

# Turkish Government Structure from a Disaster Management Perspective

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The principal characteristics of the Turkish state are laid out in Articles 1 to 3 of the constitution, according to which Turkey is a republic. Turkey is a democratic, secular and social state governed by the rule of law. The Turkish State is an indivisible whole with a territory and nation. The provisions of the first three articles are specially protected by Article 4 which forbids parliamentary amendment of the first three articles.

Free and competitive elections based on universal participation (Article 67), the existence of more than one freely organized political party, and respect for fundamental human rights and freedoms all reflect the basic features of this modern liberal democracy.

The constitution of 1982 vests legislative authority in the 550 elected deputies of Turkey's Grand National Assembly. The legislative authority of parliament cannot be delegated to any other branch of government. All members enjoy parliamentary privileges such as freedom of speech and freedom from arbitrary or politically motivated detention and arrests.

The executive branch of the government comprises the president of the republic and the Council of Ministers. The first has no political responsibility while the latter has such responsibilities. The Council of Ministers consists of a prime minister designated by the president and members of parliament. Ministers are nominated by the prime minister and appointed by the president of the republic. The constitution does not require that ministers be chosen from among members of parliament, though in

practice most are. The prime minister heads the executive branch and enjoys certain constitutional privileges not shared by other ministers.

The ministers assume collective responsibility for the general policies of the government. At the same time, each minister is individually responsible for matters within their own ministry and the actions of ministry subordinates. As in other states, the executive also has legislative functions. The regulative power of the executive includes the enactment of regulations, by-laws and law-amending ordinances. The latter, also called ordinances or cabinet decrees, amend existing laws. They provide the executive's delegated legislative function.

According to the principle of judiciary independence, which is protected and safeguarded by the constitution, both the legislative and executive authorities must comply with court decisions. A system for judicial control of the constitutionality of laws, undertaken by the constitutional court, has been in force since 1961. The legality of the administration means that the executive function must be exercised and carried out within a legal framework. Without legislative authority, the administration cannot undertake activities. Little of the administrative function is connected with law enforcement, however. The majority of activities, such as education, health, planning, housing, disaster management, and public order, are related to the practical and technical demands of the society. By law, administrative matters outside the scope of regulation constitute matters of "administrative discretion." The administration has to deal with these matters in a consistent manner. Judicial control of the administration requires that public administration be controlled by the judiciary, namely the administrative courts (Payaslioglu 1993). The activities of the administration are subject to judicial review (Constitutional Articles 125, 155, and 157).

The constitution devotes an entire chapter to the rights and duties (Articles 41-65) associated with the concept of the social state. The fulfillment of social and economic rights is a government duty, although not the exclusive responsibility of the government (Özbudun 1993).

## **Central and Sub-national Administration Levels**

Public administration in Turkey is built upon two main principles: centralization and decentralization. Though seemingly in opposition, these two administrative styles constitute one administrative system. This is due to the unitary character of the state. According to Article 123 of the constitution, the central agencies and departments, with their geographically and functionally decentralized agencies, form the system. Unity and indivisibility as well as harmony and cooperation between the various

branches of the administration are secured through the central government's power (and its power of administrative supervision tutelage) over the acts and organs of the decentralized agencies. The administrative tutelage function is exercised by the central government according to Article 127 of the constitution for the following purposes: 1) ensuring the provision of local services in conformity with the principle of administrative unity; 2) securing uniform public services; 3) safeguarding the public interest; and 4) meeting local needs in an appropriate manner.

Turkish administration consists of two tiers - central administration and decentralized administration. Both have extensive powers with respect to disaster management. Central administration includes central departments, individual ministries, and the office of the prime minister. Ministries such as public works and settlement, environment and internal affairs are established by law to provide public services. Provincial branches of each ministry are established according to Article 126 of the constitution. Turkey is divided into provinces on the basis of geography, economic conditions, and the provision of public services. Provinces are further subdivided into administrative districts. Provincial administration is based on the principle of devolution.

The head of the province is the governor who is appointed by the Council of Ministers. Branches of ministries carry out their duties under orders, directives and hierarchy of the governors and sub-governors. The governors are authorized to make certain decisions independently from the central departments. Article 126 also provides for regional organization.

The central and decentralized administrations complement each other, though the importance of decentralization is increasing. Decentralized administration, the local authorities, and the functionally decentralized organizations provide local and common public services to the inhabitants of a particular geographical area. Provincial local administrations (departments), municipalities and village administrations are the three basic types of local authorities. They are public corporate bodies, enjoying administrative and financial autonomy. Their decision-making bodies are elected every five years. Their formation, power, and functions are regulated by law in accordance with the principles of decentralization.

