CRIMINAL JUSTICE SYSTEM

Türk Ceza ve Adalet Sisteminde Yönetişim Uygulamaları

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Özet

Yönetişim kavramı kamu yönetimi alanında önemli değişikliklere sebebiyet vermiştir. Yönetişim öncelikle halkın sorunlarına farklı bir bakış açısı sunmaktadır. Bu makalenin amacı, kamu sorunlarının çözümünde kullanılan yeni bir yöntem olan ve halkın yönetime direk ve eşit katılımını öngören yönetim kavramını tanıtmaktır. Bahsi geçen yöntemler devletin klasik dikey yönetim anlayışından farklı olarak uygulanmaktadır. Yatay yönetim tarzı, yönetişimin en belirgin özelliğidir. Diğer birçok kamu kurumunun yanında suç ve adalet sisteminde de yönetişim teknikleri sosyal problemlerin çözümünde kullanılmaktadır. Bu tekniklerden olan ağ, işbirliği ve ortaklık modelleri ve bunların Türkiye'deki uygulama örnekleri bu çalışmada irdelenmektedir. Yönetişim ve kullanıldığı yöntemlerin suç ve adalet sistemi başta olmak üzere diğer kamu yönetimi alanlarında uygulanabilirliği kuşkulu da görünse, aslında başarıyla her alanda kullanılabileceği öngörülmektedir.

Anahtar Kelimeler: Yönetişim, Suç ve adalet sistemi, Ağ, İşbirliği, Ortaklık.

Abstract

The field of public management has changed with the governance idea. Governance is a new term in public administration area offering a different perspective for public solutions. The goal of this article is to introduce new public problem solving methods by introducing governance tools requiring direct public involvement and equal participation. Suggested tools do not operate like those of government's traditional vertical

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management approaches. Horizontal management style is the trademark of governance, which is also elaborated with various models from practical examples. Besides many other public institutions, governance tools are increasingly used in criminal justice system to address various social problems. Implementation of network, collaboration and partnership models are discussed with selected successful real-life cases from Turkey. Governance and its tools are argued to be applicable to all public administration cases even though they seem impossible to achieve especially in criminal justice area.

Key Words: Governance, Criminal justice, Network, Collaboration, Partnership.

Introduction

Governance term has aroused in public administration area as a reaction to traditional government understanding with the help of advanced technology and liberationist ideas especially after '50s. Governance fostered networks (Sisk, 2004), collaboration (Miller and Ahmad, 2000), public participation (March and Olsen, 1995), partnerships (Mann et al, 2007), privatization (Hambrick, 1994) and many other different tools (Salamon, 2002). Modern world experienced various applications of governance idea in the recent decades. Basic idea of governance is to offer more efficient and more decentralized public services. Developing countries, including Turkey, also applied some of those tools in different public services, which increased efficiency considerably.

Governance has many definitions according to the authority defining it. Prior General Secretary of UN, Kofi Annan described governance as "the single most important factor in eradicating poverty and promoting development" (Annan, 1998:13). Annan emphasized the efficient side of governance in his description. As well as non-profit organizations, outsourced public services operated by private companies which are resulted from pull-type economies form another type of governance. Pull-type economy basically aims that the demands are supplied more satisfactory than ever. Customers/citizens' demands vary in a large context however it is still able to be flourishingly supplied because of new production and marketing techniques. This economical shift ultimately altered the course of government-citizen relationship.

Rhodes (1996) suggested that there are at least six uses for governance term which are “the minimal state, corporate governance, new public management, good governance, socio-cybernetic systems, and self-organizing networks.” Governing style of governance is more individual, customized, faster, transparent and systematic than that of government. Governments are known to be centralized, bureaucratic, slow, process-aimed, and thus; inefficient (Rhodes, 1996). Before globalization, governments were believed to do everything; controlling markets and public policies, interfering in every kind of transactions in a country and providing social and economic order for society. Civic engagement organizations and financially powerful corporations gained power in the globalization age and forced governments to change centralized-top to down interventions. As discussed above, developed information and communication technologies deeply affected this change (Andrew and Goldsmith, 1998).

This article aims to demonstrate actual applications of tools of governance in public administration system in Turkey. Since public administration is a huge area to inspect in such a brief article, examples of governance implications in Turkey will be represented only in criminal justice system. Networking, collaboration, and partnership tools will be discussed in three different cases. The study will argue that governance tools are not utopia; nonetheless, they are easy to be conducted and achieved at maximum efficiency.

1. Theoretical Background

Organizational theories offered different explanations on how organizations work. Operational classification generally claims that there are three different types of organization; rational, natural, and open systems. Rational systems act in mechanical order to achieve specific goals. Every member of the organization has a special role which is generally written in a code. Traditional-bureaucratic government procedures and industrial corporations usually apply rational approach. Formal relationships often neglect the human objects (Scott, 2003).

Natural organizations adapt the environmental changes. Unlike rational systems, natural systems do not have specific goals. However,

natural systems follow complex targets. Service delivery organizations such as schools and hospitals utilize natural system course. Human factor is important. Survival of the organization depends on the adaptation of itself. Since environment constantly changes, roles, goals, and rules within organization change as well. Therefore, structures and relationships are usually informal (Scott, 2003).

Open systems was brought to the organization literature in recent century. It claims that organizations are formed by many different small partial systems. Those smaller systems are connected to the main organization in different ways and they all operate differently. This makes all systems interdependent since the outputs and inputs of all systems are shared in the global environment (Scott, 2003). Open systems use metaphors of both rational and natural systems. Although open systems are closer to natural systems which assume an organization as a living organism surviving in a harsh environment, they also share the rules and roles of hierarchical and non-hierarchical rational systems (Scott and Davies, 2006).

Open system concept promoted governance implications. Interdependent organizations establish different combinations of connections to achieve a public goal. Interdependency brings elasticity in rules and roles of stakeholders. Governance requires sufficient communication with the environment factors which are the target society, resources, geographical attributes, social values etc. (Andrew and Goldsmith, 1998). For example, Turkish National Police (TNP) seeks cooperation with many public, non-profit, and private organizations to combat different crimes with more efficient and effective methods. All stakeholders benefit from the results since the product of criminal justice system is social order. Theoretically, open system approach is the best to explain why and how governance policies create the most efficiency in public administration systems.

Governance does not focus on a particular issue in terms of problem solving. There is a goal complexity because of the complex horizontal management system. The problem solving method is generally community-driven and is not enforced by another higher organization. In a liberal way, stakeholders come together and try to seek a solution by

themselves. Yet, as Lasker and Weiss set forth (2003) it is still not the most perfect way to work in a collaboration and people are sometimes not satisfied with these community partnerships' policy outcomes. They argue that the reason of inefficiencies in governance is not the governance method itself but wrong implementations (2003). Governance requires a carefully implemented collaborative study.

Governance has its efficiency and strength in that collaboration. The community support will increase the chance to figure out the real problem (Lawrence, 1999). Real problem definition is an important step in policy analysis, if not the most important one. Thus, the governance is not responsible for problem solving. Instead, every stakeholder is responsible for their shares in the participation. Horizontal management style helps this shared responsibility to work because of absence of a central authority. Cheema and Rondinelli (2007) believe that governance spreads the authority through participants. As long as the authority was spread into the governance body, the vertical relationships become more horizontal. Salamon (2002) defined the direction of this change from *command and control* to *negotiation and persuasion*. The historical power-authority began to shift to a compromise among governing organizations. According to governance school, social partnerships can rule instead of government agencies if there is a greater utility for the society. In other words, the conventional authority of governments can be disregarded if there is benefit for the society to do so. Outsourcing and privatization movements began with this paradigm shift in modern public administration systems.

2. Governance in Criminal Justice System

Criminal justice may be one of few public administration areas that cannot be assumed without central government supervision. Limiting freedom of outlaw individuals to maintain social order is the main responsibility of law enforcement offices. Therefore, the job is so important that it could not be left to persons or organizations that are not authorized by the society. Governments should deal with public security since they are the only organizations elected by people. Governments also have the resources to run law enforcement. At first looking governance

implications seem not to be applicable to law enforcement; however complexity of problems in criminal justice system faces today makes it quite reasonable and doable to apply governance to it.