Special local administrative arrangements may be introduced for larger urban areas (Article 127). A special law was passed to establish a two-tier federative municipal system in metropolitan areas. Out of the 3,225 municipalities, 16 have this status at present. Duties such as physical planning, intra-city transportation, large-scale infrastructure investment

planning, water supply and solid waste disposal projects are within the domain of the metropolitan municipality.

## **Administrative Functioning during an Emergency**

The power to take administrative action is a privilege of the administration. Administrative acts are executive in nature. This privilege enables administrative authorities to create unilateral rights and impose unilateral obligations to bind individuals without their consent.

As a consequence of the supremacy of the parliament, the constitution prohibits expressly any delegation of legislative power to the executive (Article 7). Although parliament has the monopoly on legislation, this does not deny the rule-making power of the executive and the subordinate administrative authorities through the issuance of regulations, by-laws, orders, tariffs, city plans, and circulars. These rule-making acts are subject to judicial review to ensure conformity with superior laws and rules. The court may invalidate administrative acts that are contrary to a superior rule or law, against the public interest, or in violation of fundamental individual rights.

In times of war and emergency, public authorities are empowered to take additional measures to maintain public order. Emergency rule is a legal regime governed by the principles of the legality of the administrative acts and the supremacy of law. All emergency measures must be in conformity with the special laws in compliance with the constitution (Articles 119, 122, 15, 125).

A state of emergency can be declared in two different situations: 1) in the event of a natural disaster (such as an earthquake), a dangerous epidemic (cholera, etc.), or a serious economic crisis; 2) indications of emerging widespread acts of violence aimed at the destruction of the free democratic order, fundamental rights, or a serious deterioration in public order as a result of these violent acts.

In the first three cases, the Council of Ministers may declare a state of emergency for a maximum period of six months. This may be extended by a period not exceeding four months. A state of emergency can be declared nationwide or in a region. Decisions of the Council of Ministers concerning a state of emergency are subject to the immediate approval of the parliament. The parliament is authorized to change the duration, lift or approve any state of emergency declaration.

During a state of emergency, the Council of Ministers may issue decrees with the force of law (law-amending ordinances) on matters related to the state of emergency without prior parliamentary authorization. However,

these decrees are subject to subsequent parliamentary affirmation. A state of emergency is subject to judicial review, while the decrees enforcing the law and issued by the Council of Ministers during an emergency are excluded from the judicial control of the constitutional court.

## **Institutions and Competencies in Disaster Management**

Disaster management is one of the major responsibilities of government at both the central and local levels. In 1958, the Organic Law (No. 7116) of the former Ministry of Public Works and Settlement charged the newly established ministry (Article 2) with taking “all the necessary measures before and after the disasters.” In 1983, the Law Amending Ordinance (No: 180) that reorganized the bureaucracy charged the new Ministry of Public Works and Settlement (Article 1) with managing “the execution of the disaster services in an efficient, orderly and swift manner.” More specifically, the basic duties of the General Directorate of Disasters (Article 11) include: 1) identification of disaster regions and provision of technical assistance for reconstruction; 2) introduction and implementation of measures to reduce the loss of life and damage to property; 3) prevention of likely disasters; 4) provision of immediate assistance and coordination of rescue during and after disasters; 5) provision of basic services in collaboration with the State Planning Organization and other public agencies; and 6) responsibility for all preparations, implementation, management and control functions for reconstruction and resettlement in areas affected by natural disasters (Keles 2000).

In addition, the organic laws of several ministries including those dealing with the interior, national defense, health and social welfare, transportation, forestry, energy and natural resources, industry and trade also have responsibilities at various stages of the disaster management process. Such a broad distribution of powers and responsibilities among the ministries, the central administration and the departmental authorities causes serious coordination problems in practice. In order to avoid confusion and overlap in functions during natural disasters, legislators have empowered provincial governors as agents of central administration, to implement disaster response measures immediately following a disaster (Law No: 7269, Article 1). Under a governor’s leadership, it is hoped that inefficiencies in disaster management can be avoided.

At the local administrative level, provincial offices of the Ministry of Public Works and Settlement are ill-equipped to meet disaster management requirements. Municipality and village administrations are the two types of local authority that have specific duties in this area. For example, setting

local building regulations is, in principle, within the jurisdiction of local authorities. Yet, their capacity to manage activities related to disasters is extremely limited. Local governments are poorly equipped to provide guidance and control over building and settlement activities, even under normal conditions.