Crime tackling is not limited to putting offenders behind bars; it also should offer rehabilitation which was ignored until the latest century. Social-economic reasons of crime also held the whole society responsible for crimes and criminals. Moreover, law enforcement is not only about combating crimes after they are committed; it also includes proactive methods to prevent them even before happening. Of course, not all offences can be deterred proactively, however important crimes such as illegal drug abuse, juvenile crimes, some of terror incidents, domestic violence, and many ordinary crimes could be dealt successfully with community support (MacKenzie, 1997). Community policing is a proactive method which take all public, private institutions and even individuals into crime fighting.

Community policing relies on increased civic engagement, which needs governance tools such as networks, partnerships and collaboration. Unfortunately, organizational structure of law enforcement is not designed to implement these procedures easily and at some point; it may be impossible to implement these tools in all levels of processes. There comes collaboration as a new concept building a governing body including different public and private organizations. It facilitates information sharing, resource exchange, and setting a common goal for complex and specific social problems. Governance is also inevitable for criminal justice system to identify local needs. It fosters accessibility and responsiveness of law enforcement, especially after the priority of law enforcement changed into order maintaining and non-emergency services (Borum et al., 1998).

2.1. Governance Tools

2.1.1. Network

McGuire (2002:600) describes networks as “public policy making and administrative structures involving multiple nodes (agencies and

organizations) with multiple linkages”. In other words, networks are joint establishments in which more than one organization is dependent on another to perform a common task. Since most of the top down policies are ineffective for local problems, most local networks are result of bottom-up initiatives. Usually, criminal justice networks have at least three participants; local government, citizens or (small) entrepreneurs, and organizations responsible from implementation of the policy. Other organizations can also participate in the network depending on public goal. Schools, universities, NGOs, social work entities, probation services, hospitals, and municipalities can be part of a network. On the other hand, professional support is inevitable in criminal justice network, which is commonly law enforcement itself due to the need for special skills and knowledge on security issues. Networks hold meetings that facilitate information exchange, decision making, and evaluation of joint activities (Terpstra, 2004).

While local networks mainly assemble on specific problems of crime of social disorder and public insecurity, goals may be broadly various, such as “the promotion of the quality of the area” or the realization of “a city centre with an attractive climate to live, to stay, to set up a business and to invest money” (Terpstra, 2004:4). Identifying such broad targets instead of conventional ones eliminates potential resistance against a network which primarily associates with the police. Although networks have formal written agreements among stakeholders, success is behind informal relationships, mutual trust, and personal acquaintance. Informal agreements can dismiss likely rule restrictions from consideration.

Police culture may be an obstacle when building a network because of fear of loss of authority or independence when a role taken in a network with others. It is not easy to defeat this fear no matter what authority is the first to make the request for network establishment. Moreover, lack of co-ordination and competition among government organizations could lead to conflict. Government institutions generally have different perspectives about the sources of security problems, required steps to stop them, distribution of responsibilities within network, and budget issues (Terpstra, 2004).

Table 1: Four Types of Involvement by Citizens or (Small) Entrepreneurs in Local Networks

	Limited	Extended
'talking'	Exchange of information (I)	Citizens as advisors or participants in decision-making (II)
'doing'	Promotion of self-reliant behavior (III)	Safety activities under citizens' control (IV)

Source: Terpstra, 2004:8.

Terpstra (2004) discusses two main types of public participation in network which are *talking* and *doing* (Table 1). *Limited talking* is the slightest form of participation and only about information exchange. Government agencies promote this because it helps officials to recognize public demands from the first hand. *Extended talking* requires more than information exchange, in which government encourages citizens to be in decision making process. Citizens intervene in local safety problems actively in *limited doing*. Community also offers solutions for problems of crime and disorder. Limited doing enhances social cohesion and informal control. Finally, the most active type of involvement is *extended doing* which is usually consequence of citizens' or entrepreneurs' initiatives. Extending doing applications are normally paid by community parties (Terpstra, 2004).

2.1.1.1. Case

Citizen involvement into decision making regarding public safety is respectively a new phenomenon in Turkey. Both public and government are not completely ready for this; public has no willingness to participate and public institutions' formal structure does not allow citizen involvement. Top-down nature of traditional bureaucracy not only blocks citizens, even middle and low level officers have limited opportunity to

assist in decision making process. It is a problem for all public administration system, not only for criminal justice.

However, local branches of Turkish National Police arrange public meetings called Public Peace and Safety Meetings (Huzur ve Asayiş Toplantıları) in almost all provinces every year. Mayors (elected), governors (appointed) and chiefs of local police participate into these meetings. Public administrators respond questions regarding public problems such as low visibility of low enforcement, inefficient police tactics, high crime areas, etc. Although public does not have a direct role in decision making, their concerns and expectations get reported to the authorities through these meetings. Nonetheless, Çelebi (2004) reports an important issue about identities of participant citizens; they are few people who are generally selected by the authorities, which is not enough to fulfill network function of limited or extended talking discussed above.

Another example of *limited talking* is complaint and suggestion boxes located in infrastructures of government institutions. Feedbacks about services, attitudes of officers and other issues are being collected and reported to chiefs of police. Central government forces all public administration entities to make those boxes at present to everyone. Finally, strongest form of network implication discussed in this paper is Conversation Days (görüş günü), where Chief of Police himself accepts visits from public in dedicated hours on a specific week day without any kind of limitation (Antalya Polis Department, 2010). Unfortunately, no study evaluated the success of suggested interventions and no data is available for even descriptive statistics of discussed applications; however it is a known fact that they are increasingly applied by criminal justice organizations.

2.1.2. Collaboration

Collaboration is the process where participants with different agendas about a problem seek solution to it altogether. None of them has the authority or power to execute the solution alone; therefore they need each other no matter how great the differences are. As in the networks, stakeholders could be individuals, groups and organizations. Main goal of collaboration is to develop a broader appreciation of problem (Gray,

1998). Smith (2003) claims collaboration is not like other types of partnerships since there is a “true shared decision-making” among stakeholders (2003:75). Collaboration assumes a greater degree of commitment of parties. Authority, Resources and projects is controlled and shared by the partners.

Bailey and Koney (2000) define four levels of collaboration which are cooperation, coordination, collaboration, and coadunation respectively. Cooperation is the lowest degree of collaboration in which all the partner entities remain autonomous with their decisions and activities. The strongest collaboration type is coadunation where all stakeholders unite within one structure and cease to exist by themselves. Success of collaboration relies upon identifying three important points of alliance development; correctly assessing preconditions for forming an alliance, openly negotiating the process, and thinking through the desired outcomes (Gray and Wood, 1991).

Common collaboration implications in criminal justice appear among health departments, universities, schools, courts, and law enforcement. Collaboration spreads among government and other public organizations to meet public expectations. Usually tragic public events lead to collaborations; it is a government response to maintain social order. Public reaction enforces government agencies to collaborate with society for specific social problems. Big terrorist attacks and natural disasters generally end up with new collaboration efforts to prevent casualties in future.

2.1.2.1. Case

TNP has an intra computer network where all written documents are prepared and delivered by officers called Police Network (POLNET). POLNET has increased efficiency in law enforcement and it is one of the most advanced e-government projects of Turkey (Sahin and Breen, 2009). Another efficient intra network has been established within Ministry of Justice to which every courthouse in Turkey is connected to, which is called National Judicial Network Project (UYAP).

Normally, though each organization had an online network, police processed all warrants, summons, execution orders, and verdicts to POLNET after receiving them from courts in paper format. An inter-organizational network project started in 2006 where related areas of these networks could be reached by both organization employees to reduce workload and paperwork (Çam, 2008). Before e-government transformation, police patrols, police stations, and all other police departments operated based on the information appeared in POLNET which was unable to provide fast updates.

POLNET-UYAP integration enables police a direct access to online databases of courts instantly. Updated information prevents wrongful detentions and arrests. Moreover, official procedure of charges and length of time for bringing suspects to trials were accelerated (Unlu and Kapucu, 2009). Although there are some technical problems, network is still under development and it will be a good model of collaboration in all public administration system in Turkey. The system has one way direction where courts provide information to police. A faster information sharing system will be sustained when it becomes a two way information exchange in which the police are able to upload documents of requests, evidences and official letters to UYAP (Çam, 2008).