To mitigate damage to life and property and put into effect post-earthquake rescue, relief and housing programs, the governor forms rescue and relief committees. In capital cities, a Central Coordination Board functions. The governor, as chair of the crisis-desk, manages and supervises a range of disaster activities based on a Disaster Management Plan that should have been prepared beforehand. These plans are implemented by Sub-Provincial Rescue and Relief Committees. Two central agencies provide coordination between the activities of the civilian and the military authorities. These are the General Directorate of Civil Defense of the Ministry of Interior and the Prime Ministry's Crisis Center in the National Security Council (MGK). In addition to the General Directorate of Natural Disasters in the Ministry of Public Works and Settlement, the General Directorates of Construction Works and of Technical Research and Implementation assume responsibility for reconstruction and resettlement. With the addition of the Central Disaster Coordination Board in the Ministry of Public Works and Settlement (1978), the Emergency Coordination Center in the Prime Ministry (1989), and the Prime Ministry Crisis Center (1997), the existing complexity of organizations and powers grows even further.

Following the 1999 Marmara earthquake, two central agencies were created in 2000 by Law-Amending Ordinance (No: 600). The first was the General Directorate of the Management of Emergencies and the second was the General Coordinating Office of Disaster Reconstruction. To complicate the picture further, three additional institutions were also created: 1) the General Directorate of the Civil Defence for Rescue and Emergency, within the Ministry of the Interior (Law-Amending Ordinance No: 586 and 596, December 1999 and April 2000); 2) the General Directorate of Emergency Management, connected to the Prime Ministry (Law-Amending Ordinance, No: 588, November 1999); and 3) the Independent National Earthquake Council (March 2000).

The multiplicity of authorities responsible for the various aspects of disasters causes numerous complexities in administration. With the creation of the National Earthquake Council in 2000, comprising twenty experts specialized in disaster management, difficulties in coordination increased considerably. The tasks of the council are identified as: 1) assessing seismic risk and communicating with the public; 2) identifying priority research areas

concerning mitigation; 3) advising public bodies and developing policies and strategies; 4) evaluating petitions related to ethical matters of seismic risk predictions (Balamir 2001:207-234). The council published the first national strategy of mitigation in 2002 (Ulusal Deprem Konseyi 2002).

## **Urban Planning, Building Supervision and Disaster Management**

One of the basic problems facing the Turkish administration is linking urban development planning with disaster management to ensure minimum safety conditions for buildings. The main focus of the 1959 Disasters Law (No: 7269) and related regulations is to provide formal capacity for post-disaster intervention and relief operation organization (Balamir 2001:210). Only a few of the provisions of the Disasters Law contain are concerned with disaster prevention and preparedness, including urban development plans. For example, taking measures to redistribute an area's population and economic activities more evenly over the country is beyond the immediate concern of the law. As noted by Balamir, the Disasters Law and its regulations fall short of constituting a contemporary disaster management system. It does not differentiate between authorized and unauthorized construction, and in a sense, it rewards the owners of the unauthorized buildings at the expense of the safety of the majority of inhabitants (Balamir 2001: 213).

The current Urban Development Law of 1985 (No: 3194), on the other hand, is outdated and partial in scope. Although municipalities with a population of 10,000 or more and provincial administrations are required to prepare development plans, they are not obliged to incorporate geological, geomorphologic and seismic data considerations into these plans. Current law assigns full responsibility for the design and implementation of urban development plans to municipal administrations. But local administrations lack the financial and technical skills to meet this obligation. The above, coupled with diffuse planning controls, causes arbitrariness in ensuring environmental standards and quality and makes it difficult to follow rigorously the principles of risk reduction (Balamir 2001:215). The law, in accordance with the principle of subsidiarity, requires that public affairs of a local nature, such as development planning, be carried out by authorities closest to the people. This requirement has increased the autonomy of local authorities, though at the expense of public order and interest.

Construction control in Turkey is almost non-existent in urban planning. These protective measures are supposed to be undertaken by professionals with technical liability hired by owners or developers. The absence of

regulations, however, makes urban planning irrelevant. Normally, municipalities issue building permits on the basis of project submissions. Projects are supposed to meet requirements for building and disaster regulations including dimensional standards and requirements for heating, lighting, landscaping, parking and fire regulations. Few of these regulations are covered in the section of the Disaster Law concerned with structural safety standards in buildings (Balamir 2001:216). As described by Balamir, “The practice of land-use planning and zoning, transportation and infrastructure planning, procedures for density assignment, planning the open spaces, participation processes, strengthening and devising new methods of monitoring building- use control, etc., all of these are distinct aspects of disaster concerns that naturally need to be covered in the Development Law” (Balamir 2001:210). Current legislation is not being written to deal with all of these issues.