2.1.3. Partnership

As in other governance methods discussed in this article, partnership also requires two or more entities to come together to achieve a goal that will increase public satisfaction. In contrast to collaboration, participants are not required to make structural changes in organizational body. Partnership creates a common resource pool. Partnership relies upon three elements; community, partners, and responsibility. Communities are the people who live in the affected geography by common policies of partnership (NCPS, 1998). Communities may be towns, cities, neighborhoods, or other larger and smaller societies.

Partners need three attributes to be called as partners. First, they must have an interest and shared responsibility in a specific public policy such as preventing crime or supporting youth. Secondly, they are existing or potential beneficiaries of those policies. Long-lasting policy suggestions

are usually innovated, shared, and implemented by them. Finally, partners refer to co-grantees whether they are local municipalities, other forms of governments, or private corporations (Mann et al, 2007).

Third dimension of partnership is responsibility. Contemporary criminal justice thinking accepts that government alone cannot prevent crime. All members of a community should share responsibility to fight against it. Underlying causes' of crime should be addressed by a partnership. *Responsibilizing* strategy is a new form of “at-a-distance” governance. This approach broadens accountability of each partner and thus makes them all equally responsible failures of governance. If civilian partners of policies refuse or fail to be *responsibilized*, partnership will be unsuccessful where community itself will suffer as a result (Mann et al, 2007).

Most of the partnership models in criminal justice system rely upon school, health and social work partnerships. In them, the goal is to encourage individuals to involve in crime prevention policies. For instance, Kansas City municipality established a partnership among several local lending institutions, police department and the Missouri Housing Development Commission. *The Police in Neighborhoods* initiative placed 50 police officers in high-crime areas, which was financed via private vendor partners. Partnership targeted stabilized and reduced crime rates by making police officers actually living in problematic areas (Clever, 1994).

2.1.3.1. Case

Istanbul Narcotics Division (IND) developed a partnership model for youth substance use. The Anti-Drug Campaign *You are the Target, Say No to Drugs (Hedef Sensin – Madde Kullanımına Hayır)* has been started by the partnership of Istanbul University (IU), Department of Education of Istanbul Governorship, Municipality of City of Zeytinburnu, Municipality of Istanbul Metropolitan City and IND. Although institutions have somewhat limited ability to implement drug prevention programs by themselves, the partnership designated roles and responsibilities among stakeholders in order to establish stronger

practices (Zeytinburnu Municipality, 2010; Habertürk Newspaper, 2010; İlhan, 2010; Star Newspaper, 2010).

There was no dedicated fund for campaign but partners guaranteed to support the project within their responsibility when it began in September 2009. The project included two social support projects at twelve high schools (peer support and social activities after school hours), post and pre-test surveys, conference series on drug awareness, theaters informing about drug addiction and its consequences, publishing books and booklets about drug awareness, and a graduation ceremony at the end of the education term (Cumhuriyet Newspaper, 2010; Takvim Newspaper, 2010).

The campaign started with a pre-test survey developed and conducted by IND and IU. All students took drug-informing lectures and saw theater shows in two educational terms. Three booklets were prepared by IND and published by Zeytinburnu Municipality. Role-model students were selected by school counselors and they were trained about the project together with IND. Project groups selected from schools visited attraction and culture centers every month for motivation support. Partner municipalities covered costs of visits and travels. Youth activities including basketball, volleyball, folk dance, and theater etc. were combined in after-school programs which were also settled by Zeytinburnu Municipality with all equipment and trainer charges. IU and school counselors monitored the project. Following a post test survey at the end of annual education term, project findings were made publicly available with a press conference in May 2010 (Vatan Newspaper, 2010).

3. Discussion

People faced a changed in the sources of authorities of governing bodies of all communities in the last few centuries. Kings, Sultans, Monarchs, dictators and other despotic regime leaders got the authority to govern from alleged superior powers where actually they used dominance and enforcement mainly to stay in power. Technological and ideological advancements turned the trend in favor of ordinary citizens which created a shift in public administration system as well. Hierarchical and vertical

framework of governments gave way to new horizontal and negotiation-based governance bodies.

Governments used to handle every case as a public problem and had it done by the experts they hire and pay. Those experts sometimes managed an organization (technocracy) or sometimes they were just consulted (bureaucracy) (Centeno, 1993). Since public involvement did not exist, governments set up key points and handled the problems in a unique way discussed above. Thus, public managers did not have flexibility. Direct or indirect involvement of public in decision making mechanisms of public administration changed processes of government totally and broke this cycle irreversibly.

Methods of this involvement are various. Collaboration occurs among public organizations after they change their routine procedures and create a new structure to address a public problem. POLNET-UYAP integration became successful when Ministry of Justice and TNP sometimes exceeded and sometimes relinquished their authorities in favor of the other party. In networks, on the other hand, criminal justice organizations appeared to be leading element from starting to operating it. Public meetings, public debates, and public invitations to different committees are examples showing how TNP encourages citizens to participate in a more democratic governing process.

Partnership is most commonly developed in local level especially in small administrative units. Most of the partnership policies are generally preventive projects utilized in specific geographical areas. Demand usually comes from a public entity in a problematic community. Case project discussed in this study was among municipalities, police, and education facilities. It is still an unfinished project however expectation of all participants and community is extremely positive. A wide affirmative media support was already provided, and it seems that the project will be replicated in many other places in Turkey.

The question whether law enforcement successfully applies partnership, collaboration and network tools needs further research. Literature heavily cites studies about program evaluations rather than comparing perceptions of citizens, NGOs, and law enforcement agencies in partnership, collaboration and network afterwards. How democratic

participation had an impact on all government institutions needs additional scientific observation. Media and public perception comes along as an important factor influencing the success of governance projects. Consequently, if community asks for specific cooperation with law enforcement whether as a network, collaboration or partnership, the current structure of government agencies can facilitate their action. Therefore, main issue is participation of citizens rather than structure of tools. When citizens want to involve in democratic process more actively, government organizations may need to reassess feasibility of demands. Moreover, organizational sub-culture could be another obstacle before new tools. Transparency and willingness to cooperate with citizens will increase level of participation and mutual trust as a result.

Conclusion

Public management area has changed with the governance idea and will never be the same again. New public problem solving methods are introduced with invention of governance which requires direct public involvement and equal participation in a horizontal management style unlike government's vertical management approach. Network, collaboration and partnership are increasingly used by law enforcement to respond different social problems. However, quality of participation of citizens is still a problem as in other governmental processes. Social capital development, in this sense, may contribute to community building efforts. It should be understood that the governance term has been possible with information technologies and liberal movements. Thus, it is an ongoing process. It will change with the help of time and technology; the governance term we discuss now can be very different than the governance term in the next ten years. Therefore, a public manager should not stop learning and investigating new ways to improve management skills of his/her organization.

In the future, the European Union can be a model for the other countries in the world to create world governance. Global organizations like UN, WHO or UNESCO use common global sources and make global governance possible today. As discussed above, a public manager should be flexible to those developments and different collaborations in the

future. Research shows that developing 16 countries which consist 51 percent of the whole world population make studies about governance and rapidly adopt those strategies in their country's management systems. Despite political conflicts, those countries make their ways to governance (Hyden, et.al, 2003).

Therefore, if it is insisted in traditional governmental understanding, public administrators in modern world will be outdated. For that reason, governance paradigm should be well-understood and its control-marketing mechanisms should be implemented strategically. The future's managers should have good skills on internet use and e-government implications. It is clearly presented that these essential tools will be the source of power in the future governments.

This study discussed that governance is not some super advanced public administration method that can only be applied in developed powerful countries. Instead, very easily applicable governance methods could increase efficiency in all government institutions, promote public satisfaction, and provide a healthy governing authority in which majority of community believes and supports. Public managers in this era should act *in accordance with the public* more than *in the name of the public*. Civic engagement organizations appear to take the authority in every public service area, which forces more democracy and collaboration in management area.

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