## **Recent Changes in Disaster Management Regulations**

Following the 1999 Marmara earthquake, three important steps were taken. The first was the adoption of the Law-Amending Ordinance (No: 595) put into force in 2000. The aims included: ensuring life and property safety in buildings; preventing unplanned, uncontrolled and low-quality construction that wastes resources; ensuring proper construction; protecting the rights of those whose property is damaged; and compensating loss.

This decree has been criticized for several reasons. It focuses on individual buildings but neglects widespread abuses in the construction industry. The decree also delegates municipal building regulation development to private firms, fails to link construction regulation to macro-economic policies, and does not involve professional organizations in construction control. Another criticism is that the law introduced concepts such as “building inspection firms,” “certified architects,” and “certified engineers.” It was argued that the decree created “a privileged professional group” (Hasol 2000) that breach the constitutional principle of equality before the law.

Law-Amending Ordinance (No. 595) was invalidated by a Constitutional Law in 2001. This was followed by the enactment of a new Building Control Law (No: 4708) in the same year. There were no major changes in the aims of the law. However, provisions concerning the establishment and functioning of building inspection firms were reformulated. Building inspection firms were defined as private firms to be established by eligible architects and engineers with the aim of supervising projects and construction activities and reporting to local authority responsible for issuing construction and occupation permits. The Building Control Law modified

the respective provision of the Development Law (No. 3194) and authorized the building inspection firms to take over, from the administration, the task of technical liability mentioned in the Development Law.

The second measure taken in 1999 was the adoption of Law-Amending Ordinance (No: 587) on Obligatory Earthquake Insurance. By the same ordinance, a Natural Disaster Insurance Administration was established under the auspices of the treasury. All residential buildings are to be covered by obligatory earthquake insurance. Only official, industrial and public buildings in villages are exempt from this compulsory system (Balamir 2001:220).

The third Law-Amending Ordinance (No: 601) was adopted in 2000 and covered proficiency in the construction professions. The existing Law on Engineering and Architecture and the Law of the Union of Chambers of Engineers and Architects were amended by this ordinance, in which requirements for improved professional competence in the fields of engineering and architecture are detailed. A minimum of five years of professional experience, attendance at training courses, and passing written exams organized by both concerned chambers are the required conditions (Balamir 2001:226).

## **Conclusions**

Despite its relatively long experience in natural disasters, Turkish public administration does not seem to be ready to cope adequately with the various aspects of disaster management.

Measures taken after the Marmara Earthquakes in the late 1990s reflect a view that considers disaster management as a question of quality and strength of buildings and adequate construction control. Such an approach has led to the neglect of more important and broader dimensions of the question.

The preservation of life and property is closely related to patterns of urbanization and excessive population concentrations in metropolitan areas. The density of population and buildings affect the efficiency of disaster management. Reducing population density and decentralizing economic activities through regional planning, therefore, is essential to decrease loss and damage.

On the other hand, additional measures have to be designed and incorporated into the responsibilities of local authorities. The measures relate to early warning systems and the inclusion of integrated hazard and micro-zonation maps into the development planning process (Balamir October, 2002; UN

1993:13-17; UN 1997:20-28). Efforts to improve construction regulation and the introduction of an obligatory earthquake insurance scheme should not lead to the postponement of a comprehensive revision of the urban development planning system within a regional framework.

In addition to the existence of too many central and local institutions in charge of numerous tasks within the disaster cycle, an increasing number of non-governmental organizations play a role in the rescue efforts. In the last earthquake, their uncoordinated involvement made it difficult to achieve harmonization in rescue and relief operations. It is important to ensure that partnerships do not become additional obstacles in achieving an efficient control and coordination system. Recent experience also shows that in the distribution of national and international donations for relief and recovery programs, the public administration, as a whole, deviated from the fundamental principle of impartiality.

Strengthening the capacity of local governments in terms of authority, financial resources, and technical capability to play a more efficient role in all stages of the disaster management process is critical. Providing them with training in the issues discussed above would not only increase their role in guiding and controlling urban development, settlement, and planning, but allow them to operate more effectively during natural disasters (Keles 1993:13-17). It is hoped that recent attempts to reform the public administration system in Turkey, including local governments, would in fact meet such a need.

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